

27 March 2024

Ms. Yulia Gurdina
Senior Adviser, Listings Compliance (Sydney)
ASX Compliance Pty Ltd

Via Email: <u>ListingsComplianceSydney@asx.com.au</u>

Dear Yulia

Zoono Group Limited ('ZNO'): Query Letter

We refer to your ASX's Query Letter dated 25 March 2024 and, using the numbering contained in your letter, responds as follows:

- 2NO entered the Renegotiated Agreement with Zoono USA LLC in relation to the US distributorship on 25 January 2023. It took effect from 31 December 2022.
- 1.2. ZNO, through its (now) wholly owned subsidiary, Zoono Holdings USA LLC, bought back its US distribution business from Zoono USA LLC (a US company owned by a consortium of independent investors, all of whom are independent of and unrelated to ZNO).
- 1.3. The amount of US\$910,000 is effectively a commission (10%) on future sales made by Zoono Holdings USA LLC. Payments are to be made on a quarterly basis when sales are made in the US by Zoono Holdings USA LLC. For example, if US\$10,000 of sales are made in the US during a quarter then US\$1,000 would be payable to Zoono USA LLC for the quarter. If no sales are made in a quarter, no payment would be due.
 - Zoono Holdings USA LLC will need to earn sales revenues of US\$9.1m in sales before the full amount of US\$910,000 would be payable to Zoono USA LLC (and payments would be made quarterly as 10% of sales for the prior quarter).
- 1.4. ZNO restated the revised terms of the agreement with Zoono USA LLC, including that consideration of US\$60,000 was payable within "the next two quarters" in its 2024 Half-Year Report to provide context to the shift in the amounts recorded over the two years in the balance sheet. The same disclosure was made in its quarterly report lodged 31 January 2023 as the terms of the revised agreement with Zoono USA LLC remained unchanged (i.e. it was first disclosed following entering the agreement in January 2023 and was included in the Half Year Report for the period ended 31 December 2023 to provide context to the change in the provision).
- 1.5. ZNO included "all legacy issues ... prior to 1 November 2020 shall remain the responsibility of Zoono USA LLC" in its revised agreement with Zoono USA LLC to protect itself in the event any claims, liabilities or other issues relating to or arising from the conduct by Zoono USA LLC of its business in the US prior to the effective date of the Agreement arose after that date. No particular issues were contemplated at the time of concluding the original US Agreement and no issue relating to any matter which occurred prior to 1 November 2020 has subsequently had any impact on ZNO.



- 1.6. ZNO disclosed the revised agreement with Zoono USA LLC in its quarterly report lodged on 31 January 2023 following execution of the agreement on 25 January 2023. Given the volume of business then conducted in the US, that it was a renegotiation of the original US agreement and that no moneys were payable unless sales were made in the US by Zoono Holding USA LLC, ZNO did not consider the change in its US arrangements to be information that "a reasonable person would expect to have a material effect on the price or value of the entity's securities".
- Zoono Animal Health UK Limited is a distributor of ZNO products in that industry sector (in the same way that other unrelated entities are distributors of ZNO products in other territories and/or industry sectors). Zoono Animal Health UK Limited (which is licensed to use the Zoono name) is independent of and unrelated to ZNO.
 - It is ZNO's understanding that OSY Group Limited (OSY) has an interest in Zoono Animal Health UK Limited and that there are two common directors (Mr Marc Braterman and Mr Nolan Braterman). OSY has technology and expertise directly relevant to the use and application of ZNO products to both particular types of surfaces and spaces. Zoono Animal Health UK Limited is the entity through which OSY, in conjunction with the other shareholders in that entity, is introducing its technologies (in combination with ZNO products) into the animal health sector.
- 3. Listing Rule 10.11 is not relevant to the issue of shares to OSY as neither OSY nor Zoono Animal Health UK Limited is a related party of ZNO, neither has any present equity holding in ZNO nor is an associate of any related party (or substantial shareholder) of ZNO. Further, neither Mr Marc Braterman nor Mr Nolan Braterman holds any office in ZNO or is in any way related to or an associate of any related party (or substantial shareholder) of ZNO.
 - In addition, given none of OSY, Zoono Animal Health UK Limited or either Mark Braterman or Nolan Braterman is in a position to direct or influence the conduct by ZNO of its business, there is no basis on which ASX ought to use its discretion under Listing Rule 10.11.5 to require ZNO to obtain shareholder approval of a share issue to OSY.
- 4. If OSY does not meet the 'minimum annual customer purchases' for each territory stipulated in the OSY Agreement, OSY may lose its exclusive rights to that territory and/or ZNO may terminate the agreement with OSY.
- 5. While ZNO cannot enforce compliance by OSY with the minimum volumes in the agreement, ZNO does have the right to either strip OSY of its exclusivity or to terminate its agreement with OSY for any territory in which it does not meet its minimum volume benchmarks.

