

## Gardner, Tom

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**From:** McCoy, Orla  
**Sent:** Friday, 26 June 2020 11:06 AM  
**To:** Cameron Cheetham (cameron.cheetham@corrs.com.au)  
**Cc:** Sackar, Timothy; Project Volar; Glavac, Mikhail; Gardner, Tom  
**Subject:** Virgin Australia Holdings Limited ACN 100 686 226 and certain subsidiaries (all Administrators Appointed) [CU-Legal.FID3017446]  
**Attachments:** Letter to Corrs Chambers Westgarth (26 June 2020).PDF

Dear Cameron

Please see **attached** our letter to you of even date.

Kind regards

Orla

**Orla M. McCoy, Partner**  
**Clayton Utz**

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**Confidential**

Mr Cameron Cheetham  
Partner  
Corrs Chambers Westgarth  
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Sydney NSW 2000

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26 June 2020

Dear Cameron

**Virgin Australia Holdings Limited ACN 100 686 226 and certain subsidiaries (all Administrators Appointed) (Companies)**

We refer to your letter dated 25 June 2020.

As you know, our clients have been conducting a process seeking offers for a sale or recapitalisation of the Companies, and final binding offers were due by 22 June 2020.

While we thank your clients for the backup recapitalisation proposal submitted on their behalf on 24 June 2020, our clients have formed the view not to progress that proposal. Our clients have today caused the Companies to enter into a binding Sale and Implementation Deed with another party which will result in the sale of the businesses of the Companies to that party. That transaction obviates the need for the consent sought by Broad Peak and Tor. Our clients will provide Broad Peak and Tor with feedback on their backup recapitalisation proposal in due course.

For avoidance of doubt, our clients reject entirely the claims made in your letter, in particular the claim that our clients have committed any breach of duty. Our clients are entitled to exercise their commercial judgment and take into account a wide range of considerations in the conduct of the administration,<sup>1</sup> having regard to, among other things, the objectives of voluntary administration set out in section 435A of the Corporations Act. Our clients are satisfied that they acted in accordance with those principles in relation to the sale process and the Proposal and that their conduct will be approved without qualification should it ever be challenged.

Our clients welcome ongoing engagement with Broad Peak and Tor (and the other members of the purported 'ad hoc' group referred to in your letter) as stakeholders in the external administration of the Companies.

Yours sincerely



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<sup>1</sup> See, for example, *Hausmann v Smith* [2006] NSWSC 682; *Robit Nominees Pty Ltd Oceanlinx Ltd (in liq) (recs and mgrs appts)* (2016) 111 ACSR 427; *Re eChoice Limited (admins apptd)* [2017] FCA 1582; *Re TEN Network Holdings Limited (Admins Apptd) (Recs and Mgrs Apptd) and Others* [2017] NSWSC 1247.