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30 October 2020

Manager
Market Conduct Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Sir/Madam

Re: Making permanent reforms in respect of virtual meetings and electronic document execution

I write in my capacity as CEO of Listcorp pursuant to the consultation currently underway with respect to the proposed reforms described above.

Listcorp is a new investor relations platform designed to help listed companies communicate effectively with investors in today's digital world. We have delivered information to approximately 500,000 individual investors over the past 12 months and count ANZ, Westpac and Commonwealth Bank as regular users of our company service (via which they are able to disseminate high quality multimedia content to investors such as CEO video interviews). We have also sent close to four million emails over this period keeping each of our investor members informed about the companies in which they're interested.

Our aim is to help companies find and retain investors for the long-term and for investors to feel comfortable making long-term commitments to these companies. We believe this is only possible through regular, honest and transparent communication and that this is only practical in 2020, through the use of digital technologies.

For this reason we are strongly supportive of reforms designed to increase the use of digital technologies for all forms of communication between companies and their shareholders.

Having reviewed the Exposure Draft Explanatory Materials there are two specific areas upon which we wish to comment. We would also like to take this opportunity to explain why we believe the reforms proposed are critical to ensuring the maximising of shareholder rights both now and increasingly, in the future. I will provide our comments under the following 3 headings:

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1. **New reforms must be future proof**
2. **New reforms must be ‘comfortably implementable’**
3. **The opportunity is far greater than cost reduction**

1. **New reforms must be future proof**

As you are no doubt aware, under the banner of ‘Technology Neutrality’ at least part of this topic was addressed in the May 2016 Treasury proposal paper entitled ‘Technology Neutrality in Distributing Meeting Notices and Materials Proposals Paper’. The first paragraph of section 2. Proposal: A Technology Neutral Approach states:

“The proposal set out in this section seeks to be neutral as to the technological means by which communications must occur when companies distribute meeting notices and materials to members. This is not an end in itself but is one factor in enabling efficiency, effectiveness and tailoring communications to user preferences. Technology neutrality in communications requirements has the potential to enable the provision of data in more usable forms in a timelier manner, through lower cost communication channels, and enable flexibility in the manner in which it is presented.”¹

The clear aim of this text is to ensure that innovation and progress are allowed to flourish uninhibited and to ensure that the technologies of the future are available to companies without legislative restriction. We strongly support this.

We believe companies should seek to engage with their owners in the most efficient and effective ways. As our consumer experiences become increasingly personalised, in order to maintain relevance and engagement, it will be important that companies are afforded the same opportunity to embrace the technologies of the future if they are to maintain their ability to engage with shareholders in the most efficient ways possible.

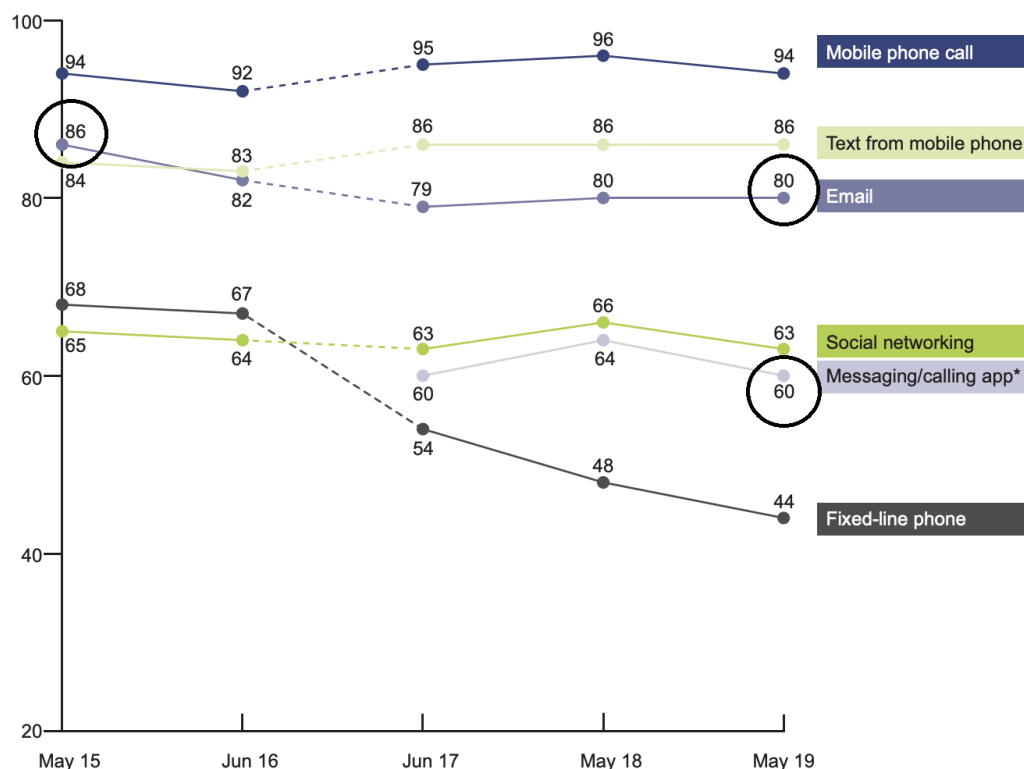
It is our strong recommendation that these ideals be reflected in the permanent reforms. Technology is advancing at ever increasing speeds and that is no truer than for communication technologies. To evidence this we only need look at the technology most frequently cited in the explanatory materials by way of ‘electronic communication’ i.e. email, to see that its use by Australians may already be in decline and that the digital

