

**CORPORATIONS AND SECURITIES
PANEL**

ANNUAL REPORT 1998 - 99

C O R P O R A T I O N S
A N D
S E C U R I T I E S P A N E L

Our Reference:

19 October 1999

The Hon Joe Hockey MP
Minister for Financial Services and Regulation
Parliament House
Canberra ACT 2600

Dear Minister,

I have the honour to submit to you, in accordance with section 183 of the Australian Securities and Investments Commission Act 1989, this report on the operations of the Corporations and Securities Panel for the period 1 July 1998 to 30 June 1999.

Yours sincerely

Simon McKeon
President
Corporations and Securities Panel

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Introduction to the Corporations and Securities Panel

The Corporations and Securities Panel was established under the Australian Securities and Investments Commission Act 1989 (ASIC Act) on 1 January 1991.

The Panel's existing role is to consider applications from the Australian Securities and Investments Commission (ASIC) for a declaration that an unacceptable acquisition or unacceptable conduct has occurred:

- (a) in relation to an acquisition of shares in a company; or
- (b) as a result of conduct engaged in by a person in relation to shares in, or the affairs of, a company.

ASIC is the only party which can apply to the Panel for such a declaration.

When considering whether to make a declaration of unacceptable conduct or that an unacceptable acquisition has occurred, the Panel must consider the desirability of ensuring that share acquisitions take place in an efficient, competitive and informed market. Section 732 of the Corporations Law (the Law) sets out the unacceptable circumstances which the Panel must also consider when determining an application. The provisions of section 732, known as the "Eggleston Principles", embody the general policy and spirit of the takeovers provisions of the Law. They underpin the more detailed and prescriptive provisions of Chapter 6 of the Law which regulates mergers and acquisitions activity in Australia.

The procedures which the Panel must follow are prescribed at sections 184 to 201A of the ASIC Act, and regulations 13 to 43 of the ASIC Regulations. These procedures ensure that applications are dealt with in a timely, fair and appropriate manner.

Panel Activities 1998-99

There were no applications made to the Panel by ASIC in 1998-99.

Having regard for the proposed expansion of the Panel's jurisdiction under the Corporate Law Economic Reform Program and the appointment of new members in March 1999, a program of education and skills training for Panel members has been introduced. A seminar was held in June 1999 which focused on the operations of the Panel and the Government's proposed legislative changes for the regulation of mergers and acquisitions in Australia, in particular the enlarged role of the Panel.

Future Directions

The Government is proceeding with its initiatives to reform the regulation of mergers and acquisitions in Australia. The proposed legislative amendments include widening the role of the Panel so that it, rather than the courts or the Administrative Appeals Tribunal, is the primary forum for resolving takeover disputes. The Corporate Law Economic Reform Program Bill was introduced into the House of Representatives in December 1998 and the Senate in June 1999, with debate adjourned until a later date.

Structure of the Panel

The Panel was established by the proclamation of the ASIC Act 1989 and its first members were appointed on 3 July 1991.

Membership of the Panel

The Panel must have at least five members who may be full or part time members. Part time membership allows active members of the business community to participate, ensuring that the Panel reflects the current standards of the securities market.

Panel members are selected because of their knowledge of, or experience in, business, the administration of companies, financial markets, law, economics or accounting. They are therefore qualified to conduct a peer review of the conduct of participants in mergers and acquisitions activity in Australia.

Members are appointed by the Governor General on nomination by the Minister for a term of no more than five years although members are eligible for re-appointment. When considering appointments to the Panel, the Minister may seek nominations from the relevant Ministers from the States and Territories. As at 30 June 1999, the Panel had twelve part time members.

A list of the current members is contained in Appendix A.

Membership changes

Ten new members were appointed during this financial year.

The terms of the following members expired:

Mr John Pascoe AM

The Hon Mr Jerrold Cripps QC

Mr David Elsum AM

Mr Ron Evans

Mr Warwick Higgs

Mr Peter Jooste QC

Ms Judith Kelly

Mr Donald Magarey

Mr Russell Miller

Mr Michael Sharpe AM

Mr Graham Stanford

Prof Peter Wolnizer

The Panel extends its thanks to these members for their contribution to the Panel's operations.

President

Mr Simon McKeon was appointed by the Governor General to be Acting President on 31 March 1999.

Staff

ASIC provides staff and support facilities to the Panel for the performance of its functions. ASIC provides a senior staff officer to act as Secretary to the Panel. When not involved in Panel activities, that person undertakes other duties for ASIC.

Reporting

The Panel is required under section 183 of the ASIC Act to prepare a report as soon as practicable after 30 June and in any case before 31 October each year and give a copy to the Minister.

Appendix A - Panel Members¹

Name	Organisation	Date of Appointment
Mr Simon McKeon	Macquarie Bank Ltd	31 March 1999
Mr Ross Adler	Santos Ltd	31 March 1999
Ms Elizabeth Alexander	PricewaterhouseCoopers	31 March 1999
Mr Denis Byrne	Denis Byrne & Associates Pty Ltd	31 March 1999
Mr Brett Heading	McCullough Robertson	31 March 1999
Ms Meredith Hellicar	Corrs Chambers Westgarth	31 March 1999
Mr Graham Kelly	Freehill Hollingdale & Page	31 March 1999
Ms Alice McCleary	Chartered Accountant and Company Director	31 March 1999
Mr Simon Mordant	Caliburn Partnership Pty Ltd	31 March 1999
Mr John O'Neill	Australian Rugby Union Ltd	31 March 1999
Ms Fiona Roche	Estates Development Company	31 March 1999
Ms Nerolie Withnall	Minter Ellison	31 March 1999

¹ As at 30/6/99

Appendix B - Panel Expenditure

The Panel is funded via the ASIC budget. ASIC allocated the amount of \$245,200 to the Panel for the year 1998-99.

The Panel's expenses for the year 1998-99 were \$93,448.

Remuneration

The current² Remuneration Tribunal determination is:

Members

Annual Fee	\$1,930
When engaged on Panel business	\$ 550 per day
Travelling allowance	\$ 320 per day (max)

President

Annual Fee	\$6,300
When engaged on Panel business	\$ 650 per day
Travelling allowance	\$ 320 per day (max)

Audit

The Panel's expenditure is audited by the Australian National Audit Office as part of ASIC's financial statements.

² The Panel's 1998-99 remuneration is set by Determination No 3 of 1999

Appendix C - Financial Statement 1998-99

	\$	\$
Budget Allocation		245,200
Administrative Expenses		
Printing	709	
Travel	1,244	
Catering	234	
Postage	23	
	2,210	2,210
Salaries		
Members Annual fees	14,119	
SG contributions	4,078	
	18,197	18,197
Employee expenses		
Salaries	60,769	
Employer superannuation	12,272	
	73,041	73,041
Total Expenses incurred to 30 June 1999		93,448
Balance of allocation		151,752

Appendix D - Panel Secretariat and Contact Officer

Panel Secretary and Contact Officer:

Ms Jan Horwood
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Australian Securities and Investments Commission
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