

The Bell Gully Regulator Report lists recent changes, decisions and developments at the main New Zealand and Australian corporate, commercial and competition regulatory bodies for the period to 1 August 2006. For further details on any matter in this report, just click on the hyperlink below each item. Should you have any questions regarding the contents of the Bell Gully Regulator Report please call your usual contact at Bell Gully or contact a member of the Bell Gully [Corporate Team](#) or the [Competition Team](#). For past editions of the Bell Gully Regulator Report please [click here](#). For all Bell Gully publications please [click here](#).

<p>New Zealand Exchange [NZX]</p>	<ul style="list-style-type: none"> <p>Swap indices add new depth to debt market</p> <p>On 26 July, the NZX and Westpac Institutional Bank announced the introduction of a new set of indices for debt market participants. The NZX Swap Indices, developed in partnership with Westpac, create benchmarks for the rapidly growing swap market. Broadcast of the new indices will commence on 31 August 2006. The NZX Swap Indices will model the total returns that can be achieved by investing in interest rate swaps, which are known also as “plain vanilla” swaps. An interest rate swap is a derivative instrument which enables investors to “swap” between floating and fixed interest rate payments. Swaps are usually traded over-the-counter between banks and their institutional and corporate clients, and can be used to lock in fixed rates of return. Westpac has played a key role in development of the indices, and after their launch the indices will be maintained independently by NZX.</p> <p>Click here for more</p> <p>NZX announces first half year results for 2006</p> <p>The half year results for the NZX Group were released on 27 July. On the listings side, a combination of this half year's IPO activity, strong issuance on the NZDX Market and a significant amount of secondary capital-raising has led to listings revenue reaching \$3.2 million, a 20% increase to the same period in 2005. Over the first half of 2006, 15 new listings raised a total of \$2 billion across all three NZX markets.</p> <p>Click here for more</p>
<p>Securities Commission</p>	<ul style="list-style-type: none"> <p>Share scams using fake regulators</p> <p>The Commission warns about a new version of unsolicited investment offers from overseas. The scam uses faxes and e-mails to target people with offers of share deals. The investment offer is meant to get victims to send money before the "services" are delivered. To prove their authenticity these "brokers" often refer people to fake regulators' websites. These websites use .gov.us in their addresses. All United States federal websites have website addresses ending with .gov. A website ending with .gov.us is likely to be a fake agency.</p> <p>Click here for more</p> <p>Report on Effects on the Securities Markets of Statements Concerning Telecommunications</p> <p>On 25 July the Commission released its views following an inquiry into the conduct and circumstances surrounding the release of the Government's Telecommunications Stocktake Paper on 3 May 2006, and into comments reportedly made during a media interview on 15 May 2006 by the Communications Minister David Cunliffe regarding the dividend policy of Telecom Corporation of New Zealand Limited. The publication includes the following comments on the release of the Stocktake Paper:</p> <ul style="list-style-type: none"> there was no evidence of any trading or encouragement to trade in securities by persons who knew of the contents of the Stocktake Paper before it was made public; the actions of both Telecom and the Government were understandable in the unusual and difficult circumstances of the day;

<p>Securities Commission continued</p>	<ul style="list-style-type: none"> • there was an avoidable asymmetry of information in the market for just under 30 minutes while trading was underway on the Australian Stock Exchange. Both Telecom and the Government could have taken steps to avoid this occurring; • in some circumstances it may be appropriate for an issuer to call a trading halt to allow information to be distributed equally to the market, even though the issuer is not aware of the precise content of the information at the time the halt is called; • when the Government or a regulatory agency is about to release non-public price-sensitive information which can be expected to affect the price of the securities of a specific issuer during trading of those securities, it should facilitate that information entering the market in a way which allows trading halts to be called if appropriate; • it is recommended that the Government engage with the NZX to develop procedures and guidelines for disclosure by the Government of information which could be price-sensitive to listed securities. <p>With regards to the Minister's comments, it was noted that:</p> <ul style="list-style-type: none"> • the Minister is entitled to make comments to agencies that serve only a section of the market if the comments made are not based on any confidential or price-sensitive information; • the comments made by the Minister were not based on any confidential or price-sensitive information about Telecom's intentions or policies, • it appears that some market participants assumed or guessed that the Minister did have confidential information that would affect Telecom's dividend policy and traded on the basis of this; • trading of this nature occurs and does not of itself mean that the market has been improperly or unequally informed; • the Commission reminds market participants that reported comments may not be a complete or accurate reflection of what was actually said. <p>Click here for more</p> <ul style="list-style-type: none"> • Securities Act Exemption Notices The following Securities Act Exemption Notice has been published: <ul style="list-style-type: none"> ➤ Securities Act (Apata Limited) Exemption Notice 2006/200 Click here for Exemption Notices
<p>Takeovers Panel</p>	<ul style="list-style-type: none"> • Takeovers Code Exemption Notices The following Takeovers Code Exemption Notice has been published: <ul style="list-style-type: none"> ➤ Takeovers Code (AFFCO Holdings Limited) Exemption Notice (No 2) 2006 Click here for Exemption Notices
<p>Ministry of Economic Development [MED]</p>	<ul style="list-style-type: none"> • Consultation on accession to International Trade Mark Treaties Nine submissions were received from eight submitters on a discussion document about whether New Zealand should accede to a number of multilateral trade mark treaties administered by the World Intellectual Property Organisation. The treaties considered are the: <ul style="list-style-type: none"> • Madrid Protocol relating to the Madrid Agreement; • Trademark Law Treaty; and • Nice Agreement concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks. Click here for more. • Update on the Insolvency Law Reform Bill The Bill passed its first reading on 21 February 2006 and was referred to the Commerce Select Committee for its consideration. Public submissions on the Bill to the Select Committee closed on 7 April 2006. The Select Committee is due to report back to the House on 20 August 2006. Click here for more. To view Bell Gully's latest comments on the Bill click here.

