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ITEMS IN THIS ISSUE INCLUDE:

- Framework for new financial advisers' regime now in place
- Options papers released for the conduct of financial institutions and insurance contract law
- Submissions called for on changes to consumer credit legislation
- Consultation on the "Capital Markets 2029" review
- Response to climate change – the "Zero Carbon Bill"
- Cartel criminalisation law passed
- The latest media releases from the New Zealand Commerce Commission and the Australian Competition and Consumer Commission

WELCOME

to issue No.58 of Corporate Reporter, Bell Gully's regular round-up of corporate and general commercial matters, designed to keep you informed on regulatory developments, legislation and cases of interest.

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BELL GULLY

CONTENTS

PAGE

CAPITAL MARKETS

Framework for new financial advisers' regime now in place

After nearly five years in the making, the new regulatory regime for providing financial advice is now in place.

The Financial Services Legislation Amendment Act 2019 (**FSLA Act**) which repeals the Financial Advisers Act 2008 (**FAA**) and moves the regulation of financial advice into the Financial Markets Conduct Act 2013 (**FMC Act**) was passed in April. The Minister of Commerce and Consumer Affairs has also approved a new code of conduct (developed by an independent working group over the last two years with input from the industry and other interested parties) which will underpin the new regime.

Timing

To give the industry time to prepare for the new regime, the majority of the FSLA Act's provisions and the code of conduct will not come into force until the second quarter of 2020, with the exact dates not expected to be confirmed before mid-2019.

Two-year transitional period

When the new regime starts, there will be a two-year transitional period under which financial advice providers will be able to operate under a transitional licence. A safe-harbour for existing participants also will apply to provide time for them to meet the new competency standards in the code of conduct. The FMA has indicated that the earliest it will start accepting transitional licence applications will be in August 2019.

Key changes from the current financial advisers' regime

The FSLA Act is aimed at improving access to financial advice for all New Zealanders and creating an even playing field of regulation across the industry. The key changes are outlined below.

- *Requirement for providers of financial advice (at a firm level) to be licensed*: Anyone providing financial advice to retail clients (including robo-advice) will need to be licensed by the FMA under Part 6 of the FMC Act. Licensing will be at the firm level (i.e. financial advice firms and sole traders) and conditions may be imposed restricting the type of financial advice able to be provided under a licence. A licence is not required for firms or individuals who only provide advice to wholesale clients.
- *Modification and simplification of financial product categories and advice types*: Unlike the FAA, the Act is technology-neutral. The requirement for tailored advice to be given by a natural person has been removed. This will help to future-proof the regime for technological developments. The distinctions drawn between 'class' and 'personalised' advice and 'category 1 products' versus 'category 2 products' have also been removed, making it easier for those giving advice to tailor the advice to the client.
- *New adviser designations*: The terms AFAs, "registered financial advisers", "QFEs" and "QFE advisers" have been replaced with the concepts of a "financial advice provider" and two classes of individual adviser; "financial adviser" and "nominated representative", who will need to be engaged by a licensed financial advice provider. A financial adviser must be individually registered on the Financial Service Providers Register (**FSPR**) and will be responsible for complying with conduct and disclosure obligations. A nominated representative, who will have less discretion than financial advisers, will not need to register and will not be individually accountable (except in limited circumstances).
- *New code of conduct*: Anyone providing financial advice to a retail client must meet standards of competence, knowledge and skill provided in the new code of conduct, as well as any prescribed eligibility requirements for giving the advice. While similar requirements exist under the FAA, they only apply to AFAs who are a small subset of those who give advice.
- *Additional conduct and disclosure duties*: The Act includes new duties to ensure that advisers:
  - prioritise the interests of their client if there is a conflict between the interests of the client and the interests of the adviser or any 'associated person' of the adviser,
  - take reasonable steps to ensure retail clients understand the nature and scope of the advice being given, including any limitations on the nature and scope of that advice, and
  - disclose core information such as remuneration (including commissions) at the time most relevant to their clients' decision making.
- *Oversight role for financial advice providers*: Financial advice providers that engage financial advisers and nominated representatives are responsible for ensuring that those advisers comply with their duties. Financial advice providers that engage nominated representatives must also ensure that they have in place effective processes, controls and limitations relating to the advice that may be given by nominated representatives, and do not offer any incentives that would encourage a nominated representative to engage in conduct that would contravene a duty.
- *Compliance and enforcement*: Financial advice providers will be subject to the FMC Act's compliance and enforcement tools such as civil pecuniary penalties for various breaches, and will be subject to licensing actions such as censure and the imposition of action plans.

