

31 May 2011

ASX Limited
Adviser, Issuers (Sydney)
Exchange Centre
20 Bridge Street
Sydney NSW 2000

Attention: Emma Badhni

By email: emma.badhni@asx.com.au

Dear Ms Badhni,

We refer to your letter dated 27 May 2011. Our response follows using the numbered points set out in your letter. All references to dates and times are references to Australian dates and times.

1. *Does the Company consider the outcome of the Trend Vote as material to the Company?*

The Company does not consider the outcome of the trend vote to be in and of itself material. The Company considers that the final vote in June 2011 is material to the company.

2. *If the answer to question 1 is “no”, please advise the basis on which the Company does not consider the outcome of the Trend Vote to be material.*

The trend vote is one part of a continuing confidential process which culminates in a further meeting of the Committee for Medicinal Products for Human Use (CHMP) in June 2011 which will take a final vote on the approval of Bronchitol and this will be formally reported to the Company and made public.

When the trend vote was verbally communicated to the Company, its implications for the final June vote could not immediately be fully understood. It was only when the Company had a sufficient understanding of the trend vote’s implications for the likely outcome of the June meeting (on the balance of probabilities), that the Company formed its view that the outcome of the June meeting would likely be negative.

It was this view of the likely outcome that the Company considered material information and requested a trading halt.

3. *If the answer to question 1 is “yes”, when did the Company first become aware of the outcome of the Trend Vote?*

The Company considers awareness of the outcome of the trend vote is not the point in time for determining materiality. Nevertheless and for completeness, the outcome was verbally and confidentially communicated to the Company on the morning of 19 May 2011.

4. *If this was before the Trading Halt request, please identify any earlier announcement from the Company which disclosed the outcome of the Trend Vote.*

There was no earlier announcement in relation to the outcome of the trend vote. It was not until 21 May 2011 (being a Saturday), that the Company considered it had a sufficient understanding of the meaning and implications of the verbally advised trend vote.

In the interim, following the CHMP verbal advice of the outcome, the Company provided feedback to CHMP. The Company also subsequently sought clarification of the implications of the vote.

The CHMP meeting did not end until the morning of 20 May and an official and public report of the proceedings of the meeting was not available to applicants until overnight on 20 May.

Until that report was published, the Company considered that there was the potential for further discussions and for the CHMP to take into account representations made by the Company in response to the negative trend vote.

On Saturday morning, as the CHMP had not communicated anything further before the publication of the report and the report itself did not reference the Company's application, the Company formed the view it was unlikely there would be a change in the CHMP's position at the June 2011 meeting.

The Company then requested a trading halt prior to the commencement of trading on the next trading day, being 23 May 2011.

5. *If there was no earlier announcement, and the Company became aware of the outcome of the Trend Vote prior to requesting the Trading Halt, why was the Trading Halt not requested at an earlier time? Please comment specifically on the application of listing rule 3.1 and the exceptions to the rule in listing rule 3.1A.*

As stated in point 1 above, the trend vote is not in and of itself considered material for the reasons already given. The trend vote is part of an on-going and confidential process. The CHMP has stressed there is no final decision until the meeting in June 2011.

Nevertheless, once the meaning and implications of the verbal advice of the trend vote were understood and there was no further communication prior to the finalisation of the May meeting and the release of the CHMP's report, the Company formed the view that the June vote was likely to be negative. The Company considered it was then appropriate to request a trading halt.

In any case, the Company considers that Listing rule 3.1A applied for the period from 19 May to the requesting of the trading halt.

If the Company had requested a trading halt earlier, it could potentially have committed the Company to disclosure of confidential information that at the time was insufficiently definite.

It would also have been unreasonable to expect the Company to make an announcement without first properly understanding the implications of the outcome of the trend vote in advance of the CHMP meetings having completed.

Until the meetings' completion and the publication of the report, there was still the potential for further feedback from the CHMP.

In other words, the Company may have pre-emptively announced a negative conclusion which may not have been justified in light of any subsequent feedback from or report issued by the CHMP of the May meeting.


A pre-emptive announcement could also have jeopardised the Company's on-going and future marketing application processes and its reputation and integrity with the CHMP generally.

6. *Please confirm that the Company is in compliance with listing rule 3.1.*

The Company confirms that it is in compliance with Listing Rule 3.1.

