



Australian Government

Takeovers Panel

**Reasons for Decision
Humm Group Limited 02R & 03R
[2026] ATP 6**

Catchwords:

Declaration of unacceptable circumstances – orders – misleading announcement – creep exception – share acquisitions – control effect – efficient, competitive and informed market – requisitioned meeting – board spill

Corporations Act 2001 (Cth), sections 9, 203D, 249F, 251A, 602, 606, 611, 657A, 657D, 657EA, 1305

Emu NL 03 [2025] ATP 18, Pacific Smiles Group Limited [2024] ATP 12, DRA Global Limited [2022] ATP 16, Virtus Health Limited [2022] ATP 5, AusNet Services Limited 01 [2021] ATP 9, The Agency Group Australia Limited 03R [2021] ATP 5, Keybridge Capital Limited 08R, 09R and 10R [2020] ATP 9, Keybridge Capital Limited 04, 05 & 06 [2020] ATP 6, Energy Resources of Australia Limited 02R [2020] ATP 3, Excelsior Capital Limited [2020] ATP 25, Aguia Resources Limited [2019] ATP 13, Factor Therapeutics Limited [2019] ATP 5, MMA Offshore Limited [2017] ATP 21, Molopo Energy Limited 03R, 04R & 05R [2017] ATP 12, Molopo Energy Limited 01 & 02 [2017] ATP 10, Resource Generation Limited [2015] ATP 12, Mungana Goldmines Limited 01R [2015] ATP 7, IFS Construction Services Limited [2012] ATP 15, Redflex Holdings Limited [2009] ATP 17, AMP Shopping Centre Trust 02 [2003] ATP 24, Normandy Mining Limited 03 [2001] ATP 30

Eastern Field Developments Limited v Takeovers Panel [2019] FCA 311, Cemex Australia Pty Ltd v Takeovers Panel [2009] FCAFC 78, CEMEX Australia Pty Ltd v Takeovers Panel [2008] FCA 1572, ASIC v Yandal Gold (1999) 32 ACSR 317

Interim order	IO undertaking	Conduct	Declaration	Final order	Undertaking
YES	YES	YES	YES	YES	NO

INTRODUCTION

1. The Panel, Rory Moriarty, Richard Phillips and Karen Phin (sitting President) affirmed the initial Panel’s¹ declaration of unacceptable circumstances in relation to the affairs of Humm Group Limited, subject to minor variations, but set aside the initial Panel’s orders and made new orders. Instead of vesting Humm shares held by major shareholder TAG, the review Panel made orders that (among other things) required TAG not to vote 15 million of the Humm shares that it holds for 6 months. The review Panel considered its orders adequately protected the rights or interests of persons affected by the unacceptable circumstances and were less prejudicial to TAG than vesting orders.

2. In these reasons, the following definitions apply.

12 February Announcement has the meaning given in paragraph 48

14 January Circular has the meaning given in paragraph 42

17 December Announcement has the meaning given in paragraph 36

AGM has the meaning given in paragraph 14

¹ All references to the initial Panel are to the Panel in *Humm Group Limited*

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Akat	Akat Investments Pty Ltd
Alternative Credit Corp Bid	has the meaning given in paragraph 15
Associated Entities	TAG as trustee for the Philadelphia Trust and Tefig Pty Ltd as trustee for the AJ Abercrombie Superannuation Fund
Convening Shareholders	has the meaning given in paragraph 34
Credit Corp	Credit Corp Group Limited (ASX code: CCP)
Credit Corp Letter	has the meaning given in paragraph 29
Credit Corp Proposal	has the meaning given in paragraph 15
December Acquisitions	has the meaning given in paragraph 38
Declaration	the declaration of unacceptable circumstances made by the initial Panel in relation to the affairs of Humm dated 17 March 2026
Divestment Order	Orders 3-10 of the Original Orders
EGM	has the meaning given in paragraph 39
Flagstaff	Flagstaff Partners
Humm	Humm Group Limited (ASX code: HUM)
IBC	has the meaning given in paragraph 44
NDA	has the meaning given in paragraph 57
Original Orders	the final orders made by the initial Panel in relation to the affairs of Humm dated 10 April 2026
Relevant Shares	15,000,000 ordinary Humm shares held by TAG
Section 203D Notice	has the meaning given in paragraph 34
TAG	The Abercrombie Group Pty Ltd, an entity controlled by Mr Andrew Abercrombie
TAG Proposal	has the meaning given in paragraph 8
TAG Proposal IBC	has the meaning given in paragraph 8

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FACTS

3. The following is sourced primarily from the initial Panel's comprehensive Declaration.

Background

4. Humm is an ASX-listed company (ASX code: HUM).
5. Until 12 March 2026, the directors of Humm were Mr Andrew Abercrombie, Ms Teresa Fleming, Mr Robert Hines and Mr Andrew Darbyshire AM. Mr Abercrombie was the founder and Chairman of Humm.
6. On 30 June 2022, Mr Abercrombie was appointed as Chair of the Humm board.
7. On 3 April 2024, Mr Abercrombie and the Associated Entities lodged a substantial holder notice disclosing a change of voting power in Humm from 25.38% to 26.42%.

TAG Proposal

8. On 25 June 2025, Humm announced that after the close of the market on 23 June 2025, it had received a non-binding indicative offer from TAG, the family office of Mr Abercrombie, to acquire all of the shares on issue in Humm (that were not then held by TAG and its associates) by way of a scheme of arrangement, at a cash price of \$0.58 per share compared to a closing price on 23 June 2025 of \$0.43 (**TAG Proposal**). The announcement stated (among other things) that:
 - (a) an independent board committee (**TAG Proposal IBC**) had been formed, comprising Ms Fleming, Mr Hines and Mr Darbyshire
 - (b) the TAG Proposal IBC had determined to allow TAG a period of "4 weeks to undertake targeted due diligence to enable TAG to make a binding offer"
 - (c) K&L Gates had been engaged as Humm's legal adviser in relation to the TAG Proposal and
 - (d) MinterEllison had been engaged as TAG's legal adviser in relation to the TAG Proposal.
9. On 15 July 2025, Humm announced (among other things) that:
 - (a) it had engaged Flagstaff as its financial adviser
 - (b) "in order to determine whether TAG is able to formulate an offer that could be in the best interests of hummgroup shareholders" the TAG Proposal IBC had "agreed to provide to TAG a limited period of access to certain non-public information on a non-exclusive basis"
 - (c) it had entered into a confidentiality agreement with TAG and "due diligence will commence this week" and
 - (d) "the provision of limited due diligence does not guarantee that the [TAG Proposal] will result in a binding offer or one that is capable of being recommended by the [TAG Proposal] IBC".

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10. On 31 July 2025, Humm announced (among other things) that:
 - (a) the TAG Proposal IBC had *“formed the view that it is in the best interests of all shareholders to engage with TAG and provide limited, non-exclusive diligence in order to ascertain whether there is a path to a proposal that could deliver appropriate certainty and value”*
 - (b) Humm had provided TAG with access *“to certain non-public information”*
 - (c) the TAG Proposal IBC had *“requested that TAG completes its critical due diligence and submits a refined proposal by mid-September”* and
 - (d) Humm had *“put in place procedures and protocols to manage actual and perceived conflicts of interest in accordance with the Takeovers Panel’s Guidance Note 19: Insider Participation in Control Transactions and best corporate governance practices”*.
11. On 19 September 2025, Humm announced that TAG required *“further information before it can confirm or refine its proposal”*.
12. On 29 October 2025, Flagstaff provided a valuation pack by email to the TAG Proposal IBC which showed that the bottom end of the estimated control value range was a value which was above the \$0.72 and \$0.77 per share later offered by Credit Corp (see paragraph 15 below).
13. On 6 November 2025, Humm announced that TAG and the TAG Proposal IBC had *“agreed to conclude discussions regarding TAG’s non-binding indicative proposal and TAG has withdrawn the proposal”*. The announcement quoted Mr Abercrombie as stating that since the TAG Proposal had been submitted it had *“become evident that it does not currently have the support of several key shareholders.”* The announcement also quoted Mr Hines, in his capacity as chair of the TAG Proposal IBC, as stating that the TAG Proposal IBC *“appreciates the efforts of the hummgroup and TAG teams in recent months. Our focus going forward is driving shareholder value through robust operational execution and disciplined capital allocation.”* The announcement did not refer to the TAG Proposal IBC’s view about the \$0.58 per share offer price of the TAG Proposal.
14. On 12 November 2025, at Humm’s annual general meeting (AGM):
 - (a) Some shareholders and analysts questioned the TAG Proposal IBC’s handling of the TAG Proposal.
 - (b) Mr Hines provided an address as chair of the TAG Proposal IBC in relation to the TAG Proposal. Mr Hines made no comment about the TAG Proposal IBC’s view about the \$0.58 per share offer price of the TAG Proposal and concluded by stating: *“As you know, TAG withdrew its proposal on 6 November. The IBC appreciates the efforts of the humm and TAG teams in recent months, and looking forward, our collective focus is driving value for all humm shareholders through robust operational execution and disciplined capital allocation.”*
 - (c) Mr Abercrombie was asked in effect whether he would give the market a commitment that TAG would not make a takeover bid or propose a scheme for six to twelve months. Mr Abercrombie responded *“No, I won’t, but I will give you a commitment that we’ll seek advice on this idea”*.

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Credit Corp Proposal and Humm's response

15. On 19 November 2025, the Chief Executive Officer of Credit Corp sent an email to Mr Abercrombie and Mr Hines attaching a confidential, conditional, non-binding indicative proposal from Credit Corp to acquire 100% of the shares in Humm involving:
- (a) a proposed scheme of arrangement at \$0.77 per share in cash (less any dividends or distributions declared after 19 November 2025), or alternatively
 - (b) should the scheme of arrangement be unsuccessful, an off-market takeover offer (**Alternative Credit Corp Bid**) at \$0.72 per share in cash (less any dividends or distributions declared after 19 November 2025), conditional upon Credit Corp achieving acceptances for 50.1% of Humm's shares

(together, the **Credit Corp Proposal**).

The Credit Corp Proposal was expressed as being conditional on, among other things, the *"unanimous recommendation by hummgroup's Independent Board Committee"*. Humm did not announce the receipt of the Credit Corp Proposal to ASX at that time, relying on the exception to the continuous disclosure requirements contained in ASX Listing Rule 3.1A and relevant ASX guidance.

16. Approximately one hour after the Credit Corp Proposal was sent to Mr Abercrombie and Mr Hines, the Chief Executive Officer of Credit Corp sent an email to representatives of Macquarie Capital (Credit Corp's financial advisers), referring to conversations he had with Mr Abercrombie and Mr Hines. The email stated:

"Andrew (Drew) indicated that the offer was "of no interest" to him, but he was predisposed to granting due diligence access. While both conversations were cordial, my impression was that Robert would prefer that we deal directly with Drew on the matter".

Relatedly, Mr Abercrombie submitted to the initial Panel that *"soon after" the Credit Corp Proposal was received, he had spoken with the Chief Executive Officer of Credit Corp and stated "that he [Abercrombie] hoped that not too much time and money would be wasted on the proposal."*

17. Humm also submitted to the initial Panel that shortly following receipt of the Credit Corp Proposal, Mr Abercrombie informed the other directors that his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp.
18. Within a matter of hours after the Credit Corp Proposal was sent to Mr Abercrombie and Mr Hines, Mr Abercrombie sent a copy of the Credit Corp Proposal by email to the full board. The email stated (among other things):

*"Herewith another NBIO. There are pros & cons which must be discussed with experts. The most important thing to obsess about is **confidentiality**."*²

² Emphasis in the original

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I have already sought advice to confirm that this is a matter for the Board and there will be no IBC. As such I will manage communications for the time being. Unfortunately [Mr Hines] saw fit to share the matter with [a lawyer] at K & L, and [a financial adviser] at Flagstaff. This was way out of line for a raft of reasons but let's hope there are no repercussions.

I have engaged [a lawyer] at Minters on behalf of Humm. To be clear this has nothing to do with the past and there are no conflict issues. I have asked [the lawyer at MinterEllison] to brief the Board tomorrow or Friday to discuss the various courses of action we need to consider."

19. Mr Hines responded by email to Mr Abercrombie and his fellow directors stating (among other things):

"I would appreciate a copy of the advice you refer to below please.

I am impressed with [the lawyer at MinterEllison] and supportive of working with him.

I would like his formal assurance that he can advise me as an Independent Director with particular regard to conflicts of interest.

It is fair to say that I am a little bruised following the "governance issues" raised in relation to the TAG bid in the lead up to and at the AGM.

As I reflect on the manner in which this bid has been delivered (with me as a named independent and a condition of unanimous IBC support) it seems very possible that the bid side will leak the bid details and push hard on governance issues if they perceive a reluctance to engage."

20. Mr Abercrombie responded by email to Mr Hines stating (among other things) that *"There is no apparent cause for even slight concern re governance arising from the rhetoric and innuendo that was flying around the room at the AGM" and "[The lawyer at MinterEllison] will explain that there is no reason to establish a new IBC."*
21. On 19 November 2025, Mr Abercrombie also spoke with Mr Darbyshire and informed him that he wanted to buy more shares in Humm.
22. On 20 November 2025, in response to the email attaching the Credit Corp Proposal, Mr Abercrombie sent an email to the Chief Executive Officer of Credit Corp stating *"Please confine communication to me as Chairman of the HummGroup Board for the time being. The Board will be meeting and seeking counsel over the next few business days and will revert as soon as practical."*
23. On 21 November 2025, there was an in-camera meeting of the Humm board, which was chaired by Mr Abercrombie. At the meeting, the board resolved that no independent board committee would be created in relation to the Credit Corp Proposal and resolved to engage with Credit Corp *"seeking to obtain the best offer it can from Credit Corp. It can then decide whether it wishes to recommend that proposal"*. The board also resolved to appoint MinterEllison as legal adviser and Flagstaff as financial adviser in relation to the Credit Corp Proposal. A contemporaneous file note of the meeting indicates that at the meeting the board agreed that Mr

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Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal. Neither the minutes of the meeting nor the contemporaneous file note:

- (a) record any decision as to whether or not the Credit Corp Proposal was “*compelling*” (as stated by Humm in a later ASX announcement, see paragraph 42 below) or could be recommended at the \$0.77 per share scheme offer price or
- (b) state that the board discussed that the Credit Corp Proposal was conditional on the “*unanimous recommendation by hummgroup's Independent Board Committee*”.

24. The minutes of the meeting do not record that any director was absent for any part of the 21 November 2025 meeting. MinterEllison was in attendance and no other legal adviser (including in-house counsel) was in attendance. Humm’s company secretary was also not in attendance.

25. Flagstaff submitted that in or around the week commencing 24 November 2025 it may have conveyed at a high level to Mr Abercrombie that the indicative pricing of the Credit Corp Proposal was below the bottom end of Flagstaff’s assessed control value range provided to the TAG Proposal IBC in the valuation pack (see paragraph 12 above), although no valuation materials or valuation ranges were provided by Flagstaff to Mr Abercrombie. Mr Abercrombie submitted that he had “*not, at any time, been given the Expert Valuation*” and “*first became aware of the valuation range of the Expert Valuation through these Takeover[s] Panel proceedings.*”

26. When asked whether Flagstaff had ever updated the valuation pack subsequent to Humm receiving the Credit Corp Proposal, Flagstaff submitted to the initial Panel on 5 March 2026 that:

“No. The Expert Valuation was prepared and provided to the TAG IBC on 29 October 2025. Following receipt by Humm of the Credit Corp Proposal, Flagstaff did not update, revise or re-run the Expert Valuation. Flagstaff was not aware of any change to Humm’s circumstances that would require a revised valuation exercise, and no directors or executives of Humm were involved in assisting Flagstaff with any update. Flagstaff was not instructed to update the Expert Valuation.”

27. On 27 November 2025, according to Flagstaff, Mr Abercrombie instructed Flagstaff to communicate the position that a “*proposal priced at \$0.77 per share would not receive a Board recommendation*” to Macquarie Capital (Credit Corp’s financial advisers). That instruction was recorded in a contemporaneous file note prepared by Flagstaff. Humm similarly submitted that it understood that this instruction was provided to Flagstaff by Mr Abercrombie (and noted that no determination had been made by the board in respect of the price offered under the Credit Corp Proposal).

28. On 28 November 2025, representatives of Flagstaff (the Humm board’s financial advisers) had a discussion with representatives of Macquarie Capital (Credit Corp’s financial advisers) in relation to the Credit Corp Proposal. In a file note that was later sent to Mr Abercrombie (among others), one representative of Flagstaff relayed that “*[w]e then said [to Macquarie Capital] that 77c would not get a Board recommendation and shareholder feedback on value during the recent TAG process was also above this level. Accordingly, in order for the Board to be comfortable with providing diligence they needed*

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confidence that there is a path for Credit Corp to materially improve the value.” In a file note dated 28 November 2025 that was sent to the Chief Executive Officer of Credit Corp, Macquarie Capital similarly relayed: “Two issues of clarification from the H/Flagstaff side:... Value:... 77c will not get a board recommendation / ‘non-starter’ – based on knowledge of register, will not get shareholders over the line”.

29. On 4 December 2025, the Chair and the Chief Executive Officer of Credit Corp sent a letter to the Humm board described as being “For the attention of the Humm Group Board of Directors” via email to Mr Abercrombie and Mr Hines, stating, among other things, that it understood further to a discussion between Flagstaff and Macquarie Capital that the Humm board had conveyed that the “\$0.77 per share scheme offer would not be recommended by the Humm Board. The Humm Board’s view of what shareholders regard as fair value is a valuation closer to \$1 per share” (**Credit Corp Letter**). The Credit Corp Letter also stated that “[i]t is difficult to reconcile how the Board’s approach to the TAG Proposal and its refusal to provide due diligence to Credit Corp, who is a party that is demonstrably better able to finance the transaction, is in the best interests of Humm as a whole and not unfairly prejudicial to shareholders other than TAG.” These statements in the Credit Corp Letter are consistent with the discussion at the meeting between Flagstaff and Macquarie Capital on 28 November 2025 (see paragraph 28). The Credit Corp Letter also stated that “[t]he NBIO Letter was dated 19th November 2025, 15 days ago, without any written response being received to date.”
30. Credit Corp submitted³ that since its letter of 4 December 2025, “[p]otentially save for any brief references to value which may have been made in passing during the principals meeting on 4 February 2026, Credit Corp has had no further communications from Humm regarding value”.
31. On 5 December 2025,⁴ Mr Abercrombie sent an email to Credit Corp stating, among other things, that:
- “From your letter, it appears there may have been a misunderstanding between our respective IBs.*
- To be clear, Humm is willing to engage and commence DD in the form you foreshadowed in your letter of 19 November 2025. A data room has been in the process of being reactivated for that purpose”.*
32. Mr Abercrombie’s response did not specifically refer to the statement that Credit Corp was told that the “\$0.77 per share scheme offer would not be recommended by the Humm Board” (see paragraph 29 above) and his response was sent prior to Mr Darbyshire and Ms Fleming receiving a copy of the Credit Corp Letter.
33. On 5 December 2025,⁵ Mr Abercrombie sent a copy of the Credit Corp Letter to Ms Fleming and Mr Darbyshire. Ms Fleming, Mr Darbyshire and Mr Hines each submitted to the initial Panel that, with the exception of this communication, they did not have any communications with each other, with Mr Abercrombie, with

³ In a submission to the initial Panel dated 19 February 2026

⁴ At approximately 11:47 am

⁵ At approximately 12:02 pm

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Humm's advisers, or with Credit Corp, in relation to the value of the Credit Corp Proposal following receipt of the Credit Corp Letter and prior to the 17 December 2025 Announcement (see below at paragraph 36).