The minimum volumes contained in the OSY Agreement were set in conjunction with OSY and were based on OSY's expectations regarding:

- its existing customers and the annual volumes of ZNO product that those customers would require to meet their objectives; and
- the acquisition by OSY of additional customers within the timeframes.



ZNO regards the assumptions made by OSY in projecting its future requirements for ZNO products to be reasonable and, from a global perspective, it would only require some (and certainly not all) OSY customers to achieve their forecast volumes for OSY's requirements for ZNO products to achieve the minimum sales benchmarks.

6. ZNO considers that its financial condition is sufficient to warrant continued listing on ASX, as required under Listing Rule 12.2, despite its net loss after tax, decreased operating revenue, impairments and stock obsolescence.

ZNO is undertaking a rights issue to raise up to \$2.9M. Evolution Capital Pty Ltd has agreed to partially underwrite acceptances of the offer. On completion, ZNO expects to have sufficient cash resources to implement its current business plans.

In that context, as advised previously to the market, ZNO is currently working on some potentially material agreements for the supply of its products into the food supply chain sector in the UK and into other sectors in China and India. Overheads have also been substantially reduced over previous years.

The stock obsolescence relates to plastic bottles used principally for sales into the B2C sector. While online B2C sales have reduced significantly since the pandemic, the current inventories are still being utilised to reduce cash outlays for the ZNO products sold and, while the write down for stock obsolescence was regrettable, it has not of itself impacted the ability of ZNO to conduct or carry on its business.

Should current business eventuate as expected in the UK, China and India, the Company expects to be profitable in FY25.

- 7. As explained above, the US\$910,000 payable to Zoono USA LLC is only payable should Zoono Holdings USA LLC make sales in the US and, if it does, the only amount payable is a 10% commission on US sales. To that extent, the arrangement in the US is of no material relevance to ZNO's ability to fund its continuing operations.
 - In addition to its existing cash resources and its NZ\$500,000 standby facility from an entity associated with Paul Hyslop, as previously advised to the market, the Company is undertaking a rights issue to raise additional funds of up to \$2.9M. The rights issue is 50% underwritten by Evolution Capital.
- 8. ZNO's directors are of the view that ZNO is solvent and is able to pay its debts as and when they fall due.
- 9. There was a typographical error in ZNO's 2024 Half-Yearly Report in relation to its address (a previous address was used in error). ZNO's registered address is Level 8, 210 George Street, Sydney NSW 2000 Australia
- 10. ZNO confirms that it is complying with the Listing Rules and, in particular, Listing Rule 3.1.



11. ZNO's responses to the above questions and requests above have been authorised and approved by the Board of ZNO.

Yours sincerely

ZOONO GROUP LIMITED

Elissa Hansen

Company Secretary



25 March 2024

Reference: ODIN89149

Ms Elissa Hansen Company Secretary Zoono Group Limited

By email

Dear Ms Hansen

Zoono Group Limited ('ZNO'): Query Letter

ASX refers to the following:

- A. ZNO's response to ASX's query letter that was released on the ASX Market Announcements Platform ('MAP') on 13 February 2024 (the 'ZNO Response'). The capitalised terms in this letter have the same definitions as those in the ZNO Response, unless specified otherwise.
- B. ZNO's announcement titled "Zoono Signs Exclusive Agency Agreement with OSY Group" marked as sensitive and released on MAP on 6 March 2024, which disclosed that (relevantly):
 - (i) Zoono Group Limited (Company) (ASX: ZNO) is pleased to announce that it has entered into an Exclusive Agency Agreement with OSY Group Limited (OSY) to promote the sale of Zoono products for the food supply chain sector (the 'OSY Agreement').
 - (ii) OSY has been working with a premium UK supermarket chain over the last 2 years and a leading UK soft fruits supplier to deliver shelf-life extension technology to reduce global food waste. The food shelf-life extension trials have now concluded, and the results have shown that there is up to a 40% increase in shelf-life of soft fruits where the packaging has been treated with Zoono products ...
 - (iii) Zoono will issue 1,000,000 shares in Zoono Group Limited after the first customer payment of NZ\$ 1.25m is received ...
- C. ZNO's half-yearly accounts for the period ended 31 December 2023 ('Half-Yearly Report') lodged on MAP on 22 February 2024, which stated:
 - (i) The Group recorded an after-tax loss of NZ\$5,931,694 (2023: NZ\$1,315,426 profit) for the half-year, notably impacted by the NZ\$3,669,803 stock obsolescence provision on the value of unlabelled plastic bottles held by the Group.¹
 - (ii) In the 6 months to 31 December 2023, the operating revenue of the Group decreased by NZ\$1,200,425 compared to prior corresponding period. This was primarily due to decreased orders received from current and new distributors, and significant contraction around the globe.²
 - (iii) Income in advance (primarily from pre-payments received under Distribution Agreements entered into by the Company) recorded a reduction of NZ\$637 during the current half-year. The Company expects the remaining balance for these Distribution Agreements will add to future operating revenues as stock is delivered and re-ordered.³
 - (iv) The Company's registered address is Level 12, 225 George Street Sydney NSW 2000 Australia.4

