

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 26 March 2007. 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](#).

A companion publication, *Commercial Quarterly*, Bell Gully's digest of current corporate and commercial law issues, is published every quarter. For the Summer issue of *Commercial Quarterly* please [click here](#). For all other Bell Gully publications please [click here](#).

<p>New Zealand Exchange (NZX)</p>	<ul style="list-style-type: none"> <p><i>The Australian ECN gets a name</i> The Australian ECN (Electronic Communications Network) now has a name: AXE ECN Pty Limited. AXE is currently awaiting the outcome of an Australian Market Licence (AML) application lodged on 31 January with the Australian Securities and Investments Commission (ASIC). ECNs are high-speed, low-cost platforms that separate listing from trading functions and are already available in most leading global markets. Click here for more</p> <p><i>New NZDX product offering</i> NZX has introduced Rated Mortgage Bonds (RMTFA) to the NZDX Market. Rated Mortgage Bonds are a set of investment grade mortgage backed products covering both residential and commercial loan asset types. Click here for more</p>
<p>Securities Commission</p>	<ul style="list-style-type: none"> <p><i>Securities Commission accepts enforceable undertakings from Huka Falls Resort Limited and Kensington Park Properties Limited</i> The Securities Commission has accepted enforceable undertakings from Huka Falls Resort Limited and Kensington Park Properties Limited in relation to their recent breach of the Securities Act 1978 and Securities Regulations 1983 for offering membership in participatory securities without an investment statement or registered prospectus. Both the companies are developing properties with common facilities for their respective residents. The breach arose when the companies offered prospective buyers of the properties membership in the incorporated societies set up to make and enforce bylaws of the respective developments and to own and manage the common facilities. These memberships are participatory securities under the Securities Act 1978. When the offers were made the companies were unaware that the offers breached the law.</p> <p>The undertakings confirm that the companies will comply with the law for any future offer of securities and will put procedures in place to ensure that advertisements for future offers will comply with the law. They have also undertaken to allow investors to cancel their earlier subscriptions and receive a refund, or re-subscribe under the terms of exemptions granted by the Commission. Click here for more</p> <p><i>Securities Commission bans finance company prospectus</i> The Securities Commission has cancelled the prospectus of finance company Classic Capital Limited. The prospectus was banned because it omitted material information. Classic Capital Limited's sole director, Mr Keith McCoy is bankrupt, banned from management, and facing charges of forgery and dishonestly using his position as a company officer, all in Australia. The prospectus did not state these facts. Click here for more</p>