Section 203D Notice and 17 December Announcement

34. On 15 December 2025, Humm received a notice under section 203D⁶ from Mr Jeremy Raper and Sandhurst Trustees Limited as custodian for Collins St Value Fund (**Convening Shareholders**) stating an intention to move resolutions at a general meeting to remove Messrs Abercrombie, Hines and Darbyshire as directors of Humm, along with any other director appointed on or after 15 December 2025 (**Section 203D Notice**).
35. On 16 December 2025, there was a meeting of the Humm board. Relevantly:
- (a) Representatives of Flagstaff and Humm's legal adviser, MinterEllison, advised that the Humm board "*should consider whether it should inform the market of the Credit Corp proposal, given the unusual position of an action foreshadowed by the section 203D notice during consideration of a confidential NBIO proposal*". The board resolved (among other things) to make the disclosure as recommended the following morning.
 - (b) According to Humm's submissions, "*somebody made an informal passing comment towards the end of the board meeting... indicating an ability to buy shares now that the market was going to be fully informed once the announcement had been made*".
 - (c) According to Mr Abercrombie's submissions, shortly after the board meeting, Mr Abercrombie verbally notified Mr Hines of his intention to acquire Humm shares once the market had been "*cleansed*" by the announcement to be made regarding the receipt of the Section 203D Notice and the Credit Corp Proposal. Mr Hines could not recall any "*specific formal discussion*" with Mr Abercrombie around any intention to trade in Humm shares, other than the passing comment regarding an ability to buy shares referred to in paragraph 35(b).⁷
 - (d) Ms Fleming noted, in her file note of the meeting, that it was "*clear that the EGM is forcing [Mr Abercrombie] to announce the bid which I have wanted from the start*".
 - (e) The minutes of the Humm board meeting do not contain any record that the Humm directors asked for any updates from management in relation to the Credit Corp Proposal and the minutes do not reflect any discussion at the meeting of the Credit Corp Letter or the value of the Credit Corp Proposal by any of the Humm directors.
36. On 17 December 2025, Humm announced the receipt of the Section 203D Notice and the Credit Corp Proposal (**17 December Announcement**). The 17 December Announcement stated (among other things) that:

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

⁷ This was a clarification of an earlier submission from Humm that stated that Mr Abercrombie had informed Mr Hines of his intention to acquire shares at the conclusion of the board meeting

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- (a) *“The hummgroup Board, with the assistance of its financial and legal advisers, is carefully evaluating Credit Corp's proposal. Directors are committed to acting in the best interests of all hummgroup shareholders and are open to supporting a proposal that they believe represents appropriate value for shareholders. The Board is prepared to work constructively with Credit Corp to see if a proposal can be developed that it is prepared to recommend for consideration by the shareholders. The Board has informed Credit Corp that it is willing to engage on the proposal and has offered to provide due diligence, subject to settling a market standard non-disclosure agreement”*
- (b) *“The proposal is subject to numerous conditions, including satisfactory completion of due diligence, final Credit Corp Board approval, negotiation of binding transaction documents, unanimous recommendation by hummgroup's Independent Board Committee, regulatory approvals and finalisation of Credit Corp's financing arrangements” and*
- (c) *“hummgroup will continue to keep the market informed in accordance with its continuous disclosure obligations.”*

December Acquisitions and events following 17 December Announcement

- 37. On 17 December 2025, Mr Hines sent the following text message to Mr Abercrombie: *“Hi Drew, just a reminder to seek my approval as BARCC chair for compliance purposes re any intended purchase”*. Mr Abercrombie replied with a text message *“Thanks Rob. Appreciate the prompt. Pls check email.”* Mr Abercrombie then emailed Mr Hines stating *“Yes I intend to buy stock. Following the meeting yesterday evening we know we are clear in terms of inside info and black out timing. So as a formality I would appreciate your confirmation”*. Mr Hines provided this confirmation by return email.
- 38. On 17, 18 and 19 December 2025, TAG acquired 15 million Humm shares on market, increasing his voting power from 26.19%⁸ to 29.19% (**December Acquisitions**).
- 39. On 19 December 2025, the Convening Shareholders called a meeting under section 249F to be held on 19 February 2026 to consider the resolutions set out in the Section 203D Notice (**EGM**).
- 40. Mr Abercrombie submitted to the initial Panel that the timing of the December Acquisitions was driven by a range of considerations including:
 - (a) *“a pre-existing intention for Mr Abercrombie to increase his stake in Humm”*, noting that Mr Abercrombie had decided to buy further shares in Humm in early November 2025
 - (b) *“a desire to shore up Mr Abercrombie's position on any shareholder vote regarding his tenure as a director” and*
 - (c) *“regulatory timing considerations”* given the forthcoming changes to the competition laws on 1 January 2026 and the introduction of mandatory notifications, which Mr Abercrombie submitted would likely require him to

⁸ Since Mr Abercrombie's substantial holder notice dated 3 April 2024 (see paragraph 7), his voting power decreased due to Humm issuing shares

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notify the ACCC of any proposed acquisitions of Humm shares and incur additional costs.

41. On 7 January 2026, during a telephone conversation between representatives of Humm's and Credit Corp's respective legal and financial advisers about the negotiation of the terms of the NDA, Humm's financial advisers stated words to the effect that:
- (a) Humm was willing to provide diligence at a higher price but the current price would not enable Credit Corp to obtain diligence access or a recommendation and
 - (b) if Credit Corp wanted diligence access it would be subject to agreeing a standstill or the Credit Corp Proposal would have to be at a higher price.

14 January Circular

42. On 14 January 2026, the Humm board released a circular to its shareholders titled *"Important Information for shareholders regarding the upcoming general meeting convened by certain shareholders"* (**14 January Circular**). That document was signed by all the Humm directors and stated among other things the following:
- (a) That *"...the proposal from The Abercrombie Group Pty Ltd ("TAG") was not at a level that the Independent Board Committee ("IBC") would have supported..."* and *"[u]ltimately TAG did not put forward a revised proposal that the IBC believed was compelling and should be put to shareholders"*.
 - (b) *"The humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value."*
 - (c) *"Once the Convenors delivered a section 203D notice on 15 December 2025 (requiring an ASX announcement by 17 December 2025), the Board promptly announced both the received proposal and the proposed resolutions referenced in the Convenors' Notice – transparently and fully informing the market of all material information."*
43. On 15 January 2026, there was a meeting of the Humm board where the minutes of the meeting recorded that the Board was provided an update on the NDA negotiations with Credit Corp and that the Board *"reiterated that it was keen for the NDA negotiations to be finalised and for Credit Corp to get into the data room"*.

INITIAL PANEL PROCEEDINGS

44. We describe below details of the initial Panel proceedings which, at a high level, involved the following aspects:
- (a) on 26 January 2026, Akat filed the application to the initial Panel (see paragraphs 45- 47)
 - (b) on 26 February 2026, Humm provided a voluntary undertaking concerning insider participation relating to Humm's response to the Credit Corp Proposal and related management of conflicts of interest issues which the initial Panel

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considered adequately addressed its concerns such that it was not necessary to make a declaration of unacceptable circumstances and orders in relation to those issues (see paragraphs 48 - 54)

- (c) on 5 March 2026, Humm established an independent board committee to consider the Credit Corp Proposal (**IBC**), as required by the voluntary undertaking (see paragraphs 55-60)
- (d) on 17 March 2026, the initial Panel made the Declaration (see paragraph 75) and
- (e) on 10 April 2026, the initial Panel made the Original Orders (see paragraph 76).

Application

45. On 26 January 2026, Akat made an application to the Panel seeking a declaration of unacceptable circumstances, submitting (among other things) that:
- (a) the Credit Corp Proposal *“was not disclosed by the [Humm] Board for almost one month”*, and was only disclosed when a section 203D notice was given to Humm
 - (b) Humm did not release complete details of the Credit Corp Proposal
 - (c) the December Acquisitions *“occurred during a period of informational asymmetry and while a superior proposal was unresolved”*
 - (d) *“due diligence has still not been granted to Credit Corp – over two months after the receipt of a bona fide acquisition proposal”*
 - (e) Humm selected a law firm regarding the Credit Corp Proposal that had also advised TAG in relation to the TAG Proposal and
 - (f) the Humm board had not formed an independent board committee to assess the Credit Corp Proposal.
46. Akat sought an interim order preventing the shares acquired by TAG through the December Acquisitions from being voted at the EGM. The initial Panel made two interim orders with the effect of deferring the EGM.
47. Akat sought final orders, including orders:
- (a) preventing the December Acquisitions made by the Associated Entities from being voted while the Credit Corp Proposal was on foot
 - (b) requiring Humm to provide due diligence to Credit Corp on equivalent terms as was provided to TAG
 - (c) requiring Humm to establish an independent board committee and a structured engagement process and
 - (d) requiring corrective disclosure.

Undertaking relating to insider participation and conflicts of interest

48. On 12 February 2026, Humm made an announcement titled ‘Chair Appointment & Board Expansion’ (**12 February Announcement**) that stated that Mr Abercrombie had elected to step down as Chair and that Mr Hines would replace him as Chair. It

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also mentioned other governance arrangements proposed to be undertaken by Humm, including that the size of the Humm board would increase to six directors, that Mr Angelo Demasi (Humm's CEO) would join the board along with an additional independent director and that the board had commissioned an external review of governance arrangements.

49. The initial Panel was concerned that Mr Abercrombie may have a conflict of interest in relation to the Credit Corp Proposal, whether actual, potential or perceived, and sought submissions from the parties on a draft declaration of unacceptable circumstances that included issues around insider participation relating to Humm's response to the Credit Corp Proposal and related management of conflicts of interest issues. The initial Panel considered that the 12 February Announcement did not adequately deal with its concerns.
50. Humm submitted to the initial Panel that "*[t]o be clear, Humm has no intention of forming an IBC to consider the Credit Corp Proposal for the simple reason that there would be no basis to do so.*"
51. Mr Abercrombie submitted to the initial Panel that "*Mr Abercrombie's decision to step down as Chair to avoid any perception of bias or conflict does not contradict prior submissions nor is it an admission that it was not appropriate for him to consider the Credit Corp (CC) proposal*" and that "*[i]n stepping down as chair, Mr Abercrombie has listened to shareholder feedback. While he might not agree with it, he should not be criticized when he voluntarily takes steps to improve the situation for all.*" Mr Abercrombie also submitted to the initial Panel that there were "*no matters which could give rise to a potential conflict to prevent Mr Abercrombie from considering, as a Humm board member, the CC proposal.*"
52. Credit Corp submitted to the initial Panel that:

"Credit Corp submits that the two-week period [being the period from the withdrawal of the TAG Proposal to the receipt of the Credit Corp Proposal] that Humm and Mr Abercrombie cite as justification for him no longer being a participant in the market for control of Humm is not determinative.

Such a narrow reading of the legislation and the Panel's guidance is plainly incompatible with an efficient, competitive and informed market. On Humm and Mr Abercrombie's construction, an insider could withdraw their own bid as a means to scuttle a competing bid as doing so would effectively allow them to jump from being excluded from an independent board committee considering their own proposal to a full board considering a competing proposal. They could then at a later time simply bring their insider bid again. Such a narrow reading sets a dangerous precedent, especially in light of the other indicia that Mr Abercrombie remains in the market for control of Humm".
53. Humm submitted that the initial Panel should not make the proposed declaration but that if it did, it should reflect that "*although Mr Abercrombie had initially sought to be at the forefront of the negotiations with Credit Corp (in his capacity as former Chair of Humm), since 9 January 2026, Mr Abercrombie has in fact had little involvement in the discussions with Credit Corp and none on a day-to-day basis. He attended the meeting with*

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Credit Corp representatives on 4 February, with Mr Demasi, but apart from that has had no involvement in the protracted negotiations with respect to the confidentiality deed.”

54. On 26 February 2026, Humm gave a voluntary undertaking which the initial Panel considered adequately addressed its concerns such that it was not necessary to make a declaration of unacceptable circumstances and orders in relation to those issues.⁹ At that time, however, the initial Panel was still considering other issues raised in the application, including in relation to disclosure in the 17 December Announcement and the December Acquisitions.

Establishment of the independent board committee

55. On 5 March 2026, Humm announced that it had established an independent board committee to consider the Credit Corp Proposal (IBC). In response to the requirement of Humm’s undertaking, the IBC excluded Mr Abercrombie.
56. On 9 March 2026, Humm announced (among other things) that:
“Humm believes the draft Confidentiality Deed [NDA] is now in settled form and expects it to be formally executed by the Company and Credit Corp in the next few days, following which access to the due diligence data room will be granted to Credit Corp and its representatives in accordance with the terms of the Confidentiality Deed and the Undertaking.”
57. On 13 March 2026, the IBC announced that Humm and Credit Corp had entered into a Confidentiality Deed (NDA) on that day. The announcement also refers to the fact that the IBC is advised by Flagstaff and Herbert Smith Freehills Kramer.
58. Also on 13 March 2026, Humm announced that Mr Demasi had been appointed as a director of Humm, as required by the voluntary undertaking.
59. On 16 March 2026, the IBC submitted that *“Under the terms of the NDA, Humm has opened a data room and Credit Corp representatives are now accessing due diligence information”*.
60. On 24 April 2026, the initial Panel published a media release which raised concerns around Humm’s compliance with the undertaking of 26 February 2026 (see [TP26/022](#)).

⁹ See the initial Panel’s media release [TP26/009](#). At the time of accepting the undertaking, the initial Panel was not aware of the matters referred to in paragraphs 18 to 20 above. In the media release, the initial Panel provided background that referred to some of the facts above as relevant to its conclusions but also included the following *“Mr Abercrombie had publicly recommended shareholders vote in favour of a proportional takeover resolution (Proportional Takeover Resolution) to be put at Humm’s annual general meeting held on 12 November 2025 (AGM) and then subsequently privately informed the other directors that he had decided to vote against the Proportional Takeover Resolution and convinced them to agree to withdraw the resolution from the AGM (despite some directors having a different view) in circumstances where the company has never announced that the reason for withdrawing the resolution was solely due to the change of intention of the Chairman of the company.”*

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Humm's submissions on the 14 January Circular

61. As part of the initial Panel proceedings, Humm was asked when the board first formed the view that the Credit Corp Proposal was not compelling (as stated in the 14 January Circular). On 19 February 2026, Humm submitted¹⁰ that:

"From the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling, including for the following key reasons:

- The \$0.72 and \$0.77 per share offered by Credit Corp for the Takeover Offer and the Scheme respectively was below the Board's view of the underlying value of Humm's shares, as supported by an Expert Valuation issued to the IBC in the context of the TAG Proposal and prior to the receipt of the Credit Corp Proposal. ...*

Having regard to the views on value expressed by each of [Collins St Asset Management], Mr Raper and Mr Abercrombie, it was clear to the Board that the Scheme proposed by Credit Corp had no prospects of success (at the proposed Scheme price). Therefore, logically from that time, the Board considered the Scheme offer was not compelling enough to be put to Humm shareholders. For the same reasons which are amplified by the lower consideration proposed, the Board considered that Credit Corp's fallback Takeover Offer at a price of \$0.72 per share would be unlikely to have sufficient shareholder support to warrant a recommendation of the Board."

62. Humm also made submissions as to what was meant by the phrase "the Humm board did not consider the proposal to be compelling". It submitted on 19 February 2026 that:

"Humm and its professional advisers consider that for a non-binding indicative proposal to be "compelling" it must be on terms that the Board would be willing to recommend to its shareholders taking into account all aspects of the proposal, including the price, any timing considerations, conditions, the identity, reputation and financial condition of the proponent of the proposal, the consideration offered and other legal, regulatory and financial matters (as the case may be) and the likelihood that the proposal would be able to be completed substantially in accordance with its terms."

63. Approximately one week later, on 24 February 2026, Humm repeated this submission and endorsed its accuracy. The submission stated that:

"Humm submitted that from the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling, including because the \$0.72 and \$0.77 per share offered by Credit Corp was below the Board's view of the underlying value of Humm's shares, as supported by an expert valuation issued to the IBC in the context of the TAG Proposal and prior to the receipt of the Credit Corp Proposal. That submission is accurate and consistent with the 17 December 2025 announcement, properly read."

64. However, 9 days later, on 5 March 2026, Humm put a different proposition to the initial Panel. The initial Panel had invited submissions on its preliminary view that Humm failed to disclose important information in the 17 December Announcement,

¹⁰ Emphasis added

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specifically that the Humm board had already rejected the Credit Corp Proposal. Humm's submissions stated that:

"no determination had been made by the Board to reject or not recommend the Credit Corp Proposal at the price of \$0.77. While individual directors may have individually held or expressed a view that the price offered by Credit Corp was not sufficiently compelling for the Board to recommend to Humm shareholders, this view had not been discussed let alone 'determined' by the full Board at the time of the announcement."

65. Humm also submitted¹¹ that *"it is simply not true to say that the Humm board ever formed the view that the Credit Corp Proposal was not compelling"* and that instead *"[t]he 14 January 2026 announcement states only that the Humm board, through its advisers, had communicated to Credit Corp that the \$0.77 offer was not viewed as compelling. This is factually correct."*
66. In response to the initial Panel querying the above inconsistency, Humm submitted (among other things) that the original submission was in response to the initial Panel's question which read *"When did the board first form the view that the Credit Corp Proposal was not compelling, as stated in the Humm communication publicly released on 14 January 2026?"*), which it submitted was *"based on a false premise"* and *"which in retrospect misled Humm"*.

Humm's submissions on the 17 December Announcement

67. The initial Panel asked Humm what the Humm board had meant by the phrase *"carefully evaluating"*. Humm submitted that:

"The statement that Humm is "carefully evaluating Credit Corp's proposal" was intended to convey to the market the truth that there are many aspects of the Credit Corp Proposal that the Humm Board needed to carefully evaluate before determining whether to recommend a transaction to Humm shareholders including Credit Corp's offer price..."
68. Humm also submitted that *"Carefully evaluating" is entirely appropriate language for a conditional, non-binding proposal where due diligence has not commenced. "Evaluating" does not mean "undecided on value". It encompasses assessing whether there is a path to value, including through improved price, structure, certainty, or conditions."*
69. In relation to the overall impression conveyed by the 17 December Announcement, Humm submitted that *"a reasonable person reading the announcement would have understood that the Board did not consider the proposal sufficient as-is, but that the Board was prepared to engage to see whether something acceptable could be developed"*. Humm further submitted¹² that the 17 December Announcement *"properly read"* was consistent with its earlier submission (see paragraph 61):

"from the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling, including because the \$0.72 and \$0.77 per share offered by Credit Corp was below the Board's view of the underlying value of Humm's

¹¹ In a submission to the Panel dated 10 March 2026

¹² Ibid

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shares, as supported by an expert valuation issued to the IBC in the context of the TAG Proposal and prior to the receipt of the Credit Corp Proposal."

70. Humm did not explain whether the 17 December Announcement was consistent or inconsistent with its submission of 10 March 2026 to the effect that the Humm board had not *"ever formed the view that the Credit Corp Proposal was not compelling"*.

Views of Humm directors on the 17 December Announcement

71. When the Humm directors were asked by the initial Panel on 7 March 2026 what consideration was given, when finalising the 17 December Announcement, to the fact that Credit Corp was aware that \$0.77 was not enough to obtain a board recommendation, Ms Fleming submitted that *"I was not of the view, and have never been of the view, that \$0.77 was not, would not, or may not be sufficient to obtain a board recommendation...If anything, my view was that a takeover could be an excellent outcome for shareholders if an acceptable price could be agreed following due diligence and negotiation."* Mr Hines submitted that *"[f]rom the outset my personal view was that a bid from Credit Corp was credible and worthy of full consideration."*
72. Mr Abercrombie submitted that, as at 17 December 2025, the Humm board had not determined that it would not recommend the value put forward under the Credit Corp scheme proposal but that *"Mr Abercrombie's own view was that the \$0.77 offer price was not compelling and unlikely to be of interest to TAG. However, this was Mr Abercrombie's own view, not that of the Humm board"*.
73. The initial Panel asked Mr Abercrombie whether the initial Panel should infer that Mr Abercrombie knew, as at 28 November 2025, that the Humm board would not recommend a proposal to Humm shareholders with a value of \$0.77 per Humm share or less. This was because, on 28 November 2025, Flagstaff had sent Mr Abercrombie (and others) a file note (see paragraph 28) which stated that *"[w]e then said [to Macquarie Capital] that 77c would not get a Board recommendation and shareholder feedback on value during the recent TAG process was also above this level."*
74. Mr Abercrombie submitted in response that he *"did not understand the statement recorded in the file note that "77c would not get a Board recommendation" to reflect a determination that had been made by the Board, as none had been made."* Mr Abercrombie submitted that he understood *"the comment recorded in the file note to reflect Flagstaff's assessment at the time as to the likelihood of a board recommendation being forthcoming at the price proposed by Credit Corp, rather than a statement of any determination of the Board."*

The Declaration and the Original Orders

75. On 17 March 2026, the initial Panel made the Declaration, stating (in summary¹³) that:
- (a) The following statements in the 17 December 2025 Announcement) were misleading and contrary to an efficient, competitive and informed market:

¹³ Further detail in relation to the Declaration is set out in the body of these reasons.

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- (i) That the Humm board was “*carefully evaluating*” the Credit Corp Proposal and “*willing to engage on the proposal*”. The initial Panel considered (among other things) that these statements gave the impression that the Humm board was carefully evaluating and was willing to engage on the Credit Corp Proposal when the reality was Mr Abercrombie had already decided to reject the Credit Corp Proposal several weeks earlier and had instructed the company’s financial adviser on 27 November 2025 to tell Credit Corp’s financial adviser that the Humm board would not recommend the Credit Corp Proposal. That message was conveyed on 28 November 2025 to Credit Corp’s financial adviser and referred to in a letter from the Chair and the Chief Executive Officer of Credit Corp to the Humm board on 4 December 2025.
 - (ii) That the “*proposal is subject to numerous conditions, including...unanimous recommendation by hummgroup’s Independent Board Committee...*”. The initial Panel considered that the 17 December 2025 Announcement was misleading by omission because it did not disclose that on 21 November 2025 the board of Humm (chaired by Mr Abercrombie) had decided that no independent board committee would be created in relation to the Credit Corp Proposal.
- (b) The statement in the 14 January Circular that “*[t]he humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling...*” was misleading and contrary to an efficient, competitive and informed market, because (among other things) in the absence of a similar reference in the 17 December 2025 Announcement, this statement gave the impression that the communication to Credit Corp occurred after 17 December 2025 and before 14 January 2026 when in fact Credit Corp was informed on 28 November 2025 that \$0.77 per share would not get a Humm board recommendation.
 - (c) The conduct of the Humm board, in failing to engage substantively with the Credit Corp Proposal, in light of the statements Humm made to the market on 17 December 2025 and 14 January 2026 that it was willing to engage on the proposal, is unacceptable and contrary to an efficient, competitive and informed market.
 - (d) Mr Abercrombie’s acquisitions of 3% of Humm shares immediately after the 17 December Announcement were unacceptable:
 - (i) having regard to the effect of those acquisitions on the Credit Corp Proposal (because those acquisitions will increase the difficulty in Credit Corp obtaining effective control of Humm through acceptances of the Alternative Credit Corp Bid) and their potential effect on the EGM and the outcome of that meeting on the progression of the Credit Corp Proposal and
 - (ii) because those acquisitions are contrary to an efficient, competitive and informed market in circumstances where the 17 December Announcement

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was misleading and in the surrounding circumstances (listed in paragraph 62 of the Declaration).

