

By email

Laura Gomme
Senior Adviser, Listings Compliance
Australian Securities Exchange
Level 40 Central Park
Perth WA 6000

9 February 2024

laura.gomme@asx.com.au

Dear Ms Gomme,

Wide Open Agriculture Limited - ASX Query

Wide Open Agriculture Limited ACN 604 913 822 (WOA or the Company) refers to ASX's query letter dated 29 January 2024 and provides responses to the specific queries set out in that letter.

Capitalised terms used in this letter have the same meaning given in ASX's query letter unless otherwise defined.

Questions

1. **Noting the movement of the price of WOA's securities on 19 April 2023, does WOA consider the Strategic Partner Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

Yes, but as the Strategic Partner Information concerned an incomplete proposal or negotiation, WOA relied on the exception to not provide further information at the time.

2. **If the answer to question 1 is "no", please advise the basis for that view.**

Not applicable.

3. **Please confirm the date on which WOA entered into negotiations with Saputo Dairy for access and production services referred to in the April Announcement.**

WOA first met with Saputo Dairy Australia Pty Ltd (Saputo) on 10 November 2022. The parties signed a non-disclosure agreement on 19 December 2022.

The parties had initial meetings and site visits to each other's premises from November 2022 to January 2023. More formal negotiations as to the terms of the non-binding Memorandum of Understanding (MoU) were entered into with Saputo on 10 February 2023.

4. **At the time of the April Announcement, please set out what terms had been agreed between WOA and Saputo Dairy Australia (if any). In answering this question please explain why WOA referred to being "in advanced confidential negotiations" if no terms had been agreed.**

Whilst negotiations had progressed, no terms had been formally agreed between the parties at the time of the April Announcement. The terms of the MoU were only finally agreed later in the process, and formal acceptance was finalised when the MoU was executed on 6 October 2023.

WOA disclosed that it was "in advanced confidential negotiations" at the time of the April Announcement for the following reasons:

- (a) WOA and Saputo had aligned on the proposed structure of the agreement and had agreed to a framework of broad terms that would guide their negotiation of the MoU.
- (b) The framework outlined which party would be responsible for certain aspects of the production process under the proposed MoU.
- (c) Saputo had provided the Company with an indicative cost model in February 2023 that was used to estimate costs within the framework.
- (d) WOA's intention was to document and formalise the proposed structure and framework in an MoU following a meeting scheduled with Saputo for the end of April.
- (e) As detailed in the timeline below, this meeting was subsequently delayed until the end of May following the suspension of WOA's securities from trading by ASX under Listing Rule 17.3.1.

Even still, there is a recognition within the MOU that terms are non-binding and subject to change, particularly around volume and cost assumptions, which need to be validated. The terms of the MoU do not possess the same characteristic of certainty as terms in a legally binding agreement.

5. **If at the time of the April Announcement no terms had been agreed with Saputo Dairy Australia and the negotiations remained confidential, why did the April Announcement disclose that WOA was in "advanced confidential negotiations"?**

Please see our response to question 4.

6. **Following ASX's request on 27 April 2023, please set out what steps WOA took regarding its negotiations with Saputo, in particular whether it discussed with Saputo ASX's requirement that material information be disclosed to the market regarding the April Announcement.**

WOA discussed ASX's requirements with Saputo on multiple occasions during the days following the initial conversations with ASX on 19-20 April 2023.

At that time, WOA provided a variety of options to Saputo, including release of an announcement identifying them as the counterparty, through to an announcement highlighting a selection of broad terms that had been discussed in negotiations with Saputo (although not formally agreed or documented) but without naming Saputo as the counterparty.

Saputo was not comfortable being identified as the counterparty to the agreement in any public announcement. Saputo noted that the MOU had not been drafted, and as such, some terms had not been discussed, agreed and documented. Saputo did not want its name released in the public forum until the completion of a formal agreement and in consideration of its own communication priorities.

7. **Please explain why WOA was unable to provide the information requested by ASX on 27 April 2023.**

WOA was unable to provide the information required for two reasons:

- the terms of the MoU (a non-binding term sheet) were not finally agreed and still subject to change; and
- Saputo raised concerns about an announcement being made before a formal agreement had been finalised, and requested WOA did not use their name in a public announcement.

