

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 25 October 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](#).

A companion publication, *Commercial Quarterly*, covers current commercial law issues that may impact on your business and trading operations and is published every quarter. For the Winter issue of *Commercial Quarterly* please [click here](#). For all other Bell Gully publications please [click here](#).

New Zealand Exchange (NZX)

- ***NZX appoints Trayport to provide new trading technology***
NZX has appointed Trayport, a leading supplier of electronic trading systems, to provide the technology for its core equity and debt markets, following an extensive global tender process. The new technology platform will include a trade reporting system for the electronic communications network (ECN) being established in Australia by NZX and five major banks. NZX announced its intention last month to establish the ECN with its banking partners during the first half of 2007. Under the deal, Trayport will provide NZX with its GlobalVision Exchange Trading System, to be implemented in 2007.
[Click here for more](#)
- ***Glass Earth Limited joins the NZX SciTech index***
NZX announced the introduction on 25 October of Glass Earth Limited in the NZX SciTech Index. This index addition will be made at the Monthly Index Update, effective from the opening of trading on 1 November 2006. Glass Earth is a New Zealand-based gold exploration company and was the first overseas-listed issuer to join the NZAX Market earlier this month.
[Click here for more on the NZX SciTech index](#)
- ***NZX announces result to end of third quarter 2006***
NZX has reported increases in its operating EBITDA, operating revenue, operating expenses and EBIT on the same period in 2005. Third quarter operating revenue increased to \$6 million from \$5.54 million in the same period of 2005, while interest income fell. At the same time, operating expenses increased to \$3.62 million from \$3.02 million in the third quarter of 2005.
[Click here for more.](#)

<p>Securities Commission</p>	<ul style="list-style-type: none"> • Securities Commission prohibits ads for Hanover's Protected Investments Global Growth Fund The Commission has prohibited some advertisements for a new unit trust offered by Hanover Funds Management Limited because they are likely to mislead or confuse investors about the potential returns. The way the returns on the securities have been structured are unusual and therefore should be described clearly and precisely. The prohibited advertisements for Hanover Protected Investments Global Growth Fund units are those which say the investment: <ul style="list-style-type: none"> ➤ has a 10% potential return; or ➤ has a 50% potential return without clearly stating that the possible returns on the investment at maturity are 50% or zero. The investment is structured so that at the end of five years investors will receive their capital back. The return is to be either 50% of the amount invested, or nothing but in the Commission's view investors are likely to believe from the advertisements that the return is potentially greater than is actually the case. Hanover has cooperated with the Commission and agreed to write to all investors who subscribed to the fund to make sure they correctly understand the returns under the fund. They will be offered their money back. Click here for more • Securities Commission speech to the NZICA: What is going on at the Securities Commission? On 17 October Securities Commission Chairperson Jane Diplock gave a speech to the New Zealand Institute of Chartered Accountants. She provided an overview of the Commission's role as one of the regulators responsible for New Zealand's financial markets and addressed some of the limitations of that role in relation to some recent high profile cases. She also discussed current issues affecting the securities markets, the developments that are underway for trans-Tasman alignment, and New Zealand's links with international regulators through its membership with IOSCO and being accepted as a signatory to the IOSCO Multilateral MOU. The MMOU provides a mechanism to enable cooperation between regulators to combat international fraud. Ms Diplock noted that one current matter, particularly relevant to the accounting profession, is the transition of New Zealand companies adopting IFRS. She stressed the need for issuers and their advisers to not underestimate the time and effort it will take to report against NZ IFRS in a transitional year. Despite this, the Commission sees it is an important step in bringing New Zealand into alignment with other parts of the world. The Commission believes the benefits lie in the comparability of reporting with other jurisdictions. Click here for a full copy of the speech • Securities Act Exemption Notices The following Securities Act Exemption Notices have been published: <ul style="list-style-type: none"> ➤ Securities Act (Telstra 3 Share Offer) Exemption Notice 2006/309 ➤ Securities Act (Independent News & Media PLC) Exemption Amendment Notice 2006/310 ➤ Securities Act (BBI Networks (New Zealand) Limited) Exemption Notice 2006/313 ➤ Securities Act (Belgrave First Management Limited and Covenant Trustee Company Limited) Exemption Notice 2006/314 ➤ Securities Act (GH-Midas Fund Limited) Exemption Notice 2006/315 ➤ Securities Act (GH Emerging Markets Fund Limited) Exemption Notice 2006/316 Click here for Exemption Notices
<p>Reserve Bank of New Zealand</p>	<ul style="list-style-type: none"> • Reserve Bank and The Treasury release book On 16 October the Reserve Bank and The Treasury released a book entitled "Testing stabilisation policy limits in a small open economy". This book contains the proceedings of a conference held in Wellington on June 12 this year. The conference included keynote papers and policy reviews by overseas experts in monetary and fiscal policies, plus a panel discussion by experts from the International Monetary Fund, the Organisation for Economic Cooperation and Development and Victoria University of Wellington. The brief of these experts was to critically review New Zealand's macroeconomic policy frameworks and consider whether alternative, possibly non-conventional, policy tools might be needed to better manage inflation, the exchange rate and economic growth over the business cycle. Some of the issues discussed at the forum were those reviewed in the Supplementary Stabilisation Instruments report released earlier in the year. Click here for more