76. On 10 April 2026, the initial Panel made the Original Orders including the Divestment Order (requiring the vesting of the shares acquired in the December Acquisitions with ASIC), and the following orders:
- (a) That the IBC disclose (among other things) its current view of the Credit Corp Proposal, including in light of the position previously disclosed by Humm's board on 14 January 2026 and whether the IBC had requested an updated valuation of Humm from its financial advisers.
 - (b) That neither TAG nor any of its associates may rely on the creep exception under item 9 of section 611 until the later of the date on which all the shares the subject of the Divestment Order have been disposed of and a date that is six months from the date of the disclosure referred to in paragraph 76(a) above.
 - (c) That ASIC must, in the absence of a superior proposal, accept any of the shares the subject of the Divestment Order not yet disposed of in accordance with the Divestment Order into any unconditional takeover offer by Credit Corp if Credit Corp receives valid acceptances in respect of 47.1% of Humm shares under its offer.

REVIEW APPLICATIONS

Reviews sought

77. Mr Abercrombie sought a review of the Declaration (by application dated 19 March 2026)¹⁴ and a review of the Original Orders (by application dated 12 April 2026)¹⁵.
78. Mr Abercrombie submitted that the Declaration should be set aside or varied because (among other things):
- (a) the 17 December Announcement was not misleading because the Declaration proceeded from a misconceived analysis of the facts
 - (b) any asserted effect of the December Acquisitions on a control transaction was remote, contingent and, in the case of a scheme, non-existent and
 - (c) the Panel's role is not to resolve, or impact, disputes relating to the composition of the board of a public company.
79. Mr Abercrombie submitted that the Original Orders should be set aside or varied because (among other things) the Original Orders were founded on the same errors as the Declaration.

Interim order sought

80. Mr Abercrombie sought urgent interim orders to the effect that the Original Orders are stayed pending the outcome of the review proceedings.

¹⁴ *Humm Group Limited 02R*

¹⁵ *Humm Group Limited 03R*

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81. We were satisfied that a stay on the Original Orders would appropriately preserve the status quo, noting that (among other things) the Divestment Order was due to come into effect three business days after the date of the Original Orders. Accordingly, we made an interim order (see Annexure A) staying the Original Orders.
82. Mr Abercrombie and TAG also gave an undertaking that, for the duration of the review proceedings, neither Mr Abercrombie nor TAG would (among other things) sell, transfer or otherwise dispose of any of the shares acquired through the December Acquisitions. We accepted this undertaking on 15 April 2026.

DISCUSSION

83. We have considered all of the material, but address specifically only that part of the material we consider necessary to explain our reasoning.

Scope of the review

84. We decided to conduct proceedings in relation to the application for review of the Declaration. We issued a brief and invited submissions from parties and other interested persons¹⁶ about whether we should affirm, vary, or set aside the initial Panel's decision to make the Declaration and whether there were any submissions or documents, including from the initial Panel proceedings, that they wished to bring to our attention.
85. On 14 April 2026, following receipt of the application for review of the Original Orders, we made a direction that the matters be heard together.¹⁷ We decided to conduct proceedings in relation to the application for review of the Original Orders. We were minded to vary the Original Orders and issued a supplementary brief on orders inviting submissions from parties on the proposed variation.
86. The powers of a review Panel are set out in section 657EA. Subsection (4) provides that a review Panel has the same powers to make a declaration or orders as the initial Panel and may affirm, vary or set aside the decision reviewed or substitute a new decision.
87. Our role is to conduct a *de novo* review.¹⁸ This means that we consider afresh the circumstances in the application being reviewed and any new circumstances raised (which may have arisen subsequent to the initial decision) and make what we consider to be the correct or preferable decision.¹⁹

¹⁶ The interested persons included Akat, Humm, Credit Corp and the Humm independent directors who, at the stage of issuing our initial brief, had not become parties to our proceedings.

¹⁷ Under regulation 16(1)(a) of the *Australian Securities and Investments Commission Regulations 2001* (Cth)

¹⁸ *Eastern Field Developments Limited v Takeovers Panel* [2019] FCA 311 at [181]

¹⁹ Panel's Procedural Guidelines at 7(d)

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88. We have considered whether the issues of insider participation and conflicts addressed by Humm's undertaking to the initial Panel form part of our *de novo* review. We agree with the Panel in *Molopo Energy Limited 03R, 04R & 05R*²⁰ that:

"Our review is not limited by the findings of the initial Panel or confined to the grounds raised in the review applications. This is because our review is a de novo hearing of the matters before the initial Panel based on the material before us²¹ and on which we exercise our own discretion. It is open for us to re-consider all aspects of the initial applications.²²"

89. Here, we were mindful that the initial Panel had already accepted an undertaking on these issues, and even though we are not limited by the issues raised in the review application,²³ the issues addressed through the undertaking were not raised or contested by Mr Abercrombie, or any other party to these proceedings .

90. Having regard to the policy underpinning section 657EA(2) that there should be a prompt conclusion to review Panel proceedings, we did not consider it necessary to consider as part of our review the issues of insider participation and conflicts addressed by the undertaking accepted by the initial Panel. While we did not review the issues of insider participation and conflicts addressed by the undertaking, this does not mean that the circumstances relevant to the undertaking (see paragraph 54) do not form part of the context in which the Declaration was made and which are ultimately relevant to our decision.

Materials considered as part of the review Panel proceedings

91. Along with the material received in the review proceedings, we received at first all of the material before the initial Panel at the time of making the Declaration and subsequently, after we received the review application of the Original Orders, all of the material before the initial Panel in relation to its decision to make orders. We have not, however, had the benefit of the initial Panel's reasons for decision. While it is always helpful to receive the initial Panel's reasons, given our role is to conduct a *de novo* review, it is not essential.²⁴

92. We note that none of the parties or interested persons disputed the facts set out in paragraphs 1 to 51 of the Declaration, as opposed to the relevance of those facts and the conclusions reached by the initial Panel.

93. Humm was initially not a party to our proceedings in relation to the review of the Declaration decision but subsequently became a party after it submitted a notice to become a party to the application for review of the Original Orders. At the time of

²⁰ *Molopo Energy Limited 03R, 04R & 05R* [2017] ATP 12 (*Molopo Energy 03R, 04R & 05R*) at [41], also cited in *The Agency Group Australia Limited 03R* [2021] ATP 5 at [56]

²¹ See, for example, *CEMEX Australia Pty Ltd v Takeovers Panel* [2008] FCA 1572 at [16] (appeal dismissed *Cemex Australia Pty Ltd v Takeovers Panel* [2009] FCAFC 78)

²² See, for example, *Mungana Goldmines Limited 01R* [2015] ATP 7 at [30]

²³ *Molopo Energy Limited 03R, 04R & 05R*, also cited in *The Agency Group Australia Limited 03R* [2021] ATP 5 at [56]

²⁴ Guidance Note 2: Reviewing Decisions at [36]

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issuing our brief on the review of the Declaration, we decided to seek submissions from Humm as a non-party (as well as others²⁵). Humm's submissions were accompanied by statutory declarations each dated 8 April 2026 from Ms Fleming, Mr Hines and Mr Darbyshire. We had not requested the statutory declarations, and these represented new material that was not before the initial Panel.

Jurisdiction

94. Mr Abercrombie submitted that the “EGM is not a matter for the Panel” and any reliance on the effect of the December Acquisitions on voting power at the EGM was “not a matter within the proper scope of the Panel’s jurisdiction.” Mr Abercrombie submitted that:
- “The Panel’s role is not to resolve, or impact, disputes relating to the composition of the board of a public company (or resolving different shareholder views about governance matters). Therefore, the Panel should not seek to impact shareholder voting on board composition (or at least only do so whether [C]hapter 6 has been contravened).”*
95. Mr Abercrombie also submitted that “[t]he Declaration relies in part on the asserted effect of the December Acquisitions on voting at the EGM. That is not a matter within the proper scope of the Panel’s jurisdiction.”
96. Mr Raper submitted that “[t]he Panel may intervene in a board spill where there are unacceptable circumstances” and that “Mr Abercrombie’s submission that it does not intervene in shareholder votes for the election of directors, absent issues such as undisclosed associations is clearly inconsistent with the authorities and despite having been referred to the above authorities on more than one occasion, Mr Abercrombie fails to provide an explanation of why they should not be followed in this instance.”
97. Mr Raper also submitted that:
- “The Panel’s jurisdiction is enlivened by circumstances including where they are ‘likely to have’ an effect on ‘potential control’ or a ‘proposed acquisition’ of a substantial interest (section 657A(2)(a)).*
- Here the Humm Board misled Humm shareholders into believing that a 77c proposal was possible, when in fact that would never be recommended.*
- That misimpression was likely to have an effect on the proposal because the Board’s view would have been material to an ordinary shareholder and contrary to an efficient, competitive and informed market.”*
98. The Panel’s jurisdiction under section 657A relates to circumstances which it appears to the Panel are unacceptable having regard to (in summary and among other things):
- (a) the effect that the Panel is satisfied the circumstances have had, are having, will have or are likely to have on:

²⁵ See paragraph 84

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- (i) the control, or potential control, of the company or another company or²⁶
 - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in the company or another company or²⁷
- (b) the purposes of Chapter 6 set out in section 602.²⁸
99. The fact that an application involves a board spill does not, of itself, take it outside the purview of the Panel.²⁹ The Panel stated in *Resource Generation Limited* that:
- “the fact that an application involves a proposal to reconstitute a board of directors does not take it outside the purview of the Panel. If, in the context of issues regarding the composition of a company's board, there is an accumulation or exercise of voting power possibly in contravention of s606, without proper disclosure under Chapter 6C or in otherwise unacceptable circumstances, those issues may be treated as control issues for the purposes of s657A.”*³⁰
100. There are several decisions of the Panel which establish that the Panel may intervene in board spills.³¹ In this matter, the circumstances that engage section 657A are similar to those in *IFS Construction Services Limited* – an application in relation to a takeover bid announced six days prior to a requisitioned meeting to remove two directors of the company. The Panel in that case said:
- “The meeting here was to have taken place in the context of a proposed bid and its outcome might well defeat the bid. Composition of the board in this context, particularly when a condition of the proposed bid is that the meeting not change the composition of the board, is a matter that we think the Panel can address. We also think that the recommendation of the directors is an important aspect of a bid, particularly for retail shareholders. Therefore, the composition of the board is an aspect of the fulfilment of the purposes of Chapter 6 as set out in section 602 in this case.”*³²
101. Here, we consider that the circumstances raised issues that enliven our powers under section 657A, bringing this matter within the jurisdiction of the Panel. A control proposal has been announced in relation to Humm and the major shareholder (and then-Chair) has been present in the market acquiring shares in Humm. A shareholder-convened meeting was scheduled to propose resolutions removing directors of the Humm board, the very persons charged with decision making responsibility in relation to the Credit Corp Proposal. The EGM is to take place in

²⁶ Section 657A(2)(a)(i)

²⁷ Section 657A(2)(a)(ii)

²⁸ Section 657A(2)(b)

²⁹ *Resource Generation Limited* [2015] ATP 12 at [48], cited in *Agua Resources Limited* [2019] ATP 13 at [24], *DRA Global Limited* [2022] ATP 16 at [22] and *Emu NL 03* [2025] ATP 18 at [42]

³⁰ [2015] ATP 12 at [48]

³¹ See for example, *Factor Therapeutics Limited* [2019] ATP 5, *IFS Construction Services Limited* [2012] ATP 15, *Redflex Holdings Limited* [2009] ATP 17, *MMA Offshore Limited* [2017] ATP 21

³² *IFS Construction Services Limited* [2012] ATP 15 at [26]

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the context of the Credit Corp Proposal³³ and we consider the outcome of that meeting will likely have an effect on the progression of the Credit Corp Proposal.

102. We now turn to the sections of the Declaration which address the findings of unacceptable circumstances, which we have affirmed subject to minor variations.

17 December Announcement

103. As stated in paragraph 36, the 17 December Announcement stated (among other things) that *“The hummgroup Board, with the assistance of its financial and legal advisers, is carefully evaluating Credit Corp’s proposal”, “The Board has informed Credit Corp that it is willing to engage on the proposal...”* and *“The proposal is subject to numerous conditions, including...unanimous recommendation by hummgroup’s Independent Board Committee...”*.

104. The initial Panel in the Declaration stated that:

53. *The statements in the 17 December Announcement that the Humm board was “carefully evaluating” the Credit Corp Proposal and “willing to engage on the proposal” were misleading. The Panel considers that Humm’s shareholders would have construed the 17 December Announcement as meaning that the Humm board was open to potentially recommending a transaction at the offer prices of the Credit Corp Proposal, particularly in the context of the recent TAG Proposal at \$0.58 per share which was significantly below the value of the Credit Corp Proposal at \$0.72 and \$0.77 per share.*

54. *The 17 December Announcement was misleading because it gave the impression that the Humm board was carefully evaluating and was willing to engage on the Credit Corp Proposal when the reality of the situation was, in substance, quite different. The (then) Chair and major shareholder of Humm had already decided to reject the Credit Corp Proposal several weeks earlier and had instructed the company’s financial advisers on 27 November 2025 to tell Credit Corp’s financial advisers that the Humm board would not recommend the Credit Corp Proposal. That message was conveyed to Credit Corp’s financial advisers on 28 November 2025. The Chair and the Chief Executive Officer of Credit Corp wrote to the full board of Humm on 4 December 2025 recording the message that had been conveyed to Credit Corp’s financial advisers. All the Humm directors received a copy of that letter from Credit Corp. None of the independent directors raised any concerns about the letter – either with each other or with the (then) Chair of Humm.*

55. *The Panel considers that either:*

- a. the Humm board had at 17 December 2025 already formed the view that the \$0.77 per share offered under the Credit Corp Proposal was not compelling or*
- b. the independent directors had not at 17 December 2025 formed the view that the \$0.77 per share offered under the Credit Corp Proposal was not compelling but were aware of, and acquiesced to, representations by the Humm Chair and the*

³³ Indeed, events surrounding the Credit Corp Proposal appear to have been a significant motivating factor for the Convening Shareholders to have called the EGM

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Humm board's financial advisers to Credit Corp that the \$0.77 per share offered under the Credit Corp Proposal would not be recommended by the Humm board, noting that the Humm board had not received any financial valuation advice about the Credit Corp Proposal as at 17 December 2025.

...

56. *The 17 December Announcement was misleading by omission because it did not disclose that on 21 November 2025 the board of Humm (chaired by Mr Abercrombie) had decided that no independent board committee would be created in relation to the Credit Corp Proposal.*

105. The Declaration concludes that various statements in the 17 December Announcement (and 14 January Circular) were misleading and contrary to an efficient, competitive and informed market. We have considered whether these statements were “*misleading*” in the ordinary commercial meaning of the word in the context of whether they were contrary to an efficient, competitive and informed market (see section 602(a) and section 657A(2)(b)).

Statements that the Humm board was “carefully evaluating” and “willing to engage”

106. Humm submitted that the statement in the 17 December Announcement that the Humm board was “*carefully evaluating*” and “*willing to engage on*” the Credit Corp Proposal “*did not convey to shareholders that the Board was “open to potentially recommending a transaction at the offer prices of the Credit Corp Proposal”, contrary to the initial Panel’s finding.*”

107. We do not agree. Drawing on our commercial experience, like the initial Panel, we consider the statements in the 17 December Announcement that the Humm board was “*carefully evaluating*” the Credit Corp Proposal and “*willing to engage on the proposal*” gave an impression to Humm shareholders that the Humm board was open to potentially recommending a transaction at the offer prices of the Credit Corp Proposal. We consider that the TAG Proposal IBC’s lengthy consideration of the TAG Proposal at \$0.58 (see paragraphs 8 to 14 above), which was significantly below the value of the Credit Corp Proposal at \$0.72 and \$0.77 per share, makes it more likely that Humm shareholders would have formed such a view.

108. In our view, other statements in the 17 December Announcement – in particular the statements that the directors of Humm were “*committed to acting in the best interests of all hummgroup shareholders and are open to supporting a proposal that they believe represents appropriate value for shareholders*”, that the board was “*prepared to work constructively with Credit Corp to see if a proposal can be developed that it is prepared to recommend for consideration by the shareholders*”, and that “*there is no certainty that any transaction will proceed*” – do not ameliorate this effect.

109. Mr Abercrombie submitted that the initial Panel’s finding is “*irreconcilable with what was actually happening in the background.*” We do not agree.

110. Mr Abercrombie submitted that:

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“The Board instructed experienced legal and financial advisers, held Board meetings, actively negotiated NDA terms and was working towards providing Credit Corp with due diligence access. That is careful evaluation. The Panel's analysis collapses this multifactorial process into a single question of price, based on the preliminary views and comments of one director, and the conclusion that the Board's express willingness to evaluate was false does not follow. The preliminary view of one director on price is not the view of the full Board, a point the initial Panel based its declaration on, which the review Panel is proposing to accept.”

111. Mr Abercrombie also submitted that the “[t]he initial exchanges or discussions between on one hand, Mr Abercrombie and Flagstaff, and, on the other hand, Credit Corp, should be seen for what they are: initial and preliminary discussions and comments between a bidder and target as part of the usual exchange where the target seeks to test the bidder's price and seek an improved offer. It is not evidence of any Humm board determination to reject the proposal.”
112. Mr Raper submitted that the initial Panel's findings³⁴ in relation to the 17 December Announcement was, in fact, supported by evidence and that the impressions given by the announcement was to “lead shareholders to believe that there was a proper process being undertaken to consider the proposal and that this was at risk if there was Board change.”
113. We agree with Mr Raper that the 17 December Announcement gave an impression that “there was a proper process being undertaken to consider the proposal” and we consider the commercial reality of the situation was, in substance, quite different to the statements that the Humm board was “carefully evaluating” the Credit Corp Proposal and “willing to engage on the proposal”. Mr Abercrombie submitted that the Humm board's “careful evaluation” was demonstrated by the board having “instructed experienced legal and financial advisers, held Board meetings, actively negotiated NDA terms and was working towards providing Credit Corp with due diligence access”. However, prior to approving the 17 December Announcement, none of the Humm directors had received any advice about valuation in the context of the Credit Corp Proposal, and none of the directors had instructed Flagstaff to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal (see paragraph 26). None of the Humm independent directors had any communications with one another, with Mr Abercrombie or with Humm's advisers, in relation to the value of the Credit Corp Proposal (see paragraph 33). In our commercial experience, this falls well short of a careful evaluation or a willingness to engage on a control proposal.
114. Mr Abercrombie submitted that our view of the Humm board's willingness to engage was false because “[t]he preliminary view of one director on price is not the view of the full Board”. That submission may be accurate as a general proposition, but it does not properly engage with the circumstances of this case. Here, Mr Abercrombie had instructed Humm's financial advisers to communicate a position to Credit Corp's financial advisers that a “proposal priced at \$0.77 per share would not receive a Board

³⁴ In particular, that the statements in the 17 December Announcement that the Humm board was “carefully evaluating” the Credit Corp Proposal and was “willing to engage on the proposal” were misleading

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recommendation" (emphasis added), a communication which was then later relayed to Credit Corp and recorded in the Credit Corp Letter. In doing so, Mr Abercrombie had represented a position of the Humm board to Credit Corp regarding the price of the Credit Corp Proposal, without the Humm board having discussed, or having received valuation advice on, the price of the Credit Corp Proposal. This (among other things – see paragraph 116) was not consistent with statements that the Humm board was "*carefully evaluating*" the Credit Corp Proposal and "*willing to engage on the proposal*".

