

# THE TAKEOVER PANEL

## Intereuropean Property Holdings Limited

The Panel met on Wednesday 5 September 1979 to consider whether Mr. Laurie P. Marsh, when chairman and chief executive of Intereuropean Property Holdings Limited ("IPH"), had infringed Rule 30 of the Take-over Code when he purchased 30,000 IPH shares on 15 January 1979.

In December 1978 Mr. Marsh made enquiries whether a subsidiary of Associated Communications Corporation Limited ("ACC") would be interested in participating in a property development. Lord Grade, the chairman of ACC, then asked Mr. Marsh to come and see him. At a meeting on 5 January 1979 of Lord Grade, Mr. Jack Gill, deputy chairman of ACC, and Mr. Marsh Lord Grade said that ACC would like to buy IPH but that before sending in their bankers and accountants they would wish to be assured that Mr. Marsh could give a commitment in respect of a substantial proportion of the IPH shares. Mr. Marsh then consulted a director who was the largest shareholder after Mr. Marsh and on or before 10 January he was able to assure Lord Grade that he could rely on at least 36 per cent of the shares being committed to an acceptable offer. In consequence, Mr. Gill on 10 January asked ACC's merchant bank, N.M. Rothschild & Sons Limited, to obtain from Mr. Marsh financial and other relevant information about IPH and a meeting between Mr. Marsh and Mr. H.A. Vice of Rothschilds was arranged for 5.45 p.m. on Friday, 12 January for this purpose.

On 21 December 1978 Mr. Marsh purchased 10,000 IPH shares at 41p. On Friday 12 January Mr. Marsh endeavoured to get in touch with Mr. William Anderson of Messrs. Guy Puckle & Co. to place an order for the purchase of a further 30,000 shares. He was not able to get in contact with Mr. Anderson until about 5.15 p.m. and Mr. Anderson was not able to effect the purchase until the morning of Monday 15 January at 41½p per share.

After placing the order for the shares, Mr. Marsh, as already arranged, met Mr. Vice and another representative of Rothschilds on the evening of 12 January and supplied them with information on the existing and contemplated operations of IPH, its finances, the expected high level of profits for the current year and the following year and the ownership of its shares. Mr. Marsh said that he thought he could secure for ACC a near controlling interest in IPH and indicated that he would want shares in ACC and not cash for his own holding of about 2,700,000 shares. Mr. Marsh also said that he would want a price for the IPH shares equivalent to ten times the profits for the current year and he mentioned a price of 110 p. per share.

On 15 January there was a meeting of Mr. Marsh and two other IPH directors, an executive of the company and representatives of Price Waterhouse & Co., IPH's auditors. Price Waterhouse was informed of the possible take-over bid by ACC and was asked to review IPH's profit forecast for the year to 31 July 1979 and to make information available to ACC's auditors.

On 7 February there was agreement on the terms of the offer to be made by ACC for IPH and The Stock Exchange was asked temporarily to suspend the listing of IPH shares. The terms of the offer were publicly announced on 12 February - 90p in cash for each IPH share or the equivalent of 85p in ACC shares and cash. The listing was restored on the following day. By 12 February the Board of IPH had arranged for 47 shareholders (including Mr. Marsh] to give irrevocable commitments in respect of 47.86 per cent of IPH's issued capital.

Rothschilds despatched the offer document to IPH shareholders on 16 March and the offer became wholly unconditional on 11 April.

At the meeting of the Panel Mr. Marsh did not dispute that he had infringed Rule 30 which prohibits dealings by any person, not being the offeror, who is privy to the preliminary take-over discussions or to an intention to make an offer between the time when there is reason to suppose that an approach or an offer is contemplated and the announcement of the approach or offer. He claimed, however, that he had been unaware of the terms of the Take-over Code, that there had been overtures at other times during the preceding three years from other companies and that events before he placed the order on 12 January left it uncertain whether, in the light of the information about IPH which ACC had still to obtain and digest, an acceptable offer could be negotiated.

In our investigation of this matter, a good deal of time was taken up in examining information supplied by Mr. Marsh to the secretary of IPH which, although Mr. Marsh said that this was not his intention, led the secretary to assume that 40,000 shares (the 10,000 shares actually purchased on 21 December and the 30,000 shares purchased on 15 January) had all been purchased on 21 December and to supply this erroneous information to The Stock Exchange. The offer document gave the correct dates for the purchase of the two lots of shares.

In the light of Lord Grade's clear indication of his intentions on 5 January and the course of events prior to Mr. Marsh's order to purchase 30,000 shares, we regard this case as a flagrant breach of Rule 30. A company chairman should know the terms of the Take-over Code, and in any event Mr. Marsh's conduct was open to serious objection and deserves grave censure. We have required him to give the profit that accrued to him from the transaction to a charity nominated by the Panel and he has agreed to do so.

The Panel has investigated and will publish later its findings on transactions in IPH shares by an individual resident overseas which were made about the same time.

12th September 1979