

THE TAKEOVER PANEL

GLANFIELD LAWRENCE PLC ("GLANFIELD") /BAJAU LIMITED ("BAJAU")

The full Panel met on 22 and 23 October to hear an appeal by Samuel Montagu & Co on behalf of Glanfield against a ruling by the Panel executive that, while a concert party centred on Bajau (a company controlled by Mr C Selmes) had been active in dealings in Glanfield shares, no breach of Rule 34 of the Code requiring an offer for the remainder of the shares had occurred.

The Panel regretted that it was not able to examine, either by reason of their residence abroad or because of unwillingness to appear, some individuals whose evidence might have helped the Panel further.

The Panel concluded that the existence of a wider concert party to secure control was not proved by evidence before them, although there was clearly a community of interest in the pursuit of a dealing profit which went wider than the concert party previously ruled to exist by the executive. The Panel therefore upheld the executive's ruling that no breach requiring an offer for the remainder of the shares had occurred.

The Panel is, however, concerned to underline the dangers, in circumstances (sometimes called "fan club" situations) where a substantial investor by reason of his reputation is followed by a number of others, of possible breaches of a Rule which can carry an obligation to make an offer for all remaining shares at the highest price paid by any of those concerned. This obligation may extend on a joint and several basis to all of them. Since the relationships and the level of communication between the parties are factors to be considered in deciding whether a concert party did exist, the dangers are evidently increased where there is communication between the major investor and the others about the merits of the investment.

Although not a matter arising in the present instance, the Panel would make the general point that in such cases reference to the executive at a time when fully detailed inquiries as to the links between the parties concerned cannot be made is not to be relied upon to give protection against being held in breach of this Rule.

The Panel has asked the executive to advise whether any change of Rule or practice is required in the light of this case.

Finally the Panel would emphasise its belief that it is incumbent on any person who makes use of the services of the securities markets to support the Panel's work for those markets by being ready if asked to appear and give evidence to the Panel.

24 October 1984