



Wednesday, 26 April 2006

Nexus Energy Limited - Decision

The Panel advises that it has considered the application by Anzon Australia Limited in relation to an off-market takeover offer for Nexus Energy Limited dated 19 April 2006 (see [TP06/39](#)).

The Panel has declined to commence proceedings in relation to the application.

Background

The application related to a document sent to ASX by Nexus on 11 April 2006 (the **11 April Announcement**). The document contained slides which had been presented by the Managing Director of Nexus, at an "Emerging Companies" conference on 11 April 2006. Anzon submitted that the 11 April Announcement was misleading and had sought correction of the defects it submitted exist in the 11 April Announcement.

Anzon had also sought an interim order restraining a draft announcement (the **Clarification Announcement**) prepared by Nexus which Nexus considered assisted to clarify certain matters in the 11 April Announcement and provided cautionary statements in respect of the 11 April Announcement. Anzon submitted that the Clarification Announcement should have included an explanation of the assumptions and risks underpinning forward-looking statements in the 11 April Announcement as well as an explanation of the reasonable basis for forward-looking statements which Nexus submitted they had.

Decision

The Panel considered that the Clarification Announcement was likely to assist Nexus shareholders, and was not likely to cause or exacerbate any harm, if released to ASX. Therefore the Panel did not make the interim order requested by Anzon, and Nexus released the Clarification Announcement to ASX on 21 April 2006.

The Clarification Announcement cautioned the market in respect of the information in the 11 April Announcement, clearly disclosed the absence of detailed assumptions and risk factors in the 11 April Announcement and clarified certain other matters with which the Panel was likely to have concerns in the 11 April Announcement had the Clarification Announcement not been released. The Clarification Announcement also highlighted that detailed analysis of Nexus' assets and prospects (including assumptions and risks) would be contained in the target's statement which is due to be given to Nexus shareholders by 3 May 2006, and that Nexus shareholders should not make investment decisions in relation to their Nexus shares until they had considered the Nexus target's statement.

The Panel considered that the Clarification Announcement addressed the majority of its concerns with the 11 April Announcement.

The Panel also noted that Nexus' target's statement is due shortly. The Panel considered that it would expect a higher level of disclosure in the Nexus' target's statement than that provided in the 11 April Announcement. The Panel considered that if the disclosure provided by Nexus in its target's statement did not cure any perceived deficiencies that remained in respect of the 11 April Announcement, Anzon would be free to make a new application to the Panel.

Accordingly, when the Panel considered all of the issues, relevant materials and the submissions of Anzon in the application, on balance, given the release of the Clarification Announcement and the fact that the Nexus target's statement is due shortly, there was not a sufficient reason for the Panel to commence proceedings in respect of the 11 April Announcement at this time.

The President of the Panel appointed Guy Alexander (sitting President), Hamish Douglass and Brett Heading as the sitting Panel to consider the application.

The Panel will publish its reasons for this decision in due course on its website www.takeovers.gov.au.

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