

Scratching the surface

In his exclusive monthly column for *Ethical Investor* Stephen Mayne, publisher of www.crikey.com.au, wraps up a mixed AGM season for shareholder activists.

HEFTY PACKAGES STILL GET THROUGH

Options are no longer the flavour of the month but several companies pushed through new incentive schemes for their executives without too much trouble during this year's AGM season.

However, the key issue seems to be the presence of appropriate performance hurdles. There was little opposition to Southern Cross Broadcasting issuing another 400,000 options to long-serving CEO Tony Bell and the package received 95.3 per cent support from proxies thanks to quite steep performance hurdles.

Similarly, the further issue of incentive shares to Perpetual CEO Graham Bradley was also supported by more than 95 per cent. The same cannot be said for the more generous and controversial offerings put up by the likes of BHP-Billiton and News Corp.

Rupert Murdoch continues to thumb his nose at the notion of hurdles so the 2.2 million options for his executive directors only received 63.5 per cent of the proxies in favour. He must be thankful for the recent rule change that reduced the vote requirement for options from 75 per cent to just 50 per cent.

The BHP incentive scheme was incredibly complex and very generous if the company performs. The overall group scheme attracted a no vote of almost 8 per cent whilst the specific package for CEO Brian Gilbertson was opposed by 12.1 per cent of the proxies which is a comfortable

victory but the value of the shares voted against the resolution still exceeded \$3 billion.

FLIMSY PRETEXT FOR POLLIE DONATIONS

The question of political donations has arisen again during the current AGM season, especially given that a Federal election was held in the previous financial year.

Companies are not required to disclose the level of political donations in their statutory accounts, although many do so voluntarily.

For instance, both AMP and Lend Lease disclosed in their accounts the amount of their political donations in the 2001-2002 financial year, around \$130,000 and \$150,000 respectively.

Lend Lease have gone one step further and is the first company in recent years to change its policy and now eschew the practice of making political donations, saying in their 2002 annual report:

"In line with best practice corporate governance, the Board has decided to cease making cash political donations commencing 1 July 2002."

Others such as BHP-Billiton and National Australia Bank have long had a policy of not making any donations.

Some companies do not disclose the level of their political donations at all even when the amounts are reasonably significant - for instance, when questioned at this year's Leighton Holdings AGM,

chairman John Morschel said that the company had made around \$400,000 in donations to political parties.

A troubling issue is the fact that companies report to the Australian Electoral Commission in February their donations for the previous financial year, which is perhaps the greatest time lag in terms of any legal reporting requirement.

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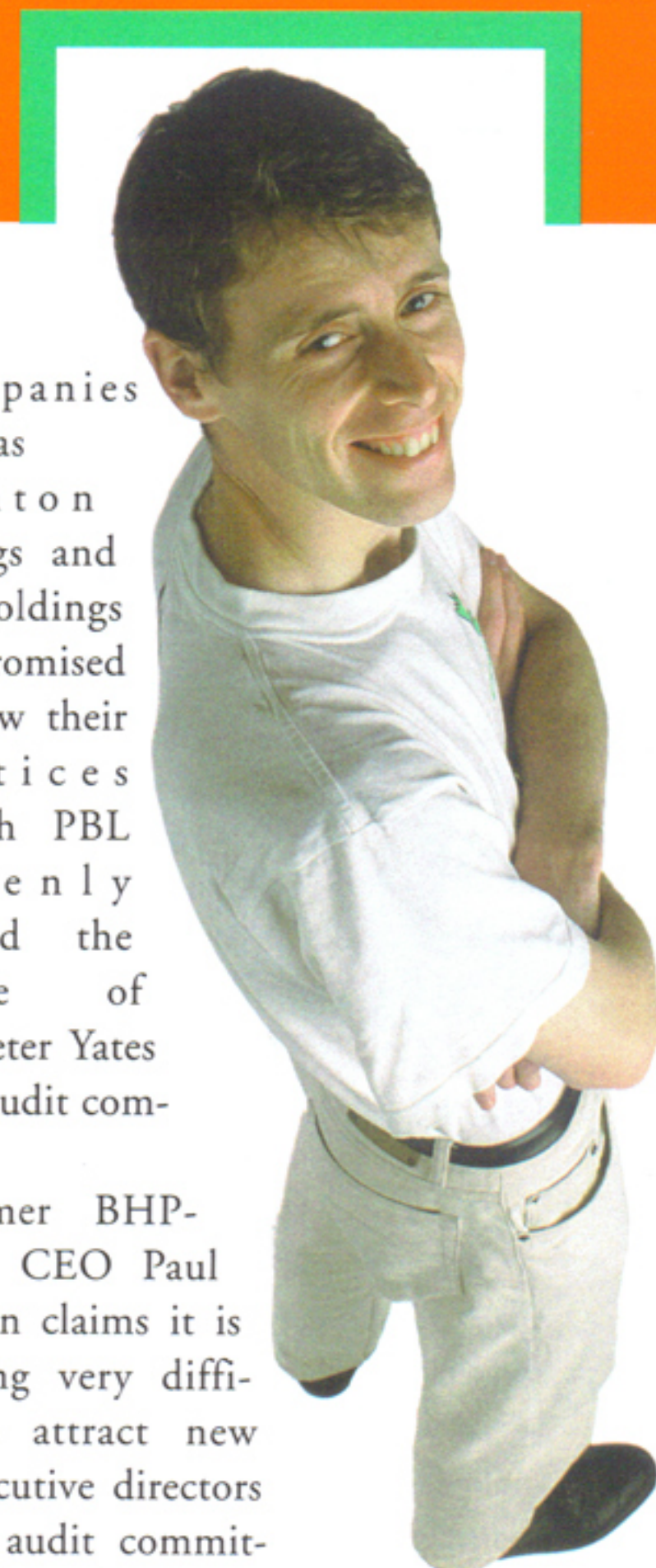
Those companies that have made political donations usually defend them on the basis that they are "facilitating the democratic process", a flimsy justification. Why, for instance, could not those companies donate to the AEC, rather than to the political parties directly? The reality is that it is all about buying influence and access.