WOA formed the view that the potential arrangements with Saputo were too significant and important to the future of WOA to jeopardise the negotiations by making a premature disclosure. WOA formed the view that suspension was its only option at that time.

8. **Please provide a detailed timeline of the negotiations between WOA and Saputo Dairy Australia between the April Announcement and the October Announcement.**

<i>Timeline</i>		
	<i>Negotiations</i>	<i>Date</i>
1.	April Announcement released on ASX	19 April 2023
2.	Meeting to formalise framework of terms into an MOU scheduled to be held end of April cancelled by Saputo	End April
3.	Saputo visited WOA HQ to discuss the technical and commercial aspects of the MOU	30 May 2023 - 31 May 2023
4.	First draft of MOU received by WOA	20 July 2023
5.	WOA visited Saputo in Melbourne to review WOA's questions and comments on the MOU	29 August 2023
6.	Second draft of MOU received by WOA	11 September 2023
7.	WOA Board meeting to confirm consent to sign the MOU	12 September 2023
8.	Third draft of MOU received by WOA	15 September 2023
9.	WOA Directors signed the MOU (note: one additional change had been requested by Saputo)	22 September 2023
10.	Saputo signed the MOU	6 October 2023
11.	October Announcement released on ASX	10 October 2023

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

WOA is in compliance with the Listing Rules and in particular Listing Rule 3.1.

10. **Please confirm that WOA'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 WOA with delegated authority from the board to respond to ASX on disclosure matters.**

The responses have been approved by the Board of WOA.

If you have any queries, please do not hesitate to contact us.

Yours sincerely
For and on behalf of
Wide Open Agriculture Limited



Jay Albany
CEO

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29 January 2024

Mr Harry Miller
Automic Group
Level 5, 126 Phillip Street
Sydney NSW 2000

By email: harry.miller@automicgroup.com.au

Dear Mr Miller

Wide Open Agriculture Limited ('WOA'): General Query

ASX refers to the following:

- A. WOA's announcement titled 'Buntine Protein Update' released on the ASX Market Announcements Platform ('MAP') as being market sensitive on 29 March 2023 and which disclosed, amongst other things:

'WOA continues to have productive conversations with companies who have existing infrastructure and equipment that can expedite the large scale manufacturing of Buntine Protein. These confidential negotiations remain positive, and we will share information once material terms are finalised.'

- B. WOA's announcement titled 'Cleansing Notice' released on MAP on 3 April 2023 which stated that:

'As at the date of this notice there is no information that is excluded information for the purposes of section 708A97) and (8) of the Act'

- C. WOA's announcement titled 'Letter from CEO providing business update' (the 'April Announcement'), released as market sensitive on MAP on 19 April 2023 at 8.22am AEST, which contained the following relevant disclosure:

'With Q3 FY2023 having come to a close, I would like to provide an update on what has been accomplished and what goals you should look for in the coming months to judge the progress we are making at Wide Open Agriculture (ASX:WOA).

Here are the key highlights during the quarter:

...

- *Commercial Production Partner. WOA is in advanced confidential negotiations with a strategic production partner for access and production services at an existing brownfield site with the potential to produce commercial quantities of Buntine Protein*
- *Practical Path to Market: This brownfield site already has more than 75% of the equipment and services required to produce Buntine Protein at scale. It is expected to expedite time to market with significantly lower capital requirements while allowing for a modular, success-based approach to Buntine Protein production expansion as we grow.'*

(the 'Strategic Partnership Information')

- D. The change in the price of WOA's securities from \$0.21 at market close on 18 April 2023 to an intraday high of \$0.39 on 19 April 2023.
- E. The significant increase in the volume of WOA's securities traded on 18 April 2023.
- F. ASX's email of 27 April 2023 which requested under Listing Rule 18.8(a) that WOA provide the information set out in section 4.15 of Guidance Note 8 with respect to the 'confidential negotiations' referred to in the April Announcement and specifically requested WOA provide the following disclosure:

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- (i) the counterparty to the proposed contract;
- (ii) a description of the services to be provided or acquired under the contract;
- (iii) the consideration for the services to be provided or acquired under the contract;
- (iv) the expected date for entry into the contract;
- (v) (if applicable) any material conditions that need to be satisfied before the contract becomes legally binding; and
- (vi) Any other material information relevant to assessing the impact of the contract on the price or value of WOA's securities.

