



20 March 2013

Mr Adam Russo
Adviser, Listings Compliance (Perth)
ASX Compliance Pty Ltd
Level 8 Exchange Plaza
2 The Esplanade
Perth WA 6000

By facsimile: 08 9921 2020

Dear Mr Russo.

I refer to your letter of 19 March 2013 in relation to Eftel Limited ("Eftel"), and the Bid Implementation Agreement executed between Eftel and M2 Telecommunications Group Limited (M2) whereby M2 will make a recommended off-market takeover offer for all of the issued shares in Eftel (the Takeover Offer).

In response to your questions:

- 1. Eftel considers the Takeover Offer to be material pursuant to listing rule 3.1.
- 2. Eftel confirms the discussions referred to in the Price Query Response of 15 March 2013 regarding a potential transaction were a reference to the subsequent Takeover Offer.
- 3. Eftel had been in preliminary and exploratory discussions concerning the possibility of a potential transaction since mid-January 2013. These discussions were then further developed, and negotiations took place, which led to the parties agreeing a proposal (in the form of the Takeover Offer) over the weekend of 15/16 March 2013.
- 4. The discussions concerning the potential transaction were confidential, the proposal was incomplete, and the likely outcome of that proposal was insufficiently definite to make an

announcement at any time prior to Eftel becoming aware of the unusual trading activity on 14 March 2013. As soon as the nature of that activity became apparent to Eftel's officers on the afternoon of 14 March 2013, Eftel moved as quickly as it could in the circumstances to request a trading halt.

- 5. Not applicable, as Eftel considers the Takeover Offer to be material.
- 6. Eftel confirms it is in full compliance with listing rule 3.1.

**Yours Sincerely** 

John Horan

**Company Secretary** 



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19 March 2013

Mr John Horan Company Secretary Eftel Limited 600 St Kilda Road MELBOURNE VIC 3004

By Email: john.horan@team.eftel.com

Dear John

## Eftel Limited (the "Company")

## We refer to:

- The volume of shares traded (126,054) on 14 March 2013 and the closing price that day of \$0.395, up \$0.12 from 13 March 2013.
- The price query letter sent to the Company on 14 March 2013 ("Price Query Letter") and the Company's response released to ASX on 15 March 2013 at 8:23 am (EDST) titled "Response to ASX Price and Volume Query" ("Price Query Response").
- The trading halt request dated 14 March 2013 ("Trading Halt Request") released to ASX on 15 March 2013 at 8:23 am (EDST).
- The announcement made by M2 Telecommunications Group Limited ("M2") released to ASX on 18
  March 2013 at 9:54 am (EDST) titled "M2 Announces Acquisition of Dodo and Recommended
  Takeover Offer for Eftel Limited" ("M2 Announcement").
- The announcement made by the Company released to ASX on 18 March 2013 at 9:54 am (EDST) titled "M2 Announces Takeover Offer for Eftel" ("Takeover Announcement").

The Price Query Response stated, amongst other things, that:

"The Company has been in discussions with another party in relation to a potential transaction.

("Potential Transaction")

. . .

"Given the circumstances, the Company considers it appropriate to request a trading halt."

The Trading Halt Request stated, amongst other things, that:

• "The trading halt is requested pending an announcement by the Company in relation to a potential transaction.

The M2 Announcement stated, amongst other things, that:

• "M2 also announced that it has signed a Bid Implementation Agreement ("BIA") with Eftel Limited ("Eftel", ASX: EFT) whereby M2 will make a recommended off-market takeover offer for all of the issued shares in Eftel ("Offer") (together, "the Acquisitions")"

The Takeover Announcement stated, amongst other things, that:

 "Eftel Limited (ASX: EFT) today announced it had entered into a Bid Implementation Agreement with M2 Telecommunications Group Ltd, under which M2 will make an off-market takeover offer for all of the issued shares in Eftel. The offer is priced at \$0.3581 per share, implying a total enterprise value for Eftel of \$44.1m (inclusive of \$5.6m net debt, based on 31 December 2012 accounts)"

(the "Takeover")

We wish to draw your attention to the definition of "aware" in chapter 19 of the listing rules which states that:

"an entity becomes aware of information if a director or executive officer (in the case of a trust, director or executive officer of the responsible entity or management company) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as a director or executive officer of that entity"

Further, we wish to draw your attention to listing rule 3.1 which requires an entity to give ASX immediately any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities. The exceptions to this requirement are set out in listing rule 3.1A.

Paragraph 18 of Guidance Note 8 states:

"Once a director or executive officer becomes aware of information, he or she must immediately consider whether that information should be given to ASX. An entity cannot delay giving information to ASX pending formal sign-off or adoption by the board, for example."

Please note that for disclosure not to be required under listing rule 3.1, all of the exceptions under listing rule 3.1A must apply:

- "3.1A.1 A reasonable person would not expect the information to be disclosed."
- 3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential.

- 3.1A.3 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.
  - The information is a trade secret."

Finally, we would like to draw your attention to ASX's policy position on the concept of "confidentiality" which is detailed in paragraphs 34 to 40 of Guidance Note 8. In particular, paragraphs 34 and 35 of the Guidance Note state that:

"'Confidential' in this context has the sense of 'secret'.

Loss of confidentiality may be indicated by otherwise unexplained changes to the price of the entity's securities, or by reference to the information in the media or analysts' reports".

Having regard to the above and listing rule 3.1 and Guidance Note 8 - Continuous Disclosure, we ask that you answer the following questions in a format suitable for release to the market in accordance with listing rule 18.7A:

- 1. Does the Company consider the Takeover to be material to the Company pursuant to listing rule 3.1?
- 2. Were the discussions referred to by the Company in the Price Query Response regarding the Potential Transaction in relation to the Takeover?
- 3. When did the Company become aware of the Potential Transaction? Please include details of the relevant time and circumstances of the Company becoming aware of the Potential Transaction.
- 4. If the answer to any part of question 1 is "yes" and the Company became aware of the Potential Transaction (or any part of it) prior to the Price Query Letter please advise why the Company did not make an announcement at an earlier time or request a trading halt at an earlier time? Please comment specifically on the application of listing rule 3.1.
- 5. If the answer to any part of question 1 is "no", please advise the basis on which the Company does not consider the Takeover to be material.
- 6. Please confirm that the Company is in compliance with listing rule 3.1.

Your responsibility under listing rule 3.1 is not confined to, or necessarily satisfied by, answering the questions set out in this letter.

Please note the ASX reserves its right under listing rule 18.7 to release this letter and the Company's response to the market. Accordingly the Company's response should address each question separately and be in a format suitable for release to the market.

If the information requested by this letter is information required to be given to ASX under listing rule 3.1 your obligation is to disclose the information immediately. Unless the information is required immediately under listing rule 3.1, a response is requested as soon as possible and, in any event, not later than 5:00 pm (WST) Thursday, 21 March 2013.

Your response should be sent to ASX by facsimile on **facsimile number (08) 9221 2020**. It should <u>not</u> be sent to the Company Announcements Office.

If you have any queries regarding any of the above, please contact me on +61 8 9224 0052.

Yours sincerely,

[sent electronically without signature]

Adam Russo Adviser, Listings Compliance (Perth)