<p>Takeovers Panel</p>	<ul style="list-style-type: none"> • Takeovers Panel's request to make additions to the Business Law Reform Bill has been rejected The Commerce Select Committee released its report on the Business Law Reform Bill on 18 October. The Committee has rejected the Takeovers Panel's last minute proposal to include additional amendments to the Companies Act in relation to their concerns over the use of amalgamations and schemes of arrangements by code companies. The committee considered the changes were beyond the scope of the Business Law Reform Bill and would be more appropriately addressed in future legislation. To access a copy of the Commerce Committee's report on the Business Law Reform Bill click here. To access a copy of the Takeovers Panel's proposal to the Committee click here. • Takeovers Code Exemption Notices The following Takeovers Code Exemption Notices have been published: <ul style="list-style-type: none"> ➤ Takeovers Code (Bacardi New Zealand Holdings Limited) Exemption Notice 2006/317 ➤ Takeovers Code (MFS Limited) Exemption Notice 2006/318 ➤ Takeovers Code (Training Solutions Plus Limited) Exemption Notice 2006/319 ➤ Takeovers Code (Rakon Limited) 2006/311 Click here for Exemption Notices
<p>Ministry of Economic Development [MED]</p>	<ul style="list-style-type: none"> • "Securities Bill Gives Investors Confidence" - Minister of Commerce media statement Commerce Minister Lianne Dalziel said investors can have greater confidence in New Zealand's securities markets with the introduction of a stronger regulatory framework under the Securities Legislation Bill just passed by Parliament. The Bill, which completed its passage through Parliament on 12 October, amends the Securities Act 1978, the Securities Markets Act 1988, the Fair Trading Act 1986 as well as the Takeovers Act 1993 and the Takeovers Code. Lianne Dalziel said this Bill was an important part of the Government's wider securities law reform programme. The main provisions of the Bill include: <ul style="list-style-type: none"> ➤ a new insider trading regime focused on the damage such conduct poses to the efficiency of, and confidence of investors in, financial markets; ➤ comprehensive prohibitions against market manipulation – conduct creating a false impression of securities trading activity, price movement, or market information; ➤ simplifying and better targeting the substantial security holder regime; ➤ improving investment adviser and broker disclosure law by requiring important additional information to be disclosed to clients before giving advice, and by making all disclosures mandatory. Also, the Securities Commission is given a public enforcement role in this area; and ➤ a complete overhaul of the size and range of penalties and remedies available under securities and takeovers law aimed at deterring illegal behaviour and encouraging compliance. Lianne Dalziel said that while most of the Securities Act and Takeovers Act changes would take effect immediately, some of the changes, such as the new insider trading and market manipulation regimes, would come into effect once regulations have been made. There will be advance notice before the regulations take effect so that the markets have time to prepare for the new regimes. Click here for more To read a recent article by Bell Gully Partner Roger Partridge on the new insider trading regime click here. • Insolvency practitioners rules up for discussion On 13 October Commerce Minister Lianne Dalziel released proposals for the regulation of insolvency practitioners, company liquidators and administrators after earlier submissions on insolvency law reform overwhelmingly supported the establishment of a regulatory framework. Click here for more. Click here to read a recent speech by the Commerce Minister on this issue.

