



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP14/35

Thursday, 5 June 2014

Bullabulling Gold Limited - Decision

In response to an application dated 13 May 2014 from Norton Gold Fields Limited in relation to the affairs of Bullabulling Gold Limited (see [TP14/30](#)), the Panel is of the view that unacceptable circumstances occurred in relation to Bullabulling's letter to shareholders dated 30 April 2014 and target's statement dated 14 May 2014.

On or about 30 April 2014, Bullabulling sent a letter to shareholders in response to the off-market takeover offer by Norton Gold, which contained the following statements (among others):

*"...Your Company has received strong messages of support from a number of Bullabulling Gold shareholders since the Offer was announced, and to date holders of 41.8% of Bullabulling Gold's shareholders have indicated that they **DO NOT** intend to accept the Offer."*

"...your Directors believe that if Norton fails to acquire 100% of Bullabulling Gold in its first attempt (i.e. under the Offer), which is a potential outcome given holders of 41.8% of Bullabulling Gold's shares have indicated that they do not intend to accept the Offer at the current price..."

These rejection statements were substantively repeated in Bullabulling's target's statement.

The Panel considered that the rejection statements, which were compiled from varied written and verbal statements received from 101 Bullabulling shareholders (including through an internet stock discussion site), gave rise to unacceptable circumstances because (among other things):

- Bullabulling did not inform all the rejecting shareholders how the statements were to be used
- Bullabulling did not obtain consents from the rejecting shareholders in accordance with Panel policy or the *Corporations Act 2001 (Cth)*
- Bullabulling shareholders were not given sufficient information about (among other things) how the rejection statements were compiled and the qualifications to which some statements were subject and
- Bullabulling shareholders were not informed that Bullabulling considered that the rejection statements were no more than statements of the rejecting shareholders'

intentions at certain points in time and were not intended to be statements of the rejecting shareholders' future actions.

The Panel was minded to make a declaration of unacceptable circumstances.

However, the Panel has accepted an undertaking from Bullabulling (see Annexure A), and declined to make a declaration of unacceptable circumstances.

The Panel considers that Bullabulling's undertaking sufficiently addresses the unacceptable circumstances and that it is not against the public interest to accept the undertaking and decline to make a declaration of unacceptable circumstances.

Norton Gold statements

During the course of proceedings, Bullabulling raised the following statement (and variants of it) which appeared in Norton Gold's bidder's statement dated 17 April 2014:

"Bullabulling shareholders representing 6.6% of Bullabulling's issued shares have already confirmed they intend to accept the Offer."

On 20 May 2014, Norton Gold lodged a supplementary bidder's statement in which it disclosed (among other things) that the 6.6% comprised shares held by Gold Mountains (H.K.) International Mining Company Limited and Phoenix Gold Fund Limited, that Phoenix Gold had sold some of its shares on-market and that the level of support for the offer from these shareholders had decreased from 6.6% to 5.39% as a result. Norton Gold also disclosed that both shareholders had instructed their custodians to accept the offer in respect of their aggregate 5.39% holdings.

The Panel considered that the acceptance statements were misleading because (among other things) Norton Gold's bidder's statement or supplementary bidder's statement did not disclose that it was associated with Gold Mountains and that it already had voting power in Gold Mountains' 2.5% holding. Norton Gold also did not disclose that the shareholders had consented to the acceptance statements being made in the bidder's statement in accordance with the Corporations Act and did not disclose details of those consents including qualifications. Further, as evidenced by the sale by Phoenix Gold, it is not clear that it understood that its statement would be relied upon.

To address its concerns, the Panel accepted an undertaking by Norton Gold (see Annexure B).

The sitting Panel was Garry Besson (sitting President), Michelle Jablko and Heather Zampatti. The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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Annexure A

**Section 201A
Australian Securities and Investments Commission Act (Cth)
Undertaking**

BULLABULLING GOLD LIMITED (BULLABULLING)

Bullabulling undertakes to the Panel that it will:

1. release to ASX;
2. lodge with ASIC;
3. send to Norton Gold Fields Limited; and
4. dispatch to Bullabulling shareholders,

a supplementary target's statement in the form approved by the Panel as soon as reasonable practicable, and in any event on or before 9 June 2014.

Bullabulling agrees to confirm in writing to the Panel when it has satisfied its obligation under this undertaking.

**Signed by Brett Lambert, Managing Director of Bullabulling Gold Limited
with the authority, and on behalf, of Bullabulling Gold Limited**

Dated 5 June 2014



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Annexure B

**Section 201A
Australian Securities and Investments Commission Act (Cth)
Undertaking**

NORTON GOLD FIELDS LIMITED (Norton) undertakes to the Panel that as soon as reasonably practicable it will:

1. send to Bullabulling Gold Limited;
2. lodge with ASIC; and
3. release to ASX and AIM,

a second supplementary bidder's statement in a form approved by the Panel, and in any event on or before 6 June 2014.

Norton agrees to confirm in writing to the Panel when it has satisfied its obligation under this undertaking.

**Signed by Dr Dianmin Chen, Managing Director of Norton Gold Fields Limited,
with the authority, and on behalf, of Norton Gold Fields Limited**

Dated 5 June 2014