<p>Securities Commission continued</p>	<ul style="list-style-type: none"> • Jane Diplock: Regulation and cross border developments – Gulf Cooperation Council Regulators' Summit Jane Diplock spoke recently at the Gulf Cooperation Council Regulators' Summit in Doha, as Chairman of the International Organisation of Securities Commissions (IOSCO) Executive Committee. She outlined the function and operation of the IOSCO and discussed the progress that it has been making in helping regulators to enforce securities law when the perpetrators are outside their jurisdictions. Click here to access a transcript of this speech • Securities Act class exemptions to expire in September 2007 A large number of class exemptions will expire in September 2007. The Securities Commission is reviewing these and a number of other exemptions during the year, and is seeking public comment on whether these exemptions should be renewed, and if so, on what terms. The initial round of submissions closes on 30 March 2007. If you would like further information or assistance with your submission, please contact your usual Bell Gully adviser. • Securities Act Exemption Notices The following Securities Act exemption notices have been published: <ul style="list-style-type: none"> ➤ Securities Act (Agri Private Capital Fund Limited) Exemption Notice 2007/63 This notice, which comes into force on the day after the date of its notification in the Gazette and expires on 31 March 2008, exempts Agri Private Capital Fund Limited and 25 associated special purpose investment companies from clause 10(1)(c) of Schedule 1 of the Securities Regulations 1983, which is the requirement that the registered prospectus must provide a prospective statement of cash flows. ➤ Securities Act (Centro MCS Manager Limited) Exemption Notice 2007/64 This notice, which comes into force on the day after the date of its notification in the Gazette and expires on 29 February 2012, exempts Centro MCS Manager Limited, subject to conditions, from certain provisions of the Securities Act 1978 and from regulation 3(2) of the Securities Regulations 1983. The exemptions relate to the offer and allotment of certain securities relating to Centro MCS 38 (New Zealand) Trust, an Australian registered managed scheme. The securities are to be offered in New Zealand, but not in Australia. ➤ Securities Act (Serenity Cove Development Limited) Exemption Notice 2007/65 This notice, which comes into force on the day after the date of its notification in the Gazette and expires on 29 February 2012, exempts Serenity Cove Development Limited and Serenity Cove Farm Limited from section 37 of the Securities Act 1978 (the Act) and exempts Serenity Cove Development Limited from sections 54A and 54B of the Act, subject to conditions. The Securities Commission considers that it is appropriate to grant the exemptions because section 5(1)(b) of the Act exempts offers of land, or an interest in land, for which a separate certificate of title can be issued from compliance with Part 2 of the Act, and the securities offered are equity securities that are ancillary to the ownership of land and are not intended for the purpose of investment, but rather confer ownership rights or rights to use the communal facilities in the development. ➤ Securities Act (Eastside Trustee Limited) Exemption Notice 2007/67 This notice comes into force on the day after the date of its notification in the Gazette and expires on 29 February 2012. This notice exempts Eastside Trustee Limited (and any assignee or successor in title of that company), QuBA Precinct Society Incorporated (the Society), and any person acting on behalf of either or both of them, subject to conditions, from sections 33(3), 37, 37A, 38A, 54, and 54B(3) of the Securities Act 1978 and from the Securities Regulations 1983 (except regulation 8) in respect of the offer of participatory securities in the form of membership of the Society that confers rights to participate in the leasehold interest in, and use of all or part of, the communal facilities in a development undertaken at Parnell, Auckland. Click here for exemption notices
<p>Takeovers Panel</p>	<ul style="list-style-type: none"> • David Jones: Update from the Takeovers Panel – Mergers & Acquisitions Summit David Jones, newly appointed Chairman of the Takeovers Panel, spoke at the recent Mergers & Acquisitions Summit in Auckland on three issues: <ul style="list-style-type: none"> • technical amendments to the Takeovers Code which will come into force this year; • the Takeovers Panel's concern about the increasing use of schemes of arrangement and amalgamations under the Companies Act 1993 to avoid the provisions of the Code when seeking to change the ownership or control of code companies; and • changes to takeovers law and the Takeovers Panel's powers under the Takeovers Amendment Act 2006. Click here to access a transcript of this speech Click here for more on David Jones' appointment

