



THE HONOURABLE CHRIS PEARCE MP
Parliamentary Secretary to the Treasurer
Federal Member for Aston

- 3 MAY 2007

Mr R St John
Convenor
Corporations and Markets Advisory Committee
GPO Box 3967
SYDNEY NSW 2001

Dear Mr St John

I am pleased to provide you with the Government's Statement of Expectations for the Corporations and Markets Advisory Committee (the Committee).

This Statement forms part of the implementation of the Government's response to the *Review of Corporate Governance of Statutory Authorities and Office Holders*, which was conducted by Mr John Uhrig AC (the Uhrig Report). The Uhrig Report identified ways in which the governance of Commonwealth portfolio bodies might be improved and recommended options for increasing transparency and accountability and ensuring well-defined responsibilities and clear relationships between portfolio bodies and other arms of Government.

Where the Government issues Statements of Expectations to portfolio bodies, it requests that portfolio bodies respond with a Statement of Intent. I look forward to receiving the Committee's Statement of Intent within three months of the date of this letter. In the interest of public accountability, both of these documents will be made public. It is my intention that this Statement will be reviewed as circumstances require.

This Statement of Expectations outlines the Government's current expectations with regard to the role and responsibilities of the Committee, the Committee's relationships with the Government, issues of accountability and operational issues. As recognised by the Uhrig Report, I have taken into account the nature of the Committee's role and responsibilities as outlined in the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) in making this Statement.

At the outset, I would like to make it clear that the Government is very pleased with the overall performance of the Committee as an independent source of advice on issues relating to corporations and financial services law and practice. The advice provided by the Committee is balanced, objective and thorough. The Government has recently provided the Committee with additional funding, confirming its capability and capacity to carry out its statutory mandate. However, there is a continual need to reassess performance of public institutions to ensure that they are continuing to meet community expectations and market developments.

The Role and Responsibilities of CAMAC

The effectiveness of economic regulation is a key contributor to strong economic growth and the wellbeing of the Australian people. The Government is committed to ensuring a regulatory environment that fosters competition, promotes innovation and enterprise, promotes stability and provides appropriate safeguards for consumers. The Government's focus is to reduce unnecessary complexity, minimise compliance costs, enhance competition and better equip consumers to benefit from competitive markets.

The Committee plays an important role in promoting a sound and effective corporate regulatory framework, by providing me and other Treasury ministers with advice about relevant policy and law design issues. The Committee's advice promotes a high standard of public debate about corporate regulation, informing decision makers in Government, business and the broader community.

The responsibilities of the Committee in performing its functions and exercising its powers are set out in the ASIC Act, which provides that:

CAMAC's functions are, on its own initiative or when requested by the Minister, to advise the Minister, and to make to the Minister such recommendations as it thinks fit, about any matter connected with:

- a proposal to make corporations legislation, or to make amendments of the corporations legislation (other than the excluded provisions); or
- the operation or administration of the corporations legislation (other than the excluded provisions); or
- law reform in relation to the corporations legislation (other than the excluded provisions); or
- companies or a segment of the financial products and financial services industry;
or
- a proposal for improving the efficiency of the financial markets.

In preparing its advice, the Committee should bear in mind the Government's preference for regulation to identify the outcomes that are desired, rather than to prescribe how to achieve those outcomes. An outcomes-based approach avoids unnecessarily prescriptive regulation and allows regulated entities to determine the lowest cost way of meeting regulatory objectives. This in turn facilitates innovation and enterprise, contributing to economic efficiency and growth.

In preparing its advice, the Committee should conduct an assessment of the costs and benefits of alternative regulatory responses. While it may be impractical to quantify these impacts, it is important that the various types of direct and indirect costs of regulatory intervention in the market are identified and weighed against any benefits that may arise from such an intervention. The Committee should familiarise itself with the Government's policies on best practice regulation.

In considering alternative issues for consideration by the Committee on its own initiative, priority should be given to proposals that minimise procedural requirements and business costs and improve commercial certainty about the practical operation of the corporate regulatory framework. In that context, I encourage the Committee to identify areas where the current regulatory and other arrangements unduly hamper commerce and business.