Regulations

Regulations to support the measures in the FSLA Act are still to come. This includes the regulations that will set the disclosure requirements for regulated financial advice to a retail client, set the licensing fees, and change the FMA levy. MBIE has said that it will consult on the disclosure regulations in this quarter.

Changes to the FSPR regime

The FSLA Act also amends the Financial Service Providers (Registration and Dispute Resolution) Act 2008. This includes introducing more stringent requirements for entities wanting to register on the FSPR to reduce the risk of misuse of the register by offshore-controlled companies seeking to take advantage of New Zealand's reputation.

Further amendments for the FMC Act

In addition to introducing a new regulatory regime for financial advice, the Financial Services Legislation Amendment Act 2019 has made various amendments to the Financial Markets Conduct Act 2013 to address issues that have emerged since the Act was implemented.

The amendments, which came into force on 9 April 2019, include:

- providing for redeemable shares issued by industrial and provident societies to be treated as equity securities;
- providing discretion for the Financial Markets Authority to delay publication of exemptions where a risk of commercial prejudice may arise from earlier publication; and
- making a minor amendment to the same class exclusion for offers by way of sale (in clause 19 of Schedule 1 of the Financial Markets Conduct Act Act) to reflect market practice in relation to issues of financial products conducted as secondary sales.

Options paper released on the conduct of financial institutions

The Ministry of Business, Innovation and Employment (MBIE) is seeking feedback on an options paper which addresses recent findings from the Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and the FMA and RBNZ reports into the conduct and culture of banks and life insurers.

The feedback will inform MBIE's recommendations on the legislation the Government has signalled it will introduce by the end of this year. Submissions close on **7 June 2019**.

The paper is directed at the conduct and culture of "financial institutions" which primarily refers to banks and insurers (both life and general). But, MBIE is considering whether the proposed regime should apply more broadly to other types of financial institutions, such as non-Bank deposit takers, managed investment scheme (including KiwiSaver) providers and discretionary investment management services.

Various options are discussed in Part 3 of the paper to address problems which have been identified with the current regime (as set out in Part 2 of the paper). These largely focus on:
- the imbalance of power between financial institutions and consumers;
- products not being designed with good customer outcomes in mind;
- sales being prioritised over good customer outcomes;
- weak systems and controls to manage conduct risk; and
- a lack of accountability to ensure good conduct.

MBIE's current preferred options to address these problems include having a principles-based set of overarching duties which would apply to all aspects of an insurer's activities, such as:
- a duty to consider and prioritise the customer's interest, to the extent reasonably practicable;
- a duty to act with due care, skill and diligence;
- a duty to manage conflicts of interest fairly and transparently;
- a duty to ensure complaints handling is fair, timely and transparent; and
- a requirement to have the systems and controls in place that support good conduct and address poor conduct.

These duties would be subject to executive accountability for any breaches, and would be packaged with more specific measures to:
- alleviate the problems in the product design stage (that is, to ensure financial products are suitable for customers);
- address concerns about product distribution, including conflicted remuneration and incentives encouraging the mis-selling of products; and
- provide a more credible and effective enforcement regime.

MBIE has also put forward options specifically to address problems identified with insurance claims, which includes imposing a duty to ensure claims handling is fair, timely and transparent.

For further details refer to MBIE's website here.

Exemptions for peer-to-peer lending arrangements

Recent amendments to legislation governing licensed peer-to-peer lending services will remove administrative burdens for some participants.

