
MEDIA RELEASE

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The Takeovers Panel Celebrates Its 20th Anniversary

Tomorrow marks the 20 year anniversary of the Takeovers Panel's role as the main forum for resolving takeover disputes in Australia. The Panel in its current form commenced on 13 March 2000.

Alex Cartel, Panel President, said:

"The Takeovers Panel this year celebrates its 20th anniversary. The Panel has been a resounding Australian regulatory success story, particularly by substantially increasing efficiency and reducing the costs associated with takeovers dispute resolution. The respect that M&A practitioners, investors and other market participants have for the Panel speaks to this success."

"The Panel has provided bidders, targets, shareholders and other interested parties with the opportunity to be heard in a fair, prompt and cost effective manner. This has had the effect of minimising litigation in takeovers, in turn freeing up considerable court and ASIC resources."

The Panel has resolved 567 applications since 13 March 2000, many of which were high profile including Goodman Fielder (2003), Qantas (2007), Rinker (2007), Foster's Group (2011), Billabong (2013) and Spotless (2017).

Last year was the Panel's second busiest year on record (having resolved 38 applications). Some further background and facts and figures¹ are provided below.

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¹ Up to 31 December 2019

BACKGROUND

The Takeovers Panel is a peer review body and is the main forum for resolving disputes in takeovers.² Through the work of many, including Peter Costello AC, the Panel was revitalised on 13 March 2000. The Panel seeks to decide disputes in a speedy manner and focuses primarily on commercial and policy issues.

Over the last 20 years, the Panel has been fortunate to have been led by well-respected Panel Presidents. Alex Cartel has been President of the Panel since 2019. Former Presidents have been: Vickki McFadden (2013 to 2019), Kathleen Farrell (now Justice Farrell, 2010 to 2012) and Simon McKeon AO (1999 to 2010).

The Panel currently has 43 members (including the President) and an executive led by Allan Bulman as Director and Tania Mattei as Counsel. The executive, based in Melbourne, assists the Panel in making consistent and timely decisions.

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. The work and expertise of the Panel and its members has been recognised repeatedly by the Courts.³

The Panel has published 18 guidance notes to assist market participants. On a number of occasions, the clarification achieved through the release or an update of a guidance note has led to a reduction in applications relating to the subject of the guidance note.

The Panel has been at the forefront of enhancing international best practice in takeovers regulation. In 2002 the Panel hosted the inaugural International Takeovers Regulators' conference. The Panel is a member of the Asia Pacific Takeovers Regulators Forum and hosted the Third Asia Pacific Takeovers Regulators conference in 2015.

The Panel is committed to continuous improvement. The Panel invites parties to provide feedback, either in person or in writing, at the conclusion of each matter. In addition, every 5 years the Panel commissions a stakeholder survey to receive feedback from all its stakeholders. Market participants will be surveyed in the next few months, the results of which will be published in the second half of this year. The Panel's 2015 survey found, among other things, that 89% of its stakeholders were satisfied with the Panel's performance - see link [here](#).

² The Panel has replaced the courts as the primary forum to resolve takeovers disputes in Australia

³ For example: *Attorney-General (Cth) v Alinta Limited* [2008] HCA 2 at [45] (Kirby J), *CEMEX Australia Pty Ltd v Takeovers Panel* [2009] FCAFC 78 at [81] to [89] and [134] to [141], *Eastern Field Developments Limited v Takeovers Panel* [2019] FCA 311 at [11], [89], [134] to [135], [140], [180], [183] and [187]

FACTS AND FIGURES

The Panel receives on average 28 applications a year (see **Figure 1**). On average, it takes approximately 16 calendar days for the Panel to make a decision on an application (see **Figure 2**).

The Panel has the power to decline to conduct proceedings in relation to an application, which has been a growing trend over the last 10 years (see **Figure 3**).

The average number of days from application to decision varies from year to year, depending primarily on the proportion of applications that the Panel determines to conduct proceedings on (see **Figure 4**).

Over the last 10 years, the Panel has also seen a rise in the number of applications from shareholders (see **Figure 5**).

