

Answer to question on notice:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE ASIC ANNUAL REPORT (SECOND REPORT) 2019

QoN Number: ASIC35QON

Dr MULINO: I have a couple of questions around Crown directors' duties, and in particular some of the evidence that's coming out in the NSW Independent Liquor and Gaming Authority inquiry. Given that former chairman of Crown Robert Rankin has refused to give evidence, as I understand it, at that inquiry, what can ASIC do given that he is now based in the UK? What is ASIC planning to do?

Ms Armour: We are following the inquiry that is occurring, and we're aware of the matter you're mentioning. We have seen the reports that there may, potentially, be a referral to us in relation to that matter. We intend to keep following the matter, make our own inquiries, and, as often happens when there are inquiries by other forums—for example, the most obvious one more recently was the financial services royal commission—if there is a referral made to us, we, of course, would go and investigate the matter further. But that's not to say we won't look at the issues that I think you're referring to more generally in relation to the company if we see an issue that is of concern to us in connection with the inquiry, in any event.

Dr MULINO: But even if there isn't a referral, if there's a gap in evidence, there might be options for ASIC to pursue.

Ms Armour: There may well be; we are following the matter.

Dr MULINO: Has ASIC spoken to any Crown directors this year or made any inquiries in relation to it?

Ms Armour: If you don't mind, our approach is not to comment on matters that we may be considering in a broader investigative sense. So we'd prefer not to make any comments, if you don't mind, at this stage.

Dr MULINO: But it's fair to say that prima facie there are some very disturbing developments?

Ms Armour: We're certainly very alive to the matters that have been covered by that inquiry. Yes, we are watching that carefully.

Dr MULINO: Had you been investigating Crown before the New South Wales inquiry?

Ms Armour: What we would like to do, with your indulgence, is take the approach that we take in a number of matters—that is, actually not comment on specifics of matters because it can be unintentionally prejudicial for us to get into the specifics of particular matters. So, if you don't mind, we would prefer not to comment further at this stage.

Dr MULINO: So can I take it from that, though, that you don't want to make comments at this point because you want to retain the option of proactively intervening if you see fit and you don't want to prejudice that?

Ms Armour: No, I think if you just take it that it's not appropriate at this stage for us to make any comment. We are absolutely aware of the merits you're referring to, but going into details of what we may or may not be doing is something that we don't think appropriate to make a public. It's consistent with our general practice in relation to similar matters, so that's why we are asking for your indulgence on that.

Dr MULINO: I look forward to hearing you. It would be good if you could provide detailed information in relation to this in between now and the next hearings, which may be some time off, given that this is quite a fast moving process in New South Wales and given that there could be some gaps there, that it might require further action.

Answer:

ASIC has no direct knowledge of the circumstances in which it is said that Mr Rankin refused to give evidence to the Bergin Inquiry. The Inquiry has indicated that it intends to make a referral to ASIC in relation to Mr Rankin but this has not been communicated direct to ASIC and to date no referral has been received. ASIC will consider the position in the event that a referral is received. Noting that Mr Rankin is understood to reside outside Australia ASIC does not have jurisdiction to directly require his cooperation in any investigation. To the extent that the FCA may be in a position to provide assistance to ASIC (for example in conducting an examination), those arrangements are suspended during the COVID-19 lockdown.

The Bergin Inquiry formally commenced on 14 August 2019, although the hearings with witnesses took place in the period July to October 2020. ASIC's formal investigation commenced on 10 February 2020.