Relationship between CAMAC and the Government

The Government has primary responsibility for setting corporate regulatory policy. The Committee plays an important role in guiding regulatory policy, by promoting informed discussion of complex issues and presenting a vehicle for business leaders and senior academics to comment on the regulatory framework for corporations and financial services.

Relationship with the Minister

Section 148 of the ASIC Act provides that the Committee may provide advice to me and other Treasury ministers about certain issues as it thinks fit. In the recent past, the Committee's advice has largely related to specific references from the Government. There is some benefit in this approach, as it ensures that the advice provided by the Committee is closely related to the Government's reform priorities. My comments should be sought before the Committee commences a significant review on its own initiative. This will assist in ensuring that the Committee is available to provide advice in a timely manner where this is required by the Government.

Section 155 of the ASIC Act confirms that the Committee may publish any advice or recommendations that it has given to me or other Treasury Ministers. The Committee should provide Treasury and Treasury Ministers with a copy of any publication two weeks prior to its public release. This will allow for a preliminary assessment of the Committee's recommendations prior to their release more generally.

It is also important that the Committee provides Ministers, in a timely fashion, with any other information on matters relating to the administration of the Committee for which the Government is accountable to Parliament.

Relationship with Treasury

The role of Treasury is to support and advise me and the other Treasury Ministers in our responsibilities, by being the principal source of advice on a wide range of issues, including policy development and law reform initiatives, in relation to the efficient and effective administration of corporate law and conduct of corporate regulation in Australia. The Committee is primarily responsible for providing me and other Treasury Ministers with an additional source of independent expert advice on some of these issues.

To fulfil their complementary roles in the area of corporate regulation, Treasury and the Committee maintain a close relationship. I understand that a practice has evolved whereby Treasury is invited to attend meetings of the Committee. This allows for Treasury to take into account the views and experience of the Committee when considering and advising on changes to corporate policy and legislation. It also promotes clear communication on administrative matters and allows the Committee to understand Treasury's view on matters under consideration by the Committee.

The Government has accepted the Uhrig Report recommendation that portfolio bodies should provide information to portfolio secretaries in parallel with that provided to Ministers. All information, briefings, press releases and correspondence provided to Treasury Ministers by the Committee should also be copied by the Committee to the Secretary to the Treasury. This should ensure that Treasury continues to be placed in a sustainable position to fulfil its role as the principal source of advice on corporate law and policy matters to the Government. It is important the Committee supports this role by providing the Secretary to the Treasury with timely briefings on any significant issues relating to its activities.

Accountability

The Committee has been established to provide advice to the Minister about the corporate regulatory framework. The Committee presents an independent assessment of policy issues, informed by the experience of its staff and members. However, the Committee performs its statutory functions as part of the Australian Government and remains accountable to the Parliament, and ultimately to the public, through the Treasury Ministers, the Parliamentary Committee process and the tabling of its annual report.

Operational Issues

I recognise that the Committee employs staff under the *Public Service Act 1999*, which requires all office holders and their staff to uphold and promote the Australian Public Service (APS) values. All APS employees are required to adhere to the APS Code of Conduct.

The Committee is currently an agency under the *Commonwealth Authorities and Companies Act 1997*. In this regard, I note that it is the intention of the Government to make the Committee an agency solely prescribed under the *Financial Management and Accountability Act 1997* as soon as practicable.

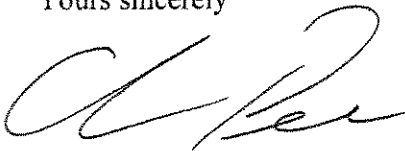
It is Government policy that all departments and portfolio bodies should continue efforts to secure improved efficiency in their operations and demonstrate value for money for the services they deliver. I appreciate that the Committee continues to seek opportunities to achieve outcomes in the most cost-effective manner.

Conclusion

In conclusion, it is the Government's expectation that the Committee will continue to be a high-performing and responsive agency, contributing to and enhancing the administration of a principles-based regulatory framework that minimises procedural requirements and business costs. The framework should continue to facilitate innovation and enterprise, contributing to economic efficiency and growth. I look forward to working with the Committee under the new governance arrangements.

I have copied this correspondence to the Treasurer, the Prime Minister, and the Minister for Finance and Administration.

Yours sincerely



CHRIS PEARCE