

Submission to Hayne Inquiry re Interim Report of 28 September misconduct by Stephen Lewis Matthews

I do not agree with the statement that "The conduct regulator , ASIC, rarely went to court to seek public denunciation of and punishment for misconduct".

I suggest that the Commissioner examine the extensive and cynical use of the courts by ASIC to punish only those with limited financial resources.

I use the word cynical because the original *ex-parte* proceedings when I was publisher of internet chat site *The Chimes* – commenced in February 1999 in the Federal Court – were commenced without my knowledge before the trial judge Ron Sackville .That is to say when internet chat rooms were emerging like mushrooms – in response to the then evident community need- ASIC did not choose to exercise the "How can this be resolved by agreement?" option . No, ASIC chose in the dead of night to seek a declaration that the postings in just one site -*the Chimes*- constituted a breach of the Corporations Act ie conducting a financial services business without a license. Thankfully, Justice Sackville required ASIC to serve the requisite documents upon me. It was a dishonest act in my view and coloured my future (court) actions in resisting what I considered and still consider to be a dishonest regulator.

Perhaps the Commissioner could ask ASIC why it chose to release its Regulatory Guide 162 twelve days after my release from jail or how six months later- in 2001- it could justify the expenditure of public money in pursuing a case against someone – again with limited financial resources- who the facts and circumstances will reveal was operating within the confines of their RG 162.

[RG 162 Internet discussion sites | ASIC - Australian Securities and ...](https://asic.gov.au/regulatory-resources/find-a.../rg-162-internet-discussion-sites/)

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Aug 15, 2000 - how we approach the regulation of **internet discussion sites** (IDS); that this policy applies only to Australian IDS; what type of IDS can operate ...

Regarding the most recent case – launched in November 2008 – when 2 ASIC officers presented the court summons at my office I asked them in exasperation "so how long have you been working on this ?" They freely admitted that over the previous 3 months they had contacted most of the recipients of the subject 1650 letters. If the Commission chooses to investigate the matter

I submit that this ASIC behaviour evidences an expensive witchhunt. Their \$70,000+ in legal costs will never be recovered. ASIC refuses to chase me for their substantial \$300,000 in costs racked up since 1999.

I suggest that you ask ASIC why?

- [Australian Securities & Investments Commission v Matthews \[1999\] FCA 164 \(19 February 1999\)](#)

[Federal Court of Australia](#) (AustLII) 19 February 1999 16 KB [LawCite](#)

Relevance: 100%

- [Asic v Matthews \[2001\] NSWSC 735 \(30 August 2001\)](#)

[Supreme Court of New South Wales](#) (AustLII) 30 August 2001 59.2 KB [LawCite](#)

Relevance: 88%

- [ASIC v Matthews \[2009\] NSWSC 77 \(25 February 2009\)](#)

[Supreme Court of New South Wales](#) (AustLII) 25 February 2009 62.8 KB [LawCite](#)

Relevance: 76%

- [Matthews v ASIC \[2009\] NSWCA 155 \(22 June 2009\)](#)

[Supreme Court of New South Wales - Court of Appeal](#) (AustLII) 22 June 2009 183 KB [LawCite](#)

Relevance: 70%

- [Australian Securities & Investments Commission v Matthews \[1999\] FCA 803 \(16 June 1999\)](#)

[Federal Court of Australia](#) (AustLII) 16 June 1999 34.8 KB [LawCite](#)

Relevance: 58%

- [Matthews v Australian Securities & Investments Commission \[1999\] FCA 1674 \(17 November 1999\)](#)

[Federal Court of Australia](#) (AustLII) 17 November 1999 12.5 KB [LawCite](#)

47%

Relevance:

- [Matthews v Australian Securities & Investments Commission \[2000\] FCA 288 \(17 March 2000\)](#)

[Federal Court of Australia](#) (AustLII) 17 March 2000 58.9 KB [LawCite](#)

Relevance: 47%

- [Asic v Matthews \[1999\] NSWSC 763 \(26 July 1999\)](#)

[Supreme Court of New South Wales](#) (AustLII) 26 July 1999 16.3 KB [LawCite](#)

41%

Relevance:

- [Matthews v Australian Securities and Investments Commission \[2009\] HCATrans 197 \(17 August 2009\)](#)

[High Court of Australia Transcripts](#) (AustLII) 17 August 2009 35 KB [LawCite](#)

23%

Relevance:

- [Asic v Matthews \[2000\] NSWSC 392 \(4 May 2000\)](#)

[Supreme Court of New South Wales](#) (AustLII) 4 May 2000 16.3 KB [LawCite](#)

[Australian Securities & Investments Commission v Matthews \[1999\] FCA 706 \(27 May 1999\)](#)

[Federal Court of Australia](#) (AustLII) 27 May 1999 29.6 KB [LawCite](#)