



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP20/11

Wednesday, 11 March 2020

CML Group Limited – Panel Receives Application

The Panel has received an application from CML Group Limited in relation to its affairs.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

On 13 November 2019, CML entered into a scheme implementation agreement with Consolidated Operations Group Limited (**COG SIA**). On 11 December 2019, CML received an unsolicited, non-binding indicative and conditional offer from Scottish Pacific Group Limited to acquire 100% of the issued share capital of CML.

On 13 December 2019, CML notified Consolidated Operations of Scottish Pacific's offer and that the offer was a "Superior Proposal", therefore triggering a right under the COG SIA to make a matching or superior proposal within five business days. On 18 December 2019, Consolidated Operations notified CML that, among other things, it had no current intention to increase its proposed consideration.

CML and Consolidated Operations proceeded with the Consolidated Operations scheme while Scottish Pacific undertook due diligence. On 24 December 2019, CML released in an ASX announcement a scheme booklet in respect of the Consolidated Operations scheme.

On 30 January 2020, Consolidated Operations announced that it had acquired a relevant interest in 17.36% of the issued voting shares in CML as a result of on-market acquisitions on 28 and 29 January 2020. Consolidated Operations subsequently disclosed that part of those acquisitions took place by way of a special crossing. The shares were acquired for a premium relative to the implied value of the consideration offered under the Consolidated Operations scheme.

On 2 March 2020, CML announced that it had entered into a scheme implementation agreement with Scottish Pacific and that the COG SIA was terminated.

On 4 March 2020, Consolidated Operations announced "*that it has no current intention to vote its 17.4% interest in CML in favour of the scheme with [Scottish Pacific] and that it intends to be an active substantial shareholder in CML*". An Australian Financial Review article dated 5 March 2020 stated that Sandon Capital Investments Limited, a CML and Consolidated Operations

shareholder, “told the financier’s chairman Greg Riley in no uncertain terms that it would “vote all the shares it controls against the Scottish Pacific Scheme”.”

CML submits that Consolidated Operations acquired its 17.4% interest in CML, which was (among other things) a breach of the COG SIA and a confidentiality deed between CML and Consolidated Operations (including standstill provisions in that deed).

CML also submits (among other things) that:

- Consolidated Operations’ 4 March 2020 statement prevents it under ‘truth in takeovers’ from voting its CML shares in favour of the Scottish Pacific scheme and will be understood by the market as committing Consolidated Operations to actively opposing any Scottish Pacific scheme and
- Benfamivest Pty Ltd (of which Consolidated Operations’ CEO is a director and 50% shareholder and has acquired CML shares) and Sandon are associated with Consolidated Operations.

CML seeks interim orders to the effect that Consolidated Operations not vote, sell, transfer or otherwise dispose of any of its CML shares and must not acquire any further CML securities.

CML seeks final orders to the effect that:

- Consolidated Operations must not vote its shares against approval of the Scottish Pacific scheme.
- Consolidated Operations must provide persons that sold CML shares to it with the ability to repurchase their shares or alternatively that Consolidated Operations’ CML shares be vested in ASIC for sale.
- Consolidated Operations must not acquire any further securities in CML until after the earlier of the vote on the Scottish Pacific scheme or the announcement by CML that the Scottish Pacific scheme will not proceed.
- COG, Benfaminvest, Sandon and any other CML shareholders the Panel determines are associates in respect of CML, be required to lodge corrective substantial holder notices with CML and ASX.

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