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| Inquiry | Parliamentary Joint Committee on Corporations and Financial Services, Oversight of the Australian Securities and Investments Commission, the Takeovers Panel and the Corporations Legislation No. 1 of the 46th Parliament |
| Agency | Australian Securities and Investments Commission |
| Question No. | 022 |
| Reference | Spoken, 18 June 2021, Hansard page reference 61 |
| Committee member | Senator O'Neill |

Question

Senator O'NEILL: That's correct—well, to the best of my knowledge; I hope that's correct. The third letter was highlighting their client's concerns after the first two letters appeared to be ignored. Is that correct?

Mr Longo: I don't think that any of the letters were ignored.

Senator O'NEILL: Did they receive a response?

Mr Longo: Well, they weren't ignored. They were taken into account in connection with dealing with the review of the prospectus, as we discussed earlier today.

Senator O'NEILL: But in the documents that we have tabled here, I note that the third letter was sent to Acting Chair Karen Chester, Deputy Commissioner Cathie Armour and a long list of others.

Mr Longo: It wouldn't surprise the committee to know that commissioners get correspondence from a wide variety of people. What we normally do is immediately bring relevant correspondence to the relevant part of ASIC, which is what happened here. I can be corrected—I don't know whether this firm got an acknowledgement of its correspondence. I'd have to take that point on notice, but I can certainly reassure the committee that the commissioners, on receipt of correspondence of this nature, draw it to the attention of the relevant officers immediately.

Senator O'NEILL: I note, Deputy Chair Chester, that you simply asked for a short dot point summary in emails. Why did you only want a short dot point summary, given the seriousness of the allegation that's alleged?

Mr Longo: I think in view of the way this issue has been ventilated in the parliament and before this committee, I'm happy to take on notice a question like that.

Senator O'NEILL: Chair, on a point of order.

Mr Longo: It's a matter for the chair as to how he wants that issue dealt with.

CHAIR: Mr Longo, could you pause for a moment. Senator O'Neill?

Senator O'NEILL: I think that these are important matters. I'm just going to matters of fact. I think that Deputy Chair Chester is actually able to answer these questions, because it was her determination to ask for a short dot point summary. I don't think there is anything extraordinary about getting an explanation from the deputy chair.

CHAIR: I think that's reasonable. Deputy Chair Chester?

Ms Chester: I'm happy to answer, but I appreciate that we might need to expand on my response with a question on notice, given you've got some documents here but not all documents and not all discussions. Just by way of background and context, this was an incredibly busy time at ASIC. Indeed, just to help this committee know how busy it was, I do recall this day very well. It's the day after my husband's birthday. I'd been up since 4.00 am working. When this came into my inbox and I saw what it regarded, I immediately got in contact with Mr Day to make sure that it was all underway and acknowledgement would be happening through CCU, and that I needed to know whether this was a live one or not, given it was a large IPO during a very difficult period of market time.

Answer

A full account of the review of the Nuix prospectus and the related activities undertaken by the team, is given in our supplemental letter to the committee. A brief chronology is extracted below:

- Monday, 23 November - 2.10pm: The first Aperion Letter was received by ASIC.
- Monday, 23 November - 3pm - The Corporations team had received the letter to review.
- Wednesday, 25 November - 6.24pm - The second Aperion Letter was received by ASIC.
- Thursday, 26 November - 9.43am.- The third Aperion Letter addressed to the ASIC Commissioners and Warren Day (COO) was received by ASIC.
- Thursday, 26 November - 12pm - Acting Chair Chester asks for an update.
- Thursday, 26 November - 1.17pm - Commission secretariat acknowledged receipt of the Third Letter (which attached the First Letter and Second letter) by email to Mark Allen, Director, Aperion Law
- Thursday, 26 November – 2.41pm – Acting Chair Chester receives an update.
- Friday 4 December - 1.48pm - A formal response letter was emailed to Mark Allen, Director, Aperion Law.

The review of prospectuses and operational decisions relating to them are delegated to the Corporations team. The Corporations team ultimately reports to the Executive Director of Markets, Greg Yanco. Correspondence sent to Commission is generally delegated to the responsible Executive Director and team to respond to, with updates provided to the Commission as necessary.