



The Secretary of the Code Committee

The Takeover Panel

10 Paternoster Square

London

EC4M 7DY

April 14, 2016

Dear Sir/Madam Secretary,

Re: The communication and distribution of information during an offer

Thank you for giving us the opportunity to comment on consultation paper issued by the code committee of the panel.

The Investor Relations Society's mission is to promote best practice in investor relations; to support the professional development of its members; to represent their views to regulatory bodies, the investment community and government; and to act as a forum for issuers and the investment community. The Investor Relations Society (IR Society) represents members working for public companies and consultancies to assist them in the development of effective two way communication with the markets and to create a level playing field for all investors. It has over 750 members drawn both from the UK and overseas, including the majority of the FTSE 100 and much of the FTSE 250.

Overall, we are in agreement with the proposals within this paper and we consider that the proposed amendments to the provisions of the code relating to communication and distribution of information and opinions during an offer by, or on behalf of, an offeror or the offeree company will - in general - serve to strengthen the existing Code and align with best practice investor communications.

We attempt to address all the questions from your proposal in our submission below, and where we have no further comment, we have grouped questions and answers together. The key points from our response can be summarised as follows:

- Investor relations officers already comply with a multitude of disclosure requirements and current rules don't always recognise the professionalism of investor relations. We would therefore support any proposed amendments to the rules that serve to further promote the role of investor relations and best practice investor communications.
- There are significant costs and practicalities related to the policing of meetings during an offer period with a financial advisor or corporate broker. Constructive proposals to reduce the cost burden and resource constraints for companies would be welcomed.
- The IR Society would encourage the Takeover Panel to recognise the integrity and experience of the investor relations community, who already conduct a significant number of investor and analyst meetings throughout the year. The IR Society would encourage IR self-certification to allow IR professionals to attend meetings without financial advisers where applicable. Where needed additional training of IROs could be given.

Q1 Should the proposed new Rule 20.1(a) apply to information and opinions relating to an offer or a party to an offer?

Q2 Should material new information or significant new opinions relating to an offer or a party to an offer which an offeror or the offeree company publishes, or which it provides to shareholders, other relevant persons or the media, be required to be published via a RIS at the same time?

Q3 Should documents provided by an offeror or the offeree company to shareholders or other relevant persons, and written communications provided to and published by the media, be required to be published on a website?

The IR Society supports all of the above proposals in Q1, Q2 and Q3. Best practice would suggest IR officers and their communications teams already adhere to these disclosure requirements; however we support the Takeover Panels proposal to enforce this and make clear to those companies who may not be doing it already.

Q4 Do you have any comments on the proposed new Note 7 on Rule 20.1 with regard to employee communications or the proposed new Note 8 on Rule 20.1 with regard to presentations and other documents?

Q5 Do you have any comments on the proposed new Note 6 on Rule 20.1 with regard to the provision of information prior to the commencement of an offer period or prior to the announcement of a firm or revised offer?

We have no further comment on the proposed new Notes 6 and 8, and agree these are in line with best practice and communication of new information during an offer.

Q6 Should all announcements required to be made under the Code be required to be published via a RIS and, if the relevant RIS is not open for business, be distributed to not less than two national newspapers in the UK and two newswire services operating in the UK?

The IR Society supports this proposal that all announcements are required to be published via a RIS. In line with transparency and disclosure rules (DTR 6.3.4) we believe it is now best practice for companies to send announcements to as wider lists as possible and not just two papers and two newswires, in the case where the relevant RIS is not open for business. This should be the same course of action for announcements to be made under the Code. Furthermore communications via digital media (including possible use of social media), as the Panel refers to in Q21 and Q22, should also be considered best practice in this regard.

Q7 Should the Panel have the ability to require a copy of an announcement (or a document which includes the contents of the announcement) to be sent to the offeree company's shareholders, employee representatives and pension scheme trustees?

In principle the IR Society supports this proposal and its intentions for equality of information disclosure. While companies can attempt to send a copy of an announcement to all shareholders, employee representatives and pension scheme trustees, in practice this could be time consuming, expensive and shareholder data may be inaccurate.

Q8 Do you have any other comments on the amendments to the Code proposed in Section 2 of the PCP?

The IR Society has no further comment on the amendments to the Code proposed in Section 2.

Q9 Should a reference in the proposed new Rule 20.2 to a meeting include any telephone call or meeting held by electronic means?

Yes, we support this proposed new rule. With many communications are now conducted by electronic means, both conference calls and video conferencing, this is broadly already assumed by IR professionals.

Q10 Should the proposed new Rule 20.2 apply to meetings attended by (a) a representative of, or adviser to, an offeror or the offeree company and (b) a shareholder in, or other person interested in relevant securities of, an offeror or the offeree company, or any investment manager, investment adviser or investment analyst?

Q11 Should the proposed new Rule 20.2 apply to (a) all meetings which take place during the offer period and (b) meetings which take place prior to the commencement of the offer period, but only if the meeting relates to a possible offer or if it would not be taking place but for the possible offer?