115. Mr Abercrombie also sought to downplay the significance of his views in relation to the Credit Corp Proposal as being of a "*preliminary*" character, and that his interactions with Credit Corp were "*part of the usual exchange*" between a target and a bidder. Applying our commercial judgement, we did not consider the materials supported this submission. By instructing Flagstaff to communicate to Credit Corp that a "*proposal priced at \$0.77 per share would not receive a Board recommendation*", Mr Abercrombie appeared to engage in conduct that threatened the Credit Corp Proposal. Credit Corp took Flagstaff's communication to its financial advisers for what it said it was – the position of the Humm board.
116. We consider that the actions of Mr Abercrombie and the Humm independent directors taken as a whole, leading up to the 16 December 2025 Humm board meeting (see paragraph 35) and the 17 December Announcement demonstrated that, in substance, the Humm board was not "*carefully evaluating*" the Credit Corp Proposal and "*willing to engage on the proposal*". In particular:
- (a) on 19 November 2025, the day the Credit Corp Proposal was received, Mr Abercrombie communicated to Credit Corp that (see paragraph 16):
 - (i) in the words of Credit Corp's submission "*that the offer was "of no interest" to him, but he was predisposed to granting due diligence access*" and
 - (ii) in the words of Mr Abercrombie's submission, he "*hoped that not too much time and money would be wasted on the proposal*",noting that shortly after the Credit Corp Proposal was received, Mr Abercrombie also informed the other directors of Humm that his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp (see paragraph 17)
 - (b) on 19 November 2025, Mr Abercrombie informed the Humm board that "*there will be no IBC*" (see paragraph 18) and proceeded to chair the meeting of the Humm board:
 - (i) on 21 November 2025 where the Humm board decided that no independent board committee would be established and agreed that

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Mr Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal (see paragraph 23)³⁵ and

- (ii) on 16 December 2025 where the Humm board settled the 17 December Announcement (see paragraph 35)
- (c) on 20 November 2025, Mr Abercrombie emailed the Chief Executive Officer of Credit Corp stating in effect to confine all communication about the Credit Corp proposal to him “*for the time being*” (see paragraph 22)
- (d) on 27 November 2025, Mr Abercrombie had instructed the company’s financial advisers to tell Credit Corp’s financial advisers that the Humm board would not recommend the Credit Corp Proposal at \$0.77. That message was conveyed to Credit Corp’s financial advisers on 28 November 2025. The Chair and the Chief Executive Officer of Credit Corp wrote to the full board of Humm on 4 December 2025 recording the message that had been conveyed to Credit Corp’s financial advisers – in particular, that the “*\$0.77 per share scheme offer would not be recommended by the Humm Board*” (see paragraphs 27 to 29). All the Humm directors received a copy of that letter from Credit Corp. None of the independent directors raised any concerns about the contents of the letter – either with each other or with Mr Abercrombie, the (then) Chair of Humm (see paragraph 33) and
- (e) prior to approving the 17 December Announcement, none of the Humm directors had received any advice about valuation in the context of the Credit Corp Proposal, and none of the directors had instructed Flagstaff to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal (see paragraph 26). None of the Humm independent directors had any communications with one another, with Mr Abercrombie or with Humm’s advisers in relation to the value of the Credit Corp Proposal (see paragraph 33).

117. In addition, the statutory declarations from the Humm independent directors confirmed that as at 17 December 2025, the Humm board had not considered or discussed the price or value of the Credit Corp Proposal, noting that:

- (a) in the words of Mr Darbyshire “*[a]t no time since the offer was made, has the board or IBC had a discussion around price or value*”
- (b) in the words of Ms Fleming, following receipt of the Credit Corp Letter, “*no formal process of engagement, including due diligence or negotiation, had commenced*” and at the time of the 16 December 2025 meeting of Humm directors, she did not “*consider it was an appropriate time for the Board to form a concluded view about the proposal, including the offer price*” and

³⁵ We also note that Humm’s Group General Counsel was not present at the meeting and the company did not obtain any legal advice independent of Mr Abercrombie and MinterEllison on whether an independent board committee should be established to consider the Credit Corp Proposal.

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(c) in the words of Mr Hines, at the 16 December 2025 meeting of Humm directors, *“it was still very early in the process of the Credit Corp bid and my recollection is that the discussion at this meeting was primarily focused [on] Humm's disclosure obligations given the receipt of a spill motion from Mr Raper, rather than the progress of the bid itself.”* Mr Hines declared the *“Board was taken line by line through the announcement to be released to the market the following day”*.

118. We consider these statements from the Humm independent directors to be consistent with our finding that the commercial reality of the situation was, in substance, quite different to the statements that the Humm board was *“carefully evaluating”* the Credit Corp Proposal and *“willing to engage on the proposal”*.

119. We made a minor variation to the Declaration at paragraph 54 to clarify that none of the directors raised concerns about the contents of the Credit Corp Letter, and to clarify the specific statement conveyed to Credit Corp on 28 November 2025.

The position of the Humm board as at 17 December 2025

120. Mr Abercrombie submitted that the Declaration proceeded on a premise that was not supported by the evidence, namely that *“(a) the Humm board had effectively determined to reject the Credit Corp proposal prior to the 17 December announcement and (b) the announcement therefore mischaracterised the Board's position.”* Mr Abercrombie submitted that the 17 December Announcement was not misleading because (among other reasons) the Board had made no determination to reject the proposal and instead, it was continuing to evaluate the proposal in circumstances where the individual directors held different and evolving views.

121. Humm addressed the findings of the initial Panel at paragraph 55 of the Declaration, where the initial Panel said that:

- (a) the Humm board had already formed the view that the \$0.77 per share offered under the Credit Corp Proposal was not compelling (paragraph 55(a)) or
- (b) the independent directors had not formed the view that the \$0.77 per share offer was not compelling but were aware of, and acquiesced to, representations by the Humm Chair and the Humm board's financial advisers to Credit Corp that the offer would not be recommended by the Humm board (paragraph 55(b)).

122. Humm submitted neither of these findings were open to the initial Panel.

123. On paragraph 55(a) of the Declaration, Humm submitted that (among other things):

“There is no evidence that, when the 17 December Announcement was made, any of the independent directors considered that the \$0.77 per share offered under the Credit Corp Proposal was not compelling. There is no record of such a view being reached in any meeting minutes or any communication from any of those directors.”

124. On paragraph 55(b) of the Declaration, Humm submitted that (among other things):

“the evidence also does not enable a finding that the independent directors “acquiesced” to representations by Mr Abercrombie and Humm's financial advisers to Credit Corp that the offer would not be recommended by the Humm board. The initial Panel does not explain what it means by “acquiesced” in this context. As noted above, there is no

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evidence that the independent directors had any involvement in the representations, other than being forwarded the [Credit Corp Letter] from Mr Abercrombie after it was sent."

125. We can see why the initial Panel included paragraph 55(a) of the Declaration, that *"the Humm board had at 17 December 2025 already formed the view that the \$0.77 per share offered under the Credit Corp Proposal was not compelling"*. Humm had submitted to the initial Panel that *"from the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling"* (see paragraph 61) and in a subsequent submission had reiterated the statement and added *"[t]hat submission is accurate and consistent with the 17 December 2025 announcement, properly read"*. In addition, in relation to the meaning of *"not compelling"* Humm submitted that:

"Humm and its professional advisers consider that for a non-binding indicative proposal to be "compelling" it must be on terms that the Board would be willing to recommend to its shareholders taking into account all aspects of the proposal".

This is consistent with Mr Abercrombie's view of the Credit Corp Proposal at the time (see paragraph 72).

126. It was only at a later point in the initial Panel proceedings that Humm presented an inconsistent proposition that *"it is simply not true to say that the Humm board ever formed the view that the Credit Corp Proposal was not compelling"* and submitted that it was misled by the initial Panel's question when making its earlier submissions (see paragraphs 65 and 66). This inconsistency in Humm's submissions might be explained, in part, by the limitations that the independent directors had in reviewing Humm's submissions. In the statutory declarations from the Humm directors:
- (a) Ms Fleming declared that *"I have received copies and drafts of other submissions made on behalf of Humm and where time allowed, I reviewed and commented on them prior to their submission."*
 - (b) Mr Hines declared that *"As a member of the Humm Board, I have also sought to review and approve all Humm submissions to the Panel but on occasion these submissions had to be submitted very quickly which did not permit me time to fully review and comment on the submissions."*
 - (c) Mr Darbyshire declared that *"I have had the opportunity as a director of Humm to review and approve most of the submissions made by Humm to the Panel but due to tight deadlines some submissions were provided to me with little time to review or*

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comment and I was unable to do so. For a large part of the proceedings I was in the USA and subject to time zone delays."

127. Irrespective of the extent of the directors' involvement in Humm's submissions to the Panel, we consider the jarring inconsistency in Humm's submissions to be unsatisfactory.
128. Nevertheless, we did not come to the same conclusion as the initial Panel in paragraph 55(a) of the Declaration (and have varied the Declaration to delete this paragraph) because:
- (a) none of the board minutes stated that the Humm board had formally resolved that the Credit Corp proposal was not compelling³⁶ and
 - (b) we received sworn statutory declarations from each of the independent directors to the effect that no formal decision had been made by the Humm board and that they were generally supportive of pursuing the Credit Corp Proposal. In particular:
 - (i) Ms Fleming declared that following receipt of the Credit Corp Letter, "*no formal process of engagement, including due diligence or negotiation, had commenced*" and that:
 - (A) her "*private reaction to the [Credit Corp Proposal] was extremely positive*"
 - (B) at the time of the 16 December 2025 meeting of Humm directors, her view was that "*it was important for Humm to actively engage with the Credit Corp offer*" but apart from that, she did not "*consider it was an appropriate time for the Board to form a concluded view about the proposal, including the offer price.*"
 - (C) at the time of the 14 January Circular, "*the Board had not formed any view about whether or not to recommend the Credit Corp NBIO including at the \$0.77 offer price*" and
 - (D) at the time of the 15 January 2026 meeting of Humm directors, "*it continued to be the case that no formal assessment or consideration was given by the Humm Board to the offer price. Rather the minutes record that the Board considered the offer was at a level that warranted genuine engagement from Humm.*"
 - (ii) Mr Hines declared that "*[f]rom the outset*" his view was that "*the bid from Credit Corp was credible and worthy of full consideration*" and that his "*view throughout this time*³⁷ *[was] (and remains) that a negotiated price between Humm and Credit Corp should follow appropriate due diligence and be informed by an updated valuation.*"
 - (iii) Mr Darbyshire declared the "*Credit Corp Proposal represented an initial indicative offer that served as a starting point for negotiations rather than a final*

³⁶ As to which, see sections 251A and 1305

³⁷ That is, from the receipt of the Credit Corp Proposal to 8 April 2026

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position on value and terms” and that “at no time since the offer was made, has the board or IBC had a discussion around price or value”. Mr Darbyshire also declared that:

- (A) at the 16 December 2025 meeting of Humm directors “*[t]here was no discussion ... about the terms of the Credit Corp offer or whether it would be acceptable to shareholders. Humm’s focus that time was on seeking to progress due diligence with a view to improving the offer from Credit Corp.*”
- (B) at the time of the 14 January Circular, “*the Board had not discussed or formed any view about price...*”
- (C) at the 15 January 2026 meeting of Humm directors, “*[n]o views were or [had] been discussed or formalised regarding the price...*”.

129. However, applying our commercial judgement, we consider there is sufficient material to support the position that the independent directors were aware of, and acquiesced in,³⁸ representations by the Humm Chair and the Humm board’s financial advisers to Credit Corp that the \$0.77 per share offered under the Credit Corp Proposal would not be recommended by the Humm board, given (among other things):

- (a) all of the Humm independent directors agreed that Mr Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal
- (b) all of the independent directors were aware that Mr Abercrombie and his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp³⁹
- (c) all of the independent directors received a copy of the Credit Corp Letter recording the message that “*\$0.77 per share scheme offer would not be recommended by the Humm Board*” and
- (d) the 14 January Circular, which was individually signed by each of the independent directors, also stated in express terms that it was the “*Humm board*” who authorised the communication to Credit Corp “*that while the \$0.77 offer was not viewed as compelling...*”⁴⁰

130. The statutory declarations also addressed the actions of each of the independent directors following receipt of the Credit Corp Letter. This supplemented earlier submissions from Humm that none of the independent directors had any communications with each other, with Mr Abercrombie, with Humm’s advisers, or with Credit Corp, in relation to the value of the Credit Corp Proposal following

³⁸ By which we mean that the independent directors were aware of but did not correct or question the representations

³⁹ We varied the Declaration to insert a new paragraph 55(b) to make that point.

⁴⁰ We acknowledge this was information that arose after the 17 December Announcement, but it was not inconsistent with our conclusion that the independent directors were aware of, and acquiesced to, the relevant representations

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receipt of the Credit Corp Letter and prior to the 17 December 2025 Announcement. The independent directors declared as follows:

- (a) Ms Fleming declared that she did *“not specifically recall reading the 4 December 2025 letter from Credit Corp or how [she] reacted to the letter, but reading it now [she didn't] consider it was necessary or appropriate for [her] to seek to clarify to Credit Corp that the Humm Board had not yet formed views as to the \$0.77 offer price.”*
- (b) Mr Hines declared that he *“considered that the advisers were likely to engage in posturing in negotiations”* and did *“not consider at the time that there was any need for [him] to intervene in those discussions.”*
- (c) Mr Darbyshire declared that when he *“read the 4 December 2025 letter from Credit Corp, [he] didn't think it was necessary or prudent for [him] at that point in time to clarify to Credit Corp that the Humm Board had not reached a view on whether or not it would recommend the transaction at the \$0.77 price.”* He stated that he *“was not directly involved in the negotiations with Credit Corp”* and did not *“think it was prudent for [him] to interfere in exchanges between the commercial advisers.”*

131. We found it highly unusual that none of the independent directors took any steps to query or correct a representation made to Credit Corp that the full Humm board would not recommend the \$0.77 per share scheme offer, a representation that Humm also submitted to the initial Panel (see paragraph 61). The Credit Corp Letter did not prompt the Humm independent directors to have any communications with one another, with Mr Abercrombie or with Humm's advisers, in relation to the value of the Credit Corp Proposal. Despite the Humm independent directors having provided statutory declarations to the effect that they were supportive of pursuing the Credit Corp Proposal (see paragraph 128), it appears that none of the independent directors had significant concerns with Credit Corp learning that its offer would not receive the support of the Humm board.
132. In addition, despite the independent directors being aware that Mr Abercrombie was unlikely to be a seller at the \$0.77 per share scheme offer price, the 17 December Announcement did not disclose Mr Abercrombie's intentions in relation to the Credit Corp Proposal. We consider that had Mr Abercrombie's intentions been disclosed, it would have become clear to the market that (at the very least) the scheme offer under the Credit Corp Proposal was unlikely to succeed.
133. Like the initial Panel, we also consider that the 17 December Announcement was misleading by omission because it did not disclose that on 21 November 2025 the board of Humm (chaired by Mr Abercrombie) had decided that no independent board committee would be created in relation to the Credit Corp Proposal (paragraph 56 of the Declaration).
134. Mr Abercrombie submitted that *“no-one could reasonably be misled by the omission of any reference to an IBC not being established because it was clear, by reading the announcement, that one had not been established”*. We do not agree. The 17 December Announcement, in referring to the Credit Corp Proposal being *“subject to numerous conditions, including...unanimous recommendation by hummgroup's Independent Board Committee...”* implies, without clarification, that Humm has, or is likely to, establish an

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independent board committee. The background of the recent TAG Proposal and that an independent board committee was established to consider the TAG Proposal supports this implication.

135. In any event, the 17 December Announcement does not address the crucial point that a failure to establish an independent board committee has the effect that a condition to the Credit Corp Proposal could not be satisfied (namely, the unanimous recommendation of the Credit Corp Proposal by Humm's IBC). Mr Abercrombie submitted that *"if in due course, the full Board had decided to recommend the transaction, the IBC condition would have been satisfied in substance"*. This submission did not reduce or remove our concerns. Against the background of Humm's consideration of the TAG Proposal (and Mr Abercrombie's involvement in that proposal), we do not consider it is reasonable to assume that the recommendation of the full Board would satisfy the condition *"in substance"* or that Credit Corp would waive the IBC condition. As was evident from Credit Corp's submissions to the initial Panel (see paragraph 52), Mr Abercrombie's involvement in the deliberations regarding the Credit Corp Proposal was clearly a matter of importance to Credit Corp. We have made minor revisions to paragraph 56 of the Declaration to make this point clear.
136. Each of Mr Abercrombie and Humm also submitted that the absence of any meaningful share price decline from the 14 January Circular further supported their position that the 17 December Announcement was not misleading. In our commercial judgement, we do not consider that the share price movement, or lack thereof, is determinative as to whether statements are misleading and contrary to an efficient, competitive and informed market. A similar issue came before the Panel in *Pacific Smiles Group Limited*⁴¹ where it was argued that information in certain transaction agreements was not material information because the company's share price did not move when that same information was later disclosed. The Panel said (footnotes excluded):

"We are not required to establish in fact the effects of the circumstances. We need to be satisfied, relying on our commercial expertise, of the effect that the circumstances have had, are having, will have or are likely to have on the control or potential control of Pacific Smiles."

137. We agree. We would also add that, in this case, the effects of the 17 December Announcement on share price trading are speculative, and we do not consider it appropriate in the circumstances to attempt to isolate the effects of Humm's disclosure (or failure to disclose) on market prices. Also, it is relevant that we have reached a similar view to the initial Panel in relation to the 14 January Circular, as discussed below.

14 January Circular

138. The Declaration stated that:

⁴¹ [2024] ATP 12 at [100]

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57. *The Panel considers that the statement in the 14 January Circular, which was described as having been released on “behalf of the Board of humm Group Limited” and was signed by all of Humm’s directors, that “[t]he humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling...” was misleading and contrary to an efficient, competitive and informed market.*
58. *Given the absence of a similar reference in the 17 December Announcement, this statement in the 14 January Circular gave the impression that the communication to Credit Corp occurred after 17 December 2025 and before 14 January 2026 when in fact Credit Corp was informed on 28 November 2025 that \$0.77 per share would not get a Humm board recommendation. In addition, the Humm board had not received any advice about valuation in the context of the Credit Corp Proposal and the Humm board’s financial advisers had not been instructed to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal.*

139. The relevant passage of the 14 January Circular (in full) stated that:

“As is standard market practice, the humm Board immediately sought to engage with Credit Corp on a confidential basis after receiving Credit Corp’s proposal. The humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value. On 5 December 2025, humm provided Credit Corp with a draft confidentiality agreement that included standard protections, including a standstill. The confidentiality agreement remains under negotiation, but once finalised humm intends to provide Credit Corp with the requested due diligence information.”

140. Humm submitted the reasoning of the initial Panel at paragraph 57 of the Declaration is not open because the *“relevant passage of the 14 January Circular stated expressly that the communication to Credit Corp occurred immediately after receiving Credit Corp’s proposal”*. We do not agree with Humm that this was *“stated expressly”*. We consider that this submission ignores the context in which the 14 January Circular was given, including the implications Humm shareholders would have drawn from statements in the 17 December Announcement that the Humm board was *“carefully evaluating”* the Credit Corp Proposal and *“willing to engage on the proposal”*, as discussed above.

141. Mr Abercrombie submitted that:

“The 14 January 2026 announcement is similarly not misleading. The inclusion of further detail on the steps the target board took following receipt of the proposal does not render either the 17 December or 14 January announcements misleading. To the extent the drafting of the 14 January announcement could have been expressed differently, the evidence makes clear that some directors did not think the proposal was compelling. That is distinct from the board having determined to reject the proposal. In those circumstances, there is no basis to conclude that either announcement was materially misleading or to support a declaration of unacceptable circumstances.”

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142. We do not agree. Like the initial Panel, we consider that the statement in the 14 January Circular, which was described as having been released on *“behalf of the Board of humm Group Limited”* and was signed by all of Humm’s directors, that *“[t]he humm Board, through its advisers, communicated that while the \$0.77 offer was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value”* was misleading and contrary to an efficient, competitive and informed market.
143. We formed this view because:
- (a) the Humm board did not communicate to Credit Corp that *“the \$0.77 offer was not viewed as compelling”*. Instead, the communication to Credit Corp (as recorded in the Credit Corp Letter) was that the \$0.77 offer *“would not receive a Board recommendation”*
 - (b) the communication to Credit Corp was not by *“the Board of humm Group Limited”*. It was a communication instructed by Mr Abercrombie without the Humm board having even considered, or having sought advice on, the price of the Credit Corp Proposal and
 - (c) the absence of a similar reference in the 17 December Announcement gave the impression that the communication to Credit Corp occurred after 17 December 2025 and before 14 January 2026 when, in fact, Credit Corp was informed on 28 November 2025. As discussed above, we do not accept Humm’s interpretation that the 14 January Circular *“stated expressly”* that the relevant communication to Credit Corp *“occurred immediately after receiving Credit Corp’s proposal”*.
144. We also note that the Humm board was expressing a view to the market that it considered the \$0.77 offer was *“not viewed as compelling”* when, as part of the initial Panel proceedings, Humm made several inconsistent submissions as to whether (and at what point) the Humm board considered the Credit Corp Proposal was compelling (see paragraphs 61 to 66). Based on Humm’s latest submission to the initial Panel, Humm submitted that *“it is simply not true to say that the Humm board ever formed the view that the Credit Corp Proposal was not compelling”*.
145. In addition, Humm submitted that the 14 January Circular was not misleading because *“[t]he 14 January 2026 announcement states only that the Humm board, through its advisers, had communicated to Credit Corp that the \$0.77 offer was not viewed as compelling.”* We found this to be a strained submission. Put another way, Humm is asking shareholders to believe that the Humm board authorised a communication to Credit Corp regarding the Humm board’s view on the value of the Credit Corp Proposal, but that this was not a view actually held by the Humm board. We consider that any reasonable person reading the 14 January Circular would have assumed that the Humm board had formed the view that the \$0.77 offer was *“not viewed as compelling”*.

