

## Carbon trading needs the market makers

### Opinion

Scott Farrell

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But no one should assume the development of a deep and liquid carbon market is guaranteed. There is a difference between these initial – perhaps symbolic – trades and the volume and size of trades necessary to form the functioning market that can deliver the expected policy outcome: a reduction in carbon emissions.

A key to a deep and liquid market in a financial instrument is the involvement of more participants than just those who have an existing exposure (known as a natural hedge) to the risk being traded – in this case, the big emitters of carbon.

These other participants are the so-called market makers, who respond to the natural buyers and sellers by being prepared to enter into both buy and sell transactions at the right price. Most properly functioning markets have them. The emissions trading scheme needs to encourage the participation of market makers in order to be able to perform its price discovery and resource allocation functions effectively.

Market makers look at financial instruments in a different way to those participants who are naturally exposed to the risks. They are less worried about the relationship between the instrument and the real world. In the market makers view, what is more important is that the instrument maintains a value that behaves in a predictable way in response to changes in observable and understood variables, rather than arbitrary factors.

To a market maker considering the emissions trading scheme, at least a

couple of features could provide cause for concern.

One is that emissions units have a value that is definable only by the law – just like our currency. However, it might be some time before emissions units have the same collective assumption of value as exists with the currency.

Another possible disincentive is that the value of emissions units is realised only at their maturity, and the surrender value is the right for emitters of carbon to avoid a penalty. This means that on maturity, emissions units have no value for entities that do not emit carbon. If these entities hold them at that time then their value will be lost. Consequently as the maturity date approaches, market liquidity is affected and unit prices can behave unpredictably.

A third factor involves the role of government. Market makers could be concerned that the government has sole responsibility for the creation and pricing of emissions units, or for linking the emissions trading scheme to trading systems overseas.

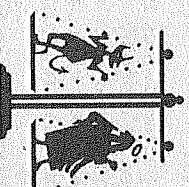
On one hand, the creation of structures to allow Australian emissions units to be converted into internationally traded units will be seen as a plus, as an increase in market size holds clear benefits. On the other hand, exposure to international markets means that unit value can be affected by international risks.

Hard-bitten sceptics might also find it hard to ignore the possibility that some future government could decide to increase the number of permits on issue or scrap the scheme altogether, in effect removing all value from the emissions units already on issue.

The architects of Australia's emissions trading system need to look at the way that its structure could inhibit the formation of a real market. Emissions units don't just need to be tradeable. They need to be traded.

■ *Scott Farrell is a partner in the Sydney office of Malletts Stephen Jaques.*

## King rings a bell, but never heard of Queen



### HEARSAY

SW Supreme Court judge Bob Austin is clearly not a fan of *Spicks & Specks*.

Austin has been hearing a curious dispute between two music promoters concerning whether a trust holds intellectual property (IP) rights in two Queen tribute acts – “Queen It’s a Kinda Magic” and “Champions of the World”.

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QIAM is now performing a series of shows in the Nelson Mandela Theatre in Johannesburg, but its Newcastle-based promoter, Peter Anderson is seeking to prevent another promoter cashing in on the tour's profits. His lawyer Nick Weston succeeded last week in an application before Austin for the tour proceeds to be preserved pending resolution of the dispute.

While the case is complicated – the IP issues have been combined with arguments about breach of contract, breach of fiduciary duty and oppression – Austin was struggling at the first hurdle... working out just what Queen was all about.

During the hearing earlier this month, Adam Bell, SC, described Anderson's company to Austin as one that “carried on the business of conducting tribute shows for the rock band Queen. That involved performing a collection of songs written by Queen and generally trying to recreate the atmosphere of a Queen concert.”

Austin was flummoxed. “You shouldn't assume I know anything about popular culture. I try to know but I'm afraid somehow pop music and I parted company at about the time Elvis went into the army,” he said.

Bell continued: “About a decade or more after that, there was an English band called Queen which achieved some fame. There has sprung up since its heyday a number of tribute shows for that band. That involves a number of performers performing songs written by Queen, and wearing costumes similar to those worn by Queen, and trying to recreate the atmosphere of a Queen concert.”

While Austin granted the injunction, Hearsay can only assume he never attended a Queen concert, preferring the gyrations

of The King to the guitar solos of Brian May.

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The real Queen, who many believe were even better than the tribute acts.

not be a vote-winning move, and it won't save you much in costs,” he said. Such a move would cause a rebellion – Clayton Utz's biscuits are some of the best in the business. Respondents to RollOnFriday's Australian law firm survey (it is on again) scored them 75 per cent. The best biscuits are at Arnold Bloch Leibler and Gilbert + Tobin.

### Over analysis

And while we are on the *AJR* legal conference, Corrs Chambers Westgarth head honcho John Denton had a go at lawyers' insular minds. “There is a habit for lawyers to intensely analyse,” he told the audience. “It is the nature of lawyers themselves. Anxious-ridden, neurotic people who are only fully happy when someone rings them because they know they are still wanted and needed. They are always comparing themselves to other lawyers. But let's look outside the sector, for heaven's sake, as we are part of a robust and driving Australian economy.”

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But Mahathir hit back at Chin on his blog ([www.chedet.com](http://www.chedet.com)). He said there were no boot camps, only “national creed” courses. “For three to five days the participants stayed in the camps and followed certain programs,” Mahathir explained. “This included getting up very early in the morning for prayers for Muslims, physical exercises and many hours of lectures. One of the chores was to wash your own dirty plates after a simple meal... I was told by a judge in the same batch as Chin that he absconded before the course was over. Perhaps he did not like getting up early and washing his own dirty plates... The course clearly did not have a positive effect on him.”

Attorney-General Robert McClelland's suggestions for beefing up case management look tame by comparison.

Edited by James Evers  
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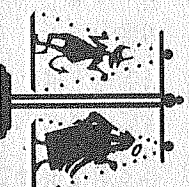
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