

Governance: ASIC's losing streak continues

It's really not ASIC's month: the Australian Securities and Investment Commission is taking a serious kicking in the courts as case after case goes against them. Today, a Perth Court has thrown out their case against Fortescue Metals and its CEO Andrew Forrest.

The Federal Court in Perth today found that Fortescue Metals Group Ltd (FMG) and its CEO Mr Andrew Forrest did not engage in misleading and deceptive conduct or fail to comply with their continuous disclosure obligations as alleged by ASIC.

In consequence, the Court also found that Mr Forrest did not breach his duties as a director of the company.

When ASIC brought the case it said that the importance of the case lay in examining the responsibility of listed companies and their executives to keep the market properly informed in relation to disclosable agreement.

ASIC is considering whether to appeal the decision.

ASIC commenced civil penalty proceedings against FMG and Mr Forrest in the Federal Court in Perth on 2 March 2006. The trial started on 6 April 2009 before Justice Gilmour and went for 5 weeks. ASIC had sought civil penalties from FMG and Mr Forrest and for the Court to consider disqualifying Mr Forrest from acting as a director.