<p>Takeovers Panel continued</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 (Viking Capital Limited) Exemption Notice 2007/62 This notice applies to acts or omissions occurring on or after 7 March 2007 and expires on 1 November 2008. The Takeovers Panel has granted exemptions to: <ul style="list-style-type: none"> • Brent King, Snowdon Peak Investments Limited (Snowdon Peak), the King family (comprising Chloe King, James King, Katie King, Marcus King, and Catherine Burkhart), and the Baker Investment Trust from rule 7(d) of the Takeovers Code (the Code) to the extent that rule 7(d) requires the notice of meeting to be in accordance with rule 16(b) of the Code in respect of any increase in the percentage of voting rights held in Viking Capital Limited (Viking Capital) as a result of the exercise of the warrants held by them; and • Viking Capital from rule 16(b) in respect of the notice of meeting. Snowdon Peak is the holder of 19,600,000 ordinary shares in Viking Capital and consequently holds over 20% of the voting rights in Viking Capital. <p>Click here for exemption notices</p>
<p>New Zealand Commerce Commission (NZCC)</p>	<ul style="list-style-type: none"> • Paula Rebstock: Speech to the New Zealand Institute of Management Paula Rebstock, NZCC Chairperson, spoke to the New Zealand Institute of Management on cartels, the impact they can have on a business, detecting and preventing anti-competitive behaviour and a recent High Court judgment that affects the NZCC's ability to pursue cartel participants who live overseas (see below for the NZCC's media release on this judgement). Click here to access a transcript of this speech • NZCC media releases The NZCC has issued the following media releases: <ul style="list-style-type: none"> ➤ The High Court has ruled that the NZCC can pursue penalty proceedings against three defendants in the wood chemicals cartel case who were living overseas when the cartel was operating. Elias Akle, Andrew Poynter and Neil Harris had protested the jurisdiction of the Court to hear the Commission's cartel claim against them. They argued that they lived overseas and did not perform any acts in New Zealand that breached the Commerce Act. The High Court set aside the protests of all defendants and held that people who allegedly enter into cartel agreements overseas, which are aimed at a New Zealand market, can be pursued in the New Zealand courts. Click here for more ➤ New Zealand victims of the internet pyramid scam, SkyBiz.com, are advised a final date has been set for claiming a refund from the US\$20 million redress fund. The United States Federal Trade Commission, which entered into a settlement with the SkyBiz operators in 2003 to refund consumers, has announced that SkyBiz victims have to 30 March 2007 to file a refund claim with the redress fund administrators. The SkyBiz scheme involved the sale of website programmes or 'WebPaks'. Individuals were recruited over the internet to promote the purchase of the WebPaks, with the lure of great profits. Click here for more ➤ The NZCC has cleared Goodman Fielder Limited to acquire the flour and bread assets of River Mill Bakeries Limited. NZCC Paula Rebstock said that the NZCC was satisfied that the proposed acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in any of the relevant markets. Click here for more ➤ The NZCC has released a draft determination on the New Zealand Rugby Union's application to vary the authorisation it granted last year for a salary cap. Without that authorisation, the cap risked breaching the restrictive trade practice provisions of the Commerce Act. In December 2006, the NZRU applied for the authorisation to be varied on the basis that the need to release players for the 2007 Rugby World Cup, and the associated conditioning programme, warranted a variation to the salary cap rules for 2007. The NZCC's preliminary view is that it should vary the previous authorisation because a material change of circumstances has occurred since the authorisation was granted. Click here for more ➤ The NZCC has released its determination on Telecom New Zealand Limited's net cost of complying with its telecommunication service obligations (TSO) for the period 1 July 2003 to 30 June 2004. The TSO relates to the local residential telephone service provided by Telecom. The NZCC decides on an annual basis the cost incurred by Telecom in delivering the service, and apportions the cost between Telecom and other operators whose networks are interconnected with the Telecom fixed network. Click here for more

- **ACCC media releases**

The ACCC has issued the following media releases:

