

2 February 2024

Dear Sirs,

We refer to your letter dated 24 January 2024 and the Request for Information. Adopting the same numbering under the Request for Information section ANO responds as follows:

1. The “Information” was price sensitive in the context of it needing to be disclosed given ANO is currently the subject of a takeover bid from Ankla Pty Ltd, a related entity of ANO director, Lev Mizikovsky. As a result there is an enhanced need for fulsome disclosure by ANO to the market, to ensure that the market has the same level of information as Mr Mizikovsky. Information about the cancelled Deveraux orders and the expected impact on sales is an example of such an instance where this enhanced disclosure principle is to be applied. For this reason, ANO “ticked the box” that the announcement was *price sensitive*.

The “Information” was negative in a sense, so the Information (being negative) would not lead a reasonable person to expect the share price to increase. It was also not going to lead a reasonable person to think the share price would go down given Ankla’s standing offer to buy at \$1.05. Therefore, in the LR 3.1 context and the unique circumstances at the time, a reasonable person would not expect the Information to have a material effect on the price or value of ANO’s securities. The corollary of this is that timeliness requirements of LR 3.1 do not strictly apply. Nonetheless, as set in the response to question 4, ANO treated the matter with a high degree of urgency

In terms of the specifics of the cancelled Deveraux orders, whilst ANO was confident that the majority of cancelled orders would be recouped in 2nd half FY24, the exact timing of this and how it will happen was not known with confidence as at 10 January 2024, hence the need for ANO to take a conservative approach and to update the market on the potential impact on immediate sales (once it had undertaken an analysis of the overall impact of the cancelled orders). As mentioned above, this conservative approach was driven by the enhanced expectations placed on ANO around disclosure given the takeover process underway.

It is worth noting that only 3,077 ANO shares traded during the trading day after the announcement was released (between \$1.02 and \$1.04), and only 2,000 shares ANO traded in the morning prior to the release of the announcement. With the retrospective benefit of this information and the knowledge of the unique circumstances presented by Ankla and its takeover offer at the time, it is curious to ANO why ASX would be now applying such intense regulatory oversight in respect of this announcement.

2. Not applicable
3. 8:30am on 10 January 2024. For clarity, the times mentioned in answers questions 3 and 4 are all Brisbane time.

4. The question being asked here is difficult to ascertain however we understand it to primarily relate to whether the announcement was released promptly and without delay upon ANO becoming aware of the cancelled orders from Deveraux. The timeline of events from receipt of the email from Deveraux at 8:30am is set out below:
 - a) The managing director, Geoff Acton, became aware of the email at 8:30am.
 - b) Mr Acton swiftly instructed ANO's accounts team to determine the impact to revenue caused by the cancelled orders. This task required the accounts team to work through which orders were cancelled and timing of invoices for those orders, and took approximately 60 minutes to complete.
 - c) Once in receipt of the necessary information from the accounts team and knowing the estimated impact the 1st Half FY24 sales estimate, from approximately 9:40-10:10am Mr Acton prepared a draft ASX announcement.
 - d) Mr Acton then proceeded to try to contact non-executive director Rade Dudurovic to discuss the order cancellations and the proposed ASX announcement. Mr Acton placed missed calls to Mr Dudurovic at 10:14am and again at 10:33am.
 - e) Mr Dudurovic returned Mr Acton's call at 10:52am and was appraised of the matter and read the draft announcement over the phone as he was not in front of a computer. On that call Mr Dudurovic gave his verbal approval to release the announcement.
 - f) Unfortunately, non-executive director Linda Barr was overseas in the USA and could not respond due to the time difference.
 - g) The announcement was sent to the ASX at 11:07am.
5. ANO confirms that it is complying with the Listing Rules and, in particular, Listing Rule 3.1
6. ANO's responses above have been authorised and approved by its board.

Regards,



Geoff Acton
Managing Director



24 January 2024

Reference: 86851

Mr Geoff Acton
Managing Director
Advance ZincTek Limited
1821 Ipswich Rd
Rocklea QLD 4106

By email: geoff@antaria.com

Dear Mr Acton

Advance ZincTek Limited ('ANO'): General – Aware Query

ASX refers to the following:

- A. ANO's announcement titled "Advance ZincTek Ltd Market Update" lodged on the ASX Market Announcements Platform and released at 5:32 PM on 9 October 2023 disclosing a first half sales estimate for ANO of approximately \$6.9 million.
- B. ANO's announcement titled "USA Update" lodged on the ASX Market Announcements Platform and released at 12:16 PM on 10 January 2024 (the 'Relevant Date'), disclosing:
 - i. that at 8:30 am on 10 January 2024, ANO were notified by distributor Deveraux Specialities that the majority of their orders had been cancelled with an impact on first half sales estimated to be \$1.2 million; and
 - ii. \$5.5 million total revenue for the first half of FY24 based on unaudited management accounts, (together, the 'Information').
- C. 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.
- D. 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."
- E. 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;*

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- *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.”*
- F. 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 ANO to respond separately to each of the following questions and requests for information:

1. Does ANO 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”, please advise the basis for that view.
3. When did ANO first become aware of the Information?
4. If the answer to question 1 is “yes” and ANO first became aware of the Information before the Relevant Date, did ANO make any announcement prior to the Relevant Date which disclosed the Information? If so, please provide details. If not, please explain why this Information was not released to the market at an earlier time, commenting specifically on when you believe ANO was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps ANO took to ensure that the Information was released promptly and without delay.
5. Please confirm that ANO is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that ANO’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 ANO 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 **5:00 PM AEDT Monday, 29 January 2024**. 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, ANO’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out in this paragraph and may require ANO to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsComplianceSydney@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 ANO's securities under Listing Rule 17.1. If you wish to request 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

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

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to ANO'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 ANO'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

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Yours sincerely

ASX Compliance