

# THE TAKEOVER PANEL

**FORSÄKRINGSBOLAGET SPP, OMSÄSIDIGT ("SPP")**

**LONDON & EDINBURGH TRUST PLC ("LET")**

The Panel Executive has examined the events surrounding the announcement on Monday 2 April of SPP's recommended offer for LET. SPP are advised by Baring Brothers & Co., Limited ("Barings") and Cazenove & Co. ("Cazenove") are their stockbrokers. LET are advised by Lazard Brothers & Co., Limited ("Lazards").

This statement deals with two unsatisfactory aspects of those events.

1. Leaks to newspapers

On 22 March 1990 Lazards announced that the board of LET were in discussions with a third party, following an approach, which might or might not lead to an offer being made for the company. Over the weekend of Saturday 31 March/Sunday 1 April, there were extensive leaks in the newspapers about the terms of an impending announcement of an offer by SPP for LET at 220p per LET ordinary share. The Panel Executive has interviewed the financial advisers and public relations advisers to both parties and has received written confirmation from the financial advisers that the events surrounding the leaks have been fully investigated. Everybody concerned with the offer has confirmed, either directly to the Panel Executive or through the respective financial advisers, that they were not responsible for the leaks and the Panel Executive has no reason to doubt these assurances.

Rule 2 of the Code stresses the vital importance of absolute secrecy before the announcement of an offer and requires that all persons privy to confidential information must conduct themselves so as to minimise the chances of an accidental leak of information.

Rule 19.1 of the Code requires that information about companies involved in an offer should be made equally available to all shareholders as nearly as possible at the same time and in the same manner.

Although it has not been possible to trace the origin of the leaks which occurred in this case, the Panel Executive wishes to draw attention to the fact that leaks of this kind are a clear breach of Rule 2 and have the effect of breaching Rule 19.1 because leaked information cannot by definition be made available equally to all shareholders.

## 2. Offer announcement

The boards of SPP and LET finally agreed the terms of the offer late on Sunday 1 April and Cazenove were instructed on Sunday evening by Barings to prepare themselves for the announcement of the offer on Monday morning and subsequently to make substantial share purchases on behalf of SPP.

At this time SPP owned 2,175,000 ordinary shares in LET (approximately 1.16%). It had also received irrevocable undertakings in respect of 53,674,570 ordinary shares (28.79% of the issued ordinary share capital of LET). Cazenove's instructions were to purchase 22 million shares (approximately 12% of LET's issued share capital).

Barings telephoned Cazenove shortly before 7.30am on Monday 2 April and informed them that the announcement of the offer was in the course of being transmitted to the

Company Announcements Office of The Stock Exchange. Cazenove waited for the announcement to appear on the Company News Service ("CNS") screen before briefing their sales team. However, at 7.58am a news item from Sweden appeared on Reuters screen saying that "SPP said it was offering 220p per share for British property company LET in an agreed bid". This news item did not mention the fact that the offer was effectively 223.5p per LET ordinary share because there was to be a second interim dividend of 3.5p per share. The weekend press contained no reference to this dividend.

Before 8.00am Barings had become aware that, due to technical difficulties which they were experiencing with their equipment, the transmission of the announcement to CNS was taking considerably longer than would normally have been the case. Barings therefore attempted to arrange other ways in which the announcement could appear on the CNS screen more quickly. At 8.16am, a holding announcement appeared on CNS which read "London and Edinburgh Trust. Standby." Cazenove were unaware of any technical difficulties and, assuming that the standby announcement preceded the imminent full announcement, commenced buying LET shares at the full cum dividend price of 223.5p. Their purchases were reported to the market in the normal way and appeared on SEAQ from 8.18am onwards. Full details of the offer were given by Cazenove to all LET shareholders whom they contacted, approximately 30 in number, and to others who made enquiries. The full announcement did not in fact appear on the CNS screen until 8.56am. By that time Cazenove had completed the purchases, on behalf of SPP, of approximately 12% of LET. Later in the day further purchases were made by Cazenove, with the result that SPP ended up with over 50% of LET in terms of shares purchased and rights over shares.

General Principle 6 of the Code requires that "all parties to an offer must use every endeavour to prevent the creation of a false market in the securities of an offeror or the offeree company". In the view of the Panel Executive, following the leaks in the weekend press and the Reuters news item which originated in Sweden, there was a false market in the shares of LET between the opening of dealings at 8.00am and the appearance on the CNS screen of the full announcement of the offer at 8.56am. During this time, whilst Cazenove were buying shares directly from LET shareholders, the market as a whole was not aware that SPP had made an offer which was effectively at 223.5p. The market no doubt saw the standby announcement at 8.16am followed by purchases at 223.5p on SEAQ from 8.18am onwards and was waiting for a full announcement to clarify the position. There was clearly a risk that Cazenove, by informing those with whom it was dealing and some others that an offer would be made at 223.5p, might have created a situation in which those who were told this information would themselves deal in the market at the expense of others who were not aware of the full terms of the offer. The passing of such information was in effect a breach of Rule 19.1

In the circumstances of this case the Panel Executive does not intend to take any further action beyond the making of this statement because it is not aware that the inadvertent breaches of the Code had any material adverse consequences.

25 April 1990