We trust the above addresses the ASX's query. Please contact the undersigned if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. McGarvey', with a large, sweeping flourish underneath.

David McGarvey
Company Secretary



27 May 2011

Mr David McGarvey
Company Secretary
Pharmaxis Ltd
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Frenchs Forest NSW 2086

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By Email

Dear David

Pharmaxis Ltd (the "Company")

ASX Limited ("ASX") refers to the following:

- The Company's request for a trading halt on 23 May 2011 pending an announcement regarding an update on its European marketing application of Bronchitol ("Trading Halt").
- The Company's announcement to the ASX, titled "Pharmaxis receives negative trend vote from the CHMP on bronchitol" released over the ASX company announcements platform on Wednesday, 25 May 2011, lifting the Trading Halt ("Announcement").
- The oral presentation given at the Committee for Medicinal Products for Human Use ("CHMP") meeting last week ("Oral Presentation"), as referred to in the Announcement.
- The trend vote undertaken by members of the CHMP ("Trend Vote") following the Oral Presentation.
- Listing rule 3.1, which requires an entity, once it becomes aware of 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, to immediately tell ASX that information.

We would also like to draw your attention to the definition of "aware" in Chapter 19 of the listing rules. This definition states that:

An entity becomes aware of information if a director or executive officer (in the case of a trust, a director or executive 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 a director or executive offer of that entity.

Furthermore, paragraph 18 of Guidance Note 8 – Continuous Disclosure states:

Once a director or executive officer becomes aware of information, he or she must immediately consider whether that information should be given to ASX. An entity cannot delay giving information to ASX pending formal sign-off or adoption by the board, for example.

Listing rule 3.1A sets out an exception from the requirement to make immediate disclosure, provided that each of the following are satisfied.

- 3.1A.1 *A reasonable person would not expect the information to be disclosed.*
- 3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential.*
- 3.1A.3 *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.*
 - *The information is a trade secret*

ASX's policy position on the concept of "confidentiality" is detailed in paragraphs 33 to 39 of Guidance Note 8. In particular, paragraphs 34 and 35 of the Guidance Note state that:

'Confidential' in this context has the sense of 'secret'...' and "Loss of confidentiality may be indicated by otherwise unexplained changes to the price of the entity's securities, or by reference to the information in the media or analysts reports.

Additionally, paragraph 11 of Guidance Note 16 – Trading Halts and Voluntary Suspensions suggests:

An entity should consider requesting a trading halt whenever it is necessary to manage its continuous disclosure obligations under listing rules 3.1, 3.1A and 3.1B and to avoid trading in its securities happening on a basis that is not reasonably informed. Typically, this will arise where a listed entity has become aware of information that a reasonable person would expect to have a material effect on the price or value of its securities but, for reasons outside of its control, it is not in a position to make an immediate announcement about the information to the market.

Having regard to the above, we ask that you answer the following questions in a format suitable for release to the market in accordance with listing rule 18.7A.

1. Does the Company consider the outcome of the Trend Vote as material to the Company?
2. If the answer to question 1 is "no", please advise the basis on which the Company does not consider the outcome of the Trend Vote to be material.
3. If the answer to question 1 is "yes", when did the Company first become aware of the outcome of the Trend Vote?
4. If this was before the Trading Halt request, please identify any earlier announcement from the Company which disclosed the outcome of the Trend Vote.
5. If there was no earlier announcement, and the Company became aware of the outcome of the Trend Vote prior to requesting the Trading Halt, why was the Trading Halt not requested at an earlier time? Please comment specifically on the application of listing rule 3.1 and the exceptions to the rule in listing rule 3.1A.
6. Please confirm that the Company is in compliance with listing rule 3.1.

Your response should be sent to me by e-mail at emma.badhni@asx.com.au or by facsimile on **facsimile number (02) 9241 7620**. It should not be sent to the Company Announcements Office.

Unless the information is required immediately under listing rule 3.1, a response is requested as soon as possible and, in any event, not later than half an hour before the start of trading (i.e., **before 9.30 a.m. A.E.S.T.**) on **Tuesday, 31 May 2011**.

If you have any queries regarding any of the above, please let me know.

Yours sincerely,

(sent electronically without signature)

Emma Badhni
Senior Adviser, Listings (Sydney)