Q12 Do you have any other comments on the scope of the proposed new Rule 20.2?

The IR Society agrees with the Panel on the above proposals to Rule 20.2 in Q10 and Q11, and has no further comment on the scope of the proposed new Rule 20.2.

Q13 Should the proposed new Rule 20.2 provide that (a) any meeting to which the Rule applies must be supervised by an appropriate financial adviser or corporate broker to the offeror or offeree company (as appropriate) and (b) no material new information or significant new opinion relating to the offer or a party to the offer may be provided during the meeting?

The IR Society agrees with the above mentioned provision, and companies widely expect that meetings that are required to be reported on should have a financial advisor or corporate broker in attendance.

However, the IR Society would like to note the practicality of policing unscheduled incoming telephone calls to investor relations. It is not always convenient or practical to arrange a chaperone or rearrange a call, and the Investor Relations officer should be recognised as certified or qualified to conduct such calls.

Q14 Should a supervisor of a meeting to which the proposed new Rule 20.2 applies be required to confirm the names and functions of the individuals who attended the meeting in addition to the matters required to be confirmed under the current Note 3 on Rule 20.1?

Yes, the IR Society agrees with this proposal.

Q15 Do you have any comments on the proposed Note 1 on the new Rule 20.2 in relation to meetings which take place prior to the commencement of an offer period or prior to the announcement of a firm or revised offer?

We have no further comment notwithstanding the points raised in response to Q13.

Q16 Do you have any comments on the proposal to give the Panel the ability to grant dispensations from the provisions of the proposed new Rule 20.2 in relation to meetings following the announcement of a recommended firm offer?

The IR Society supports this proposal, following the announcement of a recommended firm offer, that the Panel can grant dispensation from the requirement for the meeting to be supervised by a financial adviser or corporate broker. We agree that the financial adviser must provide clear and appropriate briefings to other relevant third parties that no new information can be provided. Furthermore, such dispensation to be granted by the panel will reduce the cost burden, resource constraints and complexity for companies.

The IR Society would encourage the Takeover Panel to recognise the professionalism, integrity and experience of the investor relations community, who conduct a significant number of investor and analyst meetings throughout the year. With this in mind, the Panel should allow self –certification at a meeting where an IR professional is present.

Q17 Should the requirement for a confirmation in writing to be provided to the Panel by not later than 12 noon on the business day following a meeting be disappplied in the case of meetings attended only by one or more financial advisers or corporate brokers and one or more relevant third parties?

We agree with this proposal that it is unnecessary for a financial advisor or corporate broker to provide confirmation in writing to the Panel. We acknowledge that brokers don't need to police such meetings.

Q18 Do you have any comments on the proposed treatment of meetings attended only by one or more advisers to an offeror or the offeree company (other than a financial adviser or corporate broker) and one or more "sell-side" investment analysts (as described in paragraph 3.39(b) of this PCP)?

The IR Society wholeheartedly supports this proposal on behalf of its corporate members. We consider it a constructive proposal to disapply the requirement for such meetings where one or more adviser (other than the financial adviser/corporate broker) and one or more investment

analyst are in attendance to be supervised by a financial advisor or corporate broker. We support any proposal that can help in reducing the cost burden and time constraints on a company during an offer period.

We would however encourage the Takeover Panel to provide absolute clarity around this proposed treatment of meetings, and that it is the financial adviser/corporate broker 's responsibility to ensure all third party advisers and senior representatives are aware of the disclosure guidelines.

Q19 Do you have any comments on the proposed new Rule 20.2?

We have no further comments on the proposed new Rule 20.2.

Q20 Should the new Rule 20.3 in relation to the use of videos be introduced as proposed?

Q21 Should the new Rule 20.4 in relation to the use of social media be introduced as proposed?

Q22 Should the amendments to Rule 26 in relation to the publication of documents on a website be made as proposed?

Q23 Should Rule 19.4 (Advertisements) be amended (and renumbered as Rule 20.5) as proposed?

Q24 Should Rule 19.2 (Responsibility) and Note 1 on Rule 3.2 be amended, and Note 5 on Rule 19.1 (Use of other media) be deleted, as proposed?

Q25 Should Rule 19.5 (Telephone campaigns) be amended (and renumbered as Rule 20.6) as proposed?

Q26 Do you have any comments on the minor and consequential amendments to the Code proposed in Section 6 of this PCP?

The IR Society supports all proposals relating to Questions 20 to 26, which fall in line with current best practice disclosure requirements.

In summary, we support the Takeover Panel's proposed amendments with regard to the communication and distribution of information and opinions during an offer. These amendments not encourage equality and quality of information but also formalises current best practice disclosure and communications.

We hope you find these comments useful and please do not hesitate to contact me if you have any further questions.

Kind regards

A handwritten signature in black ink, appearing to read 'E Burdett', with a horizontal line underneath.

Emma Burdett

Chair of The Investor Relations Society's Policy Committee

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