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146. We also consider our findings in relation to the 14 January Circular are consistent with the declarations from the Humm independent directors:

- (a) Ms Fleming declared that she did “not recall reviewing or approving the Circular”. Ms Fleming said:

“Reading the full passage quoted by the Takeovers Panel [in relation to the 14 January Circular] now, I consider it could have been worded more clearly but the key part of the passage is what immediately followed the quote above, ‘... was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value.’”

- (b) Mr Hines declared that:

“While I don’t believe the Board had discussed views on price, it would be accurate to say that I didn’t regard the \$0.77 per share scheme offer price as “compelling”. But that does not mean I had formed a view about whether or not to recommend the transaction to shareholders. The price may have been at the low end of what might be considered an acceptable range and therefore not “compelling”, but still capable of being recommended if the overall deal was one that was in the interests of shareholders to pursue.”

- (c) Mr Darbyshire declared that:

As I have stated in this statutory declaration above, at this point in time [ie. 14 January 2026] the Board had not discussed or formed any view about the price so this passage could have been more clearly worded. The important point was that Humm was responding to an indicative only offer and was willing to engage to see if a proposal could be developed that delivered appropriate value to shareholders.

147. During the proceedings, we were troubled by the continued inconsistent submissions received from Humm and the independent directors in relation to the response to the Credit Corp Proposal. There comes a point where it is not possible to reconcile all of the statements. Given the nature of Panel proceedings and the Panel’s short statutory deadlines, we are not equipped, nor are we expected to, test the material before us in a way that a court would do so.⁴² Accordingly, in reconciling the submissions, we have applied our commercial judgement to form a view on the reality of the situation, focusing on the words of the 17 December Announcement and the 14 January Circular and the impression they gave to the market.

December Acquisitions

148. The Declaration states that:

61. *The Panel also considers that the December Acquisitions have an effect on the Credit Corp Proposal, because the December Acquisitions increased the difficulty in Credit Corp obtaining effective control of Humm through acceptances of the Alternative Credit*

⁴² See *Normandy Mining Limited 03* [2001] ATP 30 at [58]-[60] and *Eastern Field Developments Limited v Takeovers Panel* [2019] FCA 311 at [12]

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Corp Bid. The Panel also considers that the December Acquisitions may have an effect on the EGM and the outcome of that meeting will likely have an effect on the progression of the Credit Corp Proposal.

62. *The December Acquisitions were contrary to an efficient, competitive and informed market, with Mr Abercrombie and his Associated Entities acquiring approximately 3% in Humm where the 17 December Announcement was misleading and in the following surrounding circumstances:*
- (a) *when the Credit Corp Proposal was received, Mr Abercrombie informed the Humm board on the same day that "there will be no IBC"*
 - (b) *Mr Abercrombie took the lead as the primary point of contact in relation to the Credit Corp Proposal and chaired the board meetings of:*
 - (i) *21 November 2025, where the Humm board decided there would be no independent board committee and*
 - (ii) *16 December 2025, where the Humm board settled the 17 December Announcement*
 - (c) *Mr Abercrombie had informed Credit Corp that the Credit Corp Proposal was "of no interest to him", Mr Abercrombie's Associated Entities were unlikely sellers at \$0.77 per share and he had said to the Chief Executive Officer of Credit Corp that he hoped "not too much time and money would be wasted on the proposal"*
 - (d) *Credit Corp had been informed (on Mr Abercrombie's instructions) that:*
 - (i) *the \$0.77 per share offered under the Credit Corp Proposal would not be recommended by the Humm board and*
 - (ii) *the Humm board's view of what shareholders regard as fair value was a valuation closer to \$1 per share*
 - (e) *the position put to Credit Corp in (d) had not been disavowed by Humm's other directors nor otherwise retracted and*
 - (f) *Credit Corp had not withdrawn the Credit Corp Proposal despite having been told that \$0.77 would not be recommended by the Humm board and therefore it was possible that Credit Corp would increase its offer price to secure the recommendation of the Humm board.*
149. *Mr Abercrombie submitted to the initial Panel that the timing of the December Acquisitions "had nothing to do with the Credit Corp proposal which, as it was and currently is, not one which is capable of being recommended to shareholders and had not progressed (and indeed no discussions had been had between Humm (including Mr Abercrombie) and Credit Corp at the time of the share acquisitions)."*
150. *Credit Corp submitted to the initial Panel that it was "demonstrably false" for Mr Abercrombie to state that at the time of the December Acquisitions "no discussions had been had between Humm (including Mr Abercrombie) and Credit Corp". Credit Corp submitted that the discussions included:*

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“On 19 November 2025, on the date of submission of the Credit Corp Proposal, there was a discussion between Credit Corp’s Managing Director Thomas Beregi and Mr Abercrombie in which Mr Abercrombie stated, among other things, that the Credit Corp Proposal was “of no interest to [him]”

“On 20 November 2025, Mr Abercrombie wrote to Mr Beregi and stated:

“Please confine communication to me as Chairman of the Humm Group Board for the time being. The Board will be meeting and seeking counsel over the next few business days and will revert as soon as practical”. ”

“On 5 December 2025, Mr Abercrombie wrote to Mr Beregi (in response to a letter sent by Credit Corp on 4 December 2025 querying the status of the Credit Corp Proposal following its submission on 19 November 2025 and Humm’s apparent refusal at that time to grant due diligence) in which Mr Abercrombie states, among other things, that “Humm is willing to engage and commence DD”, that “a data room has been in the process of being reactivated for that purpose”, and that “a draft NDA has been prepared which Flagstaff [financial advisers to Humm] will forward to Macquarie [financial advisers to Credit Corp]”.

151. In addition, Credit Corp submitted to the initial Panel there had also been discussions between Humm’s and Credit Corp’s respective advisers prior to the December Acquisitions, including the discussions referred to in the Credit Corp Letter and separately on 5, 10 and 11 December 2025.
152. Mr Abercrombie submitted to us that any asserted control effect of the December Acquisitions was *“remote, contingent and, in the case of a scheme, non-existent”*. Mr Abercrombie submitted that:
- “to the extent the proposal proceeds by way of scheme of arrangement, the December Acquisitions are irrelevant unless they may alter voting outcomes, which they cannot....and to the extent the proposal proceeds by way of takeover bid, any impact is only possible if a series of uncertain and unlikely contingencies occur”.*
153. Mr Abercrombie submitted that *“[t]he initial Panel’s reasoning in effect elevates an unlikely, in effect hypothetical, chain of events into a present control effect, which is inconsistent with the statutory focus on real or likely effects on control.”*
154. In response to Mr Abercrombie’s submission that the initial Panel’s reasoning *“is inconsistent with the statutory focus on real or likely effects on control”*, we note that the Panel’s jurisdiction is broad (see paragraphs 98-101) and is not restricted to cases where there is a live takeover bid. It extends to non-binding indicative proposals in relation to the potential control of a company or the proposed acquisition of a substantial interest under section 657A(2)(a) as reflected in numerous Panel decisions⁴³ and long-standing Panel guidance.⁴⁴ We also are not limited to establishing the *“real or likely effects”* of circumstances. When amendments were made to section 657A(2) in 2007⁴⁵ it was purposely expanded to allow *“the Panel to*

⁴³ See, for example, *AusNet Services Limited 01* [2021] ATP 9 and *Virtus Health Limited* [2022] ATP 5

⁴⁴ See, for example, Guidance Note 7: Deal protection

⁴⁵ *Corporations Amendment (Takeovers) Act 2007* (Cth)

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*make a declaration having regard to what the Panel is satisfied is the past, present, future or likely effect of the circumstances. This makes it clear that it is for the Panel to satisfy itself as to what the effect or likely effect is, and that the Panel can make a declaration before any effect has actually occurred.”*⁴⁶ Accordingly, neither the fact that the Credit Corp Proposal was non-binding nor the fact that, as Mr Abercrombie submits, the control effect is “contingent”, take the December Acquisitions, or the effects of the December Acquisitions, outside of our jurisdiction.

155. Applying our commercial judgement, we consider that the December Acquisitions have an effect on the Credit Corp Proposal, because the December Acquisitions:
- (a) increased the difficulty in Credit Corp obtaining effective control of Humm through acceptances of the Alternative Credit Corp Bid and
 - (b) may have an effect on the EGM and the outcome of that meeting (and the resultant composition of the Humm board) will likely have an effect on the progression of the Credit Corp Proposal, noting that the EGM proposes resolutions to remove directors of the Humm board, the very persons charged with decision making responsibility in relation to the Credit Corp Proposal.
156. In our experience, a target director trading in an entity’s securities where a control proposal is on foot poses a significant risk of unacceptable circumstances, and in such circumstances, directors need to take particular care to satisfy themselves that the market is operating on a fully informed basis. The risk of unacceptable circumstances becomes heightened in cases where the target director has a significant degree of influence over the target company’s response to the control proposal.
157. We agree with the initial Panel that the December Acquisitions also constitute unacceptable circumstances because they were contrary to an efficient, competitive and informed market within the meaning of section 657A(2)(b) (see paragraphs 62(a)-62(f) of the Declaration). This is because the December Acquisitions were made where we consider the market was generally not fully informed of all relevant information in relation to the Credit Corp Proposal, and accordingly we did not consider it appropriate for Mr Abercrombie to be trading in the circumstances. We consider the totality of the circumstances and the context to those circumstances included the following:
- (a) Mr Abercrombie had withdrawn the TAG Proposal, being a cash offer of \$0.58 per Humm share, approximately two weeks prior to receipt of the Credit Corp Proposal. When asked at the AGM whether Mr Abercrombie would commit to not making a takeover bid or propose a scheme for six to twelve months, Mr Abercrombie responded “No, I won’t, but I will give you a commitment that we’ll seek advice on this idea” (see paragraph 14)
 - (b) Mr Abercrombie had informed Credit Corp that, in relation to the Credit Corp Proposal, being a cash offer of \$0.77 or \$0.72 per Humm share:

⁴⁶ See Explanatory Memorandum, *Corporations Amendment (Takeovers) Bill 2007*, 3.7

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- (i) in the words of Credit Corp's submission "*that the offer was "of no interest" to him, but he was predisposed to granting due diligence access*" and
- (ii) in the words of Mr Abercrombie's submission, he "*hoped that not too much time and money would be wasted on the proposal*" (see paragraph 16)
- (c) Mr Abercrombie had informed the other directors of Humm that his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp (see paragraph 17)
- (d) Mr Abercrombie took the lead as the primary point of contact in relation to the Credit Corp Proposal (see paragraph 23)
- (e) Mr Abercrombie informed the Humm board on the day the Credit Corp Proposal was received that "*there will be no IBC*" and had already sought advice from MinterEllison that no independent board committee was necessary to consider the Credit Corp Proposal and engaged MinterEllison as legal advisers to Humm before consulting with the other Humm board members (see paragraph 18)
- (f) Mr Abercrombie chaired the meeting of the Humm board:
 - (i) on 21 November 2025, where the Humm board decided there would be no independent board committee and agreed that Mr Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal (see paragraph 23) and
 - (ii) on 16 December 2025, where the Humm board settled the 17 December Announcement, containing statements which we consider gave an impression to the market that did not reflect the commercial reality of the situation (see paragraph 35)
- (g) Mr Abercrombie had emailed the Chief Executive Officer of Credit Corp stating in effect to confine all communication about the Credit Corp proposal to him "*for the time being*" (see paragraph 22)
- (h) Mr Abercrombie had instructed the company's financial advisers to tell Credit Corp's financial advisers that the Humm board would not recommend the Credit Corp Proposal at \$0.77. The Chair and the Chief Executive Officer of Credit Corp wrote to the full board of Humm on 4 December 2025 recording the message that had been conveyed to Credit Corp's financial advisers – in particular, that the "*\$0.77 per share scheme offer would not be recommended by the Humm Board*" (see paragraphs 27 to 29). All the Humm directors received a copy of that letter from Credit Corp. None of the independent directors raised any concerns about the contents of the letter – either with each other or with the (then) Chair of Humm (see paragraph 33) and
- (i) Credit Corp had not withdrawn the Credit Corp Proposal despite having been told that \$0.77 would not be recommended by the Humm board and that the Humm board's view of what shareholder regard as fair value was a valuation

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closer to \$1 per share, and therefore it was possible that Credit Corp would increase its offer price to secure the recommendation of the Humm board.

158. For the avoidance of doubt, we do not express any view on whether the December Acquisitions contravened the insider trading provisions, or on whether Mr Abercrombie was otherwise restricted from trading at that time. Instead, applying our commercial judgement, our perspective is whether the acquisitions were unacceptable irrespective of a contravention of a provision of the Corporations Act.⁴⁷ Put another way, to trade in this market in the circumstances discussed above seriously undermines an efficient, competitive and informed market.

Engagement with the Credit Corp Proposal

159. The Declaration stated that:

59. *The conduct of the Humm board in failing to engage substantively with the Credit Corp Proposal, in light of the statement in the 17 December Announcement that it was "willing to engage on the proposal" and the statement in the 14 January Circular that "there was a willingness to engage" as communicated to Credit Corp, is unacceptable and is contrary to an efficient, competitive and informed market.*

60. *This is in the context that, despite extensive negotiations by Humm's advisers on the NDA and that the Panel has been informed that due diligence access has now been provided by Humm to Credit Corp, it has taken 114 days to negotiate and sign an NDA, the Humm board had not received any advice about valuation in the context of the Credit Corp Proposal, the Humm board had not instructed its financial advisers to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal, and there had been no substantive discussion with Credit Corp about the value of the Credit Corp Proposal since on or around 4 December 2025.*

160. We have had regard to the submissions of Humm, Mr Abercrombie and Credit Corp in relation to Humm's engagement with the Credit Corp Proposal.

161. Humm submitted that the initial Panel's finding that Humm failed to engage substantively with the Credit Corp Proposal was "*contrary to the evidence.*" Humm submitted that:

"On 21 November 2025 the Humm Board determined to engage with Credit Corp subject to the execution of a mutually acceptable confidentiality deed and the provision by Humm's financial advisers of an initial draft of the deed to Credit Corp's advisers as early as 5 December 2025. Since then, Humm engaged continuously with Credit Corp. Extensive negotiations and communications occurred over the period 5 December 2025 and 27 February 2026 when the Panel accepted Humm's undertaking, culminating in the execution of an NDA on 13 March 2026."

162. Humm also submitted that "*The initial Panel's characterisation of delay in negotiating and signing the NDA (for 114 days) as being attributable solely to the conduct of Humm is unsupported by evidence, as the NDA negotiations demonstrates*" and that the 114 day period included the Christmas / New Year period and "*an additional 28 days (starting*

⁴⁷ We note the Panel in *Excelsior Capital Limited* [2020] ATP 25 expressed a similar view at [21]

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at 27 January 2026 and ending on 24 February 2026) when there was no meaningful engagement whatsoever by Credit Corp in relation to the NDA despite repeated prompts by or on behalf of Humm (as the chronology identifies)."

163. Applying our commercial judgement, it appears to us that the reality of the situation was that, in substance, there was very little engagement with the Credit Corp Proposal. This is because:
- (a) it took 114 days to negotiate and sign an NDA and grant Credit Corp access to due diligence. In our experience, this is a much longer than usual period even where negotiations extend over the Christmas / New Years period. We consider the time taken to finalise the NDA, at least in part, reflects poorly on Humm's willingness to engage on the proposal. This is in a context where, whilst not directly comparable, it took the TAG Proposal IBC approximately 20 days to negotiate and sign a non-disclosure agreement in respect of the TAG Proposal and
 - (b) the Humm board had not:
 - (i) received any advice about valuation in the context of the Credit Corp Proposal or
 - (ii) instructed Flagstaff to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal (see paragraph 26), noting that our orders of 24 April 2026 required the IBC to disclose whether it had requested an updated valuation of Humm from its financial advisers and an indicative timeframe for the completion of an updated valuation
 - (c) there had been no substantive discussion with Credit Corp about the value of the Credit Corp Proposal since on or around 4 December 2025 (see paragraph 30).
164. We consider our view is consistent with the statutory declarations dated 8 April 2026 of the Humm independent directors which declared that:
- (a) in the words of Mr Darbyshire "*[a]t no time since the offer was made, has the board or IBC had a discussion around price or value*" and
 - (b) in the words of Ms Fleming, at the time of the 14 January Circular, "*the Board had not formed any view about whether or not to recommend the Credit Corp NBIO including at the \$0.77 offer price*" and at the time of the 15 January 2026 meeting of Humm directors, "*it continued to be the case that no formal assessment or consideration was given by the Humm Board to the offer price*".
165. We were deeply troubled by the statements contained in Mr Darbyshire's statutory declaration that the Humm board had not discussed the prices offered under the Credit Corp Proposal. In our experience, it would be highly unusual for the board of a target company not to at least discuss the price associated with a control proposal. We struggle to understand how the Humm board could possibly have resolved to engage with the proposal without ever having discussed price or whether it would

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be acceptable to shareholders (even without forming a concluded view on these matters).

166. Like the initial Panel, we consider the conduct of the Humm board in failing to engage substantively with the Credit Corp Proposal, in light of the statement in the 17 December Announcement that it was "*willing to engage on the proposal*" and the statement in the 14 January Circular that "*there was a willingness to engage*" as communicated to Credit Corp, is unacceptable and is contrary to an efficient, competitive and informed market.

DECISION

Declaration

167. For the reasons above, it appears to us that the circumstances are unacceptable circumstances:
- (a) having regard to the effect that we are satisfied they have had, are having, will have or are likely to have on:
 - (i) the control, or potential control, of Humm or
 - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in Humm
 - (b) in the alternative, having regard to the purposes of Chapter 6 set out in section 602 of the Act.
168. We consider that it is not against the public interest to make a declaration of unacceptable circumstances. Mr Abercrombie submitted that:
- "The applicant and Raper are pursuing an ulterior purpose which is unrelated to the Panel's jurisdiction...The application was presented as an application by AKAT investments with Raper supposedly deciding to join the matter as a party at the eleventh hour. Raper then made extensive submissions, both as part of the formal process and out of process and AKAT made limited substantive submissions throughout the course of the proceedings. AKAT even failed to make any submissions on one occasion and, when questioned by the Panel, made an excuse which indicated that AKAT did not have a full appreciation of the significance of the proceedings. It is not surprising that the applicant failed to even submit to be a party to the review Panel application. It is difficult to understand how the initial Panel allowed itself to be used in this manner."*
169. We did not consider the conduct of, or arrangements between, Akat and Mr Raper over the course of the initial Panel proceedings gave rise to a concern that a declaration of unacceptable circumstances was not in the public interest. We consider Akat made credible allegations in the application to the initial Panel, and each of Akat and Mr Raper had an interest in pursuing such allegations as minority shareholders of Humm and Mr Raper was also a convening shareholder of the EGM.
170. Accordingly, we affirmed the Declaration, subject to minor variations (see Annexure B). We have had regard to the matters in section 657A(3).

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Orders

171. After affirming the Declaration, we set aside the Original Orders and made new orders set out in Annexure C. The Original Orders (among other things) provided that 15 million Humm shares held by TAG were to be vested in the Commonwealth for ASIC to sell and prohibited TAG or any of its associates from relying on the creep exception under section 611 until the later of the date on which all Relevant Shares have been disposed of in accordance with the Divestment Order, and a date that is six months from the date of corrective disclosure from the IBC. Our orders (among other things) do not require any divestment of any of the shares held by TAG. Instead, our orders require TAG not to vote 15 million shares⁴⁸ for approximately six months and prohibit TAG or any of its associates from relying on the creep exception under section 611 until one month after the date of corrective disclosure from the IBC.
172. Under section 657EA(4) and section 657D the Panel is empowered to make 'any order'⁴⁹ if 4 tests are met:
- (a) it has made a declaration under s657A. The initial Panel did so on 17 March 2026 and we varied the Declaration on 17 April 2026.
 - (b) it must not make an order if it is satisfied that the order would unfairly prejudice any person. For the reasons below, we are satisfied that our orders do not unfairly prejudice any person.
 - (c) it gives any person to whom the proposed order would be directed, the parties and ASIC an opportunity to make submissions. This was done on 21 April 2026.
 - (d) it considers the orders appropriate under one or more of the paragraphs in s657D(2). Determining whether we are satisfied that rights or interests of persons have been affected (and if so, which group or groups of persons) requires an exercise of judgement, drawing on our commercial expertise. For the reasons below, we are satisfied that our orders are appropriate to protect rights or interests of persons who have been, are being, or will be or are likely to be affected by the unacceptable circumstances. The Acceptance Order also ensures that a proposed takeover bid for Humm proceeds (as far as possible) in a way that it would have proceeded if the circumstances had not occurred.
173. As a preliminary matter, we address Mr Abercrombie's submissions as part of the review application that:

"Akat did not seek the Divestment Order or the Acquisition Restriction. The Panel has in effect imposed of its own motion the most severe remedy available in circumstances involving no breach of Chapter 6 or Chapter 6C and no finding that any person was actually misled."

⁴⁸ Equal to the number of shares acquired by TAG through the December Acquisitions

⁴⁹ Including a remedial order but other than an order requiring a person to comply with a provision of Chapters 6, 6A, 6B or 6C

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174. Even though we have not made divestment orders, we note that our power to make 'any order' is not limited by the orders sought by the applicant, either in the initial proceedings or the review proceedings, provided it satisfies the requirements set out in section 657EA(4) and section 657D.
175. As it turned out, and not for the reason expressed in Mr Abercrombie's submissions, our orders were aligned with the final orders sought by Akat (which included a voting restriction order). We explain below the reasoning for each of our orders.

