

# eircom Holdings Limited

ACN 112 119 203

## **NOTICE OF GENERAL MEETING**

Notice is hereby given that a General Meeting of members of eircom Holdings Limited will be held at the Auditorium, Museum of Sydney at 11.00am on 15 September 2009

# NOTICE OF MEETING

Notice is hereby given that a General Meeting of Shareholders of eircom Holdings Limited ACN 112 119 203 (**Company**) will be held as follows:

**DATE:** 15 September 2009  
**TIME:** 11.00am, Sydney time  
**PLACE:** Auditorium  
Museum of Sydney  
Corner of Bridge and Phillip Streets, Sydney

This Notice of Meeting should be read in conjunction with the accompanying Explanatory Statement. A proxy form accompanies this Notice.

## **BUSINESS**

### **Return of Capital**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

“That for the purposes of section 256C(1) of the Corporations Act, approval be given for the share capital of the Company to be reduced by returning to the persons who are registered as the holders of fully paid ordinary shares in the Company on the Record Date the amount of 80 cents per fully paid ordinary share registered in their name.”

## NOTES

- (a) On a poll, Shareholders have one vote for every fully paid ordinary share held. On a show of hands, every person present and qualified to vote has one vote and if one proxy has been appointed that proxy will have one vote on a show of hands vote. If a Shareholder appoints more than one proxy, neither proxy may vote on a show of hands, but both proxies will be entitled to vote on a poll.
- (b) A Shareholder entitled to attend and vote is entitled to appoint not more than two proxies. If it is desired to appoint two proxies, then an additional proxy form can be obtained from the Company's share registry by telephoning +61 2 8280 7180.
- (c) Where more than one proxy is appointed, each proxy may be appointed to represent a specified proportion or number of the Shareholder's voting rights.
- (d) A proxy need not be a Shareholder of the Company and may be an individual or body corporate.
- (e) Proxy forms (and if the appointment is signed by the appointor's attorney, the original authority under which the appointment was signed or a certified copy of the authority) must be received by the Company's share registry, Link Market Services Limited:
  - by mail to Locked Bag A14, Sydney South NSW 1235; or
  - by hand to Level 12, 680 George Street, Sydney NSW 2000; or
  - by fax to +61 2 9287 0309; or
  - by electronic lodgement online at Link Market Services' website [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) in accordance with the instructions provided on the website. You will need your Holder Identification Number (HIN) or Security Reference Number (SRN) to lodge your proxy online, prior to 11.00am (Sydney time) on 13 September 2009.
- (f) The Board of the Company has determined that, for the purposes of the meeting, shares will be taken to be held by the persons who are registered as Shareholders as at 7.00pm (Sydney time) on 13 September 2009. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the meeting.

### By Order of the Board



Haydn Vella  
Company Secretary

31 July 2009

# EXPLANATORY STATEMENT

## 1 BACKGROUND TO RETURN OF CAPITAL

The Company listed on the ASX on 11 February 2005, after a successful initial public offering (**IPO**) to raise equity of \$1 billion.

The Company utilised the proceeds of the IPO to make two investments; namely eircom and Golden Pages.

While the Company invested a substantial proportion of the capital raised under the IPO in eircom and Golden Pages, the subsequent refinancing of these investments resulted in some of the invested capital being returned to the Company.

As announced by the Company on 8 July 2009, the Company has entered into a conditional agreement to restructure its investment in Golden Pages. Subject to the conditions to the restructure agreement being satisfied, at completion of the restructure (which is expected to occur in approximately two to three months) Golden Pages will cease to be a subsidiary of the Company and the Company will retain only a nominal interest in Golden Pages. Accordingly, and subject to completion occurring, following the restructure the Company's principal investment will be its 57.1% interest in eircom.

In the first quarter of this year, the Company implemented a return of capital to Shareholders of \$0.60 per Share, aggregating \$100.7 million. At that time, the Board indicated that it intended to review the Company's level of cash reserves and the Company's ongoing cash requirements with a view to later this year making a determination of the amount of additional surplus capital that should be returned to Shareholders.

