



Australian Government

Takeovers Panel

MEDIA RELEASE

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The Panel's 10 year Anniversary

Tomorrow marks the 10 year anniversary of the Panel's role as the main forum for resolving takeover disputes in Australia. The Panel in its current form was established on 13 March 2000.

Mr Simon McKeon, the President throughout this 10 year period, said:

"Since 13 March 2000 we have resolved more than 300 disputes, improved compliance in mergers and acquisitions, and dealt with many novel takeovers issues quickly and effectively. In doing so, we have freed up considerable court time and substantially reduced the cost to both market participants and the public purse. Takeovers regulation in Australia is at the forefront of international best practice and the Panel has been well received by the business community as an efficient way to resolve issues concerning takeovers."

Mr McKeon added: "It is now a little over 2 years since the High Court in *Alinta*, upheld our jurisdiction again.¹ The Court noted the importance of the substantial commercial experience and judgement of Panel members in resolving takeovers disputes promptly. We are now, on average, completing the process from receipt of an application to making a decision and providing reasons in a little over 2 weeks. We will continue to look for ways to improve our decision-making and to provide guidance to the market."

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¹ *Attorney-General (Commonwealth) v Alinta Limited* [2008] HCA 2. The first was *Precision Data Holdings Ltd v Wills* (1991) 6 ACSR 269 (the Panel in an earlier form)

Background

The Takeovers Panel

The Takeovers Panel is a peer review body and is the main forum for resolving disputes in takeovers (ie the courts are excluded in most cases – s659B and s659C of the Corporations Act). The Panel seeks to decide disputes in a speedy manner and focuses primarily on commercial and policy issues.

The Panel commenced in its current form on 13 March 2000 with 28 members and an executive led by Nigel Morris as Director and George Durbridge as Counsel. The Panel now has 54 members and an executive led by Allan Bulman as Director and Alan Shaw as Counsel. The executive, based in Melbourne, assists the Panel in making consistent and timely decisions.

The President of the Panel is Simon McKeon, who is also a member. The Panel members (any 3 of whom make the decisions on applications) bring their expertise and judgement from a range of different perspectives. They are typically investment bankers, lawyers, company directors or other business professionals. They are government appointments under the ASIC Act (see recent media release on appointments to the Panel [TP10/10](#)). There are Panel members based in each mainland State.

Major milestones in the Panel's history

13 March 2000 – The *Corporate Law Economic Reform Program (CLERP) Act 2000* (Cth) gives the Panel its role as the main forum of resolving takeover disputes in Australia. Formerly it could only consider applications made by ASIC (and its predecessor, the ASC).

May 2000 – Panel receives its first applications under its new jurisdiction (Panel receives 22 applications in 2000)

7 December 2001 – Panel issues Guidance Note 7 (Lock-up devices), applying a 1% guideline to break fees

October 2002 – the Panel hosted the inaugural International Takeovers Regulators' conference

2003 – The Panel has its busiest year on record (47 applications) and releases Guidance Note 12 (Frustrating action)

9 November 2006 – Panel releases Chant Link report on the performance of the Panel

5 May 2007 to 6 May 2007 – Panel and Review Panel met over a weekend to decide on the validity of a late acceptance into Airline Partners Australia Limited's bid for Qantas Airways Limited

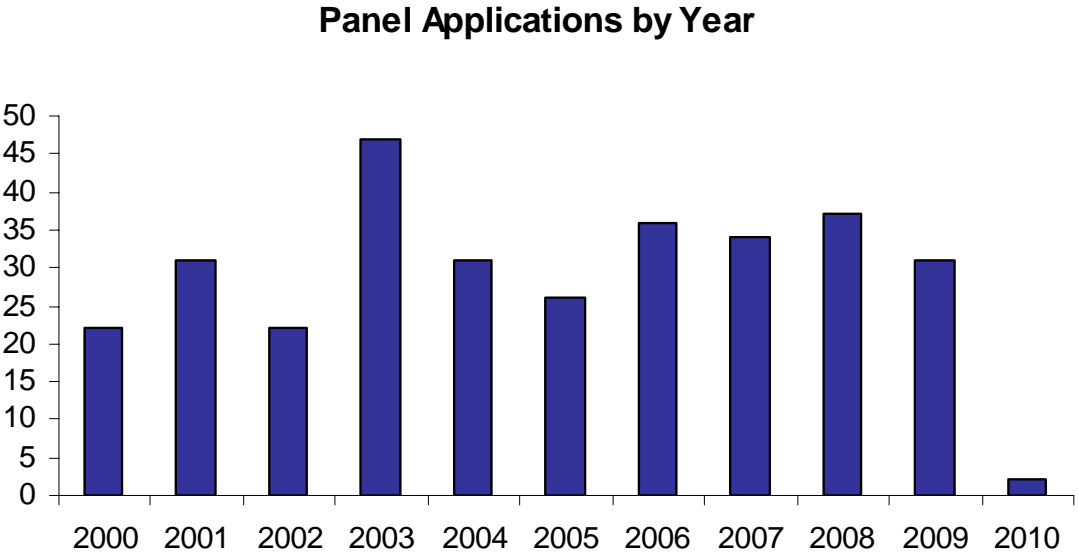
13 May 2007 – Panel’s jurisdiction was widened, following the Glencore litigation²

