

THE TAKEOVER PANEL

ANNOUNCEMENT BY THE CITY WORKING PARTY

Since the Take-over Code was first instituted there has been an underlying principle that the purchase of effective control or even legal control of a company through the normal operations of the stock market did not constitute a take-over or merger transaction which would bring into operation the provisions of the Code. This view was based on the assumption that as a matter of practice it would be impossible to acquire control of a company through market purchases except over a very extended period of time, during which shareholders would be aware of what was happening and could take their own decisions regarding their personal investments.

This view is no longer tenable against the background of the increased awareness of investors of the implications of bid situations and the fact that it has proved possible for effective control of companies to be acquired through market purchases in a matter of days. This problem has been considered by the City Working Party in relation to the revision of the Code, which is currently in hand, and it has been decided to adopt a new Rule which will bring within the control of the Panel any purchases which involve the acquisition of 40% or more of the voting rights attributable to the equity share capital of a company.

It is expected that the new edition of the Code will be available for distribution not later than the middle of February, but in order to ensure that everyone is aware of the situation and to avoid any suggestion of retrospective action, this new Rule has been incorporated in the current Code as 29B with effect from today. The full text is set out below.

It will be noted that the Panel has power specifically to approve the exemption of purchases from the operation of this Rule. In the light of its experience it may be expected that the Panel will in due course issue a Practice Note dealing with the matter in some detail. In the meantime it should be stated that it is fully recognised that there will be cases where, for sound commercial or other reasons, it is desirable that a company should continue its separate identity even though effective control or even legal control may have changed hands.

Notice is also given that the concept of "the weighted average price", which is involved in existing Rule 31, has proved increasingly difficult and inconsistent in practice and in the new Code this Rule will be brought in line with the existing Rule 29A which requires the bidder to offer "the highest cash price".

Enquiries to: Mr. Peter Cannon
(Minster Trust Limited)
623 1050 (until 6.00 p.m)

18th January 1972.

THE CITY CODE ON TAKE-OVERS AND MERGERS**NEW RULE 29B**

Any person who acquires, whether by a series of purchases over a period of time or not, shares which (together with shares purchased by other persons acting in concert with such person) carry 40% of the voting rights attributable to the equity share capital of a company must (except in a case specifically approved by the Panel) extend within a reasonable period of time an unconditional offer to the holders of the remaining equity share capital of the offeree company. The offer required to be made under the provisions of this Rule shall, in respect of each class of equity share capital, be in cash or shall be accompanied by a cash alternative at not less than the highest cash price (excluding stamp duty and commission) paid by such person(s) for shares of that class within the preceding year. The Panel should be consulted as to the offer to be made for any class of equity share capital in respect of which no purchases have taken place within such period. The Panel should also be consulted in cases where more than one class of equity share capital carrying voting rights or non-equity share capital (carrying voting rights exercisable other than in restricted circumstances) is involved.

An offeror who considers that the "highest cash price" (as defined above) should not apply to a particular case should consult the Panel which will have a discretion, similar to that provided under Rule 29A, to agree an adjusted price.

This Rule shall not apply in a case where such person(s) already held shares carrying 40% or more of such voting rights on 18th January 1972.