As set out in the Company's letter to Shareholders dated 7 July 2009, the Company indicated that it proposed to return to Shareholders a further \$0.80 per Share (aggregating approximately \$134 million) in September this year. This Notice of Meeting seeks approval for this Return of Capital.

As at the date of this Notice of Meeting, the Company holds approximately \$170 million in available cash reserves which is not earmarked for any other investment from which the \$134 million return of capital amount will be funded. Following the Return of Capital, the Company will retain approximately \$36 million to ensure that the Company has ample reserves to satisfy its ongoing operating costs and liabilities.

The Company also noted in its letter to Shareholders dated 7 July 2009 that it was continuing to engage with Singapore Technologies Telemedia (**STT**) in relation to an incomplete, non-binding and indicative proposal from STT to acquire the entire issued share capital of the Company, which in its current form is not supported by the Board. Discussions with STT in relation to its proposal are continuing with a view to STT improving its proposal. However, the Board can give no assurance that a change of control proposal that is recommended by the Board will result from further discussions with STT. The Board does not consider that the Return of Capital to Shareholders will have any bearing on the outcome of those continuing discussions.

## 2 KEY DETAILS OF THE RETURN OF CAPITAL

The return of capital amount, namely \$0.80 per Share, will apply equally to each Shareholder in proportion to the number of Shares they hold on the Record Date.

As the Company has 167,904,914 Shares on issue, this will result in approximately \$134,323,931 being returned to Shareholders.

All Shareholders are entitled to vote on the Resolution. The Resolution must be passed as an ordinary resolution, that is a majority of votes cast on the Resolution must be in favour of the Resolution.

If Shareholder approval is obtained, the Return of Capital is expected to be made on 30 September 2009.

## 3 REASONS FOR THE RETURN OF CAPITAL

The sole purpose of the Return of Capital is to distribute the Company's excess cash reserves to Shareholders. The Board does not consider that further investments or acquisitions would be a better use of the Company's surplus capital than the Return of Capital.

The Board has considered a range of alternative ways of returning capital to Shareholders, but has concluded that the Return of Capital supports this objective because:

- the \$134 million proposed to be returned essentially represents capital that has formed part of the Company's "issued capital" since its IPO in 2005. This capital was originally intended to be used for acquisitions or investments by the Company, but with subsequent economic and financial market changes it is now not anticipated to be required for this purpose;

- given that the Company is unlikely to consider any further acquisitions or investments in the near future, the Board believes that the return of these surplus funds to Shareholders is prudent in terms of an appropriate capital management strategy; and
- as at the date of this Notice of Meeting, the Company does not have profits available to enable a dividend to be declared.

#### **4 RECOMMENDATION**

Each of the Directors considers himself justified in making a recommendation concerning the Resolution. The Board unanimously recommends that Shareholders vote in favour of the Resolution.

#### **5 TIMETABLE**

Subject to Shareholders approving the Return of Capital, the following indicative timetable will apply.

Event	Date
Shareholders' Meeting to approve the Return of Capital	15 September 2009
Shares trade on "ex" Return of Capital basis	17 September 2009
Record Date for determining entitlements to participate in the Return of Capital	23 September 2009
Despatch date for payment of Return of Capital	30 September 2009

These dates are indicative only and may change.

If the Return of Capital is approved by Shareholders, the payment of the Return of Capital will ordinarily be satisfied by sending a cheque to those persons who are Shareholders as at the Record Date.

However, Shareholders that have an existing direct credit authority for the payment of dividends on their Shares recorded with the Registry on the Record Date will have the capital returned on their Shares credited to their nominated bank account.

Cheques and direct credit advices will be sent by mail to Shareholders to the address as it is shown on the Register on the Record Date.

