

# **Corporate governance policy – continuous disclosure**

**Dicker Data Limited**  
**ABN 95 000 969 362**

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## **1. Introduction**

- 1.1 As a listed public entity, Dicker Data is required to comply with the continuous disclosure obligations contained in ASX Listing Rules 3.1, 3.1A and 3.1B, and section 674(2) of the Corporations Act.
- 1.2 Dicker Data is committed to complying with these continuous disclosure obligations.
- 1.3 This policy is designed to ensure there are procedures in place so that the market is properly informed of matters which may have a material impact on the price or value of Dicker Data's shares.
- 1.4 This policy has been adopted by the board of directors of Dicker Data (**Board**).

## **2. Application**

- 2.1 This policy applies to all directors, employees and consultants of Dicker Data.

## **3. Objectives**

- 3.1 The objectives of this policy are to:
  - (1) ensure that Dicker Data is able to meet its continuous disclosure obligations under the ASX Listing Rules and the *Corporations Act 2001*;
  - (2) establish internal procedures so that all directors, employees and consultants understand their obligations to disclose material information to ensure:
    - (a) all investors and participants in the market have equal and timely access to material information concerning Dicker Data;
    - (b) all Dicker Data announcements are factual and presented in a clear and balanced way; and
    - (c) only material information is disclosed to the market.

## **4. Continuous disclosure – legal considerations**

### **4.1 Disclosure Requirement**

Under ASX Listing Rule 3.1, once a listed entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material

effect on the price or value of its securities, the entity must immediately tell the ASX that information.

This type of information is referred to by the ASX as 'market sensitive information'. Section 674(2) of the Corporations Act reinforces this obligation by imposing statutory liability for its breach.

Under ASX Guidance Note 8 and ASIC pronouncements, the requirement for listed entities to provide **immediate** disclosure of price sensitive information does not mean instantaneously, but rather it means 'promptly and without delay'. In other words, making disclosure as quickly as it can be done in the circumstances (acting promptly) and not deferring, postponing or putting it off to a later time (acting without delay).

Under ASX Listing Rule 19.12, we become aware of information if, and as soon as, a Director or other officer of Dicker Data has, or ought reasonably to have, come into possession of information in the course of the performance of their duties as a Director or other officer of Dicker Data. An 'officer' is a person who is concerned in, or takes part in, the management of Dicker Data, regardless of their designation, and includes directors, secretaries and certain senior managers as defined as 'officers' in the Corporations Act.

The disclosure obligation applies not only to market sensitive information of which our directors or other officers are actually aware, but also market sensitive information of which they ought reasonably to have been aware. This rule necessitates that a listed entity takes positive steps to establish and maintain an effective internal compliance program.

Information that would be expected to have a "material effect" on the price or value of Dicker Data's shares is defined in section 677 the Corporations Act as being likely to influence persons who commonly invest in securities in deciding whether or not to buy or sell of the securities.

Guidance Note 8 to the ASX Listing Rule 3.1 suggests an effective way to assess materiality would be to ask two questions:

1. Would this information influence my decision to buy or sell securities in the entity at their current market price?
2. Would I feel exposed to an action for insider trading if I were to buy or sell securities in the entity at their current market price, knowing this information had not been disclosed to the market?

In addition, in assessing whether or not information is market sensitive and therefore needs to be disclosed under Listing Rule 3.1, the information needs to be looked at in context, rather than in isolation, against the backdrop of:

- the circumstances affecting Dicker Data at the time;

- any external information that is publicly available at the time; and
- any previous information that Dicker Data has provided to the market.

The ASX Listing Rules include specific instances where disclosure may be required, and although this is not meant to be an exhaustive list, they are reproduced in **Schedule 1**.

#### 4.2 Quantitative Thresholds for Materiality

Neither the Listing Rules or the Corporations Act define a quantitative threshold for materiality, however the Australian Accounting Standard AASB 1031 provides the following guidance:

- an amount equal to or greater than 10% of the relevant base amount would be material unless there is evidence or convincing argument to the contrary;
- an amount between 5% and 10% of the relevant base amount may be material unless there is evidence or convincing argument to the contrary;
- an amount less than 5% of the relevant base amount would not be material unless there is evidence or convincing argument to the contrary.