The Financial Service Providers (Exemptions) Amendment Regulations 2019 amend the principal regulations to exempt certain creditors under credit contracts entered into by means of a licensed peer-to-peer lending service from the application of the Financial Service Providers (Registration and Dispute Resolution) Act 2008. The exemption applies only to investors. It does not extend to peer-to-peer lending service providers, or to creditors introduced by the providers to act for the investors.

The Credit Contracts and Consumer Finance Amendment Regulations 2019 have also been made to exempt some consumer credit contracts entered into by means of a licensed peer-to-peer lending service from certain requirements to disclose key information about creditors under the Credit Contracts and Consumer Finance Act 2003.

Consultation invited on the FMA/NZX "Capital Markets 2029" review

The steering committee heading the FMA and NZX industry-led review of capital markets in New Zealand (known as "Capital Markets 2029") is inviting feedback to ensure their final recommendations "reflect a breadth of New Zealanders views in promoting the health of New Zealand's Capital Markets". Submissions are due by 7 June 2019.

Matters that the steering committee are interested in receiving feedback on include:

- features of offshore markets that could be successfully replicated in New Zealand;
- new products or market structure initiatives that would help the "funding gap" for small and medium sized enterprises;
- the lack of IPOs;
- achieving broader retail participation in capital markets;
- changes to KiwiSaver that could improve its contribution to New Zealand's capital markets; and
- regulatory settings.

See "Capital Markets 2029: Have your say" for further details.

FMA issues statement on its approach to financial reporting reviews

The FMA has issued a statement setting out its approach to financial reporting reviews of FMC reporting entities to assist those involved in preparing or approving financial reporting for FMC reporting entities.

Particular areas of interest that will be incorporated as part of the FMA's 2019/2020 reviews include:

- significant accounting judgements and sources of estimation uncertainty;
- the impact of the implementation of new accounting standards (i.e. NZ IFRS 15 Revenue from Contracts with Customers, NZ IFRS 9 Financial Instruments and NZ IFRS 16 Leases);
- non-GAAP financial information; and
- documentation that supports accounting considerations, decision-making and conclusions, and ultimately the application of generally accepted accounting practice in New Zealand.

To read the full statement click here.

FMA publishes AML/CFT Monitoring Report

The FMA's latest AML/CFT Monitoring Report highlights three areas which have a number of issues that require attention by management and boards of reporting entities.

These are:

- AML/CFT programmes:
  - that have not been updated to align them with the business's current practices,
  - do not include politically exposed person check processes,
  - do not specify how customer activities and or transactions are monitored, and
  - do not provide staff with specific criteria to consider when reviewing potential suspicious transactions, etc;
- AML/CFT risk assessments:
  - that are not updated when changes in risks occur,
  - are too complex for the size and nature of the business,

- refer to outdated legislation,
- do not consider the likelihood of the business being used for money laundering etc.,

• Customer due diligence (**CDD**) including enhanced CDD and ongoing CDD and account monitoring systems.

The FMA expects reporting entities to consider the findings and observations in this report and, where required, update their AML/CFT policies, procedures and controls to ensure compliance with their obligations.

During this review period (from 1 July 2016 to 30 June 2018) the FMA issued 18 formal warnings (including one public warning) under section 80 of the Act for significant breaches of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

New NZX timetable rule for dividend reinvestment plans in force on 1 January 2020

FMA has approved an amendment to the NZX Listing Rules (dated 1 January 2019) which introduces a new timetable requirement regarding when an investor can elect to participate in a dividend reinvestment plan (DRP).

The amendment requires the final election date for investor participation in a DRP to be at least one business day after the record date for the relevant dividend payment to investors who do not participate in the issuance.

A marked-up copy of the amended Rules is available here. The amended Rules will not come into effect until 1 January 2020 in order to provide adequate time for issuers to update their offer documents, technologies and systems.

NZX Regulation clarifies its approach on the rotation of managing directors

NZX Regulation has confirmed that it will not take regulatory action against issuers in respect of breaches of the October 2017 NZX Main Board Listing Rules (or prior versions) arising from the executive director rotation rules, where that breach is consistent with a "prevailing misinterpretation" about how the rotation rules apply to the re-appointment or re-election of executive directors at the end of their five-year terms.

