17th August 2022

Dear Mr. Jones,

I, Toni Versluijs, write to you in reply to your letter dated 2 August 2022, regarding the 'Response to Malcolm Penn – Newport Wafer Fab'.

Context

I understand from your letter that the Business, Energy and Industrial Strategy (BEIS) Committee has received correspondence from Mr Malcolm Penn, Chairman and CEO of Future Horizons Ltd, regarding the evidence I provided to the BEIS Committee on 5 July 2022, in my role as Nexperia's UK Country Manager. I have not been provided with a complete copy of Mr. Penn's letter, but I understand that he has made a number of assertions regarding the veracity and accuracy of my testimony to the Committee.

For the avoidance of any doubt, I, and Nexperia B.V., reject those allegations unreservedly. Mr Penn is a former NWF board-member and a long-time associate of NWF's former owner Dr Andrew Nelson, who vociferously opposed and sought to prevent Nexperia's acquisition during his time on the NWF board. Mr Penn has made a number of spurious and outright untrue allegations in his own written submission to the BEIS Committee, about which Nexperia has already provided a submission to BEIS's Investment Security Unity (ISU) and the Secretary of State, who are currently conducting a national security assessment of Nexperia's acquisition of NWF. Nevertheless, Nexperia is grateful to the Committee and its Chair for providing Nexperia with the opportunity to respond to these specific claims.

Since their objective is ultimately to try to overturn our acquisition, Nexperia is especially concerned that Mr Penn and other former board members are making a number of incorrect statements in an effort to influence the ISU's inquiry. These misleading claims are numerous but, crucially from a national security point of view, include falsely stating the compound semiconductor capabilities of the site and wholly misrepresenting the financial status of NWF, thereby portraying the acquisition as a hostile takeover rather than the reality where NWF was saved from bankruptcy.

Put simply, NWF's previous owners consistently failed to meet their customers' requirements, misrepresented the capacity available, exaggerated their future potential, were running out of funds, were unable to meet loan repayments to the Welsh Government and had even appointed insolvency advisors. The Welsh Government itself chose not to throw good money after bad; the private equity industry also could not agree terms on which to proceed either.

Only Nexperia was able to step in and secure the future of the site and the 500 jobs there. It achieved this by providing access to a reliable flow of global contracts, immediately paying back the loan to the Welsh Government and committing £80m for new equipment to upgrade the site. The previous owners thereby escaped bankruptcy and received full market value for their shares, plus an option to continue developing an "open access" facility on part of the site.

Responses to specific allegations

1. Nexperia refused Newport Wafer Fab access to contractually agreed loans

As the Committee may be aware, Newport Wafer Fab ("NWF") experienced a number of near financial collapses in the decade prior to its acquisition by Nexperia, significantly predating the issues cited by the former owners in regards to the impact of the COVID-19 pandemic.

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This spate of recurring problems came to a head in 2019 with Nexperia taking a 14% stake in NWF, in order to provide it with additional capital. Nexperia provided this additional capital in order to facilitate NWF ramping up its production for Nexperia's customers, for which Nexperia had committed NWF's production capacity.

Despite this additional capital, through continued mismanagement that had resulted in the long-term liquidity and financial problems for NWF, the NWF board, including Mr. Penn, ultimately decided to bring in insolvency advisors in order to examine insolvency options with the NWF board.

Prior to the decision being reached that Nexperia taking over the entirety of NWF was the only viable commercial option, various alternatives were explored. The rationale for this was clear; Nexperia's fundamental interest in NWF was as a customer, not as a prospective acquirer. Nexperia was seeking a reliable partner to deliver on its orders, so Nexperia could in turn dependably provide its own customers, such as Bosch and ultimately Jaguar Land Rover, with the products that had been ordered.

Mr Penn, in his letter to the BEIS Committee, references that Nexperia refused NWF 'access to a contractually agreed working capital loan', which refers to the £12 million working capital facility that was negotiated as part of Nexperia's initial investment in NWF. It is concerning the Mr Penn – who was a member of the NWF board approving the contracts with Nexperia – has seemingly forgotten the contractual terms regarding this topic. This working capital facility by Nexperia to NWF was contingent on NWF meeting several contractually agreed criteria for reforming its business and operations. However, NWF failed to meet these criteria, including presenting a viable business plan that demonstrated a reasonable prospect of becoming a profitable business, and so this facility was not made available. The provision of the facility was specifically conditional on NWF not experiencing a 'Major Default Event' as it was termed in the working capital facility agreement, which included NWF showing a sufficient cash flow forecast to continue operations, not breaching any banking covenants, not failing to make any repayments on loans taken by it, and meeting production obligations under its agreement with Nexperia – all of which NWF failed to do. The rationale for not providing this £12 million facility without NWF implementing substantive changes was very clear to the board of directors including Mr Penn, both at the time and subsequently; Nexperia was concerned that any money paid into NWF, based on its performance and management failings, would never be repaid if the company tipped into insolvency.