In addition, ASX Guidance Note 8 states that AASB 1031 will be applied by the ASX when determining whether information is market sensitive and therefore whether to refer a potential breach of Listing Rule 3.1 and section 674 to ASIC. Among other criteria, the ASX will look to the materiality of the actual impact that information had on the price of the entity's securities when the information was finally announced to the market.

#### 4.3 Exceptions to ASX Listing Rule 3.1A

The disclosure obligation described above is subject to the exceptions found in Listing Rule 3.1A. This rule comprises the following three separate limbs, which if all are satisfied, removes the need for disclosure:

1. One or more of the following applies:
  - It would be a breach of a law to disclose the information;
  - The information concerns an incomplete proposal or negotiation;
  - The information comprises matters of supposition or is insufficiently definite to warrant disclosure;
  - The information is generated for the internal management purposes of the entity; or
  - The information is a trade secret.
2. the information is confidential and the ASX has not formed the view that the information has ceased to be confidential; **and**

3. A reasonable person would not expect the information to be disclosed.

These exceptions seek to balance the legitimate commercial interests of listed entities and their security holders with the legitimate expectations of investors and regulators concerning the timely release of market sensitive information. Where one of these requirements ceases to be satisfied, the exception no longer applies and the entity must disclose the information immediately under Listing Rule 3.1.

Price sensitive information, which is not disclosed to the market, because it satisfies the three limbs outlined above under ASX LR3.1A, must not be passed onto third parties (other than to those connected with the proposed transaction). Staff negotiating the transaction must ensure, to the extent possible, any third party involved with the transaction must not disclose the information to other parties or deal in the Group's securities.

#### 4.4 **Market Rumours And Speculation**

The ASX does not expect an entity to respond to all comments made in the media or all market speculation. However, so that the market remains properly informed it will require a listed entity to respond to a false market. A false market refers to a situation where there is material misinformation or materially incomplete information in the market which is compromising proper price discovery. This may arise, for example, where:

- a listed entity has made a false or misleading announcement;
- there is other false or misleading information, including a false rumour, circulating in the market; or
- a segment of the market is trading on the basis of market sensitive information that is not available to the market as a whole.

Where any member of senior management believes there is a market rumour or speculation, then the matter must be raised with the Chief Executive Officer (CEO) or Chief Financial Officer (CFO) of Dicker Data, in conjunction with the Disclosure Officer, and the Board to decide whether a public statement is required.

If the ASX considers that there is or is likely to be a false market in Dicker Data shares and asks the Company to provide it with information to correct or prevent a false market, that information must be immediately given to the ASX regardless of whether the exceptions (under Listing Rule 3.1A) to disclosure apply.

## **5. Communications With Analysts And Investors**

- 5.1 In addition to the ASX announcements, Dicker Data senior management personnel interact regularly with the market in a variety of ways, including result briefings, market announcements, one on one briefings, meetings and educational sessions.

Generally, price sensitive information must not be communicated to an external party unless it has previously been announced to the market.

### **5.2 Authorised Company Spokespersons For Dealing With Institutional Investors And Stockbroking Analysts**

The company has authorised spokespeople to speak on behalf of Dicker Data to institutional investors and stockbroking analysts. The authorised spokespersons that have been appointed are **David Dicker and Mary Stojcevski**.

If another person receives a request for comment from an external investor or analyst in relation to any matter concerning Dicker Data they must advise the person that they are not authorised to speak on behalf of the Company (unless authorised to the contrary by an authorised person above) and must refer inquiries to the CEO, CFO and/or the Company's Corporate Advisors.

### **5.3 Open Briefings To Institutional Investors And Stockbroking Analysts**

Dicker Data's general rules for dealing with analysts' questions that raise issues outside the intended scope of discussion are as follows:

1. Only discuss information that has been publicly released through the ASX and not to discuss any material price/value sensitive information that has not been announced to the market generally.
2. If a question can only be answered by disclosing price sensitive information, the CEO may decline to answer the question or take it on notice, then announce the information through the ASX before responding.

All slides and presentation materials used in briefings with analysts and institutional investors are released to the ASX prior to the briefing via the Disclosure Officer.