¹ ‘Technology neutrality in distributing company meeting notices and materials – Proposal Paper’, The Treasury, May 2016, P 7

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communication medium described as ‘Messaging/calling app’ in the Australian Communications and Media Authorities’ Communications Report 2018-19, with no data available prior to 2017, is now utilised by 60% of Australian adults²:

Figure 2.1: Use of communications for personal purposes, by service type (percentage)



We strongly support the recommendations of the Financial System Inquiry and believe they should form the basis upon which these new reforms are based i.e.:

“Technology-neutral regulation enables any mode of technology to be used and tends to be competitively neutral. A technology-neutral approach to regulation:

- *enables regulators and government to adapt to innovative developments and manage risks;*
- *can reduce compliance costs by removing unnecessary regulatory impediments and improving the stability and longevity of regulation; and*

² ‘Communications Report 2018–19’, Australian Communications and Media Authority, P 72

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- *can give financial product providers greater flexibility to innovate to meet changing consumer expectations”³*

2. New reforms must be ‘comfortably implementable’

Our comments under this heading refer to the possibility that, while these reforms are intended to deliver certain benefits, their practical implementation may fall short of achieving the full benefits intended if the specific wording fails to provide companies and/or their service providers sufficient comfort to implement them ‘comfortably’ i.e. with no legal risk.

We draw your attention to two particular examples for which we hold concerns:

a) Examples of ‘electronic address’

While the explanatory materials regularly reference the concept of an ‘electronic address’ - which would in its broadest application appear to provide the ability for Companies to communicate with shareholders via SMS, WhatsApp, Facebook Messenger and/or any other electronic address provided to the company - by solely providing examples referencing email, it is possible that, in practice, companies will opt for what they perceive to be the lowest risk approach by excluding all other forms of electronic address.

It may be impractical to utilise any other forms of electronic communication at this time, but we are rapidly heading into a world where personalisation and consumer/investor choice is the base expectation. If those responsible for company communications are limited in their ability to meet changing consumer/shareholder requirements not due to the intention of the law but the interpretation of it by those responsible for eliminating unnecessary legal exposures within these companies, we will have missed the opportunity to innovate for the benefit of all.

In this case we recommend a broader range of examples be used and/or wording that ensures all forms of electronic address – both current and future – are available if deemed appropriate by the company.

³ Ibid, P 6

b) Definition of 'nominated electronic address'

The current definition is:

1.46 "...the most recent electronic address provided by the shareholder or members for the purposes of receiving electronic communications unless the person sending the document knows, or there are reasonable grounds to believe, that the electronic address is not the correct address. For instance a company may know that an email address is incorrect if they email a document to a member but receive an error message stating the email was undeliverable"

1.47 "If no electronic address has been nominated or the sender knows or has reasonable grounds to believe that the nominated address is incorrect, the sender may use an electronic address that he or she believes on reasonable grounds to be the person's recent electronic address. This address is also considered to be a 'nominated electronic address'"

While this wording provides valuable flexibility, it is likely the subjectivity involved in 'knowing' an address is incorrect and 'believing' an address to be a person's 'recent' address - and uncertain penalties for incorrect assessments - will cause problems in the practical implementation.

