

3 January 2023

Mr. Dale Wang  
ASX Limited  
By email:  
[ListingsComplianceMelbourne@asx.com.au](mailto:ListingsComplianceMelbourne@asx.com.au)  
[Dale.Wang@asx.com.au](mailto:Dale.Wang@asx.com.au)

Dear Sir,

**Response to ASX Aware Query**

Thank you for your letter dated 30 December 2022.

PointsBet Holdings Limited (the Company) provides the following responses to the queries in your letter (copy appended):

1. *Does PBH consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?*

**No.**

2. *If the answer to question 1 is “no”:*

2.1 Please advise the basis for that view; and

***PBH is of the view that a reasonable person would not expect the information in the Announcement to have a material effect on the price or value of its securities. This view is formed on the basis that:***

- ***the information concerns discussions which are preliminary and incomplete in nature;***
- ***there is no certainty that the discussions will result in any transaction and, if a transaction does result, when such a transaction would occur and on what terms and conditions; and***
- ***the information is insufficiently definite to warrant disclosure.***

***As noted in the Announcement, as part of its ordinary course of business, PBH routinely explores options to maximise value for shareholders including evaluating proposals from third parties that are received from time to time. This includes regularly engaging with various stakeholders and third parties on various strategic opportunities and potential transactions that can improve its business and drive shareholder value.***

***PBH is committed to transparent communication with its shareholders including, where appropriate, ensuring that information about the Company which is in the public domain is accurate and not misleading.***

***The Article contained some specific references which the Company sort to clarify via the Announcement given the preliminary and incomplete nature of the Discussions. This included the reference that: “PointsBet is on the verge of being broken up”.***

*As noted above, while the Company does not consider the information in the Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, the Announcement was released to clarify that: (i) the Discussions are preliminary and incomplete; (ii) as part of its ordinary course of business it routinely explores options to maximise value for shareholders including evaluating proposals from third parties that are received from time to time; and (iii) that any potential transaction will be assessed in the context of PointsBet's global strategy and opportunities.*

2.2 Please explain why PBH classified the Announcement as market sensitive when it was lodged on MAP.

*Due to an internal administrative error, the Announcement was incorrectly marked as market sensitive at the time of lodging the Announcement on the ASX Market Announcements Platform. PBH considers that the more appropriate view is that a reasonable person would not expect the information in the Announcement to have a material effect on the price or value of its securities.*

*PBH has reviewed its internal procedures to ensure that this administrative error does not recur.*

3. *When did PBH first enter into the Discussions?*

**On or around 16 November 2022.**

4. *If the answer to question 1 is "yes" and PBH first entered into the Discussions before 28 December 2022, did PBH make any announcement prior to that date which disclosed the Information? If so, please provide details. If not, please explain why the Information was not released to the market at an earlier time, commenting specifically on when you believe PBH was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps PBH took to ensure that the Information was released promptly and without delay.*

**The answer to question 1 is "no", therefore this question is inapplicable.**

5. *If the answer to question 1 is "yes" and PBH first entered into the Discussions before 2:45 pm AEDT on 23 December 2022:*

5.1 *Did PBH consider the Information to be information concerning it which had not been announced to the market which, if known by some in the market, could explain the recent trading in its securities referred to in the ASX Price Query Letter?*

5.2 *If the answer to question 5.1 is "no", please advise the basis of this view.*

5.3 *If the answer to question 5.1 is "yes", please explain why the Information was not disclosed in the Response in PBH's answers to questions 1 and 3 of the ASX Price Query.*

5.4 *Was PBH asked by The Australian to comment on the Article or any of the matters disclosed in it prior to its publication and, if so, when?*

5.5 *If the answer to question 5.4 is that PBH was asked by The Australian to comment earlier than 2:45 pm AEDT on 23 December 2022:*

5.5.1 *Did PBH consider that the enquiry from The Australian could indicate that the Information may no longer be confidential? If not, please advise the basis for this view.*

5.5.2 *Did PBH consider the enquiry from The Australian or the prospect of the Article being published (or both) to be information relevant to PBH's answer to questions 1 or 3 of the ASX Price Query? If not, please advise the basis for this view.*

5.5.3 *If the answer to question 5.5.1 or 5.5.2 (or both) is “yes”, please explain why the enquiry from The Australian and the prospect of the Article being published was not a trigger for disclosure of the Information either in the answer in the Response to questions 1 or 3 of the ASX Price Query or in a separate market announcement.*

**The answer to question 1 is “no”, therefore this question is inapplicable.**

6. *Please confirm that PBH is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

**We confirm that the Company is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

7. *Please confirm that PBH’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of PBH with delegated authority from the board to respond to ASX on disclosure matters.*