- **“Government makes a difference for small business”**

On 24 October Lianne Dalziel released the Government’s response to the Small Business Advisory Group’s second report (issued March 2006), which contains 12 recommendations to assist small and medium enterprises (SMEs). Ms Dalziel noted that many of the recommendations were either being implemented already or considered by Government, including:

 - instigating the Quality Regulation Review to ensure regulatory frameworks or their enforcement are not acting as a barrier to growth;
 - instigating the Business Tax Review to look at ways of boosting New Zealand’s competitiveness and productivity;
 - simplifying and improving ACC forms to minimise compliance costs;
 - increasing ACC’s and IRD’s flexibility for dealing with disputed invoices or honest mistakes;
 - improving information around the Hazardous Substances and New Organisms (HSNO) Act.

[Click here to view a copy of the press release.](#)
[Click here to view the Government’s response.](#)
- **The Regulatory Review Issue 7 - September 2006**

The latest Regulatory Review has been published by the MED. The Regulatory Review is a newsletter that provides information about the Regulatory Policy Team and its work programme. The Regulatory Policy Team is part of the Regulatory and Competition Policy Branch of the Ministry of Economic Development.

This issue includes:

 - the Australian Government’s response to the Taskforce report on reducing regulatory burdens (Banks report);
 - an update on the Quality Regulation Review;
 - changes to the Regulatory Impact Statement (RIS) regime that have been agreed to as part of the Quality Regulation Review; and
 - brief comparison of New Zealand’s RIS regime with Canada’s Regulatory Impact Assessment regime.

[Click here for more](#)
- **Speech by Commerce Minister to the Bell Gully Thought Leadership “Crunch” Series**

On 16 October Lianne Dalziel gave a speech to the Bell Gully thought leadership “Crunch” series on “doing business with government”, which she notes under her portfolio is about a commitment to high quality regulation and ease of compliance for business. Her speech covered three key topics:

 - what the Government was doing to improve regulation in the securities legislation and the financial services industry;
 - how New Zealand compares internationally; and
 - the Government’s Quality Regulation Review.

On to the Government’s current Review of Financial Intermediaries, she indicated that there has been general support for the Government’s proposed co-regulatory framework whereby the Approved Professional Bodies provide frontline supervision and the Securities Commission provides the next level of supervision. On the Government’s review of regulatory frameworks she discussed the Government’s commitment to a strengthened regulatory impact analysis process to ensure that any new legal framework met the “fit for purpose” test. She encouraged industry to engage with Government officials with examples of changes they would like to see in regulatory frameworks to help ensure that they do not present a barrier to growth.

[Click here for a full copy of the speech.](#)
- **Commerce Select Committee reports back on the Business Law Reform Bill**

The Commerce Select Committee released its report on the Business Law Reform Bill on 18 October with only a few notable changes. One of the main new additions to the proposed Financial Reporting Act amendments is the introduction of a new exemption power given to the Securities Commission in respect of share purchase and option plans offered by overseas companies to their New Zealand employees. The proposed new provisions in the Companies Act relating to the distribution of annual reports by electronic means have also been clarified so that they operate more effectively in practice.

[Click here to access a copy of the Report.](#)

<p>Australian Stock Exchange</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 issued the following media releases: <ul style="list-style-type: none"> ➤ The Commission has received an application from Johnson & Johnson (J&J) to acquire the stock, assets and business of the Consumer Healthcare division of Pfizer Inc. This is a global acquisition. In New Zealand both parties supply a broad range of pharmaceutical and personal care products. Click here for more ➤ The Commission has cleared CRBF Limited to acquire the shares and/or assets of a number of Carter Holt Harvey Limited subsidiaries that hold forestry assets. The clearance is subject to a divestment undertaking. Click here for more ➤ Osmose New Zealand, Osmose Australia and two Australian-based executives have been fined for participating in a cartel in New Zealand's wood preservative chemicals industry. The wood chemicals cases are New Zealand's largest cartel prosecution. To date, fines totalling over \$5 million have been imposed on four companies and three individuals. Proceedings are ongoing against seven further corporate and individual defendants. Click here for more ➤ On 10 October the Commission announced that it has considered barriers to entry to the cellular mobile services market and will be investigating possible changes to the regulatory framework. Under Schedule 3 of the Telecommunications Act, the NZCC can decide to investigate a telecommunications market if it considers that a lack of competition may be disadvantaging consumers. Click here for more ➤ Qantas has pleaded guilty to 122 charges of breaching the Fair Trading Act and been ordered to pay \$380,000 in fines and \$15,860 in costs in the Auckland District Court. Click here for more ➤ NZCC has cleared Toll Owens Limited (Toll Owens) to acquire the log marshalling assets of John Ray Limited (John Ray). Toll Owens is a joint venture company owned 50% by Port of Tauranga Limited and 50% by Toll Limited. John Ray is a privately-owned business involved in log-harvesting and in the provision of log marshalling services. It is the sole provider of log marshalling services at Centreport in Wellington and at the Port of Taranaki. Click here for more ➤ An out-of-court settlement reached by the NZCC and Telecom will return around \$3.3 million to customers after a billing fault saw them charged twice. The settlement is the largest ever out-of-court settlement under the Fair Trading Act. A fault in Telecom's system meant that when customers changed call plans on their landline or mobile, they were sometimes charged under both plans on the day they swapped over. Telecom accepts that it breached the Fair Trading Act when it charged customers twice. At this stage it is difficult to determine exactly how many customers were affected by the fault between 1 January 1989 and 30 May 2006. Click here for more ➤ The Commission has completed its consideration of the Telecommunications Carriers' Forum (TCF) code for the transfer of telecommunications services, known as the Customer Transfer Code. The Commission is satisfied that the Code meets all the requirements of Schedule 2 of the Telecommunications Act 2001 and has approved it. The Customer Transfer Code governs the transfer of a customer's telecommunications services between service providers. It aims to ensure a seamless experience for all parties involved in the process and sets out practices to comply with, whenever a customer requests a transfer of telecommunications services. Click here for more