#### **6 WHAT IS THE EFFECT OF THE RETURN OF CAPITAL ON THE COMPANY?**

As at the date of this Notice of Meeting, the Company has 167,904,914 Shares on issue. The number of Shares on issue will not change as a result of the Return of Capital because no Shares will be cancelled under the Return of Capital. As all of the Shares are fully paid, the Return of Capital does not involve a reorganisation that gives rise to fractional entitlements.

After the Return of Capital, the Company's paid up share capital account will be reduced by approximately \$134 million to approximately \$599 million.

As at the date of this Notice of Meeting, the Company has 2,000,000 options on issue. The number of options on issue will not change as a result of the Return of Capital, however the exercise price of all options will be reduced by \$0.80 in accordance with ASX Listing Rule 7.22.3.

#### **7 FINANCIAL IMPLICATIONS OF THE RETURN OF CAPITAL**

The Return of Capital will be sourced from the Company's available cash reserves at the time the Return of Capital is made. The Return of Capital will reduce both the Company's share capital account and cash reserves by approximately \$134 million.

As at the date of this Notice of Meeting, the Company had cash reserves of approximately \$170 million. The Board has decided that it is prudent to retain for the time being the balance of its cash reserves after the Return of Capital of approximately \$36 million.

In determining the Return of Capital and the level of cash reserves to be retained, the Board has had regard to its present and future liabilities, the ongoing costs associated with the management of the Company, the costs associated with implementing any corporate actions and any claims against the Company.

The Board believes that the Return of Capital will not materially prejudice the Company's ability to pay its creditors as the Company is using its existing cash reserves to fund the Return of Capital and will retain sufficient cash reserves to meet its ongoing costs and obligations for many years.

## 8 APPROVALS REQUIRED TO IMPLEMENT THE RETURN OF CAPITAL

Under section 256B(1) of the Corporations Act, the Company may reduce its share capital if the reduction:

- (a) is fair and reasonable to Shareholders as a whole;
- (b) does not materially prejudice the Company's ability to pay its creditors; and
- (c) is approved by Shareholders under section 256C of the Corporations Act.

In relation to these requirements:

- (a) the Board considers that the Return of Capital is fair and reasonable to Shareholders as a whole because it will apply to all Shareholders equally having regard to the number of Shares held by Shareholders on the Record Date.
- (b) the Board believes, after having made enquiry, that the Company has sufficient cash reserves to pay the Return of Capital without materially prejudicing the Company's ability to pay its creditors. The Company has no bank debt and, as previously advised to Shareholders and the ASX, the debt and banking facilities of eircom and Golden Pages are non-recourse to the Company.
- (c) the Resolution seeks the approval of Shareholders as required under section 256C of the Corporations Act.

In accordance with section 256C of the Corporations Act, a copy of the Notice of Meeting has been lodged with the Australian Securities & Investments Commission (ASIC).

## 9 TAX IMPACT OF RETURN OF CAPITAL

The Company has sought a Class Ruling from the Australian Taxation Office (ATO) as to the tax implications of the Return of Capital for Shareholders. The Class Ruling is expected to be received prior to the Shareholders' Meeting. However, for specific advice, Shareholders should consult their own taxation adviser so that their particular circumstances are taken into consideration.

Specifically, the Class Ruling application requests confirmation that no part of the Return of Capital will be treated as a dividend for Australian tax purposes. On the basis of this being confirmed by the ATO, Shareholders should not be liable to tax on receipt of the Return of Capital, subject to the comments below.

The cost base of each Share held by a Shareholder will be reduced by the amount of the Return of Capital received per Share.

If the amount of the Return of Capital exceeds the cost base that a Shareholder has in a Share, the Shareholder will make a capital gain equal to that excess and the Shareholder's cost base in the Share will be reduced to nil. Any such capital gain may qualify as a discount capital gain depending on the nature of the Shareholder and whether that Shareholder has held the Share for at least 12 months before receiving the payment.

