

24 October 2019

TPT PATROL CLASS ACTION UPDATE

Myer Holdings Limited (MYR) notes that today the Federal Court handed down judgment in respect of historical matters which were the subject of the shareholder class action brought against Myer by TPT Patrol Pty Ltd as trustee for the Amies Superannuation Fund (**TPT Patrol**).

The proceedings related to a verbal comment made on 11 September 2014 by Myer's then CEO, Mr Bernie Brookes, that Myer "anticipated profit growth" in FY15. The Court held that Myer had reasonable grounds in making that representation on 11 September 2014 and dismissed a claim that the representation was misleading or deceptive or involved a breach of Myer's continuous disclosure obligations at that time.

Nevertheless, the Court also found that, as Myer subsequently became aware that its NPAT in FY15 would be materially lower than in FY14, it was required to make a corrective announcement. The Court held that by failing to make a corrective announcement until 19 March 2015, Myer engaged in misleading or deceptive conduct and contravened its continuous disclosure obligations on and from 21 November 2014 until 19 March 2015.

Notwithstanding these contraventions, the Court found that there is no evidence which establishes that those contraventions caused any loss or damage to the class members.

As this matter relates to historical events and may be appealed, Myer will not provide any further comment on the judgment.

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Background

On 11 September 2014, the then CEO of Myer, Mr Bernie Brookes, made a verbal representation in a presentation to analysts that Myer “anticipated profit growth” in FY15, after announcing an FY14 NPAT of \$98.5 million. On 19 March 2015, Myer released its results for the first half of FY2015 which included a statement that Myer expected its FY15 NPAT to be \$75 to \$80 million (excluding one-off costs).

On 29 December 2016, TPT Patrol commenced proceedings in the Federal Court against Myer on behalf of itself and class members. The class members comprised all persons who purchased shares on or after 11 September 2014 and still held any of those shares at the start of trading on 19 March 2015. TPT Patrol alleged that the representation made by Mr Brookes on 11 September 2014 and the absence of any corrective announcement prior to 19 March 2015 amounted to a contravention of Myer's continuous disclosure obligations and misleading or deceptive conduct.

A trial of the proceeding was conducted in the Federal Court before Justice Beach. His Honour delivered a judgment today.

Further information in relation to this matter is set out in Myer’s announcements of 30 December 2016, 14 September 2017 (page 12 of the Directors' Report) and 12 September 2018 (page 10 of the Directors' Report).