<p>NZCC continued</p>	<ul style="list-style-type: none"> ➤ Carter Holt Harvey has pleaded guilty to breaching the Fair Trading Act by selling timber that did not meet the grade claimed on packaging. The company was fined \$900,000 for 20 breaches of the Fair Trading Act. Click here for more ➤ Vector has proposed to rebalance its power prices from 1 April next year and comply with the Commission's price path threshold for the remainder of the current five-year regulatory period. The voluntary move forms part of an administrative settlement offer presented to the Commission last month. An administrative settlement is an alternative to regulatory control being imposed. Click here for more ➤ The NZCC has approved an updated wholesale price of \$27.76 per month (excl GST) for the regulated unbundled bitstream access service supplied by Telecom to ihug and CallPlus. This price update is the first of the regular three-monthly adjustments since the determination was released in June and applies from 22 September 2006. Click here for more ➤ The NZCC has received an application from Fulton Hogan Limited seeking clearance to acquire the contracting assets, quarry and land of G J Beynon Contracting Limited. Associated with this purchase is the acquisition by Fulton Hogan of the 50% of shares in Westland Asphalt Limited not currently owned by Fulton Hogan. Click here for more
<p>Australian Competition and Consumer Commission (ACCC)</p>	<ul style="list-style-type: none"> • ACCC media releases The ACCC has issued the following media releases: <ul style="list-style-type: none"> ➤ The ACCC has decided that it will not accept Alinta's offer of varied undertakings in Alinta's proposal to take an increased interest in Australian Pipeline Trust (APT) and subsequently control APT. On 8 September, the ACCC commenced market inquiries on the draft varied undertaking proposal put forward by Alinta. The draft proposal would allow Alinta to retain its ownership of APT on condition that certain assets, including the Moomba to Sydney Pipeline, Parmelia Pipeline and GasNet, are divested. Click here for more ➤ Optus Networks Pty Ltd has notified the ACCC, under Part XIC of the Trade Practices Act 1974, of two telecommunications access disputes with Telstra Corporation Limited. The first dispute relates to the price for the supply of the Local Carriage Service from Telstra to Optus. The Local Carriage Service is a service for the supply of an end to end voice grade carriage service between two points within a standard zone. It effectively allows access seekers to resell local calls to end-users. The second dispute relates to the price for the supply of the Wholesale Line Rental service from Telstra to Optus. Wholesale Line Rental allows access seekers to resell the basic line rental that allows an end-user to connect to the traditional voice network, make and receive voice calls and have a telephone number. The ACCC has commenced the arbitration process for the disputes. Click here for more ➤ The ACCC has issued a draft decision proposing to grant authorisation to CS Energy Limited and Callide Power Management Pty Ltd to jointly negotiate a price review with Anglo Coal. The ACCC proposes to grant authorisation for five years. CS Energy is the owner of the Callide B power station, while CPM and CS Energy are 50/50 joint venture partners in the Callide C power station. Anglo Coal owns the Callide coal mine. Click here for more
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