Similar issues will not arise under the new NZX Listing Rules (dated 1 January 2019) as a result of changes made to the director rotation provisions. Under the new rules a director must not hold office (without re-election) past the third annual meeting following the director's appointment or three years, whichever is longer. In addition, a director appointed by a board must not hold office (without re-election by the shareholders) past the next annual meeting following the board's appointment of the director.

MERGERS AND ACQUISITIONS

Phase two of the Government's overseas investment review

The Government is consulting on the 'second phase' of its Overseas Investment Act 2005 reforms (as foreshadowed in our announcement late last year).

This second round of reform is focused on ensuring New Zealand remains an attractive destination for high-quality productive overseas investment and ensuring such investments are in the national interest by:

• reducing unnecessary complexity and ensuring compliance costs are proportionate to the risks associated with the investment; and

• examining ways to better ensure that overseas investment is consistent with New Zealand's national interest.

The consultation includes issues relating to land that adjoins sensitive land, the treatment of NZX-listed companies and fundamentally New Zealand entities, and exemptions for small ownership interest changes.

The second phase of reform follows the changes made to the Act in late 2018 which simplified forestry investments and banned the purchase of residential property by overseas persons.

Details about the proposed changes being considered can be found in the consultation document. You can also read our commentary on the consultation here.

The closing date for submissions is 24 May 2019.

COMMERCIAL

Response to climate change – the "Zero Carbon Bill"

The long-awaited "Zero Carbon Bill" was finally released this week, but despite being greeted by considerable media interest there are a number of significant issues that have yet to come to the fore.

The Bill will now see the zero carbon provisions being included as amendments to the existing Climate Change Response Act 2002 (as the Climate Change Response (Zero Carbon) Amendment Bill), rather than as a stand-alone piece of legislation. It is expected to be passed by the end of the year, following a first reading to take place later this month, and referral to Select Committee in June this year.

The Bill will do four key things:

- set a new greenhouse gas emissions reduction target to:
  - reduce all greenhouse gases (except biogenic methane) to net zero by 2050;
  - reduce emissions of biogenic methane within the range of 24 - 47 per cent below 2017 levels by 2050 including to 10 per cent below 2017 levels by 2030;
- set a series of emissions budgets to act as stepping stones towards the long-term target;
- require the Government to develop and implement policies for climate change adaptation and mitigation; and
- establish a new, independent Climate Change Commission to provide expert advice and monitoring to help keep successive governments on track to meeting long-term goals.

For a closer look at some of the key legal and commercial considerations refer to our earlier client update here.

The Ministry for the Environment has also published a summary of the Bill here.

Technical amendments made to the Arbitration Act

The Arbitration Amendment Act 2019 has made several technical reforms to New Zealand's arbitration legislation. The changes will be of interest to any party considering an arbitration, or to anyone drafting a dispute resolution provision.

For details see our earlier update: Arbitration law reform: three takeaways.

New Court of Appeal decision on the penalty doctrine

New Zealand has a new leading judgment on the Penalty Doctrine (the rule that prevents disproportionate punishment for contractual breach).

127 Hobson Street v Honey Bees Preschool [2019] NZCA 122 represents the latest in a series of recent penalties cases, and sets out a clear articulation by the Court of Appeal of how the doctrine applies in New Zealand. That is, sparingly - and only where the clause is out of all proportion to the interests being protected. Though this still requires a careful construction of the contract and interests in each particular case, the decision will no doubt be of general interest to any business seeking to stipulate the consequences for breach of contract.

See our earlier update here for further details.

Changes ahead for foreign investment in China

The National People's Congress of China recently adopted the new Foreign Investment Law with a view toward unifying the foreign investment framework in China, and placing foreign investors and foreign invested enterprises on equal footing with domestic investors and domestic companies.