Figure 1 - Number of applications per year

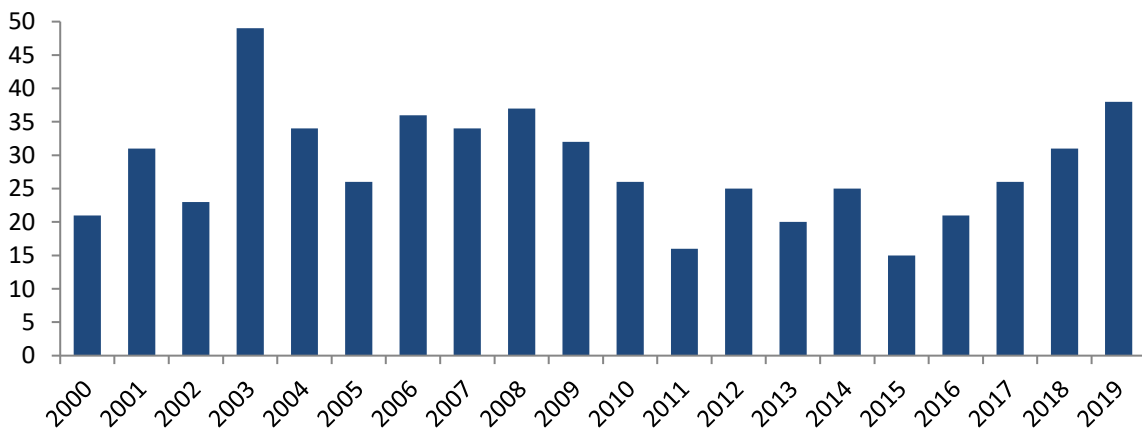


Figure 2 - Average days from application to decision

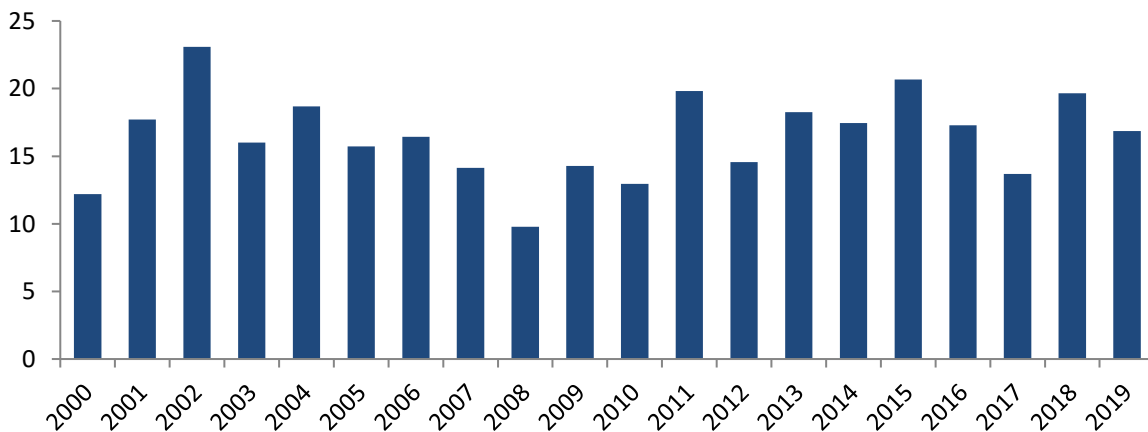


Figure 3 - Outcomes from Panel proceedings (comparing 2000-2009 with 2010-2019)

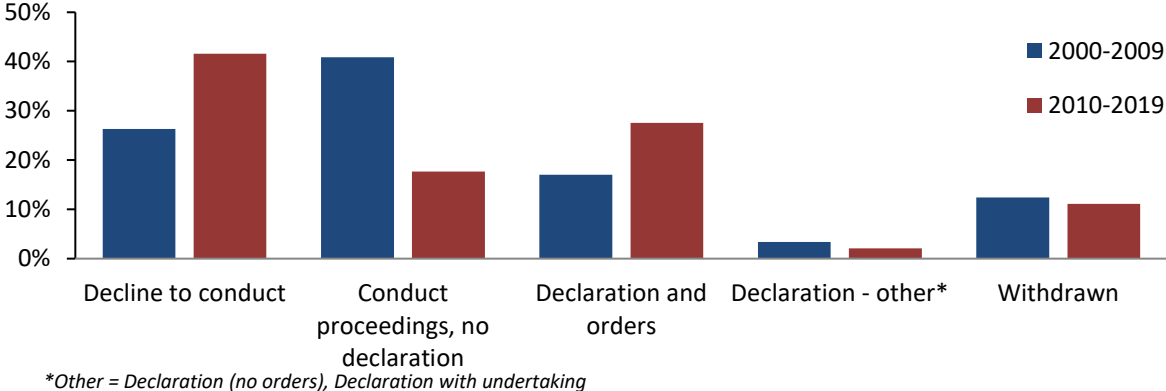


Figure 4 - Average days to decision by outcome of Panel proceedings

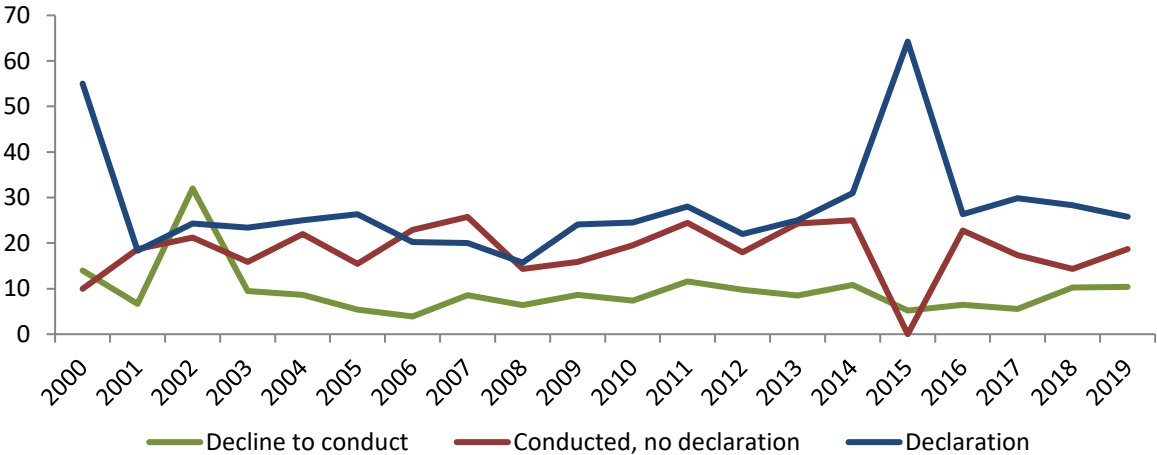


Figure 5 - Comparison of applications from shareholders (and other non-corporate applicants) and other applicants