The particular issue here again resolves around risk i.e. who will accept the risk for making these determinations? And what is the penalty for sending a communication to an incorrect address should such a determination have been made?

In a practical sense, it is the company's share registry that sends communications on behalf of the company. So it is likely the company will expect its share registry to make these determinations. In order to accept the risk of doing so however, dependent upon how it is quantified, the registry will expect compensation. If appropriate compensation cannot be agreed, the registry will not accept the responsibility and where an initial electronic communication fails, the default position will be hard-copy in the mail.

We suggest this definition be discussed with registries and companies to ensure 'comfortably implementable' definitions may be found to ensure alternative electronic addresses are part of the practical solution.

3. The opportunity is far greater than cost reduction

We believe it should be the aim of every company to optimise the opportunity for shareholders to attend their AGM. We note that in order to achieve this, given the bounds of the current legislation, some companies currently go to extreme lengths in the attempt to achieve this including by hosting their AGM in different capital cities each year. While this requires significant additional resourcing, over the course of a 5 year period, these companies are doing everything they can under the current legislation to provide the majority of their shareholders with the opportunity to attend an AGM.

A good example of this is ANZ who held their last 5 AGMs in Brisbane (2019), Perth (2018), Sydney (2017), Melbourne (2016) and Adelaide (2015) respectively.

While these efforts are to be lauded, given the alternatives available to us in 2020 and the pressure on corporate Australia to lower its carbon footprint, we believe it's time to allow companies to achieve the highest standards of corporate governance without such significant expenditures.

Although the benefits considered in the explanatory materials focus largely on efficiency gains and benefits to the environment, both of which are vitally important, we believe these reforms also represent a critical opportunity to drive a step-change in shareholder engagement.

P 24 of the explanatory materials highlights that, according to the experience of Computershare, shareholder attendance at AGMs increased 36% in 2020 compared to 2019. The paper goes on to state that this is indicative of that fact that:

"...physical barrier to attendance is, in net terms, greater than technological barriers."

Technology today provides shareholders in ASX listed companies with a greater opportunity to engage with those companies than at any other time in history. We believe this point cannot be overstated, but that its true extent is evidenced most clearly through the inclusion of two additional factors i.e. the 'seasonality' of AGMs and the 'portfolio perspective' of investors.

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The table below details the date, time and location of the AGMs held in 2019 by what we believe to be the 25 largest registry companies (i.e. companies with the largest number of shareholders⁴) currently listed on the ASX:

AGMs held in 2019

	Company	Shareholders	Date	Time (Sydney)	Location
1	Virgin Money UK	169,540	30 Jan 2019	10:00	Melbourne
2	Santos	105,653	2 May 2019	10:30	Adelaide
3	AMP	723,387	2 May 2019	11:00	Sydney
4	Woodside	210,000	2 May 2019	16:00	Perth
5	Rio Tinto	158,725	9 May 2019	11:30	Perth
6	Sydney Airport	109,785	24 May 2019	11:00	Sydney
7	Macquarie	131,882	25 July 2019	10:30	Sydney
8	AGL Energy	114,217	19 September 2019	10:30	Sydney
9	AFIC	138,949	8 October 2019	10:00	Melbourne
10	Transurban	117,707	10 October 2019	11:00	Melbourne
11	Telstra	1,296,587	15 October 2019	09:30	Melbourne
12	Commonwealth	830,307	16 October 2019	09:30	Sydney
13	Origin Energy	139,357	16 October 2019	10:00	Sydney
14	CSL	167,824	16 October 2019	13:00	Sydney
15	S32	265,695	24 October 2019	13:30	Perth
16	IAG	656,744	25 October 2019	09:30	Sydney
17	NIB Holdings	138,403	30 October 2019	11:00	Sydney
18	BHP	512,193	7 November 2019	10:00	Sydney
19	Coles	463,006	13 November 2019	13:30	Melbourne
20	Medibank	220,895	14 November 2019	10:30	Melbourne
21	Wesfarmers	480,242	14 November 2019	16:00	Perth
22	Westpac	610,334	12 December 2019	10:00	Sydney
23	Woolworths	356,152	16 December 2019	10:00	Sydney
24	ANZ	506,578	17 December 2019	11:00	Brisbane
25	NAB	574,168	18 December 2019	09:30	Sydney