Corrective Disclosure Order

176. Orders 1 and 2 of our orders (the **Corrective Disclosure Orders**) require the IBC to publish an ASX announcement with information regarding (among other things) the IBC's current views of the Credit Corp Proposal, and an update as to whether the IBC has requested an updated valuation of Humm from its financial advisers (the **Disclosure**). The Corrective Disclosure Orders differ from the orders made by the initial Panel in that they (among other things) require Humm to insert in the Disclosure Mr Abercrombie's current views of the Credit Corp Proposal and must be in a form acceptable to the review Panel (noting we had received declarations from the independent directors of Humm that may be relevant to the IBC's current view of the Credit Corp Proposal and which were not presented to the initial Panel).
177. Mr Abercrombie submitted that the Corrective Disclosure Order "*remains in a form that is unnecessary at this time*" and that "*to the extent any corrective disclosure is required, the purpose must be to correct any misleading impression left by earlier announcements (eg in this case, the 17 December announcement and the 14 January circular)*". Mr Abercrombie also submitted that:

"[a]n order compelling the IBC to disclose a view it has not formed, or to provide a timeline that constrains its commercial process, is punitive rather than corrective, disproportionate to any legitimate purpose and would be unfairly prejudicial to Humm and Humm shareholders as a whole by undermining the IBC's ability to negotiate effectively."

178. Mr Raper submitted that the market has been misled as to "*the true opinion of the IBC on Credit Corp*" and "*into believing that Mr Abercrombie may have supported the Credit Corp Proposal*". Mr Raper also submitted that the orders do not unfairly prejudice Humm or the IBC "*given their high degree of culpability in making the misleading impressions and failing to correct those impressions*".
179. The IBC submitted that corrective disclosure was not required because (among other things) "*there can be no confusion in the market currently as to the IBC's willingness to engage with Credit Corp's proposal. At this stage, the proposal is sufficient for due diligence, and the parties are continuing to work together to see if Credit Corp can make a binding proposal capable of acceptance.*"
180. We disagree with Humm and the IBC that the proposed form of disclosure is unnecessary or not required. The Humm board made representations to the market in relation to the Credit Corp Proposal which we consider were misleading and contrary to an efficient, competitive and informed market. An IBC had been

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established on 5 March 2026 to consider the Credit Corp Proposal and at the time of making our orders (on 24 April 2026), it was not clear whether the IBC had requested an updated valuation from its financial advisers and the IBC had not:

- (a) provided any update to Humm shareholders on its own view of the Credit Corp Proposal or
- (b) made any public statement as to whether it agreed or disagreed with the representation made by the full Humm board in the 14 January Circular that the Credit Corp Proposal is not compelling.

181. In addition, despite Mr Abercrombie's considerable influence over the Credit Corp Proposal, at the time of making our orders the market had still not been informed of Mr Abercrombie's views of the Credit Corp Proposal other than through announcements in relation to the initial Panel proceedings.

182. Accordingly, we consider that the Corrective Disclosure Orders are appropriate to protect the interests of other Humm shareholders affected by the unacceptable circumstances who have not been fully and accurately informed of all relevant information in relation to the Credit Corp Proposal, contrary to the principles in section 602.

183. We do not consider the Corrective Disclosure Orders are unfairly prejudicial to any person. We consider that the Corrective Disclosure Orders are a proportionate and effective response to the unacceptable circumstances identified and their effects on Humm shareholders.

Voting Restriction Order and Dealing Restriction Order

184. Order 3 of our orders (the **Voting Restriction Order**) restricts TAG from exercising any votes attached to 15 million Humm shares before the day that is 6 months after the date of disclosure under the Corrective Disclosure Orders and requires that Humm disregard any exercise of those votes in contravention of that order.

185. Order 4 of our orders (the **Dealing Restriction Order**) requires that TAG not dispose of any of the Humm shares that it holds if as a result of that disposal TAG would hold fewer than 15 million Humm shares (except a disposal to Credit Corp, including in compliance with Order 6 of our orders (the **Acceptance Order**)).

186. Mr Abercrombie submitted that "*Confiscation of property, which in effect is what the wholesale abrogation of voting rights amounts to, is a severe and extraordinary order. It is unprecedented in the circumstances*". Mr Abercrombie further submitted that:

"A voting restriction on shares lawfully acquired on-market is an extraordinary remedy that the Panel has reserved for circumstances involving a contravention of section 606 or undisclosed association between parties resulting in an undisclosed crossing of a threshold. None of those conditions is present here. When used in these ways, the order is regulatory in purpose. When used in the ways that are proposed, the order is punitive. Further, there is no justification for the punishment. There has been no finding of any breach of Chapter 6 or Chapter 6C (or of the insider trading provisions) – and ASIC is not investigating any such matters."

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187. Humm submitted that:

“the Voting Restriction Order is: (a) not necessary to protect the rights or interests of persons affected by the unacceptable circumstances declared by the initial Panel (and substantively affirmed by the review Panel); (b) not necessary to ensure that the Credit Corp Proposal proceeds (as far as possible) in a way that it would have proceeded if the unacceptable circumstances declared by the initial Panel (and substantively affirmed by the review Panel) had not occurred; and (c) unfairly prejudicial to Humm.”

188. The Panel has made a voting restriction order on several occasions, including in the absence of a Chapter 6 breach or the finding of an undisclosed association.⁵⁰ Accordingly, we did not agree with the position put by Mr Abercrombie that such an order was *“an extraordinary remedy...reserved for circumstances involving a contravention of section 606 or undisclosed association between parties resulting in an undisclosed crossing of a threshold”*. Even if this was the case, we agree with the Panel’s comments in *Molopo Energy Limited 01 & 02* that the *“absence of a previous remedy of this type would not be a cause for unfair prejudice.”*⁵¹
189. Applying our commercial judgement, we consider the rights and interests of other Humm shareholders have been affected by TAG increasing its voting power and influence over Humm in an uninformed market. The votes attached to the December Acquisitions could have an effect on the outcome of the resolutions to remove directors of the Humm board at the EGM, and also will likely have an effect on the progression of the Credit Corp Proposal. Accordingly, we consider the Voting Restriction Order is necessary to ensure that other Humm shareholders are not disadvantaged by the additional voting power that TAG obtained in circumstances that we have found to be unacceptable. This is particularly the case where Mr Abercrombie was directly involved in, and contributed to, the relevant circumstances. The Dealing Restriction Order follows the Voting Restriction Order. It is necessary to ensure that the Voting Restriction Order is not avoided by transferring the shares the subject of that order to other persons.
190. We turned our minds to the question of for how long the Voting Restriction Order and Dealing Restriction Order should apply. Mr Abercrombie and Humm did not address this in submissions as they each were of the view that no such orders should be made. Mr Raper submitted that *“[a]ll shareholders’ rights are protected from voting distortion, for 6 months following the Disclosure, by putting Mr Abercrombie in the same position as if he had not bought the December Acquisitions.”*
191. Applying our commercial judgement, we agree with Mr Raper that a 6-month period from the date of Disclosure is appropriate to protect the interests of Humm shareholders. We consider this is an appropriate period to ensure that the EGM, the Credit Corp Proposal and the likelihood of other board spill meetings in that period proceed (as far as possible) as if TAG had not acquired the Relevant Shares.

⁵⁰ See, for example, *Keybridge Capital Limited 04, 05 & 06* [2020] ATP 6 and *IFS Construction Services Limited* [2012] ATP 15

⁵¹ [2017] ATP 10 at [272]

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192. As noted, we must also not make any order if it would unfairly prejudice any person.

193. Mr Abercrombie submitted that:

“Focussing on the subject matter of the shareholder vote, this order is punitive in nature. Accordingly, Mr Abercrombie objects to the Voting Restriction Order, and the disproportionate and unjustified expropriation of TAG’s lawfully acquired rights which would result, in the strongest terms.”

194. Humm submitted that:

“Humm considers that Humm would be unfairly prejudiced by the Voting Restriction Orders on the basis that the unacceptable circumstances found by the Panel have already been adequately remedied by the significant changes made to Humm’s governance structure (including the establishment of the IBC and the expansion of the Humm board to include Mr Demasi and two independent, non-executive directors) or will be adequately remedied by the proposed Corrective Disclosure Orders and Acceptance Orders once made by the review Panel. In these circumstances, the effect of the Voting Restriction Orders would be principally punitive, rather than remedial, in nature.”

195. Humm also submitted that *“[a]ny potential impact of the December Acquisitions on the Credit Corp Proposal will be adequately remedied by the review Panel’s proposed Acceptance Order”* and that *“its shareholders and the market are now fully aware of all facts and circumstances which that [sic] led the initial Panel and review Panel to conclude that the 17 December announcement was misleading”*.

196. Mr Raper submitted that:

“The Voting Restriction Order is remedial in nature to [sic] because, for the reasons above, absent the Voting Restriction Order, the progression of the Credit Corp Proposal is likely to be affected by the likely voting distortion at the EGM (and any future meeting of members during the restriction period). The Voting Restriction Order is required to protect shareholders’ rights.”

197. We accept that the Voting Restriction Order and Dealing Restriction Order are prejudicial insofar as:

- (a) TAG will not be entitled to exercise voting rights over, or dispose of, 15 million Humm shares held by it and
- (b) the voting power at the EGM (or any other general meeting in the period 6 months after the date of Disclosure) of TAG and other Humm shareholders will be marginally distorted, as the number of shares able to be voted (i.e. the ‘free float’) will be reduced.

198. However, we are satisfied that any prejudice as a result of these orders is not unfair. In making this assessment, it is appropriate to consider (among other things) the

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“degree of culpability of the persons whose interests are affected by the orders”.⁵² With that lens, we considered the following factors were relevant in assessing Mr Abercrombie’s culpability in the unacceptable circumstances:

- (a) Mr Abercrombie had withdrawn the TAG Proposal, being a cash offer of \$0.58 per Humm share, approximately two weeks prior to receipt of the Credit Corp Proposal. When asked at the AGM whether Mr Abercrombie would commit to not making a takeover bid or propose a scheme for six to twelve months, Mr Abercrombie responded *“No, I won’t, but I will give you a commitment that we’ll seek advice on this idea”* (see paragraph 14)
- (b) Mr Abercrombie had informed Credit Corp that, in relation to the Credit Corp Proposal, being a cash offer of \$0.77 or \$0.72 per Humm share:
 - (i) in the words of Credit Corp’s submission *“that the offer was “of no interest” to him, but he was predisposed to granting due diligence access”* and
 - (ii) in the words of Mr Abercrombie’s submission, he *“hoped that not too much time and money would be wasted on the proposal”* (see paragraph 16)
- (c) Mr Abercrombie had informed the other directors of Humm that his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp (see paragraph 17)
- (d) Mr Abercrombie took the lead as the primary point of contact in relation to the Credit Corp Proposal (see paragraph 23)
- (e) Mr Abercrombie informed the Humm board on the same day that *“there will be no IBC”* and had already sought advice from MinterEllison that no independent board committee was necessary to consider the Credit Corp Proposal and engaged MinterEllison as legal advisers to Humm before consulting with the other Humm board members (see paragraph 18)
- (f) Mr Abercrombie chaired the meeting of the Humm board:
 - (i) on 21 November 2025, where the Humm board decided there would be no independent board committee and agreed that Mr Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal (see paragraph 23) and
 - (ii) on 16 December 2025, where the Humm board settled the 17 December Announcement, containing statements which we consider gave an impression to the market that did not reflect the commercial reality of the situation (see paragraph 35)

⁵² AMP Shopping Centre Trust 02 [2003] ATP 24, quoting ASIC v Yandal Gold (1999) 32 ACSR 317, at [120] to [121]. The Panel has also applied this principle in Energy Resources of Australia Limited 02R [2020] ATP 3 at [66] and Keybridge Capital Limited 08R, 09R and 10R [2020] ATP 9 at [104] and [109].

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- (g) Mr Abercrombie had emailed the Chief Executive Officer of Credit Corp stating in effect to confine all communication about the Credit Corp proposal to him “for the time being” (see paragraph 22) and
- (h) Mr Abercrombie had instructed the company’s financial advisers to tell Credit Corp’s financial advisers that the Humm board would not recommend the Credit Corp Proposal at \$0.77. The Chair and the Chief Executive Officer of Credit Corp wrote to the full board of Humm on 4 December 2025 recording the message that had been conveyed to Credit Corp’s financial advisers – in particular, that the “\$0.77 per share scheme offer would not be recommended by the Humm Board” (see paragraphs 27 to 29). All the Humm directors received a copy of that letter from Credit Corp. None of the independent directors raised any concerns about the contents of the letter – either with each other or with the (then) Chair of Humm (see paragraph 33).

199. When assessing the circumstances as a whole, and applying our commercial judgement, we consider the degree of Mr Abercrombie’s culpability in the market being uninformed on 17 December 2025, and then acquiring the Relevant Shares on 17, 18 and 19 December 2025, formed a sufficient basis to conclude that the prejudice that may be caused to Mr Abercrombie is not unfair. We also did not consider that Humm sufficiently explained how the Voting Restriction Order caused any unfair prejudice to Humm.

200. We did not agree with the submissions from Mr Abercrombie and Humm that the Voting Restriction Order was punitive, rather than remedial, in nature. Section 657D states that “[t]he Takeovers Panel may make any order (including a remedial order but not including an order directing a person to comply with a requirement of Chapter 6, 6A, 6B or 6C....”. A remedial order is defined under section 9 and includes an order that (among other things):

*“(a) restrains a person from exercising any voting or other rights attached to securities;
or*

[...]

*(d) directs a person to dispose of, or not to dispose of, securities or interests in securities;
or*

[...]

(j) declares that an exercise of the voting or other rights attached to securities be disregarded”

201. We consider that the Voting Restriction Order and Dealing Restriction Orders fall within the definition of a remedial order and are a proportionate and effective response to the unacceptable circumstances.

202. We also considered alternate orders that:

- (a) vested the shares the subject of the Voting Restriction Order in ASIC (like the initial Panel). We were not minded to make such orders because we considered

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our orders adequately protected the rights or interests of Humm shareholders and were less prejudicial to TAG.

- (b) adjusted the number of Humm shares that could not be voted or disposed of in order to minimise (or eliminate) the distorted voting power of other Humm shareholders. We considered such orders involved a high degree of complexity because they would need to take into account changes in the number of Humm shares on issue that might occur during the period for which they applied (for example, because shares might be issued for the purpose of capital raises or dividend reinvestment plans). On balance, we were not minded to make such orders and considered the impact of the distorted voting power would not be material.

203. Accordingly, we considered a combination of the Voting Restriction Order and the Dealing Restriction Order were more appropriate orders in the circumstances.

Acquisition Restriction Order

204. Order 5 of our orders (the **Acquisition Restriction Order**) restricts TAG and its associates from acquiring a relevant interest in any Humm shares in reliance on the 'creep exception' under section 611, before the date that is 1 month after the date of the Disclosure.
205. Mr Abercrombie submitted that "*[The Acquisition Restriction Orders'] connection to the unacceptable circumstances as found is, at best, tenuous. The declaration concerns the content of the announcements which, for the reasons stated above, and in earlier submissions, is not misleading (and the market has not been misled).*"
206. We disagree. We found that the December Acquisitions constitute unacceptable circumstances and we consider that the rights and interests of other Humm shareholders have been affected by TAG increasing its voting power and influence over Humm in an uninformed market.
207. Mr Raper submitted that the 1-month trading restriction should be extended to 6 months. Mr Raper submitted that the "*[t]he mischief was buying shares where Humm shareholders were misinformed constituting unacceptable circumstances*" and that the remedy (among other things) is "*to ensure Humm shareholders are fully informed and to give them reasonable time to consider that information and make decisions in [sic] consistent with the policy underpinning item 9 of section 611*". Mr Raper also submitted that:
- "The conduct of relevant Humm board members raises serious questions about their fiduciary and commercial judgement, standard of care and diligence and independence. Only time will tell whether their performance will improve. Performance is not something that Humm shareholders can assess within 1 month after Disclosure. It requires at least 6 months after Disclosure."*
208. Mr Raper also submitted that the initial Panel had raised concerns regarding Humm's non-compliance with the voluntary undertaking dated 26 February 2026 and that the initial Panel's proposed media release "*identifies deliberate repeated non-disclosures by Humm directors of information to the Panel on multiple issues, in*

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circumstances where the Panel considers those disclosures should have been made. The original Panel describes the conduct of Humm directors as 'serious and concerning'.⁵³

209. Mr Abercrombie submitted that there had been no contravention of Chapter 6 or Chapter 6C and none had been alleged and that, in the absence of any such contravention, an acquisition restriction applying for 6 months would be “*punitive rather than remedial and goes beyond what section 657D authorises.*”
210. We weighed whether a 1-month or 6-month trading restriction was more appropriate in the circumstances. Given the Acquisition Restriction Order is intended to prevent TAG from trading while other Humm shareholders are not fully informed (to the extent that it is not already prohibited from doing so by section 606), we considered the restriction should only apply up until Humm shareholders have had a reasonable period of time to digest the Disclosure. Applying our commercial judgement, we considered a 6-month restriction was not appropriate given the nature of the Disclosure and that, on balance, a 1-month period was appropriate.
211. We accept that the Acquisition Restriction Order causes prejudice to TAG, but we consider that such prejudice is not unfair given:
- (a) TAG previously acquired Humm shares in reliance on item 9 of section 611 in circumstances where other Humm shareholders were not fully informed in relation to the Credit Corp Proposal
 - (b) our orders requiring the IBC to provide the Disclosure are intended to, among other things, provide Humm shareholders with relevant information to understand what is occurring in relation to the Credit Corp Proposal. It follows that shareholders should have a reasonable period to consider such information before TAG can trade
 - (c) the restriction on TAG’s trading in Humm shares only applies for a short period of 1 month after the Disclosure is made and
 - (d) there was a real possibility that the Acquisition Restriction Order would have no practical effect if the Disclosure was made by 15 May 2026. This is because TAG could not acquire further shares in Humm in reliance on item 9 of section 611 until 15 June 2026 and the Acquisition Restriction Order only has effect for 1-month after the date of the Disclosure.⁵⁴

Acceptance Order

212. The Acceptance Order requires that TAG must accept at least 15 million Humm shares into a bid made by Credit Corp⁵⁵ if, within 6 months after the date of the Disclosure:

⁵³ During the proceedings, we were made aware of the initial Panel’s concerns with Humm’s compliance with the undertaking and the media release referred to in Mr Raper’s submission was released before market opened on 24 April 2026 (see [TP26/22](#)). We made our orders later that day.

⁵⁴ Postscript: the Disclosure was made on 1 May 2026

⁵⁵ The definition of “Credit Corp Bid” in the orders requires that such a bid be an off-market takeover bid for all the shares in Humm for cash consideration

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- (a) the bid is made and becomes unconditional (other than for any minimum acceptance condition) and
- (b) valid acceptances in respect of at least 47.1% of Humm shares have been received by Credit Corp.

213. On 2 March 2026, Mr Abercrombie offered a voluntary undertaking to the initial Panel in an attempt to resolve the proceedings as a whole, which (as Mr Abercrombie stated) was on the following terms:

“Mr Abercrombie and TAG are prepared to offer a binding undertaking to the Panel in relation to the 15 million Humm shares (approx. 3%) acquired in the period 17-19 December 2025. Such undertaking would be to the effect that TAG undertakes that if Credit Corp was to make a takeover offer, that offer obtained acceptances in respect of 47.1% and the offer became unconditional, TAG would accept the takeover offer in respect of 3% shares in Humm (unless it had already sold such shares).”

214. Despite this, Mr Abercrombie provided submissions as part of our review that the Acceptance Order should not be made on the basis that:

“The Credit Corp proposal is non-binding, indicative and highly conditional. Whether any bid will eventuate, at what price and on what terms, remains entirely uncertain and, even to the Panel, speculative. The proposal may be abandoned at any time. An acceptance order in these circumstances is premature and speculative and disproportionate to any legitimate purpose that the Panel might have in mind when proposing the Order.”

215. We consider the Acceptance Order is appropriate to protect the interests of other Humm shareholders whose rights and interests have been affected by Mr Abercrombie increasing his voting power and influence over Humm in an uninformed market. Absent the Acceptance Order, Credit Corp may not be able to satisfy its minimum acceptance condition as a result of the shares acquired by TAG in a manner which we have found to be unacceptable. In addition, the Acceptance Order is intended to allow the Credit Corp Proposal to proceed in a way that it would have proceeded if the December Acquisitions had not occurred.⁵⁶

216. We do not consider the Acceptance Order is unfairly prejudicial to any person. Any prejudice caused to Mr Abercrombie or TAG is:

- (a) not unfair given the degree of Mr Abercrombie’s culpability in the unacceptable circumstances (see paragraph 198) and
- (b) limited by the fact that the Acceptance Order applies in a narrow set of circumstances where the Credit Corp Bid becomes unconditional and receives 47.1% of acceptances.