DEMOCRATIC ELECTION DODGE

Companies which continue to thumb their noses at democratic practices for board elections need to be hauled into line.

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Stephen Mayne



Witness the way newspaper publisher John Fairfax sprung the news on its unsuspecting shareholders at the recent AGM that Roger Corbett, Margaret Jackson and Ron Walker would be joining the board next February.

The Fairfax nominating committee did not meet once in 2001-02 so the board wasn't exactly moving heaven and earth to line up the new directors so they could be announced in the notice of meeting and voted on at the AGM.

Coles Myer has been equally disrespectful of shareholders and should have lined up replacements for Stan Wallis and Solomon Lew rather than leaving vacancies which will be filled by appointment in the weeks after the AGM.

AMP did exactly the same during its board upheaval in March 2000 when Richard Grellman and Paul Mazoudier were appointed to the board just weeks before the AGM, rather than being presented for election at the AGM.

THE PERFECT TIME FOR AN AGM

The timing or location of an AGM can have a big impact on the number of shareholders who attend the meeting but some companies seem to specialise in inconvenience. This year's News Corp AGM in Adelaide attracted the biggest attendance the company has ever seen and two hours was also the longest meeting Rupert Murdoch has had to endure.

But rather than having 300 attend, Rupert would easily attract more than 500 if he held the meeting in Melbourne or Sydney but he refuses to budge.

When I suggested he move to the east coast after the 1999 AGM, Rupert jokingly said he might relocate it to Alice Springs to make it even harder for shareholders to question him.

As someone who lives in Melbourne and has run for the ASX board every year

since 2000, they made it extra difficult by relocating the AGM to Brisbane this year.

The Village Roadshow crew are past masters in this regard. This Melbourne-based company asks shareholders to assemble at 9am at Movie World on the Gold Coast each year and attracts dozens of families who get free entry for the day.

With kids running around everywhere, the pressure is on to wind up proceedings as quickly as possible.

Village's radio offshoot Austereo takes a similar tactic and has deliberately held its two AGMs since floating on Oaks Day. This year's meeting was wrapped up in 20 minutes with just 12 silent shareholders present.

Clashing meetings is the other great ruse. Who would have thought that media rivals John Fairfax and PBL would both start their AGMs at 11am on the same day last year? And what about the trick pulled by Ken Cowley where PMP and News Corp would have their meetings on the same day in different cities even though he was on both boards.

The jury is still out on night AGMs. BHP's effort of having an AGM on Cup Eve this year was regrettable and they attracted the smallest crowd to a BHP meeting in recent memory with just 490 turning up. With 18 items of business to plough through, chairman Don Argus warned shareholders at 8.20pm that it was "up to you" how long it took. Who could be surprised that the three most controversial items on executive pay were the last to be voted on?

RULER OVER AUDIT COMMITTEES

The question of auditor independence remains hot and was raised at numerous AGMs in recent weeks. Reducing non-audit fees is the favourite debate topic, closely followed by removing executives from the audit committee.

Companies such as Leighton Holdings and Toll Holdings have promised to review their practices although PBL brazenly defended the presence of CEO Peter Yates on the audit committee.

Former BHP-Billiton CEO Paul Anderson claims it is becoming very difficult to attract new non-executive directors to join audit committees. This can be an onerous commitment although some companies such as Westfield Holdings only have a two-man audit committee that meets just twice a year.

The HIH fiasco has also heightened concerns about companies which have audit committees with connections to the auditor. James Packer mounted a feisty defence of Richard Turner who is chairman of the PBL audit committee and former CEO of Ernst and Young, which has had the PBL audit contract since the company first floated.

The independence of former KPMG chairman David Crawford is another interesting issue as he chairs the Lend Lease audit committee which has KPMG as auditor.

The demise of Arthur Andersen has created another problem with the existence of only four viable international auditing firms magnifying the various conflicts of interest. ❀