⁴ Collated by Listcorp from 2019 annual reports

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- a) **AGM seasonality.** The first point to note is that the dates of AGMs are not spread evenly throughout the year. In fact the industry refers to 'AGM season' being the October/November period during which most 30 June year-end companies host their AGMs and the 'Mini-AGM season' in May, during which most 31 December year-end companies host theirs. As can be seen from the dates of the various meetings, not only are AGMs held on dates close together, but often on the same date – and in the case of 2 May 2019, in 3 different capital cities. When a physical presence is required for attendance, this close grouping of AGMs ensures it is more likely choices over which AGMs to attend and consequently which cannot be attended will have to be made, based purely upon the combination of AGM location and home address of the shareholder, than if AGMs were spread more evenly throughout the year.
- b) **The 'portfolio perspective' of investors.** When considering the opportunity for reform in this area we believe it is vital to consider it from the perspective of the consumer i.e. the shareholder hoping to exercise her rights through attendance at the AGMs of the respective companies of which she is a part owner. Under the current legislation, assuming that shareholder does not have unlimited time and resources available to devote to AGM attendance, for all practical purposes, she is limited to attending only those AGMs that are geographically proximate to her home. In the case of a shareholder living in Sydney in 2019 and assuming she is invested in the 25 companies listed above, she would be able to attend a maximum of 12 AGMs (two being hosted at approximately the same time). Alternatively were she living in Adelaide or Brisbane, she would be limited to attending only 1.

If we now look at the example of an investor with unlimited time and resources and assume that person is also living in Sydney, we estimate that shareholder would be required to travel some 45,000 km in order to complete this task. In addition to the transport costs associated with this (both financial and environmental), there would be requirements for accommodation as well as significant opportunity costs associated with the time required outside of that to physically attend these AGMs.

All of these costs could be avoided, if that shareholder were able to attend these AGMs online. So **by minimising the total costs of attendance at any one AGM – including the opportunity cost which for most shareholders will include paid employment - we maximise the ability of shareholders to attend as many AGMs as possible.**

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While an example assuming a single investor holds shares in each of these 25 companies is extreme, when considering that the average portfolio of a CommSec client contains 8 company holdings, we can see the problem is nonetheless real in practice.

While we support the premise that the current virtual AGM experience may not fully replicate the benefits of the physical setting when it comes to shareholder/company engagement, it is important to recognise that the technology and processes currently involved are in their infancy. We strongly believe that through broad adoption (to drive the economics) and industry engagement, the experience will evolve to address any shortcomings currently experienced.

Finally, in considering the need for and shape of reform in this area we believe it is vital to consider the next generation of investors. Generation Z currently represents approximately 20% of the Australian population – some 4.6m people⁵. This group has used digital technology from the youngest age and expects those that wish to engage with them to do so through the same media (or at least provide them the option of doing so).

According to the ASX Australian Investor Study 2020, 10% of all investors currently fall within the 18 – 24 category⁶. Of the 'Intending Investors' group i.e. those investors intending to invest in the next 12 months, 27% of those fall into the Gen Z category. We believe this group will grow its presence in the market rapidly over the coming years pursuant to a combination of 3 factors:

- a) Generational wealth transfer – estimated at \$3.5 trillion in Australia over the next 20 years⁷
- b) Improving access to the market – the launch of a range of new user-friendly, mobile-based investing apps e.g. Raiz, CommSec Pocket, Superhero, etc.
- c) Alternative investments remaining unattractive – interest rates likely to remain low and Australian property prices to remain relatively expensive.

⁵ <https://mccrindle.com.au/insights/blogarchive/generation-z-defined-global-visual-digital/>

⁶ ASX Australian Investor Study 2020, ASX, P 24

⁷ <https://www.afr.com/wealth/personal-finance/how-to-get-the-great-wealth-transfer-right-20191205-p53h7b>

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We believe that failing to take this group into consideration as these reforms are finalised will only lead to the requirement to revisit the legislation again within the coming decade, or risk the irrelevance of the AGM as a shareholder/company engagement opportunity.

Yours faithfully



John Daly

CEO