The Foreign Investment Law (**FIL**) will come into effect on 1 January 2020, and China's existing legislation that has governed foreign direct investment since the 1980s (the PRC Law on Sino-Foreign Equity Joint Ventures, the Law on Sino-Foreign Cooperative Joint Ventures and the Law on Wholly Foreign Owned Enterprises) will be repealed on the same day.

The types of foreign investment into China that will be regulated by the FIL include:

- establishment of a foreign invested enterprise in China, independently or jointly with any other investor;
- acquisition of shares, equity, property or any other similar rights and interests of an enterprise in China; and
- investment in a new project in China, independently or jointly with any other investor.

For further details on what the new regime will mean for foreign investors (including foreign invested enterprises formed prior to the adoption of the FIL) and what issues are still to be resolved, refer to the following article by Zheng, Yu (a Partner in the Beijing office of JunHe): "Grand Unification" Era of China's Administration on Foreign Investment – A Brief Commentary on the New Foreign Investment Law.

COMPANY LAW

Clarification of dividend rules in the Companies Act

The Primary Production Committee has reported back on the Companies (Clarification of Dividend Rules in Companies) Amendment Bill with some recommended changes.

The Bill seeks to reconcile interpretation issues with sections 36 and 53 of the Companies Act 1993 regarding whether a company's constitution can provide for differential dividends in circumstances specified in the constitution.

Under the committee's proposed changes:

- the three existing exclusions for when a board may authorise a differential dividend would be retained (i.e. where the amount of the dividend is in proportion to the amount paid to the company in satisfaction of the liability of the shareholder under the constitution of the company or under the terms of issue of the share or is required, for a portfolio tax rate entity, as a result of section HL 7 of the Income Tax Act 2004);
- the Act will clarify that a company's constitution may provide for differential dividends and that the board may authorise a dividend in accordance with the constitution;
- a new provision would be inserted to make it clear that a company's constitution could only provide for shares in a class to receive differential dividends if this is based on objective criteria (rather than the exercise of a discretion by, or an opinion of, the board);
- "differential dividend" would be defined to mean a dividend
  - in respect of some but not all the shares in a class; or
  - that is of a greater value per share in respect of some shares of a class that it is in respect of other shares of that class.

The Bill is now awaiting its second reading.

COMPETITION & CONSUMER LAW

Select committee calls for submissions on consumer credit law changes

The Finance and Expenditure Committee has called for submissions on the Credit Contracts Legislation Amendment Bill. Submissions close on 14 June 2019.

The Credit Contracts Legislation Amendment Bill, which amends the Credit Contracts and Consumer Finance Act 2003 (**CCCFA**), responds to issues identified by MBIE following its review of the consumer credit sector in 2018. It introduces significant changes, the majority of which are expected to be in effect by 1 March 2020. In particular, the Bill aims to strengthen the CCCFA's responsible lending requirements in relation to how affordability and suitability tests should be conducted. It also proposes to limit the accumulation of interest and fees on high-cost loans, and provide new remedies and penalties for non-compliance.

The Bill was originally introduced as the Credit Contracts and Consumer Finance Amendment Bill, but was withdrawn and replaced by the Credit Contracts Legislation Amendment Bill a few days after its introduction. Other than a new title and some reference changes in the examples given in the Bill, there is no substantive difference between the two Bills.

For Bell Gully commentary on the Bill (under its previous name) click here. For details on how to make a submission on the Bill click here.

Commerce (Criminalisation of Cartels) Amendment Act 2019

After almost a decade of debate, New Zealand now joins Australia, the US and the UK as having criminal sanctions for cartel behaviour.

The amendments to the Commerce Act 1986 introduced by the Commerce (Criminalisation of Cartels) Amendment Act 2019 mean that individuals convicted of engaging in cartel conduct – price fixing, restricting output or allocating markets – will face fines of up to $500,000 and/or up to seven years imprisonment. However, these will not come into force for two years to give businesses and individual's time to review their arrangements to ensure compliance with cartel laws.

The new amendments aim to target individuals who are the 'decision-makers' in cartel arrangements. Accordingly, an element of 'intention' will form one component of the test for criminal liability.