**Confirmed.**

Yours faithfully,



Andrew Hensher  
Group General Counsel and  
Company Secretary

**Attachment: PointsBet Holdings Limited ('PBH'): Aware Query**



30 December 2022

Reference: 66073

Mr Andrew Hensher  
Group General Counsel and Company Secretary  
PointsBet Holdings Limited  
Level 2, 165 Cremorne Street  
Cremorne VIC 3121

By email: [andrew.hensher@pointsbet.com](mailto:andrew.hensher@pointsbet.com)

Dear Mr Hensher

**PointsBet Holdings Limited ('PBH'): Aware Query**

ASX refers to the following:

- A. PBH's announcement entitled "Response to Media Speculation" lodged on the ASX Market Announcements Platform ('MAP') and released at 8:47 am AEDT on 28 December 2022 (the 'Announcement'), which disclosed that PBH is currently in discussions with NTD Pty Ltd ('NTD'), owners and operators of Australian wagering operator Betr, regarding a potential transaction involving the sale of PBH's Australian trading business ('Information' or 'Discussions', as the context requires).
- B. The news article published by The Australian at 6:46 pm AEDT on 23 December 2022 entitled "Betr set to make play for Australian arm of PointsBet", which was the trigger for release of the Announcement (the 'Article').
- C. ASX's letter to PBH dated 23 December 2022 requesting that PBH respond to a series of questions under Listing Rule 18.7, in light of changes in the price of PBH's securities and the significant increase in the volume of PGH's securities traded from 15 December 2022 to 23 December 2022 ('ASX Price Query').
- D. PBH's response to the ASX Price Query dated 23 December 2022, received by the writer at 2:45pm AEDT and released on MAP at 2:58 pm AEDT on 23 December 2022 ('Response').
- E. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- F. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*

- G. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*

- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

3.1A.3 *A reasonable person would not expect the information to be disclosed."*

H. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

*"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule."*

#### **Request for information**

Having regard to the above, ASX asks PBH to respond separately to each of the following questions and requests for information:

1. Does PBH consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is "no":
  - 2.1 Please advise the basis for that view; and
  - 2.2 Please explain why PBH classified the Announcement as market sensitive when it was lodged on MAP.
3. When did PBH first enter into the Discussions?
4. If the answer to question 1 is "yes" and PBH first entered into the Discussions before 28 December 2022, did PBH make any announcement prior to that date which disclosed the Information? If so, please provide details. If not, please explain why the Information was not released to the market at an earlier time, commenting specifically on when you believe PBH was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps PBH took to ensure that the Information was released promptly and without delay.
5. If the answer to question 1 is "yes" and PBH first entered into the Discussions before 2:45 pm AEDT on 23 December 2022:
  - 5.1 Did PBH consider the Information to be information concerning it which had not been announced to the market which, if known by some in the market, could explain the recent trading in its securities referred to in the ASX Price Query Letter?
  - 5.2 If the answer to question 5.1 is "no", please advise the basis of this view.
  - 5.3 If the answer to question 5.1 is "yes", please explain why the Information was not disclosed in the Response in PBH's answers to questions 1 and 3 of the ASX Price Query.
  - 5.4 Was PBH asked by The Australian to comment on the Article or any of the matters disclosed in it prior to its publication and, if so, when?

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5.5 If the answer to question 5.4 is that PBH was asked by The Australian to comment earlier than 2:45 pm AEDT on 23 December 2022:

5.5.1 Did PBH consider that the enquiry from The Australian could indicate that the Information may no longer be confidential? If not, please advise the basis for this view.

5.5.2 Did PBH consider the enquiry from The Australian or the prospect of the Article being published (or both) to be information relevant to PBH's answer to questions 1 or 3 of the ASX Price Query? If not, please advise the basis for this view.

5.5.3 If the answer to question 5.5.1 or 5.5.2 (or both) is "yes", please explain why the enquiry from The Australian and the prospect of the Article being published was not a trigger for disclosure of the Information either in the answer in the Response to questions 1 or 3 of the ASX Price Query or in a separate market announcement.

6. Please confirm that PBH is complying with the Listing Rules and, in particular, Listing Rule 3.1.

7. Please confirm that PBH's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of PBH with delegated authority from the board to respond to ASX on disclosure matters.

#### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 am AEDT Monday, 9 January 2023**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, PBH's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require PBH to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsComplianceMelbourne@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

#### **Trading halt**

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in PBH's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

#### **Suspension**

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If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in PBH's securities under Listing Rule 17.3.

**Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to PBH's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that PBH's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

**Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

**Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

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**Dale Wang**  
Adviser, Listings Compliance