<p>Reserve Bank of New Zealand</p>	<ul style="list-style-type: none"> • Changes to the Bond Lending Facility The Reserve Bank of New Zealand has announced that, with effect from 24 July 2006, the following changes have been made to its Bond Lending Facility: <ul style="list-style-type: none"> • Counterparties will be able to borrow up to a total of \$250 million of New Zealand government bonds each day via repo versus cash for same day settlement. Requests in excess of this \$250 million limit must be settled against other New Zealand government securities, as per current practice. Market participants will still be able to borrow bonds for settlement the next day; • The Reserve Bank will operate a second Bond Lending Facility called the "RBNZ Repo Facility" that will offer to repo New Zealand government bonds to counterparties versus cash, via a tender. <p>Click here for more</p> • Trusts reduce home ownership measures A discussion paper released by the Reserve Bank on 28 July shows that about one-fifth of household assets are held in trusts, and this has had the effect of lowering census measures of home ownership. The paper looks at family trusts: who owns them, what they contain, and how trusts affect measurements of wealth, income, and home ownership. Click here for more. To access the discussion paper click here.
<p>Australian Stock Exchange (ASX)</p>	<ul style="list-style-type: none"> • Recent floats Click here for recent ASX floats • Upcoming floats Click here for upcoming ASX floats
<p>New Zealand Commerce Commission (NZCC)</p>	<ul style="list-style-type: none"> • NZCC media releases The NZCC has made the following media releases: <ul style="list-style-type: none"> ➤ Zenith Corporation, which sold and promoted the discredited "weight loss" product Body Enhancer, was sentenced in the Auckland District Court on 13 July for offences under the Fair Trading Act. Zenith will pay \$632,500 in fines and \$130,000 in costs, and has also been ordered to undertake a nationwide campaign of corrective advertising that is likely to cost \$30,000. The company must take advertisements in newspapers and on Radio Pacific, where the product was heavily promoted in infomercials. Click here for more ➤ The BNZ has become the third major bank to plead guilty to breaching the Fair Trading Act by failing to properly disclose fees charged for overseas currency transactions on its credit and debit cards. The company pleaded guilty to 21 representative charges of breaching the Fair Trading Act. BNZ has been fined a total of \$550,000 in the Auckland District Court and has agreed to pay \$5 million in compensation to customers who made foreign currency transactions on their cards. Costs of \$80,000 were awarded to the Commission. The Court found that foreign currency exchange fees were charged but not adequately disclosed during the period from February 2002 to May 2004. Click here for more ➤ The NZCC is discussing an administrative settlement with Vector Ltd after the company breached price thresholds set under Part 4A of the Commerce Act. An administrative settlement with the Commission usually involves the Commission and the company agreeing to pricing levels and quality measures for a period of up to five years. Click here for more ➤ Telecom Mobile Limited has been fined \$45,000 and ordered to pay over \$3,000 in costs in the Wellington District Court on 21 July for breaching sections 11 and 13(g) of the Fair Trading Act, after misleading customers about a new mobile phone deal. Telecom Mobile began a 027 direct marketing campaign to existing customers in March 2005. Customers were offered an account credit as well as a discounted mobile phone if they upgraded to a new 24 month plan on the 027 network. However, some customers later realised they were not granted an additional account credit as well as the mobile phone reduction as they had initially been led to believe. Click here for more ➤ The Commission has granted clearance for ORIX New Zealand Limited to acquire the business of Truck Leasing Limited (trading as Esanda FleetPartners) from UDC Finance Limited, a subsidiary of Australia and New Zealand Banking Group Limited (ANZ). Click here for more

