



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP24/020

Monday, 29 April 2024

## Ringers Western Limited - Panel Receives Application

The Panel has received an application from Bombora Investment Management Pty Ltd in its own capacity and as manager of the Bombora Special Investments Growth Fund, Evolution Trustees Limited, as responsible entity for the Bombora Special Investments Growth Fund, Brebec Pty Ltd as trustee for the Chenoweth Family Trust, Bryan Zekulich, Salam Nader Pty Ltd, Wyaga Investments Pty Ltd as trustee for the TNR Investments Trust, Jarumitoti Superannuation Fund Pty Ltd as trustee for Jarumitoti Super Fund, and Malolo Holdings Pty Ltd (together the **Applicants**) in relation to the affairs of Ringers Western Limited.

Details of the application, as submitted by the Applicants, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### Details

On 19 February 2022, Ringers Western (then known as BrandUp Limited) entered into a share sale deed (**Share Sale Deed**) with the trustees for the Ringers Western Discretionary Trust (**RW Trust**) to purchase 100% of the shares in Ringers Western Pty Ltd. The consideration for the purchase included the issue of 697,410,068 fully paid shares in Ringers Western to the RW Trust.

On 19 March 2022, Ringers Western and the RW Trust entered into a bonus share deed (**Bonus Share Deed**). The Bonus Share Deed provided (among other things) that, if an exit event (i.e. an initial public offering or 100% sale) did not occur in relation to Ringers Western within 24 months after completion under the Share Sale Deed, Ringers Western must (unless the parties agree otherwise) issue a certain number of shares in Ringers Western to rebalance shareholding proportions so that the RW Trust receives a certain amount of additional value in connection with the share sale.

On 2 April 2024, Ringers Western issued 687,959,705,932 ordinary shares to the RW Trust purportedly in connection with the Bonus Share Deed (**Bonus Shares**). As a

result, the RW Trust's shareholding in Ringers Western increased from 63.31% to 99.94%.

The Applicants submit, among other things, that:

- The acquisition of the Bonus Shares by the RW Trust contravened section 606(1) of the Corporations Act.<sup>1</sup>
- The circumstances are unacceptable having regard to the effect that they have on the control of Ringers Western, because (among other reasons) the acquisition of the Bonus Shares by the RW Trust was a de facto takeover of Ringers Western by the RW Trust.
- The circumstances are unacceptable having regard to the purposes set out in section 602, because (among other reasons) the acquisition of the Bonus Shares did not take place in an efficient, competitive and informed market.

The Applicants seek interim orders to the effect that:

- The RW Trust is restrained from disposing of or otherwise dealing with any of the Bonus Shares.
- Ringers Western is restrained from issuing any further shares or from registering any transfer of the Bonus Shares.
- The RW Trust is restrained from exercising any compulsory acquisition rights under Chapter 6A in relation to Ringers Western.

The Applicants seek final orders to the effect that the Bonus Shares and the Bonus Share Deed are cancelled.

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<sup>1</sup> Unless otherwise indicated, all statutory references are to the *Corporations Act 2001* (Cth), and all terms used in Chapter 6 or 6C have the meaning given in the relevant Chapter (as modified by ASIC)