



Friday, 6 July 2007

Magna Pacific (Holdings) Limited 05 - Panel Decision

The Takeovers Panel advises that it has decided not to commence proceedings in relation to an application from Lionsgate Australia Pty Limited (**Lionsgate**), concerning the affairs of Magna Pacific (Holdings) Limited (**Magna**) (see [TP07/46](#)).

On 4 July 2007, Magna announced that it had entered into a Placement Agreement with Prime Media Communications Limited (**Prime Media**) under which Magna agreed to issue 16,200,000 fully paid ordinary shares in Magna to Prime Media at \$0.42 per share (**Placement**).

Magna has previously announced the proposed acquisition of all of the shares in Magna by destra Corporation Limited by a scheme of arrangement, due to be considered by Magna shareholders at a meeting convened for 30 July 2007 (**Scheme**).

In its application, Lionsgate submitted that the Placement is likely to affect control of Magna by diluting the voting power of shareholders, including Lionsgate, who may not support the Scheme, thus increasing the prospects of success.

The Panel noted that:

- the question of whether Prime may vote the shares it may acquire under the Placement on the Scheme is properly a question for consideration by the Supreme Court of Queensland given the Court has ordered the convening of the Scheme meeting and has the discretion to determine the classes and to decide whether, in the exercise of its discretionary jurisdiction, the Scheme should be approved.
- Magna has advised the Panel of its intention to raise the issue of Prime voting in a separate class with the Supreme Court of Queensland in the context of the Scheme - the issue of voting is therefore a matter of which the Court is (or will be) aware; and
- The Panel is generally reluctant to conduct proceedings directly concerning a scheme where the issue has already been taken up by the court.

In light of the above the Panel decided not to commence proceedings.

The Panel will publish its reasons for declining to commence proceedings on its website at www.takeovers.gov.au in due course.

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