<p>NZCC continued</p>	<ul style="list-style-type: none"> ➤ The NZCC and the ACCC have agreed, in principle, to a protocol to enhance their co-operation in dealing with the review of trans-Tasman mergers. This protocol does not affect the law that will be applied in either country nor the analysis or determination by each Commission. Rather, it is designed to generate a more efficient process where an acquisition has impacts in both New Zealand and Australia. The proposed mergers protocol covers: <ul style="list-style-type: none"> • cooperation on specific transactions being considered by both agencies; • merger reviews being considered by one agency, but where the other may be in a position to assist with that review; and • general cooperation and information exchange to assist the agencies to carry out their general merger review responsibilities. <p>The protocol follows recommendations from the Trans-Tasman Harmonisation Committee, of which Bell Gully partner Phil Taylor is a member. The governments have agreed to amend the New Zealand Commerce Act 1986 and the Australian Trade Practices Act 1974, respectively to allow the NZCC and the ACCC to exchange information gathered in the course of investigating competition and consumer protection matters under the two agencies' powers.</p> <p>Click here for more</p> • 8th Annual New Zealand Energy Summit On 17 July NZCC Chair Paula Rebstock presented a speech at the New Zealand Energy Summit. The speech included coverage of : <ul style="list-style-type: none"> • the Commission's current enforcement and regulatory activities relating to energy; • the Commission's investigation into the electricity industry; • comment on the joint marketing of gas and the Commission's recent revocation of its authorisation for joint marketing of gas from the Pohokura field; and • the Commission's two recent decisions relating to applications for exemption from the corporate separation and arms-length provisions of the Electricity Industry Reform Act. <p>The speech concludes that the most important issue for the Commission in the energy sector is investment. It also notes that regulatory regimes must facilitate investment, and consumers must be confident that investment is being planned and carried out efficiently, is priced fairly, and is subject to public scrutiny.</p> <p>For a copy of the speech click here</p>
<p>Australian Competition and Consumer Commission (ACCC)</p>	<ul style="list-style-type: none"> • ACCC media releases The ACCC has made the following media releases: <ul style="list-style-type: none"> ➤ On 12 July the ACCC issued a draft determination proposing to authorise Qantas Airways Ltd to enter into a cooperation agreement with Orangestar Investment Holdings Pte Ltd. Orangestar is the holding company of Jetstar Asia and Valuair. The cooperation agreement will allow Qantas and Orangestar to coordinate their flying operations and activities. Click here for more ➤ The ACCC has discontinued its proceedings in the Federal Court against foreign producers of vitamin C used for human consumption. Proceedings were instituted in the matter of <i>F Hoffmann-La Roche Ltd & Others</i> (V875 of 2001) alleging that various foreign companies in the Asia Pacific region and foreign executives entered into and gave effect to an arrangement the purpose and effect of which was to fix the global price of human vitamin C. Click here for more ➤ The ACCC has granted authorisation allowing corporate bookmakers, through the Association of Australian Bookmaking Companies, to collectively negotiate information access fees with certain racing and sporting bodies. The ACCC considers that the arrangements are likely to result in benefits to the public – by facilitating transaction cost saving for all parties, and by increasing the input of AABC members into their future contracts with racing and sporting bodies. Click here for more ➤ The current regulatory environment for communications can provide 'certainty' for communications companies, ACCC Chairman Graeme Samuel said on 24 July. Mr Samuel said the position of the ACCC and the Government had been communicated clearly, that the existing legal processes in the Trade Practices Act could be used to ensure investment and regulatory certainty for carriers seeking to roll out fibre in the future and that no changes to the legal regime should be necessary for Telstra or anyone else to implement the proposal. Click here for more ➤ The ACCC has imposed an important condition on a revised code governing drug companies dealings with doctors. The condition will require a greater level of detail about the functions, including the cost and the type of hospitality provided. The information will also be available to the public, via a website, in a timely manner. The code, which was developed by Medicines Australia, the industry's national association, governs the activities of pharmaceutical companies when they promote prescription medicines to doctors and regulates advertising of prescription drugs to the medical profession. Click here for more

ACCC continued

- The ACCC has instituted legal proceedings against Kyaloe Pty Ltd, Impact Design Accessories Pty Ltd and associated persons alleging contraventions of the Franchising Code of Conduct and section 51AD of the Trade Practices Act 1974.
[Click here for more](#)
- The ACCC has issued final decisions on the future regulation of key fixed network telecommunications services. It has decided to continue the regulation of the unconditioned local loop service, PSTN originating and terminating access services, and local carriage service, for three years from 1 August 2006. It has also decided to formalise the declaration of a wholesale line rental service. The decisions form part of the ACCC's local services review and strategic review of the regulation of fixed network services.
[Click here for more](#)
- On 28 July, the ACCC issued its annual report on telecommunications market indicators. The market indicator report contains revenue, usage and market share information for fixed-line voice and mobile telephony voice services for 2004-05. For the first time, the report also provides aggregate revenue data across carriers for Internet services. The report is compiled from information provided by Telstra, Optus, Primus, AAPT and Vodafone.
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The Bell Gully Regulator Report is designed to highlight certain New Zealand and Australian corporate, commercial and competition regulatory developments. The Bell Gully Regulator Report is not designed to be comprehensive and is necessarily brief and general in nature and is not intended to provide legal advice. You should seek professional legal advice before taking any action in relation to the matters dealt with in this publication. Bell Gully is not the author of any information received by clicking on the hypertext links and therefore is not responsible for their accuracy.

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