To be found guilty of criminal cartel conduct an individual must 'intend' to enter into or give effect to a contract with a competitor containing a cartel provision. This is the key difference from the civil standard, where there is no requirement to prove intent.

However, where a person can show that they believed "on reasonable grounds" that a statutory exception applied at the time they entered into and/or gave effect to the provision, such that their actions did not amount to cartel conduct, then they will not be guilty of a criminal breach (although they may still be found liable on civil grounds). This defence will only be available if the defendant's belief is "reasonable" i.e. is not based on "ignorance, or mistake, or any matter of law".

The exceptions and exemptions for cartel conduct already in place e.g. for collaborative activities and vertical supply agreements will apply to the new criminal offence.

Options paper for review on insurance contract law

The Ministry of Business, Innovation and Employment is seeking feedback on an options paper for its review on insurance contract law. Submissions for this paper close on 28 June 2019.

MBIE is seeking feedback on options which include:

- changes to the duty of disclosure for consumer insureds and businesses;
- new disclosure remedies;
- removing the insurance-specific exceptions to the unfair contract terms (**UCT**s) prohibitions in the Fair Trading Act 1986 so the generic UCT provisions would apply to insurance contracts unconditionally, or alternatively, tailoring the generic UCT exceptions to accommodate specific features of insurance contracts; and
- introducing requirements to assist consumers understand and be able to compare insurance policies.

The paper also puts forward options to address a number of miscellaneous issues that were raised in the 2018 issues paper. This includes issues relating to:

- the law concerning a failure to notify a claim in time under the Insurance Law Reform Act 1977;
- the responsibility for insurance intermediaries' actions;
- third party access to liability insurance monies under the Law Reform Act 1936;
- the duty of utmost good faith; and
- the consolidation of various insurance related statutes.

For further details refer to MBIE's website here.

NZCC MEDIA RELEASES

The New Zealand Commerce Commission (NZCC) has issued the following media releases:

Industry regulation and regulatory control

NZCC and Electricity Authority launch project to shine spotlight on emerging contestable services
The NZCC and Electricity Authority have initiated a joint project to assess how new technologies and business models emerging in the electricity sector may benefit consumers in the future.

Fuel study working papers released
The NZCC has released two working papers outlining its approach to assessing profitability and the key focus areas it is considering in its study of New Zealand's retail fuel markets.

Mergers and acquisitions

Statement of Preliminary Issues released for Mainland Print's application to acquire Inkwise
The NZCC has published a statement of preliminary issues relating to an application from Mainland Print Limited to acquire the heatset and coldset web offset printing assets of Inkwise Limited.

NZCC grants clearance for Knauf and USG to merge subject to a divestment
The NZCC has granted clearance for Gebr. Knauf KG and USG Corporation to merge subject to a divestment undertaking.

NZCC grants clearance for GSK to acquire Pfizer's consumer healthcare business
The NZCC has granted clearance for GlaxoSmithKline plc to acquire the consumer healthcare business of Pfizer Inc. Focusing on whether GSK and Pfizer are close competitors in New Zealand for healthcare products, the NZCC is satisfied that the acquisition is unlikely to substantially lessen competition in any New Zealand markets.

Market behaviour

Christchurch pipeline maintenance firm warned over price-fixing
Quik-Shot Limited and its director Raad Al-Karbouli have been issued formal warnings for price fixing conduct relating to pipe rehabilitation services in Christchurch. The NZCC considered a final warning sufficient due to the lack of harm caused and the limited duration of the anti-competitive conduct.

Consumer issues

Christchurch finance companies fined $103,500
Two Christchurch finance companies, Alternate Finance Limited and Crester Credit Company Limited, have been fined a total of $103,500 and ordered to pay more than $21,000 in statutory damages to borrowers, because some of their loan contracts included security interests taken over prohibited consumer goods, meaning that the companies could repossess them if the borrower did not make payments on the loan.

