

THE TAKEOVER PANEL

GUINNESS PLC ("GUINNESS")

THE DISTILLERS COMPANY PLC ("DISTILLERS")

LATE DISCLOSURE OF PURCHASES BY GUINNESS PENSION FUNDS

In the offer document issued on behalf of Guinness by Morgan Grenfell & Co Ltd on 3 March, it was disclosed that four Guinness Pension Funds had purchased an aggregate of 2,097,500 stock units of Guinness between 20 January and 26 February, that is during the offer period that commenced on 20 January.

As required by Rule 8 of the Code, the details of the purchases should have been publicly announced by 12 noon on the business day following that on which they took place but no such disclosure was made.

The Code makes the presumption that a company and its pension funds act in concert. Because on occasions shares of Distillers were purchased by Morgan Grenfell and British Linen Bank, financial advisers to Guinness, on the same day as the purchase of Guinness stock units by the Guinness pension funds, it is possible that there might have been breaches of Rule 7.3 of the Code. However, as the precise timing of those purchases has not been recorded, the Panel has found no evidence on this matter.

The responsibility to arrange for disclosure of purchases on the business day after they took place fell in this instance between the trustees of the funds (a number of whom initiated purchases), the discretionary fund managers, Guinness and Morgan Grenfell.

It is regrettable that a clearing house procedure for the disclosure of dealings was not established at the outset and so breaches of Rule 8 and possibly Rule 7.3 of the Code avoided.

The Panel recommends financial advisers to take the initiative in this area and to ensure that standard procedures exist so that problems of this type do not occur in future.

2 April 1986