217. We note Mr Abercrombie’s concerns that the order is “*premature and speculative*” but did not consider this a sufficient basis to not make the order. It is appropriate for our orders to address the potential disadvantage to Credit Corp on an *ex ante* basis and to

⁵⁶ See section 657D(2)(b)

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the extent it proceeds with the Alternative Credit Corp Bid, noting that for so long as the Credit Corp Proposal remains non-binding, the Acceptance Order causes no prejudice to Mr Abercrombie or TAG. We also note that our orders included a 'liberty to apply' order so that if the circumstances changed, Mr Abercrombie or any other party to the proceedings could apply for further orders.

218. Mr Abercrombie also submitted that if the Panel is minded to impose the Acceptance Order, *"the appropriate threshold is not 47.1% of all Humm shares but rather 50% of the remaining 97% of shares, being approximately 48.5%"*. This approach excludes the Relevant Shares from the denominator, such that Credit Corp must demonstrate the acceptance of the balance of Humm shareholders. We queried the commercial logic behind Mr Abercrombie's approach and favoured Mr Abercrombie's initial formulation (as offered in the voluntary undertaking) where the threshold of 47.1% represents the difference between the 50.1% minimum acceptance condition and the Relevant Shares.

Adjournment of EGM

219. Order 7 has the effect of adjourning the EGM to a date no earlier than 10 days after the Disclosure and no later than 20 days after the Disclosure.
220. We were initially not minded to further adjourn the EGM, recognising the EGM was originally scheduled for 19 February 2026 and there had already been significant delays. However, we received submissions from Mr Abercrombie, Humm⁵⁷ and Mr Raper each to the effect that we should make such an order. Among other reasons, the parties submitted this was because Humm shareholders should have an opportunity to review the Disclosure prior to the EGM.
221. Having regard to the submissions from the parties, we consider a further short adjournment is appropriate and would not cause unfair prejudice to any person.

Karen Phin

President of the review Panel

Decision to vary the Declaration dated 17 April 2026

Decision to make new orders dated 24 April 2026

Reasons given to parties 29 May 2026

Reasons published 5 June 2026

⁵⁷ Humm initially submitted on 21 April 2026 that *"the review Panel may wish to consider whether it would be necessary or expedient to make interim orders requiring Humm to further adjourn the EGM"* and that *"Humm would be prepared to comply with interim orders adjourning the EGM"* but then, on 22 April 2026, Humm submitted that it did *"not support final orders requiring an adjournment of the EGM"*. The reason for Humm's change in position was not clear to us but, in light of Humm's initial submission and the length of the adjournment, we did not consider this order would cause any unfair prejudice to Humm.

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Advisers

Party	Advisers
Andrew Abercrombie	Ashurst
Jeremy Raper	N/A
Humm Group Limited	MinterEllison
IBC	Herbert Smith Freehills Kramer



Australian Government

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Annexure A

**CORPORATIONS ACT
SECTION 657EA
INTERIM ORDERS**

HUMM GROUP LIMITED 03R

Mr Andrew Abercrombie made an application for a review pursuant to section 657EA of the *Corporations Act 2001* (Cth) of the decision of the initial Panel on 10 April 2026 to make orders under section 657D of that Act (**Orders**).

The review Panel ORDERS:

1. That the Orders are stayed.
2. These interim orders have effect until the earliest of:
 - (a) further order of the review Panel
 - (b) the determination of the proceedings and
 - (c) 2 months from the date of these interim orders.

**Allan Bulman
Chief Executive
with authority of Karen Phin
President of the review Panel
Dated 14 April 2026**



Australian Government

Takeovers Panel

Annexure B

CORPORATIONS ACT SECTION 657EA

VARIATION OF DECLARATION OF UNACCEPTABLE CIRCUMSTANCES

HUMM GROUP LIMITED 02R & 03R

VARIATION

The declaration made on 17 March 2026 in relation to the matter of *Humm Group Limited* is varied by omitting paragraphs 54 to 56 (inclusive) and substituting new paragraphs 54 to 56 (inclusive) so that the declaration reads as follows:

BACKGROUND

1. Humm Group Limited (**Humm**) is an ASX-listed company.
2. Until 12 March 2026, the directors of Humm were Mr Andrew Abercrombie, Ms Teresa Fleming, Mr Robert Hines and Mr Andrew Darbyshire AM.¹
3. On 30 June 2022, Mr Abercrombie was appointed as Chair of the Humm board. It was submitted by Mr Abercrombie that he was “the founder and Chairman” of Humm.
4. On 3 April 2024, Mr Abercrombie and his associated entities (**Associated Entities**)² lodged a substantial holder notice disclosing a change of voting power from 25.38% to 26.42%.
5. On 25 June 2025, Humm announced that after the close of the market on 23 June 2025, it had received a non-binding indicative offer from The Abercrombie Group Pty Ltd (**TAG**), the family office of Mr Abercrombie, to acquire all of the shares on issue in Humm (that are not currently held by TAG and its associates) by way of a scheme of arrangement, at a cash price of \$0.58 per share compared to a closing price on 23 June 2025 of \$0.43 (**TAG Proposal**). The announcement stated (among other things) that:

¹ Mr Angelo Demasi was appointed to the Humm board on 12 March 2026. All references to the Humm board and the directors of Humm in this declaration are references to the Humm board comprising Mr Abercrombie, Mr Hines, Ms Fleming and Mr Darbyshire

² Being The Abercrombie Group Pty Ltd as trustee for the Philadelphia Trust and Tefig Pty Ltd as trustee for the AJ Abercrombie Superannuation Fund

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- (a) an independent board committee (**IBC**) had been formed, comprising Ms Fleming, Mr Hines and Mr Darbyshire and
 - (b) the IBC had determined to allow TAG a period of *"4 weeks to undertake targeted due diligence to enable TAG to make a binding offer"*.
6. On 15 July 2025, Humm announced (among other things) that:
 - (a) it had engaged Flagstaff Partners (**Flagstaff**) as its financial adviser
 - (b) *"in order to determine whether TAG is able to formulate an offer that could be in the best interests of hummgroup shareholders" the IBC had "agreed to provide to TAG a limited period of access to certain non-public information on a non-exclusive basis"*
 - (c) it had entered into a confidentiality agreement with TAG and *"due diligence will commence this week"* and
 - (d) *"the provision of limited due diligence does not guarantee that the [TAG Proposal] will result in a binding offer or one that is capable of being recommended by the IBC"*.
7. On 31 July 2025, Humm announced (among other things) that:
 - (a) the IBC had *"formed the view that it is in the best interests of all shareholders to engage with TAG and provide limited, non-exclusive diligence in order to ascertain whether there is a path to a proposal that could deliver appropriate certainty and value"*
 - (b) Humm had provided TAG with access *"to certain non-public information"*
 - (c) the IBC had *"requested that TAG completes its critical due diligence and submits a refined proposal by mid September"* and
 - (d) Humm had *"put in place procedures and protocols to manage actual and perceived conflicts of interest in accordance with the Takeovers Panel's Guidance Note 19: Insider Participation in Control Transactions and best corporate governance practices"*.
8. On 19 September 2025, Humm announced that TAG required *"further information before it can confirm or refine its proposal"*.
9. On 10 October 2025, Humm released its notice of annual general meeting (**AGM**) to be held at 10am on 12 November 2025.
10. On 29 October 2025, Flagstaff provided a valuation pack by email to the IBC in the context of the TAG Proposal (which was announced to ASX on 25 June 2025), showing that the bottom end of the control value range was a value which was above the \$0.72 and \$0.77 per share later offered by Credit Corp (see paragraph 14 below).

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11. On 6 November 2025 at 8.58am,³ Flagstaff emailed the IBC and informed them that “[TAG’s financial adviser] has advised that TAG will not submit a revised proposal and is going to withdraw the 58c NBIO”.
12. On 6 November 2025 at 4.07pm, Humm announced that TAG and the IBC had “agreed to conclude discussions regarding TAG’s non-binding indicative proposal and TAG has withdrawn the proposal”. The announcement quoted Mr Abercrombie as stating that since the TAG Proposal had been submitted it had “become evident that it does not currently have the support of several key shareholders.” The announcement also quoted Mr Hines, in his capacity as chair of the IBC, as stating that the IBC “appreciates the efforts of the hummgroup and TAG teams in recent months. Our focus going forward is driving shareholder value through robust operational execution and disciplined capital allocation.” The announcement did not refer to the IBC’s view about the \$0.58 per share offer price of the TAG Proposal.
13. On 12 November 2025, at the AGM:
 - (a) Mr Hines provided an address as chair of the IBC in relation to the TAG Proposal. Mr Hines made no comment about the IBC’s view about the \$0.58 per share offer price of the TAG Proposal and concluded by stating: “As you know, TAG withdrew its proposal on 6 November. The IBC appreciates the efforts of the humm and TAG teams in recent months, and looking forward, our collective focus is driving value for all humm shareholders through robust operational execution and disciplined capital allocation.”
 - (b) Mr Abercrombie was asked in effect whether he would give the market a commitment that TAG would not make a takeover bid or propose a scheme for six to twelve months. Mr Abercrombie responded “No, I won’t, but I will give you a commitment that we’ll seek advice on this idea”.
14. On 19 November 2025, the Chief Executive Officer of Credit Corp Group Limited (**Credit Corp**) sent an email to Mr Abercrombie and Mr Hines attaching a confidential, conditional, non-binding indicative proposal from Credit Corp to acquire 100% of the shares in Humm involving:
 - (a) a proposed scheme of arrangement at \$0.77 per share in cash (less any dividends or distributions declared after 19 November 2025), or alternatively
 - (b) should the scheme of arrangement be unsuccessful, an off-market takeover offer (**Alternative Credit Corp Bid**) at \$0.72 per share in cash (less any dividends or distributions declared after 19 November 2025), conditional upon Credit Corp achieving acceptances for 50.1% of Humm’s shares (together, the **Credit Corp Proposal**).

³ All references to time of day are to Melbourne time

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The Credit Corp Proposal was expressed as being conditional on, among other things, the “*unanimous recommendation by hummgroup's Independent Board Committee*” (see paragraph 33(b)). Humm did not announce the receipt of the Credit Corp Proposal to ASX at that time, relying on the exception to the continuous disclosure requirements contained in ASX Listing Rule 3.1A and relevant ASX guidance.

15. Later that day, Mr Abercrombie sent a copy of the Credit Corp Proposal by email to the full board. The email stated (among other things) “*I have already sought advice to confirm that this is a matter for the Board and there will be no IBC. As such I will manage communications for the time being.... I have engaged [lawyers] at Minters on behalf of Humm. To be clear this has nothing to do with the past and there are no conflict issues.*”

16. Humm submitted⁴ that:

“From the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling, including for the following key reasons:

- *The \$0.72 and \$0.77 per share offered by Credit Corp for the Takeover Offer and the Scheme respectively was below the Board's view of the underlying value of Humm's shares, as supported by an Expert Valuation issued to the IBC in the context of the TAG Proposal and prior to the receipt of the Credit Corp Proposal.*
- *...”*

17. Humm also submitted⁵ that “*Humm and its professional advisers consider that for a non-binding indicative proposal to be “compelling” it must be on terms that the Board would be willing to recommend to its shareholders taking into account all aspects of the proposal, including the price, any timing considerations, conditions, the identity, reputation and financial condition of the proponent of the proposal, the consideration offered and other legal, regulatory and financial matters (as the case may be) and the likelihood that the proposal would be able to be completed substantially in accordance with its terms.*”

18. Humm also submitted⁶ that shortly following receipt of the Credit Corp Proposal, Mr Abercrombie informed the other directors that his Associated Entities would be unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp.

19. Mr Abercrombie also shared this view with Credit Corp. On 19 November 2025, the Chief Executive Officer of Credit Corp sent an email to representatives of Macquarie Capital (Credit Corp’s financial advisers), referring to a conversation with Mr

⁴ In a submission to the Panel dated 19 February 2026. However, Humm later provided a contradictory submission on 5 March 2026 – see paragraph 35. Humm’s 19 February 2026 submission was made in response to a question by the Panel: “*When did the board first form the view that the Credit Corp Proposal was not compelling, as stated in the Humm communication publicly released on 14 January 2026*”. The relevant statement in the 14 January 2026 communication read: “*The humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value for all shareholders.*” – see paragraph 43

⁵ In a submission to the Panel dated 19 February 2026

⁶ Ibid

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Abercrombie and Mr Hines and stating that *“Andrew (Drew) indicated that the offer was “of no interest” to him, but he was predisposed to granting due diligence access. While both conversations were cordial, my impression was that Robert would prefer that we deal directly with Drew on the matter”*.

20. Mr Abercrombie submitted⁷ that *“soon after”* the Credit Corp Proposal was received, he had spoken with the Chief Executive Officer of Credit Corp and stated *“that he [Abercrombie] hoped that not too much time and money would be wasted on the proposal.”*
21. Also on 19 November 2025, Mr Abercrombie spoke with Mr Darbyshire and informed him that he wanted to buy more shares in Humm.
22. On 20 November 2025, in response to the email attaching the Credit Corp Proposal, Mr Abercrombie sent an email to the Chief Executive Officer of Credit Corp stating *“Please confine communication to me as Chairman of the HummGroup Board for the time being. The Board will be meeting and seeking counsel over the next few business days and will revert as soon as practical.”*
23. On 21 November 2025, there was a meeting of the Humm board, which was chaired by Mr Abercrombie. At the meeting, the board resolved that no independent board committee would be created in relation to the Credit Corp Proposal and resolved to engage with Credit Corp *“seeking to obtain the best offer it can from Credit Corp. It can then decide whether it wishes to recommend that proposal”*. A contemporaneous file note of the meeting indicates that at the meeting the board agreed that Mr Abercrombie would be the primary point of contact in relation to the Credit Corp Proposal. Neither the minutes of the meeting nor the contemporaneous file note:
 - (a) record any decision as to whether or not the Credit Corp Proposal was *“compelling”* (as stated by Humm in a later ASX announcement, see paragraph 43 below) or could be recommended at the \$0.77 per share scheme offer price or
 - (b) state that the board discussed that the Credit Corp Proposal was conditional on the *“unanimous recommendation by hummgroup's Independent Board Committee”*.
24. Flagstaff submitted⁸ that in or around the week commencing 24 November 2025, it may have conveyed at a high level to Mr Abercrombie that the indicative pricing of the Credit Corp Proposal was below the bottom end of Flagstaff’s assessed control value range provided to the IBC in the valuation pack (see paragraph 10 above), although no valuation materials or valuation ranges were provided by Flagstaff to Mr Abercrombie. Mr Abercrombie submitted⁹ that he *“has not, at any time, been given the Expert Valuation. Mr Abercrombie first became aware of the valuation range of the Expert Valuation through these Takeover Panel proceedings.”*

⁷ In a submission to the Panel dated 16 February 2026

⁸ In a submission to the Panel dated 5 March 2026

⁹ In a submission to the Panel dated 5 March 2026

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25. According to Flagstaff,¹⁰ on 27 November 2025 Mr Abercrombie instructed Flagstaff to communicate the position that a *“proposal priced at \$0.77 per share would not receive a Board recommendation”* to Macquarie Capital (Credit Corp’s financial advisers). That instruction was recorded in a contemporaneous file note prepared by Flagstaff. Humm similarly submitted¹¹ that it understood that this instruction was provided to Flagstaff by Mr Abercrombie (and noted that no determination had been made by the board in respect of the price offered under the Credit Corp Proposal).
26. On 28 November 2025, representatives of Flagstaff (the Humm board’s financial advisers) had a discussion with representatives of Macquarie Capital (Credit Corp’s financial advisers) in relation to the Credit Corp Proposal. In a file note that was later sent to Mr Abercrombie (among others), one representative of Flagstaff relayed that *“[w]e then said [to Macquarie Capital] that 77c would not get a Board recommendation and shareholder feedback on value during the recent TAG process was also above this level. Accordingly, in order for the Board to be comfortable with providing diligence they needed confidence that there is a path for Credit Corp to materially improve the value.”* In a file note dated 28 November 2025 that was sent to the Chief Executive Officer of Credit Corp, Macquarie Capital similarly relayed: *“Two issues of clarification from the H/Flagstaff side:... Value:... 77c will not get a board recommendation / ‘non-starter’ – based on knowledge of register, will not get shareholders over the line”*.
27. On 4 December 2025, the Chair and the Chief Executive Officer of Credit Corp sent a letter to the Humm board described as being *“For the attention of the Humm Group Board of Directors”* via email to Mr Abercrombie and Mr Hines, stating, among other things, that it understood further to a discussion between Flagstaff and Macquarie Capital that the Humm board had conveyed that the *“\$0.77 per share scheme offer would not be recommended by the Humm Board. The Humm Board’s view of what shareholders regard as fair value is a valuation closer to \$1 per share”* (**Credit Corp Letter**). The Credit Corp Letter also stated that *“[i]t is difficult to reconcile how the Board’s approach to the TAG Proposal and its refusal to provide due diligence to Credit Corp, who is a party that is demonstrably better able to finance the transaction, is in the best interests of Humm as a whole and not unfairly prejudicial to shareholders other than TAG.”* These statements in the Credit Corp Letter are consistent with the discussion at the meeting between Flagstaff and Macquarie Capital on 28 November 2025 (see paragraph 26).
28. The Credit Corp Letter also stated that *“[t]he NBIO Letter was dated 19th November 2025, 15 days ago, without any written response being received to date.”*
29. On 5 December 2025, Mr Abercrombie sent an email to Credit Corp stating, among other things, that:

“From your letter, it appears there may have been a misunderstanding between our respective IBs.

¹⁰ In a submission to the Panel dated 5 March 2026

¹¹ In a submission to the Panel dated 5 March 2026

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To be clear, Humm is willing to engage and commence DD in the form you foreshadowed in your letter of 19 November 2025. A data room has been in the process of being reactivated for that purpose”.

Mr Abercrombie’s response did not refer to the statement that Credit Corp was told that the “\$0.77 per share scheme offer would not be recommended by the Humm Board” (see paragraph 27 above) and his response was sent prior to Mr Darbyshire and Ms Fleming receiving a copy of the Credit Corp Letter.

30. On 5 December 2025, Mr Abercrombie sent a copy of the Credit Corp Letter to Ms Fleming and Mr Darbyshire. Ms Fleming, Mr Darbyshire and Mr Hines each submitted¹² that, with the exception of this communication, they did not have any communications with each other, with Mr Abercrombie, with Humm’s advisers, or with Credit Corp, in relation to the value of the Credit Corp Proposal following receipt of the Credit Corp Letter and prior to the 17 December 2025 Announcement (see below at paragraph 33).¹³
31. On 15 December 2025, Humm received a notice under section 203D of the *Corporations Act 2001* (Cth) (**Act**) from Mr Jeremy Raper and Sandhurst Trustees Limited as custodian for Collins St Value Fund (**Convening Shareholders**) stating an intention to move resolutions at a general meeting to remove Messrs Abercrombie, Hines and Darbyshire as directors of Humm, along with any other director appointed on or after 15 December 2025 (**Section 203D Notice**).
32. On 16 December 2025, at 5pm, there was a meeting of the Humm board. Relevantly:
 - (a) Representatives of Flagstaff and Humm’s legal adviser, MinterEllison, advised that the Humm board “*should consider whether it should inform the market of the Credit Corp proposal, given the unusual position of an action foreshadowed by the section 203D notice during consideration of a confidential NBIO proposal*”. The board resolved (among other things) to make the disclosure as recommended the following morning.
 - (b) According to Humm’s submissions, “*somebody made an informal passing comment towards the end of the board meeting... indicating an ability to buy shares now that the market was going to be fully informed once the announcement had been made*”.
 - (c) According to Mr Abercrombie’s submissions, shortly after the board meeting, Mr Abercrombie verbally notified Mr Hines of his intention to acquire Humm shares once the market had been “cleansed” by the announcement to be made regarding the receipt of the Section 203D Notice and the Credit Corp Proposal. Mr Hines could not recall any “*specific formal discussion*” with Mr Abercrombie

¹² In a submission dated 10 March 2026

¹³ Noting that Mr Hines submitted “[o]ther than as recorded in the 16 December 2025 Board minutes”. The minutes for the 16 December 2025 board meeting do not record any discussion on the value of the Credit Corp Proposal.

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around any intention to trade in Humm shares, other than the passing comment regarding an ability to buy shares referred to in paragraph 32(b).

- (d) Ms Fleming noted, in her file note of the meeting, that it was “*clear that the EGM is forcing [Mr Abercrombie] to announce the bid which I have wanted from the start*”.
- (e) The minutes of the Humm board meeting do not contain any record that the Humm directors asked for any updates from management in relation to the Credit Corp Proposal and the minutes do not reflect any discussion at the meeting of the Credit Corp Letter or the value of the Credit Corp Proposal by any of the Humm directors.

