

THE TAKEOVER PANEL

PRACTICE STATEMENT NO. 8

TIMETABLE EXTENSIONS IN POTENTIALLY COMPETITIVE SITUATIONS

From time to time, the Executive is consulted by an offeror in a potentially competitive situation about the possibility of it revising its offer in the 14 days ending on the last day on which the offer would otherwise be able to become unconditional as to acceptances.

Under Rule 31.6, except with the consent of the Panel, an offer may not become or be declared unconditional as to acceptances after midnight on the 60th day after the initial offer document was posted (“Day 60”). This Rule is designed to prevent an offeree company from being the subject of an extended siege, to the potential detriment of its business and, therefore, its shareholders. Rule 31.6 also provides that the Panel’s consent to an extension to Day 60 will normally only be granted in certain specified circumstances, including where the board of the offeree company consents to the extension. Such consent indicates that, in the particular circumstances, the interests of offeree company shareholders are best served by permitting the continuation of the offer period.

Rule 32.1 provides that no revised offer document may be posted in the 14 days ending on the last day the offer is able to become unconditional as to acceptances. Therefore, absent an extension to Day 60 granted under Rule 31.6, an offeror cannot revise its offer after the 46th day following the posting of its initial offer document (“Day 46”). However, where Day 60 is extended, Day 46 will normally be extended to the same extent.

The Executive has been reviewing the application of Rules 31.6 and 32.1 to the situation where a potential competing offeror, which may or may not have announced

its interest, is considering announcing a rival offer after Day 46 of the existing offeror's offer has passed. For the avoidance of doubt, the Executive confirms that, in such a case, it would normally grant an extension to Day 60 (with a corresponding extension to Day 46) of the existing offeror's timetable, provided that the board of the offeree company consents to such an extension. Therefore, provided that such consent is obtained, and subject to no unreserved "no extension" or "no increase" statement having been made, the existing offeror will normally be able to revise its offer, notwithstanding that the original Day 46 has passed.

Under Note 1 on Rule 19.3, it is not acceptable for a statement by a potential competing offeror that it is considering making an offer to remain unclarified for more than a limited time in the later stages of the offer period. Note 1 requires the Panel to be consulted as to the period allowable for clarification before any such statement is made.

In the event that the Executive grants an extension to Day 60 (and thereby also to Day 46) of the existing offeror's timetable as described above, the Executive will normally grant a corresponding extension to any date by which a statement by a potential competing offeror must be clarified in accordance with Note 1 on Rule 19.3.

The Executive should be consulted as early as possible about any request for a timetable extension.

Practice Statements are issued by the Executive to provide informal guidance to companies involved in takeovers and practitioners as to how the Executive normally interprets and applies relevant provisions of the Code and the SARs in certain circumstances. Practice Statements do not form part of the Code or the SARs. Accordingly, they are not binding on the Executive or the Panel and are not a substitute for consulting the Executive to establish how the Code and the SARs apply in a particular case. All Practice Statements issued by the Executive are available on the Panel's website at www.thetakeoverpanel.org.uk.

13 January 2005