



Thursday, 27 October 2005

Austral Coal Limited 02RR - Declaration of Unacceptable Circumstances

The Takeovers Panel today made a declaration of unacceptable circumstances in relation to the affairs of Austral Coal Limited, in the Austral Coal 02(RR) proceedings which were remitted to the Panel by the Federal Court on 14 September 2005.

The matter relates to the failure of Glencore International AG to disclose, between 22 March 2005 and 4 April 2005, during the takeover bid by Centennial Coal Ltd for Austral Coal, that it had an interest in nearly 5% of the voting shares in Austral Coal and hedged swaps over additional shares amounting at one time to over 5% of the voting shares in Austral Coal.

The matter has previously been the subject of Panel decisions in *Austral Coal Ltd 02* [2005] ATP 11 and *Austral Coal Ltd 02 (R)* [2005] ATP 15. The Federal Court quashed the latter decision and remitted it to the Panel for reconsideration in *Glencore International AG v Takeovers Panel* [2005] FCA 1290. The present decision is the result of that reconsideration.

The Panel will issue reasons for its decision next week.

The Panel has made no orders, but has sought parties' submissions on what orders it should make, if any, arising out of its declaration.

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