For compliance purposes, notes must be made of all one-on-one briefings held by Dicker Data's personnel with stockbroking personnel and institutional investors. These file notes must be maintained for a reasonable period.

### **5.4 Responding On Financial Projections And Reports**

Notwithstanding the ability of an investor to derive their own forecasts, the reality is the forecast information provided by analysts are widely used by investors in deciding to buy, hold or sell shares in Dicker Data.

The CEO, CFO and/or Company Secretary are to monitor the analyst's forecast and will make an announcement where appropriate.

In practise, where analysts send their forecasts for review prior to issuing a report it is appropriate to respond as follows:

- Point out factual inaccuracies, based on previously released information; and/or
- Discuss in general terms where analysts may have used different market assumptions.

The ASX has provided the following guidance in relation to disclosure around market expectations of the financial performance of a listed entity.

1. Where Dicker Data provides periodic earnings guidance, this guidance must have a reasonable basis in fact or else it will be deemed to be misleading. Should the entity anticipate a material change to this guidance, the market should be informed immediately.
2. Where Dicker Data does not giving earnings guidance, care needs to be taken to ensure that statements could not be construed as de facto guidance. In addition, a listed entity that is covered by sell-side analysts should generally be monitoring analyst forecasts so that there is an understanding of the market's expectations for its earnings.
3. Where neither of the above two scenarios apply to Dicker Data, the market is entitled to rely on the earnings results of the Group for the prior corresponding reporting period. If Dicker Data becomes aware that its earnings for the current reporting period will differ materially from market expectations, it needs to consider carefully whether it has a legal obligation to notify the market of this.

#### **5.5 Media Inquiries**

All enquiries from the media must be referred to the CEO, CFO and/or the Company's Corporate Advisors.

## **6. Policy**

- 6.1 The Board is required to appoint a Disclosure Officer to administer Dicker Data's continuous disclosure policy. This will be the Company Secretary.
- 6.2 As soon as directors, employees or consultants become aware of information:
  - (1) that is not generally available (ie the information in question has not been included in any annual report, ASX release or other publication of Dicker Data); and
  - (2) which may be price sensitive (ie it is likely to have a financial or reputation impact upon Dicker Data that may be considered material);

they must provide to the Disclosure Officer the following information:

- (3) a general description of the matter;
  - (4) details of the parties involved;
  - (5) the relevant date of the event or transaction;
  - (6) the status of the matter (eg final / negotiations still in progress / preliminary negotiations only);
  - (7) the estimated value of the transaction;
  - (8) the estimated effect on Dicker Data's finances or operations; and
  - (9) the names of any in-house or external advisers involved in the matter.
- 6.3 Information or presentations provided to, and discussions with, analysts, professional bodies or any other person, are also subject to the continuous disclosure policy.
- 6.4 Material information must not be selectively disclosed (eg to analysts, professional bodies, the media, customers or any other person) prior to being announced to the ASX. If any director, employee or consultant is proposing to present any material information to professional bodies, journalists or customers, they should ensure that copies of their material are provided to the Disclosure Officer prior to presenting that information externally.
- 6.5 All enquiries from analysts must be referred to the CEO, CFO and/or the Company's Corporate Advisor, in addition to the Disclosure Officer. All material to be presented at an analyst briefing must be approved by or referred through the Disclosure Officer prior to briefing.

## **7. Disclosure Officer**

- 7.1 The Board has appointed the Company Secretary to act as the Disclosure Officer to:
- (1) monitor Dicker Data's compliance with disclosure obligations;
  - (2) be responsible for disclosure to the ASX; and
  - (3) have responsibility for communications with the ASX in relation to ASX Listing Rule matters generally (in accordance with ASX Listing Rule 12.6).
- 7.2 The Disclosure Officer must, in conjunction with the CEO and CFO:
- (1) periodically monitor disclosure processes and reporting and periodically review the effectiveness of disclosure and materiality guidelines;
  - (2) decide what information must be disclosed to the ASX;
  - (3) conduct all disclosure discussions with management;
  - (4) conduct all disclosure discussions with the ASX;