- The ACCC has issued a discussion paper on an access undertaking lodged by Optus Mobile Pty Ltd and Optus Networks Pty Ltd in relation to its domestic GSM terminating access service (DGTAS). Optus' undertaking, lodged on 16 February 2007, specifies certain terms and conditions upon which Optus undertakes to supply the DGTAS.
[Click here for more](#)
- The ACCC has announced that it will not intervene in the proposed acquisition of bulk liquid terminals in the ports of Brisbane and Burnie from Craig Mostyn & Co Pty Ltd by Pacific Terminals (Australia) Pty Ltd. Pacific Terminals and Craig Mostyn both provide customers with tallow and vegetable oil storage in their bulk liquid storage terminals in Brisbane and Tasmania. They are the only providers of waterfront storage for these products in Brisbane. Pacific Terminals also provides storage for hazardous liquids.
[Click here for more](#)
- The ACCC has announced that it will not intervene in the proposed acquisition of Sydney Roads Group Ltd by Transurban Group Ltd. After conducting a comprehensive review of the proposed acquisition, including extensive market inquiries with interested parties, the ACCC has concluded that the proposed acquisition is unlikely to substantially lessen competition under section 50 of the Trade Practices Act 1974. As a result of Transurban and Interlink's tag issuing interests and associated charging of roaming fees to tollroad owners, the ACCC's market inquiries focused on how the proposed acquisition might affect competition in the tender process for future tollroads, particularly in NSW.
[Click here for more](#)
- The ACCC will not object to the proposed sale of the Patrick Bass Strait Shipping and Tasmanian Freight Forwarding businesses to the Chas Kelly Transport Group. The sale follows Toll's agreement to divest these businesses pursuant to undertakings given to the ACCC in connection with Toll's acquisition of Patrick Corporation in 2006.
[Click here for more](#)
- AGL Wholesale Gas Limited has notified the ACCC of an access dispute with East Australian Pipeline Limited. The dispute related to the terms and conditions on which EAPL will provide access to AGLWG at certain delivery points on the covered portions of the Moomba to Sydney gas pipeline.
[Click here for more](#)
- The ACCC will not intervene in the proposed acquisition of Good Stuff Bakery by George Weston Foods Limited. Good Stuff Bakery wholesales plant-baked bread in various areas of southern Queensland and northern New South Wales.
[Click here for more](#)
- The ACCC has outlined possible improvements in consumer protection laws. These potential improvements will be outlined in detail in the ACCC's submission to the current Productivity Commission's inquiry into the consumer policy framework. Areas of potential improvement include:
 - civil pecuniary penalties;
 - consumer redress, and
 - uniformity of fair trading laws.[Click here for more](#)
- A new Memorandum of Understanding to facilitate cooperation and the exchange of information between the ACCC and the Australian Transaction Reports and Analysis Centre (AUSTRAC) has been signed by ACCC Chairman, Mr Graeme Samuel, and AUSTRAC CEO, Mr Neil Jensen. The MoU recognises the importance of cooperation between the ACCC and AUSTRAC to promote confidence in the integrity of the Australian financial system and ensure a fair and competitive environment for business and consumers alike. AUSTRAC is Australia's anti-money laundering and counter-terrorism financing regulator, and specialist financial intelligence unit.
[Click here for more](#)
- The ACCC has accepted a special access undertaking from Foxtel for its digital Pay TV set top unit service. The undertaking will permit independent providers of digital content channels – including interactive digital channels – to offer their channels directly to Foxtel customers through Foxtel's digital set top units.
[Click here for more](#)
- The Federal Court of Australia has ordered a penalty of AUD\$125,000 for anti-competitive conduct against Tooltechnic Systems (Aust) Pty Ltd, the importer of Festool power tools. Justice Kiefel in the Brisbane court made the orders by consent in proceedings instituted by the ACCC. The Court declared that Tooltechnic engaged in resale price maintenance in 2001 and 2002. The ACCC took action in relation to conduct by two now former Tooltechnic sales managers, who went too far in implementing new dealership agreements by attempting to discourage retailers from discounting from recommended prices.
[Click here for more](#)

Reserve Bank	<ul style="list-style-type: none"> • Allan Bollard: Easy money – Global liquidity and its impact on New Zealand In a speech to the Wellington Chamber of Commerce, Reserve Bank Governor Alan Bollard said that households and banks need to realise that the recent period of cheap international money has been unusual and at some point is likely to revert to more normal financial conditions. Dr Bollard said there are significant distortions in global liquidity, with savings flowing from mainly Asian and oil-producing economies to developed countries with current account deficits. Click here for more Click here to access this speech
Bell Gully News	<ul style="list-style-type: none"> • Bell Gully named New Zealand Law Firm for 2006 Bell Gully has been internationally recognised by respected global publication <i>International Financial Law Review</i> (IFLR) as the top New Zealand Law Firm for 2006. It is the fourth year in a row and the fifth time in six years that Bell Gully has won the IFLR New Zealand Law Firm of the Year Award. The annual IFLR awards recognise legal leaders in the international corporate and financial transaction sectors over the past year and evaluate the best law firms throughout the Asia Pacific region on a range of measures including peer and client recommendations. Click here for more • New partner and senior associates in Bell Gully's latest promotions A partner and seven new senior associates have been appointed in the latest promotions at Bell Gully. Click here for more • Auckland labs decision - what was it about and what are the implications? The High Court has just released its decision in the high profile dispute between competing laboratory service suppliers in Auckland. In this Bell Gully article, we examine the issues at the heart of the case and the wider implications. Click here for more
<p><i>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.</i></p>	

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