This assessment was further validated by the calculation of the Welsh Government and Cardiff Capital Region City Deal who assessed that the £12 million facility was not sufficient in any event. Nevertheless, the board of Nepture 6 (parent of NWF) negotiated an alternative funding package of £12 million to replace the facility, which Nexperia supported on the proviso that the financial terms were reasonable – if, as Mr Penn implies, Nexperia sought to weaken NWF to aid its own supposed takeover ambitions, then supporting this alternative funding package would have been counterproductive.

We have also been made aware that Mr Penn further asserts in his letter that Nexperia withheld 'approval of a multi-million pound injection of capital by a significant UK Private Equity fund'. I understand this refers to the proposed investment of Palladian Investment Partners LLP of around £30 million. While this was not specifically referenced in your letter of 2 August 2022, I would like to take this opportunity to address it at the same time. Firstly, we are aware that Palladian commenced a due diligence process in respect of the books and records of NWF at the end of 2020, but we have never been informed if that due diligence ended satisfactorily. Nexperia's view was that the financial terms proposed by Palladian (which were subject to satisfactory due diligence) were particularly commercially unattractive, and required Nexperia to relinquish its key shareholder rights, which had been conditions of the Nexperia's initial equity investment in 2019. Nexperia engaged in negotiations with Palladian throughout January and February 2021 in good faith and did not seek to block the investment, but Nexperia was unwilling to relinquish its ability to protect its customers in the event that the continuity and quality of supply was damaged. This desire to be able to 'step in' if NWF was unable to fulfil its contractual obligations was on the basis of the severe financial and reputational risk at stake for Nexperia in the event it was unable to fulfil its own obligations to its customers as a result. This was negotiated as part of the agreement for Nexperia to take a minority stake in NWF in 2019, to support it through some of its earlier financial difficulties.

Unfortunately, having this ability to step in (known as the 'back-stop option') proved necessary, and negotiations with Palladian were cut short part way through February 2021 when it became apparent that NWF had oversold its capacity to Nexperia by several magnitudes; while NWF had committed to produce 4,000 wafers per week for Nexperia, it emerged it would only be capable of producing 25% of that. NWF had similarly made commitments about production capacity to Infineon Technologies and Rockley Photonics that it was unable to meet, the latter of whom NWF had been attempting to secure some prefunded capital from to assist with its liquidity shortage. At this point the negotiation regarding the Palladian investment became moot; Nexperia was forced to utilise its backstop option to acquire the remainder of the shares in order to re-organise NWF and to protect its supply from NWF, upon which its onwards customer contracts relied.

2. The existence of a compound semiconductor open access fab at the Newport site

Mr Penn's letter itself states plainly that 'there was not a standalone, dedicated compound semiconductor factory at the site'. It is therefore contradictory for Mr Penn to assert that a 'compound semiconductor open access facility unequivocally did exist at the time of the takeover'. Mr Penn cites the fact that NWF had been involved in over 20 compound semiconductor projects, including four key semiconductor projects that have all been retained since the acquisition. This assertion is misleading at best; it is certainly true that NWF participated in projects of this nature, but Nexperia has continued to engage with such projects after the acquisition.

However, as Mr Penn himself notes, the production equipment for regular and compound semiconductors are not mutually exclusive; there is overlap. As such, Nexperia utilised existing commercial production equipment used for processing single silicon wafers in order to assist with a limited number of research projects that involved partial processing of very small wafer volumes (and we continue to do this). Some of these projects included compound semiconductor research and development and silicon processing of photonics wafers, including with Rockley. It is important, however, to understand that none of the other participants in these projects, including Rockley, actually committed to the production orders which NWF was seeking to secure through its participation in these projects, and which would have brought in the cash that NWF so badly needed.

The adjacent site at the Newport facility that was earmarked for the development of compound semiconductor manufacturing was subject to the option for the previous owner of NWF to purchase it. This was for the purposes of developing this open access foundry – which is referred to as the 'Fab10 Option', and was shown to you during your tour of the facility on 11 July 2022. The suggestion that Nexperia's acquiring of NWF impacted the operation of such a foundry is a particularly misleading claim, given the well-recognised economic realities of NWF's financial health for the decade prior to the acquisition.

Given the historically precarious financial position of NWF, stretching back long prior to the impacts of the COVID-19 pandemic, it is farfetched to suggest that NWF's previous owners would have been in a position to provide the £200 million it was estimated would be required for the proposed Rockley ramp-up plan or the £120 million required for the open access compound semiconductor foundry had the acquisition not taken place.

Furthermore, correspondence from the Cardiff Capital Region City Deal and the Welsh Government to the board of directors of NWF's parent company, where Mr Penn served as a board member (copies of which can be provided upon request) on 20 July 2020 confirmed that both did not consider NWF's plan for additional investment to facilitate NWF continuing on an 'open access basis' to be a viable proposition. This correspondence refers, amongst other reasons, to the need to secure further commitment from Rockley to NWF.