NZCC action seeks $680,000 for borrowers
Health supplements seller GO Healthy New Zealand Ltd has been charged, following a NZCC investigation, with allegedly misleading consumers by claiming its supplements were "made in New Zealand", when the key ingredients in the majority of its products were imported.

Three companies fined $150,000 for selling unsafe toys
Three companies have been fined a total of more than $150,000, in the latest NZCC prosecution for supplying toys which did not meet the mandatory safety standard for toys for children 36 months and under.

Another toy safety fine, more guilty pleas
Haiwing International Limited, a toy importer, has been fined $20,000.

Slingshot warned for misleading discount claims
Slingshot has been warned by the NZCC for likely breaching the Fair Trading Act in an online advertising campaign offering consumers a 10% discount for bundling broadband and electricity services.

Home Funding Group charged over 'saving' claims
The NZCC has filed four charges under the Fair Trading Act against Home Funding Group and its sole director Luke Atkins.

Spark fined $675,000 for misleading consumers
Spark has been fined $675,000 for making false or misleading representations in its customer invoicing, and when making a $100 credit offer to new customers.

NZCC charges Farmland Foods
New Zealand smallgoods producer Farmland Foods is facing charges under the Fair Trading Act for allegedly misleading consumers about the place of origin of some of its ham products.

NZCC to appeal Viagogo injunction decision
NZCC is appealing the High Court's decision declining to grant an interim injunction against online event ticket seller Viagogo.

Telecommunications

NZCC recommends deregulating Spark's resale copper voice services
The NZCC has released a draft report indicating its intention to recommend that Spark's resale copper voice services be deregulated.

Vector penalised $3.5 million for excessive level of power outages
Auckland electricity lines company Vector Limited has been ordered by the Auckland High Court to pay a penalty of $3.575 million for breaching its network quality standard through an excessive level of power outages.

ACCC MEDIA RELEASES
The Australian Competition and Consumer Commission (ACCC) has issued the following selected media releases:

Mergers and Acquisitions

Knauf's acquisitions of USG and AWI conditionally approved
The ACCC will not oppose Knauf's proposed acquisitions of USG and Armstrong World Industries after accepting a court-enforceable undertaking from Knauf to divest assets.

ACCC will not oppose proposed IPH - Xenith acquisition
The ACCC will not oppose the proposed acquisition of Xenith by IPH. The proposed acquisition would combine two of the largest suppliers of IP services in Australia, but the ACCC considered that other firms would provide a sufficient competitive constraint and noted that most customers consulted were not concerned about the acquisition.

ACCC will not oppose QANTM-Xenith merger
The ACCC will not oppose the proposed merger between QANTM Intellectual Property Limited and Xenith IP Group Limited. Although the merged firm would have a market share of about 30 percent of the total patent filings, the ACCC found that a number of firms are likely to provide sufficient competitive constraint on the merged entity.

Market Behaviour

Charges laid against alleged forex price fixing cartel
Criminal cartel charges have been laid against a money transfer business and five individuals for allegedly fixing the Australian dollar / Vietnamese dong exchange rate and fees they charged their customers. The World Bank estimates that in that period, remittances from Australia to Vietnam totalled about $700 million a year.

ACCC and FBI sign inter-agency cooperation agreement
A new Memorandum of Cooperation between the ACCC and the United States Federal Bureau of Investigation, to provide for the exchange of expertise and staff, will strengthen the agencies' joint efforts in combating cartels and other anti-competitive behaviour.

Consumer Issues

Court finds ticket reseller Viagogo misled consumers
The Federal Court has found ticket reseller Viagogo AG made false or misleading representations and engaged in conduct liable to mislead the public when reselling entertainment, music and live sport event tickets.

AUCKLAND VERO CENTRE, 48 SHORTLAND STREET
PO BOX 4199, AUCKLAND 1140, NEW ZEALAND, DX CP20509
TEL 64 9 916 8800 FAX 64 9 916 8801

WELLINGTON 171 FEATHERSTON STREET
PO BOX 1291, WELLINGTON 6140, NEW ZEALAND, DX SX11164
TEL 64 4 915 6800 FAX 64 4 915 6810

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