If the amount of the Return of Capital is less than the cost base that a Shareholder has in a Share, the Shareholder's cost base and reduced cost base in the Share will be reduced by the amount of the capital per Share. Although such a reduction does not give rise to an immediate taxation liability, the reduction is likely to result in an increased capital gain or reduced capital loss on a future disposal of Shares.

## 10 DIRECTOR SHAREHOLDINGS

The following table sets out the holdings (direct and indirect) in Shares by Directors at the date of this Notice of Meeting.

Director	No of Shares	No of Options
K Roxburgh	Nil	1,000,000
G Clark	Nil	1,000,000
A Love	Nil	Nil
A Day	Nil	Nil

No Director will receive any payment or benefit of any kind as a consequence of the Return of Capital other than as set out below.

As set out above, Mr Roxburgh and Mr Clark each hold 1,000,000 options issued by the Company. If the Return of Capital is implemented, the exercise price of those options will be reduced by \$0.80 in accordance with ASX Listing Rule 7.22.3. The current exercise price of the options is \$4.40.

As set out in the Company's notice of meeting dated 26 March 2009 in relation to the internalisation of the Company's management, Mr Andrew Day, under his Service Agreement with the Company, is entitled to receive a cash payment upon a vesting condition being satisfied equal to the value of 1,500,000 Shares, determined by reference to the 30 day volume weighted average price of Shares as at the date the vesting condition is satisfied. The relevant vesting conditions are fully described in the Company's 26 March 2009 notice of meeting, but generally include the Company implementing a change of control transaction or the Company's Share price exceeding \$5.00 for 20 consecutive Business Days during the term of Mr Day's two year Service Agreement (less the aggregate amount of any capital returns made by the Company during the term of the Service Agreement).

Also, if a vesting condition is satisfied during the term of the Service Agreement, Mr Day will be entitled to receive a cash payment equivalent the aggregate amount of all distributions, dividends and capital returns made by the Company during the term of Mr Day's Service Agreement as if he had participated in those distributions as a holder of 1,500,000 Shares. Accordingly, if the Return of Capital is approved and a vesting condition is subsequently satisfied during the term of Mr Day's Service Agreement, Mr Day will be entitled to a cash payment equal to \$1,200,000 (in addition to any other distributions the Company makes during the term of Mr Day's Service Agreement).

## **11 OTHER MATERIAL INFORMATION**

There is no other information material to the making of a decision by Shareholders whether or not to vote in favour of the Return of Capital (being information that is known to the Board which has not previously been disclosed to holders of Shares) other than as set out in this Notice of Meeting.

## **12 DEFINITIONS**

**\$** or **cents** means Australian currency unless otherwise specified.

**ASX** means ASX Limited ABN 98 008 624 691.

**ATO** means Australian Taxation Office.

**Board** means the board of directors of the Company as at the date of this Notice of Meeting, being Kerry Roxburgh, Gregory Clark, Andrew Love and Andrew Day.

**Business Day** means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney.

**Company** means eircom Holdings Limited ABN 31 112 119 203.

**Corporations Act** means *Corporations Act 2001* (Cth).

**Director** means a director of the Company as at the date of this Notice of Meeting.

**eircom** means eircom Group Limited.

**Golden Pages** means G.P.M. Classified Directories (Management and Marketing) Ltd, a company incorporated in Israel.

**Listing Rules** means the Official Listing Rules of the ASX.

**Notice of Meeting** means this notice of meeting and explanatory statement issued by the Company in relation to the Return of Capital.

**Record Date** means 23 September 2009.

**Register** means the register of Shareholders maintained by the Registry.

**Registry** means Link Market Services Limited.

**Resolution** means the Resolution to approve the Return of Capital set out in the Notice of Meeting.

**Return of Capital** means the proposal to return capital to Shareholders as more fully described in this Notice of Meeting.

**Shares** means fully paid ordinary shares in the Company.

**Shareholder** means a person who is registered in the Register as a holder of Shares.

**Shareholders' Meeting** means the meeting of Shareholders convened by the Board to consider and vote on the Return of Capital.