This continuing lack of a feasible business case being the operative reason for the open access foundry failing to materialise is moreover illustrated by the ongoing inability of the previous owner to find financial backing to allow them to take up the Fab10 Option.

Mr. Penn’s assertion regarding the ‘unreasonably large cost to move existing operations out of that [Fab10] building’ is similarly contradictory and again demonstrates Mr Penn’s failure to familiarize himself with the details of the contracts concerned. As Mr Penn should be aware, given his long tenure on the NWF board, what he describes as an ‘unused building on the site of Newport Wafer Fab’ is not in fact completely unused.

In reality there is a quadrant of the Fab10 building that forms an integral part of the silicon wafer production process in Fab 11, and has done so for a number of years. Nexperia continues to use it for silicon wafer processing as part of its wider Newport operation. The option granted to the Sellers is to enable the Sellers to build a compound open access fab in the unused part. However, what Mr. Penn describes is an extremely expensive alternative, whereby the prospective purchaser of Fab10 requires not only the unused three quadrants of the building, but the also the portion that Nexperia currently utilises as well.

This would require Nexperia to move out of that portion of the fab, and ignores the possibility of Nexperia leasing this part back (something Nexperia is very willing to discuss). In the scenario put forward by Mr. Penn, Nexperia would be required to remove and relocate the existing equipment in the occupied portion of Fab10 to another location, or even replace the equipment entirely if the transition were to take place while the fab remains in full operation.

In such a scenario, given that this equipment and space is currently used for an integral part of Nexperia’s current production capacity at Newport, the cost of taking the Fab10 option would need to be commensurate to the cost to Nexperia of having to relocate a portion of its production. If, however, the prospective buyer wished only to utilise the unused space in Fab10 and was willing to work out an arrangement to accommodate Nexperia’s current operations in a portion of the building, then the cost of purchasing the site for the purposes of developing an open access compound semiconductor fab would be a fraction of the amount Mr. Penn is suggesting.

What is unfortunately accurate is that Nexperia has felt obliged to halt its participation in one of the existing government research programs and limit new projects, as continued government scrutiny and public commentary have discouraged Nexperia from participating in projects that carry any potential perception of posing a national security threat. The government’s ongoing review process, which was first commenced in March 2021, more than a year ago, has regretfully prompted some parties to assert that this creates a national security risk which left Nexperia no choice but to postpone or event terminate its participation pending the National Security & Investment Act review; however, Nexperia hopes that once the review is finalised, it will once again, with the approval of the UK Government in the national security review, be in a position to be an active participant in the research and development space, supporting UK and Welsh Government initiatives.

3. Nexperia’s investment at the Stockport and Newport facilities

As has been detailed in both Nexperia’s written submission to the BEIS Committee, and my testimony on 5 July 2022, Nexperia has committed to significant investments in both facilities in the past 18 months, totalling £160 million across the UK operations. Mr Penn’s suggestion that it would be ‘miraculous’ for Nexperia to have purchased and installed any significant semiconductor production equipment in the past 12 months is neatly illustrative of the advantages that Nexperia brings to NWF and the UK semiconductor industry; the capacity of Nexperia to source and install such equipment far outstrips that of NWF’s former ownership, regardless of NWF’s previous financial difficulties. Nexperia publicly declared its intention to invest $700 million on its global manufacturing capacity in mid-2021, in line with the company’s growth strategy that was formulated prior to the COVID-19 pandemic.

Nexperia’s comparative size, global coverage, and reach has enabled it to move swiftly and invest heavily at the Newport site, securing the fab’s viability and the 500+ at-risk jobs that are vital to an underserved part of Wales. Since the acquisition, Nexperia has modernised existing equipment and infrastructure and installed new production lines. NWF’s previous ownership meanwhile, consistently required external financial assistance, including from private institutions and the Welsh Government, to continue to operate. This was to the extent that its staff did not receive a pay review from 2015 to the point of the acquisition in 2021, as NWF opted to defer pay-rises for staff that were not mandated by law. Furthermore, once the acquisition was finalised, Nexperia voluntarily repaid the £17 million loan that NWF's previous ownership had required from the Welsh Government, and on which NWF had breached its repayment obligations.

4. Nexperia's commitment to Newport and the UK semiconductor industry

Nexperia has proudly operated in the United Kingdom at its plant in Stockport for over 50 years, and views the Newport acquisition as an opportunity to further deepen its UK ties.

As the evidence presented by a number of different industry audiences in the BEIS Select Committee inquiry indicates, there is a lack of capital willing to commit to structural and long term investment in semiconductor businesses in the UK. Nexperia's commitments to NWF and Stockport confirm that Nexperia is an outlier compared to other potential sources of such investment.

Nexperia continues to make the option available for NWF's previous owner and others to develop an 'open access' wafer fab in Fab 10 and stands ready to engage with participants in such a project on the basis of a viable business case and confirmed financing.

Yours faithfully,

Toni Versluijs

UK Country Manager for Nexperia B.V.