



Wednesday, 22 February 2006

Axiom Properties Limited 02 - Decision

The Takeovers Panel advises that it has considered the application by Saramac Nominees Pty Ltd in relation to the affairs of Axiom Properties Ltd lodged on 17 February 2006 (see [TP06/15](#)).

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

Background

As discussed in [TP06/15](#), Saramac is one of two parties who have put forward proposals to provide funds to Axiom for its Port Geographe project. The other funding proposal has been put forward by Pivot Group Pty Ltd. The two rival funding proposals are to be put to a shareholder vote at the forthcoming EGM of Axiom.

Saramac submitted that a number of statements made by Pivot, or attributed to Pivot in the media, gave a misleading impression of the Pivot funding proposal, the rival proposal and other related topics. The statements had been reported in the media or were contained in a media release published by Pivot on 10 February 2006 when Pivot announced variations in the funding proposal to be put to Axiom shareholders along with a rival proposal by Saramac.

Decision

The Panel noted that, in aggregate, the submissions of Saramac were not entirely without merit. However, the Panel considered that there was no reasonable prospect that the risk of Axiom shareholders being misled by the statements was sufficient to give rise to unacceptable circumstances.

The Panel was disappointed that some spokespersons of Pivot had chosen words in some of the statements that were capable of being misconstrued. However, on balance, and when taken in context of the full text of each of the statements, and the forthcoming Axiom notice of meeting, Axiom shareholders were unlikely to be misled or materially confused.

The Panel also noted that the statements were part of ongoing media commentary from parties in relation to both the Saramac Proposal and the Pivot Proposal. Saramac had opportunities to comment on any statements it had concerns about in that forum.

In relation to the submission of Saramac referred to in [TP06/15](#), the Panel did not consider that the Axiom shareholders who read all the relevant material would consider that Pivot had committed \$33 million. Rather they would see that Pivot's commitment was of \$5 million and further funding of up to \$28 million if all options to be issued under the Pivot proposal are exercised.

The sitting Panel which considered the application was Carol Buys (Sitting President), Irene Lee and Andrew Lumsden.

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

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