13 December 2007 – High Court in *Alinta* decided unanimously that the power of the Panel to declare unacceptable circumstances on the basis of a contravention of Chapters 6, 6A, 6B or 6C of the Corporations Act was not invalid as conferring the judicial power of the Commonwealth on the Panel.

2008 – Panel’s second busiest year on record (37 applications). Panel releases Guidance Note 20 (Equity Derivatives). Panel commences simplification program for its Guidance Notes and Rules.

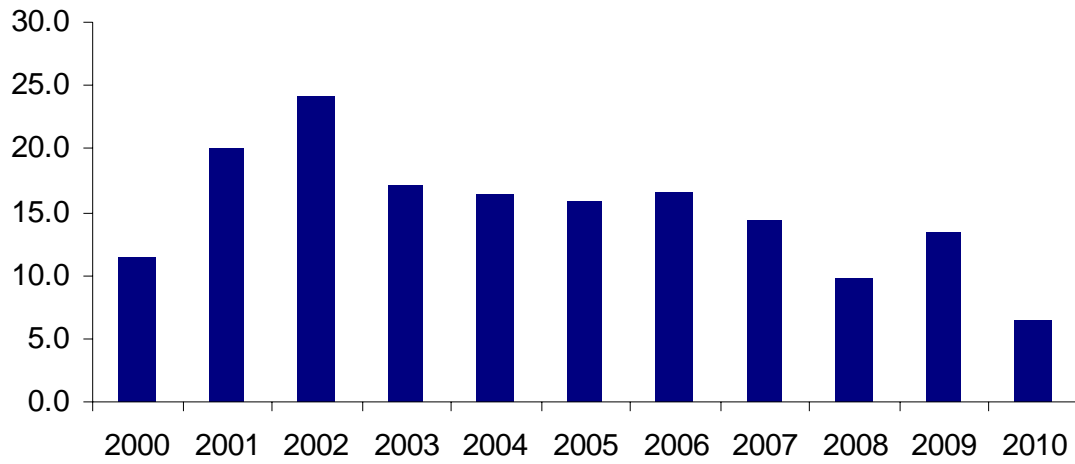
2009 – Panel decides applications in relation to standstill agreements and reverse takeovers

Graphs and tables

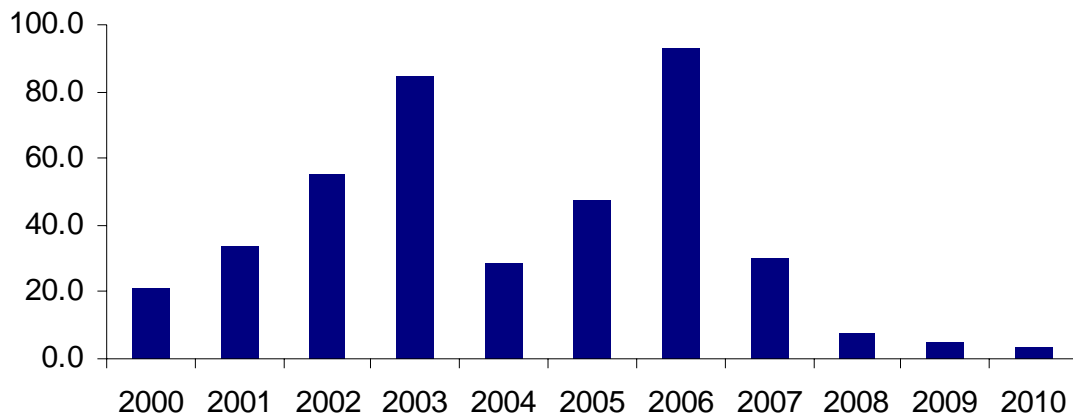


² *Glencore International AG v Takeovers Panel* (2005) 220 ALR 495, *Glencore International AG v Takeovers Panel* (2006) 151 FRC 77

Average Days from Application to Decision*



Average Days from Decision to Publication of Reasons*



*based on calendar days