

# THE TAKEOVER PANEL

## GUINNESS PLC

The Panel naturally views the events relating to Guinness that have unfolded over recent weeks with the greatest concern. From the public statements made by the company it appears that there may have been breaches of the law during the take-over of Distillers by Guinness. It seems likely to the Panel from the information which has so far emerged that there were also material, and it could well be in some cases deliberate, breaches of the Take-over Code. These concern disclosures of dealings which should have been made, but were not.\* Furthermore, if any of the persons who received a secret undertaking of support or benefit from Guinness or its agents, and so were working in concert with Guinness, purchased shares in Distillers at above the level of the cash offer by Guinness for Distillers that would have had significant Code consequences for the Guinness offer.

Normally, following its own investigation in any Code case in order to determine what had happened, and, if breaches of the Code had occurred, who was at fault and what should be done, the Panel would promptly set out its findings and decisions in detail in a public statement. In the present situation, however, because Inspectors have been appointed, and legal consequences may flow from their work, the Panel must await the outcome of the Inspectors' enquiries, before publishing any findings or judgments of its own.

In the meantime, taking advantage of its ability to adapt the Code swiftly, the Panel has announced today in a separate statement amendments to its Rules. These will require substantially more detailed public disclosure from persons dealing in the securities of an offeror or the offeree company during an offer period.

Since Big Bang, The Stock Exchange has introduced new computer-based systems and, as a result, the level of market information now available to it is substantially greater. Against that background, the Panel and the Surveillance Division of The Stock Exchange have increased their active co-operation in the monitoring of dealings in securities relevant to take-overs during an offer period. A separate statement, made jointly with The Stock Exchange, on this subject has also been released today.

30 January 1987

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\*Note: Associates, as defined in the Take-over Code, must, in a securities exchange offer, disclose their dealings in the securities of an offeror or of the offeree company on the business day following the date of the transactions.

The first paragraph of the definition of Associate, as it appears in the Code is as follows:

"Associate

This definition has particular relevance to disclosure of dealings under Rule 8.

It is not practicable to define associate in terms which would cover all the different relationships which may exist in a take-over. The term associate is intended to cover all persons (whether or not acting in concert) who directly or indirectly own or deal in the shares of the offeror or offeree company in a take-over and who have (in addition to their normal interests as shareholders) an interest or potential interest, whether commercial, financial or personal, in the outcome of the offer."