¹ On page 4 of the Half-Yearly Report under the heading Operating result.

² On page 5 of the Half-Yearly Report under the heading Financial Performance.

³ On page 6 of the Half-Yearly Report under the heading Cash generation and capital management.

⁴ On page 15 of the Half-Yearly Report in the comments to the accounts under the heading 2. General Information and Statement of Compliance.

- (v) A provision was made of NZ\$3,669,803 for the plastic bottles held in the Group.⁵
- (vi) With the major downturn in the Company's business in the US, the Company has successfully renegotiated its agreement of June 2020 pursuant to which it bought back the US business from its US distributor, Zoono USA LLC (the 'Renegotiated Agreement').⁶

The revised terms are:

- the consideration payable is now US\$910,000 (down from the US\$3.8M (NZ\$5.7M)
- the consideration is payable in the form of US\$60,000 over the next two quarters plus a 10% royalty charge (previously 15%) on future sales by the US business (up to a cumulative sales cap of US\$8,500,000) and
- all legacy issues (other than in respect of stock bought back by the Company) which occurred prior
 to 1 November 2020 shall remain the responsibility of Zoono USA LLC and, if the Company incurs
 any future liabilities relating to such matters, the Company may deduct any such payments from
 the purchase amount then owing.
- D. The following disclosures in the Half-Yearly Report regarding ZNO's financial position as at 31 December 2023:
 - (i) A net loss of NZ\$5,931,694 and net operating cash outflow of NZ\$1,598,811.
 - (ii) A cash balance of NZ\$136,311.
 - (iii) A provision for impairment of NZ\$239,243.
 - (iv) A provision for stock obsolescence of NZ\$3,956,738.
- E. ZNO's quarterly report for the period ended 31 December 2022, lodged on MAP on 31 January 2023, which stated (relevantly):

With the major downturn in the Company's business in the US, the Company has successfully renegotiated its agreement of June 2020 pursuant to which it bought back the US business from its US distributor, Zoono USA LLC.

The revised terms are:

- the consideration payable is now US\$910,000 (down from the US\$3.8M (NZ\$5.7M));
- the consideration is payable in the form of US\$60,000 over the next two quarters plus a 10% royalty charge (previously 15%) on future sales by the US business (up to a cumulative sales cap of US\$8,500,000); and
- all legacy issues (other than in respect of stock bought back by the Company) which occurred prior to 1 November 2020 shall remain the responsibility of Zoono USA LLC and, if the Company incurs any future liabilities relating to such matters, the Company may deduct any such payments from the purchase amount then owing.

Listing Rules

- F. 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.
- G. Listing Rule 3.14 which states:

⁵ On page 17 of the Half-Yearly Report in the comments to the accounts under the heading 7. Inventories.

⁶ On page 19 of the Half-Yearly Report in the comments to the accounts under the heading 13. Provisions.

"An entity must immediately tell ASX of a change of the address, telephone number or facsimile numbers of its registered office or principal administrative office."

H. Listing Rule 12.2 which states:

"An entity's financial condition (including operating results) must, in ASX's opinion, be adequate to warrant the continued quotation of its securities and its continued listing."

- I. 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 5 situations 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."
- J. Listing Rule 10.11, which states:

"Unless one of the exceptions in rule 10.12 applies, an entity must not issue or agree to issue equity securities to any of the following persons without the approval of the holders of its ordinary securities.

- 10.11.1 A related party.
- 10.11.2 A person who is, or was at any time in the 6 months before the issue or agreement, a substantial (30%+) holder in the entity.
- 10.11.3 A person who is, or was at any time in the 6 months before the issue or agreement, a substantial (10%+) holder in the entity and who has nominated a director to the board of the entity (in the case of a trust, to the board of the +responsible entity of the trust) pursuant to a relevant agreement which gives them a right or expectation to do so.
- 10.11.4 An associate of a person referred to in rules 10.11.1 to 10.11.3.
- 10.11.5 A person whose relationship with the entity or a person referred to in rules 10.11.1 to 10.11.4 is such that, in ASX's opinion, the issue or agreement should be approved by security holders.