CIRCUMSTANCES

33. On 17 December 2025, Humm announced the receipt of the Section 203D Notice and the Credit Corp Proposal (**17 December Announcement**). The 17 December Announcement stated (among other things) that:
- (a) *“The hummgroup Board, with the assistance of its financial and legal advisers, is carefully evaluating Credit Corp’s proposal. Directors are committed to acting in the best interests of all hummgroup shareholders and are open to supporting a proposal that they believe represents appropriate value for shareholders. The Board is prepared to work constructively with Credit Corp to see if a proposal can be developed that it is prepared to recommend for consideration by the shareholders. The Board has informed Credit Corp that it is willing to engage on the proposal and has offered to provide due diligence, subject to settling a market standard non-disclosure agreement”*
 - (b) *“The proposal is subject to numerous conditions, including satisfactory completion of due diligence, final Credit Corp Board approval, negotiation of binding transaction documents, unanimous recommendation by hummgroup’s Independent Board Committee, regulatory approvals and finalisation of Credit Corp’s financing arrangements”* and
 - (c) *“hummgroup will continue to keep the market informed in accordance with its continuous disclosure obligations.”*
34. Humm submitted¹⁴ that “*a reasonable person reading the announcement would have understood that the Board did not consider the proposal sufficient as-is, but that the Board was prepared to engage to see whether something acceptable could be developed*”. Humm further submitted¹⁵ that the 17 December Announcement “*properly read*” was consistent with its earlier submission (see paragraph 16) that “*from the time that the Credit Corp Proposal was received, the Humm Board did not consider the proposal to be compelling, including because the \$0.72 and \$0.77 per share offered by Credit Corp was below the Board’s view of the underlying value of Humm’s shares, as supported by an expert*

¹⁴ In a submission to the Panel dated 24 February 2026

¹⁵ Ibid

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valuation issued to the IBC in the context of the TAG Proposal and prior to the receipt of the Credit Corp Proposal."

35. However, 9 days later Humm submitted¹⁶ that *"no determination had been made by the Board to reject or not recommend the Credit Corp Proposal at the price of \$0.77. While individual directors may have individually held or expressed a view that the price offered by Credit Corp was not sufficiently compelling for the Board to recommend to Humm shareholders, this view had not been discussed let alone 'determined' by the full Board at the time of the announcement."*
36. When the Humm directors were asked by the Panel on 7 March 2026 what consideration was given, when finalising the 17 December Announcement, to the fact that Credit Corp was aware that \$0.77 was not enough to obtain a board recommendation, Ms Fleming submitted that *"I was not of the view, and have never been of the view, that \$0.77 was not, would not, or may not be sufficient to obtain a board recommendation...If anything, my view was that a takeover could be an excellent outcome for shareholders if an acceptable price could be agreed following due diligence and negotiation."* Mr Hines submitted that *"[f]rom the outset my personal view was that a bid from Credit Corp was credible and worthy of full consideration."*
37. Mr Abercrombie submitted¹⁷ that, as at 17 December 2025, the Humm board had not determined that it would not recommend the value put forward under the Credit Corp scheme proposal but that *"Mr Abercrombie's own view was that the \$0.77 offer price was not compelling and unlikely to be of interest to TAG. However, this was Mr Abercrombie's own view, not that of the Humm board"*.
38. Despite the Credit Corp Proposal having been made on 19 November 2025, as at the time of the 17 December Announcement, negotiations between Humm and Credit Corp in relation to the Credit Corp Proposal had not resulted in an executed non-disclosure agreement (NDA). Further, despite Flagstaff having provided a valuation pack to the IBC in the context of the TAG Proposal on 29 October 2025 (see paragraph 10 above), Flagstaff submitted¹⁸ that it was *"not instructed to update the Expert Valuation"* for the full Humm board subsequent to receiving the Credit Corp Proposal.
39. Also on 17 December 2025, Mr Hines sent the following text message to Mr Abercrombie: *"Hi Drew, just a reminder to seek my approval as BARCC chair for compliance purposes re any intended purchase"*. Mr Abercrombie replied with a text message *"Thanks Rob. Appreciate the prompt. Pls check email."* Mr Abercrombie then emailed Mr Hines stating *"Yes I intend to buy stock. Following the meeting yesterday evening we know we are clear in terms of inside info and black out timing. So as a formality I*

¹⁶ In a submission dated 5 March 2026

¹⁷ In a submission dated 5 March 2026

¹⁸ In a submission to the Panel dated 5 March 2026

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would appreciate your confirmation". Mr Hines provided this confirmation by return email.

40. On 17, 18 and 19 December 2025, Mr Abercrombie and his Associated Entities acquired Humm shares, increasing his voting power from 26.19%¹⁹ to 29.19% (**December Acquisitions**).
41. On 19 December 2025, the Convening Shareholders called a meeting under section 249F of the Act to be held on 19 February 2026²⁰ to consider the resolutions set out in the Section 203D Notice (**EGM**).
42. On 7 January 2026, during a telephone conversation between representatives of Humm's and Credit Corp's respective legal and financial advisers about the negotiation of the terms of the NDA, Humm's financial advisers stated words to the effect that (1) Humm was willing to provide diligence at a higher price but the current price would not enable Credit Corp to obtain diligence access or a recommendation and (2) if Credit Corp wanted diligence access it would be subject to agreeing a standstill or the Credit Corp Proposal would have to be at a higher price.
43. On 14 January 2026, the Humm board released a circular to its shareholders titled *"Important Information for shareholders regarding the upcoming general meeting convened by certain shareholders"* (**14 January Circular**). That document was signed by all the Humm directors and stated among other things the following:
 - (a) That *"...the proposal from The Abercrombie Group Pty Ltd ("TAG") was not at a level that the Independent Board Committee ("IBC") would have supported..."* and *"[u]ltimately TAG did not put forward a revised proposal that the IBC believed was compelling and should be put to shareholders"*.
 - (b) *"The humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling, there was a willingness to engage and provide due diligence in order to ascertain whether there was a path to a transaction that could deliver appropriate certainty and value."*
 - (c) *"Once the Convenors delivered a section 203D notice on 15 December 2025 (requiring an ASX announcement by 17 December 2025), the Board promptly announced both the received proposal and the proposed resolutions referenced in the Convenors' Notice – transparently and fully informing the market of all material information."*
44. Despite the 14 January Circular, Humm submitted²¹ that *"it is simply not true to say that the Humm board ever formed the view that the Credit Corp Proposal was not*

¹⁹ Since Mr Abercrombie's substantial holder notice dated 3 April 2024 (see paragraph 4), his voting power decreased due to Humm issuing shares

²⁰ The EGM has been adjourned to 1 May 2026 following interim orders made by the Panel on 17 February 2026 and 11 March 2026

²¹ In a submission to the Panel dated 10 March 2026

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compelling” and that instead “[t]he 14 January 2026 announcement states only that the Humm board, through its advisers, had communicated to Credit Corp that the \$0.77 offer was not viewed as compelling. This is factually correct.”

45. On 12 February 2026, Humm made an announcement titled ‘Chair Appointment & Board Expansion’ that:
- (a) stated (among other things) that *“Mr Andrew Abercrombie has elected to step down as Chair to avoid any perception of bias or conflict and will remain a non-executive director. Consequently, Mr Robert Hines has been appointed Chair effective 12 February 2026. As part of his role as Chair, Robert will oversee humm’s engagement with any change of control proposals, including the current Credit Corp situation”*
 - (b) mentioned other governance arrangements proposed to be undertaken by Humm, including that the board had resolved to increase its size to six directors (with its CEO joining the board along with an additional independent non-executive director to be appointed) and that the board had commissioned an external review of governance arrangements and
 - (c) was accompanied by a letter to Humm shareholders from the independent directors of Humm (in contrast to the 14 January Circular to Humm shareholders which was issued by the full board of Humm), which discussed (among other things), the Section 203D Notice and the EGM, the TAG Proposal and the Credit Corp Proposal.
46. On 16 February 2026, Humm submitted that *“[t]o be clear, Humm has no intention of forming an IBC to consider the Credit Corp Proposal for the simple reason that there would be no basis to do so.”* On 26 February 2026, Humm gave an undertaking to the Panel to, among other things:
- (a) establish an independent board committee and
 - (b) *“If a non-disclosure agreement with Credit Corp Group Limited (NDA) is not executed by 5 March 2026, Humm will explain the status of the NDA and the efforts it has taken to finalise the NDA in an ASX announcement in a form approved by the Panel (NDA Announcement) and will issue an NDA Announcement every five ASX trading days thereafter until such time as the NDA has been executed”.*
47. Credit Corp submitted²² that *“Potentially save for any brief references to value which may have been made in passing during the principals meeting on 4 February 2026, Credit Corp has had no further communications from Humm regarding value”* since its letter of 4 December 2025.
48. On 5 March 2026, Humm announced that it had established an independent board committee to consider the Credit Corp Proposal.

²² In a submission to the Panel dated 19 February 2026

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49. On 9 March 2026, Humm announced (among other things) that:

“Humm believes the draft Confidentiality Deed [NDA] is now in settled form and expects it to be formally executed by the Company and Credit Corp in the next few days, following which access to the due diligence data room will be granted to Credit Corp and its representatives in accordance with the terms of the Confidentiality Deed and the Undertaking.”

50. On 13 March 2026, the independent board committee of Humm announced that Humm and Credit Corp had entered into an NDA on that day. The announcement also refers to the fact that the independent board committee is advised by Flagstaff and Herbert Smith Freehills Kramer.

51. On 16 March 2026, the independent board committee of Humm submitted that *“Under the terms of the NDA, Humm has opened a data room and Credit Corp representatives are now accessing due diligence information”*.

EFFECT

17 December Announcement

52. The Panel considers that the 17 December Announcement was misleading in several important aspects and was contrary to an efficient, competitive and informed market.

A. The statements in the 17 December Announcement that “The hummgroup Board, with the assistance of its financial and legal advisers, is carefully evaluating Credit Corp’s proposal” and “The Board has informed Credit Corp that it is willing to engage on the proposal...”

53. The statements in the 17 December Announcement that the Humm board was *“carefully evaluating”* the Credit Corp Proposal and *“willing to engage on the proposal”* were misleading. The Panel considers that Humm’s shareholders would have construed the 17 December Announcement as meaning that the Humm board was open to potentially recommending a transaction at the offer prices of the Credit Corp Proposal, particularly in the context of the recent TAG Proposal at \$0.58 per share which was significantly below the value of the Credit Corp Proposal at \$0.72 and \$0.77 per share.

54. The 17 December Announcement was misleading because it gave the impression that the Humm board was carefully evaluating and was willing to engage on the Credit Corp Proposal when the reality of the situation was, in substance, quite different. The (then) Chair and major shareholder of Humm had already decided to reject the Credit Corp Proposal several weeks earlier and had instructed the company’s financial advisers on 27 November 2025 to tell Credit Corp’s financial advisers that the Humm board would not recommend the Credit Corp Proposal. That message was conveyed to Credit Corp’s financial advisers on 28 November 2025. The Chair and the Chief Executive Officer of Credit Corp wrote to the full board of Humm on 4 December 2025 recording the message that had been conveyed to Credit Corp’s financial advisers – in particular, that the *“\$0.77 per share scheme offer would not be*

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recommended by the Humm Board". All the Humm directors received a copy of that letter from Credit Corp. None of the independent directors raised any concerns about the contents of the letter – either with each other or with the (then) Chair of Humm.

55. The Panel considers that although the Humm board had not as at 17 December 2025 formally resolved that the \$0.77 per share offered under the Credit Corp Proposal was not compelling the independent directors of Humm were aware:
- (a) of, and acquiesced to, representations by the Humm Chair and the Humm board's financial advisers to Credit Corp that the \$0.77 per share offered under the Credit Corp Proposal would not be recommended by the Humm board and
 - (b) that Mr Abercrombie and his Associated Entities would be unlikely to support the Credit Corp Proposal at the \$0.77 per share price offered.
- B. The statement in the 17 December Announcement that "The proposal is subject to numerous conditions, including... unanimous recommendation by hummgroup's Independent Board Committee..."
56. The 17 December Announcement was misleading by omission because it did not disclose that on 21 November 2025 the board of Humm (chaired by Mr Abercrombie) had decided that no independent board committee would be created in relation to the Credit Corp Proposal and therefore a condition of the Credit Corp Proposal could not be satisfied (namely, the unanimous recommendation of the Credit Corp Proposal by Humm's IBC).

14 January Circular

57. The Panel considers that the statement in the 14 January Circular, which was described as having been released on "*behalf of the Board of humm Group Limited*" and was signed by all of Humm's directors, that "*[t]he humm Board, through its advisers, communicated to Credit Corp that while the \$0.77 offer was not viewed as compelling...*" was misleading and contrary to an efficient, competitive and informed market.
58. Given the absence of a similar reference in the 17 December Announcement, this statement in the 14 January Circular gave the impression that the communication to Credit Corp occurred after 17 December 2025 and before 14 January 2026 when in fact Credit Corp was informed on 28 November 2025 that \$0.77 per share would not get a Humm board recommendation. In addition, the Humm board had not received any advice about valuation in the context of the Credit Corp Proposal and the Humm board's financial advisers had not been instructed to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal.

Engagement with the Credit Corp Proposal

59. The conduct of the Humm board in failing to engage substantively with the Credit Corp Proposal, in light of the statement in the 17 December Announcement that it

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was "*willing to engage on the proposal*" and the statement in the 14 January Circular that "*there was a willingness to engage*" as communicated to Credit Corp, is unacceptable and is contrary to an efficient, competitive and informed market.

60. This is in the context that, despite extensive negotiations by Humm's advisers on the NDA and that the Panel has been informed that due diligence access has now been provided by Humm to Credit Corp, it has taken 114 days to negotiate and sign an NDA, the Humm board had not received any advice about valuation in the context of the Credit Corp Proposal, the Humm board had not instructed its financial advisers to update the expert valuation that it had prepared in late October 2025 in the context of the TAG Proposal, and there had been no substantive discussion with Credit Corp about the value of the Credit Corp Proposal since on or around 4 December 2025.

December Acquisitions

61. The Panel also considers that the December Acquisitions have an effect on the Credit Corp Proposal, because the December Acquisitions increased the difficulty in Credit Corp obtaining effective control of Humm through acceptances of the Alternative Credit Corp Bid. The Panel also considers that the December Acquisitions may have an effect on the EGM and the outcome of that meeting will likely have an effect on the progression of the Credit Corp Proposal.
62. The December Acquisitions were contrary to an efficient, competitive and informed market, with Mr Abercrombie and his Associated Entities acquiring approximately 3% in Humm where the 17 December Announcement was misleading and in the following surrounding circumstances:
- (a) when the Credit Corp Proposal was received, Mr Abercrombie informed the Humm board on the same day that "*there will be no IBC*"
 - (b) Mr Abercrombie took the lead as the primary point of contact in relation to the Credit Corp Proposal and chaired the board meetings of:
 - (i) 21 November 2025, where the Humm board decided there would be no independent board committee and
 - (ii) 16 December 2025, where the Humm board settled the 17 December Announcement
 - (c) Mr Abercrombie had informed Credit Corp that the Credit Corp Proposal was "*of no interest to him*", Mr Abercrombie's Associated Entities were unlikely sellers at \$0.77 per share and he had said to the Chief Executive Officer of Credit Corp that he hoped "*not too much time and money would be wasted on the proposal*"
 - (d) Credit Corp had been informed (on Mr Abercrombie's instructions) that:

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- (i) the \$0.77 per share offered under the Credit Corp Proposal would not be recommended by the Humm board and
 - (ii) the Humm board's view of what shareholders regard as fair value was a valuation closer to \$1 per share
- (e) the position put to Credit Corp in (d) had not been disavowed by Humm's other directors nor otherwise retracted and
- (f) Credit Corp had not withdrawn the Credit Corp Proposal despite having been told that \$0.77 would not be recommended by the Humm board and therefore it was possible that Credit Corp would increase its offer price to secure the recommendation of the Humm board.

CONCLUSION

63. It appears to the Panel that the circumstances are unacceptable circumstances:

- (a) having regard to the effect that the Panel is satisfied they have had, are having, will have or are likely to have on:
 - (i) the control, or potential control, of Humm or
 - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in Humm
- (b) in the alternative, having regard to the purposes of Chapter 6 set out in section 602 of the Act.

64. The Panel considers that it is not against the public interest to make a declaration of unacceptable circumstances. It has had regard to the matters in section 657A(3).

DECLARATION

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of Humm.

Allan Bulman
Chief Executive
with authority of Karen Phin
President of the review Panel
Dated 17 April 2026



Australian Government

Takeovers Panel

Annexure C

**CORPORATIONS ACT
SECTION 657D AND 657EA
ORDERS**

HUMM GROUP LIMITED 02R & 03R

On 17 April 2026, the review Panel in *Humm Group Limited 02R & 03R* varied the declaration of the initial Panel in relation to the matter of *Humm Group Limited*.

The review Panel sets aside the orders made by the initial Panel on 10 April 2026 and makes the following orders in substitution.

THE PANEL ORDERS

Corrective Disclosure Orders

1. Within 1 ASX trading day after the approval of the Review Panel under Order 2, the IBC must give the ASX an announcement (**Disclosure**) providing the following information:
 - (a) the IBC's current view of the Credit Corp Proposal or, if the IBC has not yet formed a view, an indicative timeframe within which the IBC will form a view
 - (b) whether the IBC agrees with the conclusion of the Humm board referred to in its circular released on the ASX on 14 January 2026 that the Credit Corp Proposal is not compelling
 - (c) Mr Abercrombie's current view of the Credit Corp Proposal (having made reasonable efforts to ascertain Mr Abercrombie's current view of the Credit Corp Proposal) and whether it differs from the view communicated by Mr Abercrombie shortly following receipt of the Credit Corp Proposal that the entities that he controlled were unlikely to be sellers at the \$0.77 per share scheme offer price offered by Credit Corp¹ and
 - (d) whether the IBC has requested an updated valuation of Humm from its financial advisers and an indicative timeframe for the completion of an updated valuation.

¹ The Panel considers that this disclosure is necessary because Humm has not yet corrected the omission from its 17 December 2025 announcement of information about Mr Abercrombie's view of the Credit Corp Proposal despite that information having been known to the other directors of Humm at that time, and because Mr Abercrombie's view of the Credit Corp Proposal will be decisive in relation to the scheme component of the proposal and important in relation to the bid component of the proposal

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2. A draft of the Disclosure, prepared with the assistance of, and reviewed by, the IBC's legal advisers, must be provided by the IBC to the Review Panel by 28 April 2026 for review and approval by the Review Panel. Any changes requested by the Review Panel must be reflected in the Disclosure in a form acceptable to the Review Panel.

Voting Restriction Order

3. TAG must not exercise, and Humm must disregard any exercise of, any voting rights attached to 15 million Humm shares held by TAG before the day that is 6 months after the date of the Disclosure.

Dealing Restriction Order

4. Before the day that is 6 months after the date of the Disclosure, TAG must not dispose of any of the Humm shares that it holds if as a result of that disposal TAG would hold fewer than 15 million Humm shares (except a disposal to Credit Corp, including in compliance with Order 6).

Acquisition Restriction Order

5. TAG and its associates must not acquire a relevant interest in any Humm shares in reliance on Item 9 of section 611² before the day that is 1 month after the date of the Disclosure.

Acceptance Order

6. If all of the following occur before the day that is 6 months after the date of the Disclosure:
 - (a) Credit Corp makes a Credit Corp Bid
 - (b) Credit Corp receives valid acceptances under the Credit Corp Bid in respect of at least 47.1% of Humm shares and
 - (c) all conditions (other than any minimum acceptance condition) to the Credit Corp Bid are satisfied or waived and Credit Corp makes an announcement confirming that to be the case,

then TAG must accept the Credit Corp Bid in respect of at least 15 million shares held by it as soon as practicable.

Adjournment of EGM

7. Humm must:
 - (a) resume the EGM and

² For the avoidance of doubt, this order does not modify the operation of item 9 of section 611. 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)

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- (b) immediately after the EGM is resumed, further adjourn the EGM to a date, time and place to be chosen by the Convening Shareholders and communicated by the Convening Shareholders to Humm by no later than 5 pm (Melbourne time) on 28 April 2026.
8. The date chosen by the Convening Shareholders must be no earlier than 10 days after the date of the Disclosure and no later than 20 days after the date of the Disclosure.

OTHER

9. The parties to these proceedings and ASIC have the liberty to apply for further orders in relation to these orders.

INTERPRETATION

10. In these orders the following terms apply.

Convening Shareholders	Mr Jeremy Raper and Sandhurst Trustees Limited as custodian for Collins St Value Fund
Credit Corp	Credit Corp Group Limited
Credit Corp Bid	an off-market takeover offer by Credit Corp for all the shares in Humm for cash consideration
Credit Corp Proposal	the non-binding indicative proposal from Credit Corp to acquire Humm that was announced by Humm on 17 December 2025
Disclosure	has the meaning set out in Order 1
EGM	the extraordinary general meeting convened by the Convening Shareholders on 19 December 2025 that was opened on 19 February 2026 and adjourned to 13 March 2026 and resumed on 13 March 2026 and further adjourned to 1 May 2026
Humm	Humm Group Limited
IBC	Humm's independent board committee established to (among other things) consider the Credit Corp Proposal
Review Panel	the Panel constituted under section 184 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth) for the performance of its functions in relation to the application dated 12 April 2026 by Mr Andrew Abercrombie for a review pursuant to section 657EA of the <i>Corporations Act 2001</i> (Cth) of the decision of the Panel on 10 April 2026 to make orders under section 657D of that Act
TAG	The Abercrombie Group Pty Ltd

Takeovers Panel

**Reasons - Humm Group Limited 02R & 03R
[2026] ATP 6**

**Tania Mattei
General Counsel
with authority of Karen Phin
President of the sitting Panel
Dated 24 April 2026**