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FALSE OR MISLEADING RUMOURS

The Australian Securities and Investments Commission (ASIC) has been approached by a number of market participants concerned that some individuals are deliberately spreading false or misleading information about listed securities.

There are concerns that this is being done to artificially provoke sales of securities and to reduce their market price.

Conduct of this type can be a criminal offence and ASIC, in conjunction with the Australian Securities Exchange, will be vigilant in monitoring the market to ensure this type of behaviour is detected and prosecuted.

Section 1041E of the Corporations Act states that a person must not make a statement or disseminate information if (relevantly):

- it is false in a material particular or is materially misleading; and
- is likely to induce persons to dispose of or acquire financial products or to have the effect of reducing the price for securities; and
- if the person does not care whether the statement or information is true or false, or knows or ought reasonably to have known it is false or misleading.

If a person spreads a false rumour without properly investigating its truth then the person risks breaching this section. ASIC will investigate the conduct of persons who spread false information or rumours if they cannot substantiate that they did concern themselves as to the truth or falsity of the rumour.

The maximum penalty for an individual breaching s.1041E is five years imprisonment and/or a fine of \$220,000.

Section 1041E is part of a suite of provisions in the Corporations Act which prohibit market manipulation (s.1041A), false trading (s.1041B) and market rigging (s.1041C). There is also a provision that prohibits inducing a person to deal in a financial product using false or misleading information (s.1041F).

Financial market participants must not engage in dishonest conduct in relation to a financial product or service (s.1041G) when carrying out a financial services business. Dishonest is defined by reference to the standards of ordinary people.

ASIC believes that these provisions, together with the laws prohibiting trading in securities by persons who have confidential price sensitive information (whether or not the information is sourced from an “insider”) are sufficient to ensure fair market trading practices.

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