The notice of meeting to obtain approval must comply with rule 10.13."

K. 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."

- L. Section 4.4 in *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 3.1B* titled "When does an entity become aware of information?"
- M. 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 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 is no longer a secret and it ceases to be confidential information for the purposes of this rule."

Request for information

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

1. Please confirm:

- 1.1 The date that ZNO entered into the Renegotiated Agreement.
- 1.2 The name of the US distributor from whom ZNO bought or proposes to buy Zoono USA LLC, including details of the nature of any relationship between ZNO and the US distributor.
- 1.3 When the amount of US\$910,000, under the Renegotiated Agreement, is due and payable by ZNO to the US distributor.
- 1.4 Why ZNO stated in the Half-Year Report that consideration in the form of US\$60,000 is payable within "the next two quarters", despite ZNO making the same statement over a year prior in its quarterly report for the period ended 31 December 2022.
- 1.5 What is meant by "all legacy issues ... prior to 1 November 2020 shall remain the responsibility of Zoono USA LLC" and what legacy issues ZNO has agreed to.
- 1.6 Whether ZNO is of the view that it complied with Listing Rule 3.1 in relation to its disclosure concerning the Renegotiated Agreement. If so, please provide the basis for that view, commenting specifically on whether ZNO is of the view that it complied with its obligation to immediately disclose material information
- 2. ASX observes that the directors of OSY Group Limited, Mr Marc Braterman and Mr Nolan Braterman, are also directors of 'Zoono Animal Health UK Limited'. Please outline the relationship between ZNO and Zoono Animal Health UK Limited.
- 3. Please confirm ZNO's view on whether Listing Rule 10.11 will apply to the issue of shares to OSY Group Limited. If not, please explain why not.
- 4. Please confirm if the 'minimum annual customer purchases' stipulated in the OSY Agreement are enforceable by ZNO against OSY Group Limited (beyond termination of the OSY Agreement by ZNO).
- 5. If the answer to question 4 is:
 - 5.1 "yes", please explain how ZNO can enforce the minimum purchases; or
 - 5.2 "no", does ZNO have a reasonable basis to forecast that the minimum annual customer purchases stipulated in the OSY Agreement will be met? Please explain the basis for that view.

 $^{^{7}\,\}underline{\text{https://find-and-update.company-information.service.gov.uk/officers/gsicXMYTPs3oEyvuqlqFcTuG9K4/appointments}}$

⁸ https://find-and-update.company-information.service.gov.uk/officers/GsS-QtY-oPginxh2QOdVsi61Tuw/appointments

- 6. Does ZNO consider that its financial condition is sufficient to warrant continued listing on ASX, as required under Listing Rule 12.2? In answering this question, please explain in detail the basis for ZNO's position and ensure that the following is addressed: the net loss after tax, decreased operating revenue, impairments and stock obsolescence (paragraphs C(i)-(iii) and D).
- 7. ZNO had 0.34 quarters of funding remaining as at 31 December 2023 and, based on the ZNO Response, it had obtained a "further NZ\$500,000 standby facility from an entity associated with Paul Hyslop (a director)". The Half-Yearly Report states that ZNO has consideration payable in the amount of "... US\$910,000 (down and ... US\$60,000 over the next two quarters plus a 10% royalty charge" (paragraphs A and C(vi)).
 - Has ZNO taken any steps, or does it propose to take any steps, to raise further cash to fund its operations and additional ongoing liabilities and, if so, what are those steps and, how likely does it believe that they will be successful?
- 8. Please confirm that ZNO's directors are of the view that ZNO is solvent and able to pay its debts as and when they fall due.

General information in relation to ZNO's compliance with the Listing Rules

- 9. The Half-Yearly Report states that ZNO's registered address has changed to Level 12, 225 George Street, Sydney NSW 2000 Australia (paragraph C(iv)). Please confirm where ZNO has disclosed this information under Listing Rule 3.14. If no disclosure was made, please explain why not.
- 10. Please confirm that ZNO is complying with the Listing Rules and, in particular, Listing Rule 3.1.
- 11. Please confirm that ZNO's responses to the questions and requests above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of ZNO 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 **9:00AM AEDT** on **Thursday, 28 March 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, ZNO'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 ZNO to request a trading halt immediately.

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

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 ZNO'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

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

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to ZNO'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 ZNO'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.

Regards		
ASX Compliance		