

# THE TAKEOVER PANEL

## THE PEOPLES PHONE COMPANY PLC/ MRS M P MARKS, MR J A D MARKS AND MR R MARKS

The Panel met on Tuesday, 6 June to hear an appeal lodged by Mrs M P Marks, Mr J A D Marks and Mr R Marks ("the appellants") against rulings by the Executive in connection with a proposal requiring a waiver from the obligation to make a general offer ("the waiver") for The Peoples Phone Company PLC ("the Company"), an unlisted company.

### **Background**

The appellants hold 2,632 shares in the Company, comprising 0.75% of the issued share capital.

The Company has expanded significantly over recent years and towards the end of 1994 sought further funding. In a circular to shareholders dated 28 November 1994 (the "Circular") the Company set out proposals which involved fresh subscriptions of capital by Singer & Friedlander Group Plc ("S&F") and Ivory & Sime Plc, the conversion of certain debt due to S&F into equity, and the release of security in respect of debt remaining due to S&F. In addition, conditional upon these subscriptions being completed, the Company arranged further working capital to satisfy its requirements.

### **Code Issue**

Prior to the proposals, S&F and parties acting in concert with it already held in excess of 30% of the issued share capital of the Company. As a result of the proposed financing, S&F and parties acting in concert with it were to increase their potential shareholding by more than 1% of the issued share capital of the Company, to approximately 48%. The Company therefore applied to the Panel to waive the obligation to make

a mandatory offer under Rule 9 of the Code, following the procedures described in Appendix 1 of the Code which includes the provision of competent independent advice to the Company. Such a waiver must be approved by a vote of independent shareholders.

In the event, the independent shareholders overwhelmingly approved the proposals at a meeting on 22 December 1994.

### **The Appeal**

The appellants' principal assertion, on appeal, was that the Circular did not contain sufficient information to satisfy the requirements of the Code.

### **The Decision**

The Panel is satisfied that, taking an overall view of the circumstances of the case, the Circular complied with the requirements of the Code. The appeal is accordingly dismissed.

9 June 1995