



Friday, 2 December 2005

Coopers Brewery Limited 04 - Panel Declines Application

The Takeovers Panel advises that it has received an application dated 2 December 2005 from Lion Nathan Limited and Lion Nathan Australia Pty Limited (together **Lion Nathan**) in relation to the off-market takeover offer by Lion Nathan Australia Pty Limited, a wholly owned subsidiary of Lion Nathan Limited, of Coopers Brewery Limited (**Coopers**).

The application related to the decision of the Coopers directors that they would consent to Coopers shareholders withdrawing any transfer notices accepting the Lion Nathan offer if the Lion Nathan offer lapsed or was withdrawn (**Consent Decision**). The Coopers directors said in relation to the second supplementary and corrective target's statement issued by Coopers (**Corrective Target's Statement**):

“Withdrawal of Transfer Notices

The Target's Statement noted that once you accept Lion Nathan's Offer by sending a Transfer Notice and Lion Nathan lodges that notice with Coopers, the Transfer Notice will be irrevocable except with the consent of the Directors.

This could result in Shareholders being forced to sell their Shares at a price less than Lion Nathan's Offer Price in circumstances where the Offer does not proceed or if any future determination of Fair Value is less than Lion Nathan's Offer Price.

To eliminate this risk, your Directors now confirm that they will exercise their discretion to allow Shareholders to withdraw any Transfer Notices submitted by them in connection with Lion Nathan's Offer in the event that the Offer lapses or is withdrawn or Fair Value is determined to be less than the Offer Price.”

The Takeovers Panel has met to consider the application.

Under Regulation 20 of the ASIC Regulations, the Panel has declined to conduct proceedings in response to the Application.

The Panel advises that it had, in its decision in the Coopers 03 Proceedings, considered the issues relating to the Consent Decision.

On the basis that the cut-off time for proxies is 10.15 a.m. on Tuesday 6 December 2005, and the meeting is to be held in Adelaide at 10.15 a.m. on Wednesday 7

December 2005, the Panel considered, in the Coopers 03 Proceedings, that the time for shareholders to receive and assess the information would be adequate if:

- (a) the Corrective Target's Statement was to be dispatched, by Express Post, to Coopers shareholders on Thursday 1 December 2005;
- (b) Coopers shareholders received a fresh proxy form with the Corrective Target's Statement.

Coopers advised the Panel that the Corrective Target's Statement and proxy had been so dispatched. The Panel considers that these considerations still apply, and apply to the new application.

The Panel considered that Coopers shareholders would recognise the significance of the Consent Decision in the Corrective Target's Statement :

- (a) because the Corrective Target's Statement, in describing the Consent Decision stated that the Consent Decision eliminated the risk of Coopers shareholders being forced to sell their shares at a price less than the Lion Nathan Offer;
- (b) because of the heavy emphasis that the Coopers directors had placed on this risk in their previous statements to Coopers shareholders, prior to the Coopers 03 Proceedings and the Corrective Target's Statement required by the Takeovers Panel; and
- (c) because in the covering letter to the Corrective Target's Statement, Coopers shareholders were told by the Coopers directors that the Coopers directors acknowledged that the concerns which had been raised by the Panel were serious and that the Coopers directors encouraged their shareholders to read the document carefully.

The Panel considers that these considerations still apply, and apply to the new application.

In deciding not to conduct proceedings, the Panel considered that Lion Nathan had been informed of the intention of Coopers to make the statement concerning the Consent Decision in the Corrective Target's Statement in the Coopers 03 Proceedings. The Panel considered that it had been open to Lion Nathan to prepare a letter to Coopers shareholders, setting out its views on the implications of the Consent Decision, ready to send on confirmation of the dispatch of the Corrective Target's Statement containing the Consent Decision. The Panel considers that it is still open to Lion Nathan to communicate its views on the implications of the Consent Decision, by letter to Coopers shareholders, by communicating its views to the media and by advertisements, if it considers any of them to be appropriate.

The Panel advised Coopers that the Panel considers that it would be appropriate for Coopers to take reasonably available steps to reinforce to its shareholders the importance of the Corrective Target's Statement and the information it contains, both in their decisions in relation to the forthcoming EGMs and in their decisions relation to the Lion Nathan takeover bid. The Panel considers that a prominent statement

about the effect of the Consent Decision, in the Chairman's address at the two forthcoming EGMs, would also be appropriate.

For the reasons above, the Panel has declined to conduct proceedings in response to the application.

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