

THE TAKEOVER PANEL

KVÆRNER a. s ("KVÆRNER") /

AMEC plc ("AMEC")

On 27 November 1995, Kværner announced an offer for AMEC. The offer document, posted on the same day, stated that the offer of 100p per ordinary share in AMEC would not be increased or extended beyond the first closing date of 18 December unless a competitive situation arose.

Background

Following press reports during the weekend of 2 and 3 December, the Panel Executive investigated the source of speculation about the level of AMEC's profits for 1996. The Executive was concerned that the press articles might have been based, directly or indirectly, upon statements made by directors of AMEC or by one of its advisers. At the request of the Executive, a statement was released on behalf of AMEC on the afternoon of 4 December, disassociating the board of AMEC and its advisers from providing such information. This statement was issued after discussions between the Executive and NatWest Markets Corporate Finance Limited ("NatWest Markets"), the financial adviser to AMEC. The Executive also requested and received specific written confirmation from AMEC and its public relations advisers, Financial Dynamics, that no such information had been made available or implied by any statements made to third parties. NatWest Markets confirmed to the Executive that its client and other advisers had been briefed specifically on the Code requirements in relation to the release of information.

The Executive investigated these matters further and established that there had been a number of conversations between Financial Dynamics and third parties. These

conversations generally took place subsequent to meetings between AMEC and these parties.

In one conversation, which took place on 1 December with a representative of a securities firm unconnected with either Kværner or AMEC, a director of Financial Dynamics made certain comments relating to a level of profits for AMEC for the year ending 31 December 1996. Information on 1996 profits would have constituted material new information which was not public and was not capable of being made public without being prepared and reported on in accordance with the strict requirements set out in the Code. The Executive also established during the course of its investigations that AMEC was not proposing to include a profit forecast for 1996 in its defence circular.

The conversation referred to above also included references to unpublished matters relevant to the defence strategy and to the contents of the defence circular which was not due to be issued for several days. It was also suggested that further information regarding the defence strategy might appear in newspapers that weekend, ahead of publication in the defence document.

Code issues

As explained in earlier Panel statements on such issues, it is of paramount importance that information released during an offer satisfies the highest standards of accuracy and, further, when information is released, it must be made equally available to all shareholders as nearly as possible at the same time and in the same manner.

Such principles are clearly stated in the Code and apply equally to directors and officials of companies and to all their representatives and advisers. All such parties must take extreme care in discussions, whether formal or informal, with shareholders and with others, such as journalists or

investment analysts, whose views may influence shareholders. Concern in this area extends beyond simple statements of fact to include any impressions which are given.

It is stated in the Code that the Panel regards financial advisers as being responsible to the Panel for guiding their clients and any relevant public relations advisers with regard to any information released during the course of an offer. The Executive is satisfied that NatWest Markets took all reasonable steps to ensure that the company and its advisers were aware of the requirements of and their responsibilities under the Code.

The Executive's findings

The comments in relation to profits made by the director of Financial Dynamics on 1 December gave an impression of a level of AMEC's future profits which was not being made public and was not prepared or reported on in accordance with the Code. The Executive also finds that the other new information relating to the defence was released in contravention of Code requirements.

The Executive's conclusions

In this case, Financial Dynamics failed to take sufficient care in its discussions with analysts which resulted in serious breaches of the Code and is criticised accordingly.

12 December 1995