- (5) maintain a **Disclosure File** which must contain a record of:
  - (a) material that has been disclosed to the ASX (with a copy of each announcement to the ASX); and
  - (b) potentially price sensitive information that has come to the attention of the Disclosure Officer and has not been disclosed to the ASX, together with the reasons for that non-disclosure; and
- (6) take such action as the Disclosure Officer, in conjunction with the CEO and CFO considers necessary or appropriate (including the implementation of regular training sessions for relevant officers and employees) to ensure that the senior managers and their subordinates are aware of and adequately understand:
  - (a) the nature of Dicker Data's continuous disclosure obligations;
  - (b) the responsibilities of Dicker Data's officers and employees in ensuring compliance with its continuous disclosure obligations; and
  - (c) the requirements of this policy.

7.3 The Disclosure Officer must immediately decide in respect of information that comes to his or her attention (either directly or from a director) whether:

- (1) the information must be disclosed to the ASX;
- (2) an exception which allows non-disclosure to apply; or
- (3) an alternative procedure, such as whether a notice pending, trading halt or suspension of shares is appropriate in all the circumstances.

7.4 In the case of paragraphs 7.3(1) and 7.3(2), there are 3 alternatives:

- (1) The Disclosure Officer believes the information is price sensitive and must be disclosed. In this case, the Disclosure Officer must:
  - (a) discuss the matter with the CEO and CFO who may, in turn, discuss the matter with the Board; and
  - (b) prepare a letter to the ASX disclosing the price sensitive information. A copy of the letter must be sent to all directors and placed on the Disclosure File maintained by the Disclosure Officer.
- (2) The Disclosure Officer believes reasonably in all of the circumstances and after consultation with the CEO and CFO that the information is not price sensitive, or does not have to be disclosed because it is covered by the exceptions in ASX Listing Rule 3.1A. In this case, the Disclosure Officer must make careful notes setting out why the information has been brought to his or her attention and the reasons why the information is not price sensitive, or why the exceptions in ASX Listing Rule 3.1A apply (as applicable). These notes must be placed on the Disclosure File.
- (3) The Disclosure Officer is not certain whether the information is price sensitive, or whether it falls within an exception. In this case, the Disclosure Officer must follow the appropriate procedures in paragraph 7.4(1) and seek external legal or financial advice.

7.5 The Disclosure Officer shall be responsible for ensuring that Dicker Data announcements:

- (1) are made in a timely manner;
- (2) do not omit material information; and
- (3) are expressed in a clear and objective manner that allows investors to assess the impact of the information when making investment decisions.

## **8. Contraventions and penalties**

### **8.1 Contravention**

Dicker Data contravenes its Australian continuous disclosure obligations if it fails to notify the ASX of the information required by ASX Listing Rule 3.1 to be disclosed. If Dicker Data contravenes this obligation by failing to notify the ASX of information:

- (1) that is not generally available; and
- (2) that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of securities issued by Dicker Data,

it, and its officers, may be guilty of an offence under the *Corporations Act 2001*.

## **9. Public availability of materials**

9.1 This Policy or a summary of its main provisions shall be made publicly available on Dicker Data's website in a clearly marked corporate governance section.

**Schedule 1**  
**ASX Listing Rules**  
**Events requiring disclosure**

The following are non-exhaustive examples of the type of information that, depending on the circumstances, could require disclosure by an entity under ASX Listing Rule 3.1:

- a transaction that will lead to a significant change in the nature or scale of the entity's activities (see also Listing Rule 11.1 and ASX Guidance Note 12 *Significant Changes to Activities*);
- a material mineral or hydro-carbon discovery;
- a material acquisition or disposal;
- the granting or withdrawal of a material licence;
- the entry into, variation or termination of a material agreement;
- becoming a plaintiff or defendant in a material law suit;
- the fact that the entity's earnings will be materially different from market expectations;
- the appointment of a liquidator, administrator or receiver;
- the commission of an event of default under, or other event entitling a financier to terminate, a material financing facility;
- under subscriptions or over subscriptions to an issue of securities (a proposed issue of securities is separately notifiable to ASX under Listing Rule 3.10.3);
- giving or receiving a notice of intention to make a takeover; and
- any rating applied by a rating agency to an entity or its securities and any change to such a rating.

**Version 2: Approved by the Board on 17 June 2013**