

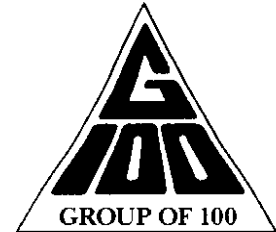
# GROUP OF 100 Inc.

ABN 83 398 391 246

An association of Australia's senior Finance Executives  
from the nation's business enterprises

## National Secretariat

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22 December 2003

The Secretary  
Parliamentary Joint Committee on Corporations & Financial Services  
Room SG.64  
Parliament House  
CANBERRA ACT 2600

Dear Sir/Madam

### **CLERP 9 Bill (Supplementary Submission)**

The Group of 100 (G100) would like to make a supplementary submission to our submission of 17 November 2003.

The principal issues which we believe require to be addressed in the Bill are:

#### **Financial Reporting Panel**

The G100 supports the proposals that a company can also refer a matter to the Panel. However, the Bill provides that this can now occur with ASIC's approval. The G100 considers that this still imposes an unreasonable constraint on a company which wishes to refer an issue to the Panel. The existence of this restriction may have the effect that a company may initiate processes through the Courts thus defeating an objective of the formation of the Panel.

In this regard we wish to emphasise our view that the Panel would be better located under the FRC rather than ASIC.

#### **Continuous Disclosure**

The G100 is dismayed that there has not been any changes to the additional powers granted to ASIC in respect of a fines regime for breaches of continuous disclosure requirements.

The G100 considers that the proposals that ASIC has the power to act as 'judge', jury and executioner' in respect of the imposition of a fines regime is completely unacceptable and manifestly unfair. We are particularly concerned at the manner in which ASIC might use these additional powers. Once a fine is imposed a company must then establish that it is not in breach of the requirements. For example, given the costs and distractions associated with contesting/challenging ASIC imposed fines a company may, even though it believes it has not breached the rules, pay the fine to avoid the accompanying distractions.

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While it is arguable that sanctioning in the form of fines may be required because it has an immediate impact and can address some of the 'lesser' breaches of continuous disclosure, the benefits of this proposal are outweighed by the concentration of power in ASIC.

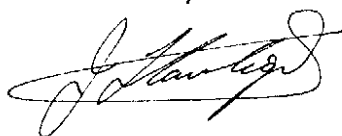
**Director and Executive Remuneration**

The G100 is concerned about the potential duplication of requirements in the Corporations Law and Accounting Standards and differences in the proposed requirements. In order to avoid confusion and potentially misleading shareholders and other users the G100 strongly believes that the requirements should be included in one location in the annual report. The G100 suggests that the Corporations Law provide that directors include a cross-reference in the directors' report to the information provided as part of the financial report.

**Operating and Financial Review (OFR)**

The G100 wishes to emphasise that the OFR should be required of a much broader class of entities and that, while agreeing that the OFR be presented in the annual report, its location should not be specified. We believe that the OFR is likely to be a more expansive and comprehensive review if it is not required to be part of the directors' report.

Yours sincerely



**John V Stanhope**  
National President

c.c. Mr Ross Cameron MHR  
Parliamentary Secretary to the Treasurer