ASX's email of 27 April 2023 confirmed that if WOA failed to comply with this request, its securities would be suspended from quotation under Listing Rule 17.3.1

- G. ASX's Market Announcement, released on MAP on 1 May 2023, which stated:

'On 27 April 2023, ASX required WOA to provide specified information for release to the market in relation to the "advanced confidential negotiations with a strategic production partner" referenced in its 19 April 2023 announcement. WOA has failed to comply with that requirement.

As a consequence, WOA's securities will now be suspended from quotation by ASX under Listing Rule 17.3.1, until such time as ASX is satisfied with WOA's compliance with the Listing Rules and that it is otherwise appropriate for WOA's securities to be reinstated to quotation.'

- H. The suspension of WOA's securities from 24 April 2023 to 19 October 2023.

- I. WOA's announcement titled 'Update on ASX Suspension' released on MAP on 3 July 2023 which contained the following disclosure:

'As announced on 24 April 2023, we previously anticipated that we would be able to announce our commercial Buntine Protein production partner by June 30, 2023. Despite missing this timeline due to factors outside of the Company's control, we want to reassure shareholders that we are working diligently to finalise all necessary agreements and expect an official announcement will be made in the coming weeks.

From a commercial perspective, we are maintaining a steady pace. Although the timeline for this announcement has shifted slightly, our business strategy and operations remain on track. Further updates will be provided as soon as more information becomes available and we look forward to sharing more positive news in the future.'

- J. WOA's announcement titled 'Clarification of Announcement of 19 April 2023' (the 'October Announcement'), released as market sensitive on MAP on 10 October 2023 which contained, amongst other things, the following disclosure:

'The Company wishes to clarify that the advanced confidential negotiations referenced resulted in a non-binding Memorandum of Understanding ('MOU') with Saputo Dairy Australia Pty Ltd ('SDA'), which is consistent with the description by the Company, dated 6 October 2023.

The purpose of the non-binding MOU is to provide the parties with a framework to negotiate a legally binding 'Definitive Agreement' for the production of Buntine Protein®. The Company confirms that no commercial production will occur under the MOU and no costs incurred.'

- K. WOA's announcement titled 'WOA to Raise up to \$7.7m & become the largest lupin protein producer globally' released as market sensitive on 19 October 2023 which disclosed that WOA had secured binding commitments to raise approximately \$6.2m which would enable it to acquire the Prolupin GmbH assets and

that WOA was launching a share purchase plan to raise an additional \$1.5million (the 'Capital Raising Announcement').

- L. ASX's Market Announcement, released on MAP on 19 October 2023, which stated:

'The suspension of trading in the securities of Wide Open Agriculture ('WOA') will be lifted immediately following the release by WOA of the announcement titled 'Clarification of Announcement of 19 April 2023' and subsequent Capital Raising Announcement.'

- M. The change in the price of WOA's securities from an opening price of \$0.21 to a closing price of \$0.17 on 19 October 2023.

- N. WOA's announcement titled 'Extension of Timeline for Definitive Agreement' released on MAP on 15 December 2023 and not marked as being market sensitive, which disclosed:

'In reference to the announcement of 10 October 2023 entitled 'Clarification of announcement of 19 April' Wide Open Agriculture Limited (ASX:WOA) and Saputo Dairy Australia Pty Ltd ('SDA') have agreed to extend the timeline for the signing of the Definitive Agreement to 31 March 2024.

The parties remain enthusiastic about the potential for Buntine Protein and large-scale production in Australia.

All other terms of the MOU remain the same.'

