

# THE TAKEOVER PANEL

## **AIRTOURS PLC/FIRST CHOICE HOLIDAYS PLC**

On 3 June Airtours PLC ("Airtours") announced that it had declared its offers for First Choice Holidays PLC ("First Choice") unconditional as to acceptances and that, accordingly, its offers had to become, or be declared, unconditional in all respects by 24 June.

On 3 June the European Commission announced that it was initiating a Phase II investigation of Airtours' proposed acquisition of First Choice. This notification had been received after Airtours had declared its offers unconditional as to acceptances.

On 10 June Airtours announced that, following a meeting with the European Commission, Airtours had concluded that it would not be possible to declare its offers for First Choice wholly unconditional by 24 June and that, accordingly, Airtours had allowed its offers for First Choice to lapse. Airtours also said that it was seeking the Panel's consent for Airtours to be able to announce new offers for First Choice within 12 months from the lapsing of its offers.

Rule 35.1 would, unless the Panel otherwise consents, prevent Airtours from announcing new offers, or possible new offers, for First Choice within 12 months from 10 June. The Panel Executive has, by way of dispensation from Rule 35.1, ruled that Airtours may, if it so wishes, make new offers for First Choice within 12 months from 10 June, provided that any such new offers follow the issuing of a decision by the European Commission under Article 8(2) of Council Regulation 4064/89/EEC. Any new offers must be announced within 21 days after the announcement of that

decision. This ruling has been accepted by First Choice and Kuoni Holdings (the current offeror for First Choice).

The Panel Executive wishes to make it clear that the Code is not concerned with issues of competition policy. In granting this dispensation, the Panel Executive has been concerned solely with matters arising under the Code and expresses no view in relation to the European Commission's Phase II investigation.

16 June 1999