- O. 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.
- P. Section 4.14 of Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B ('Guidance Note 8') which sets out the guidelines on the headers to announcements under Listing Rule 3.1.
- Q. Section 4.15 of Guidance Note 8 which sets out guidelines on the contents of announcements under Listing Rule 3.1 which states amongst other things:

In disclosing the significance of the contract to the entity, regard should be had to the guidance below about forward-looking statements. For example, a statement about the projected revenue to be derived from a customer contract or any other projection that is a proxy for revenue will be a forward-looking statement and therefore must be based on reasonable grounds or else it will be deemed to be misleading. The disclosure of the name of the counterparty/customer with whom an entity has entered into a market sensitive contact is often particularly significant. It allows the market to assess the standing and creditworthiness of the counterparty/customer. In the case of a customer contract, it also allows the market to assess the quality of the customers the entity is dealing with and the quality of the revenue it is earning from them.

And:

An announcement under Listing Rule 3.1 must be accurate, complete and not misleading. A listed entity cannot satisfy its obligation to disclose market sensitive information under Listing Rule 3.1 by disclosing information that is materially inaccurate, incomplete or misleading. If it attempts to do so, that will likely trigger a separate obligation under Listing Rule 3.1 to correct the inaccurate, incomplete or misleading information, causing the entity to be in breach of that rule and section 674 of the Corporations Act until it does so. It will also likely cause a false market in its securities, empowering ASX to require the entity to give ASX any information ASX asks for to correct the false market.

To not be misleading, opinions expressed in an announcement should be honestly held and balanced and should be clearly identified as a statement of opinion rather than a statement of fact. Any forward-looking statements in an announcement must also be based on reasonable grounds or else by law they will be deemed to be misleading.

Any material assumptions or qualifications that underpin a forward-looking statement in an announcement under Listing Rule 3.1 should also be stated in the announcement.

Footnote 117 – “Complete” in this context means not omitting material information.

R. Section 4.20 of Guidance Note 8, which sets out ASX’s views in relation to commercially sensitive information.

S. Section 4.22 of Guidance Note 8, which states that:

An entity must comply with its disclosure obligations under Listing Rule 3.1 and section 674, even where it is party to a confidentiality or non-disclosure agreement that might otherwise require it to keep information confidential.

T. Section 7.10 of Guidance Note 8 concerning Ramping Announcements, and which states, relevantly:

‘Ramping Announcements come in many forms, including:

- *The release of a ‘business update’ or something similar, which will typically be worded in an exuberant fashion but which on closer examination contains little in the way of substance that has not already been disclosed to the market;*

...

- *An announcement that an entity has entered into what appears to be a material contract or transaction but without disclosing key information that investors and their professional advisers reasonably need to understand the materiality of the contract or transaction to assess its impact on the price of value of the entity’s securities’*

U. Listing Rule 18.8a which sets out that ASX may require an entity to do or refrain from doing any act or thing that, in ASX’s opinion, is necessary to ensure or facilitate compliance with the listing rules, including (without limitation) to give specified information to ASX for release to the market and the entity must comply with that requirement.

Request for information

Having regard to the above, ASX asks WOA to respond separately to each of the following questions and requests for information in a format suitable for release to the market under Listing Rule 18.8A:

1. Noting the movement of the price of WOA’s securities on 19 April 2023, does WOA consider the Strategic Partner 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. Please confirm the date on which WOA entered into negotiations with Saputo Dairy for access and production services referred to in the April Announcement.
4. At the time of the April Announcement, please set out what terms had been agreed between WOA and Saputo Dairy Australia (if any). In answering this question please explain why WOA referred to being “in advanced confidential negotiations” if no terms had been agreed.
5. If at the time of the April Announcement no terms had been agreed with Saputo Dairy Australia and the negotiations remained confidential, why did the April Announcement disclose that WOA was in “advanced confidential negotiations”?

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6. Following ASX's request on 27 April 2023, please set out what steps WOA took regarding its negotiations with Saputo, in particular whether it discussed with Saputo ASX's requirement that material information be disclosed to the market regarding the April Announcement.
7. Please explain why WOA was unable to provide the information requested by ASX on 27 April 2023.
8. Please provide a detailed timeline of the negotiations between WOA and Saputo Dairy Australia between the April Announcement and the October Announcement.
9. Please confirm that WOA is complying with the Listing Rules and, in particular, Listing Rule 3.1.
10. Please confirm that WOA'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 WOA 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 **12 PM AWST Monday, 12 February 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, WOA'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 WOA to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@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 WOA'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 WOA's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

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