

THE TAKEOVER PANEL

FIRST TECHNOLOGY Plc ("FIRST TECHNOLOGY")

RICARDO GROUP Plc ("RICARDO")

On 21 February Ricardo announced a recommended offer for SAC International plc ("SAC") and posted its offer document the following day. Ricardo had received irrevocable undertakings to accept its offer in respect of 45.9 per cent of SAC and declared intentions to accept in respect of a further 10.7 per cent. The success of the recommended offer therefore depended crucially on the vote of the Ricardo shareholders at an EGM to be held at 11.00am on 12 March. The latest time for receipt of proxy forms in respect of the EGM was 11.00am on 10 March.

First Technology made a counter-proposal to Ricardo, a pre-condition of which was a recommendation from the Ricardo board. On 7 March First Technology announced its counter-proposal, involving a recommended all share offer at a value equivalent to 180p per Ricardo ordinary share, which had by the time of its announcement been rejected by Ricardo. First Technology's announcement also stated that it intended to vote against the resolution to approve the SAC merger and, if that resolution were to be defeated, to renew its counter-proposal.

The Executive's concern following the First Technology announcement was whether or not an offer period had started for First Technology. Ricardo's concern was whether its rejection of the original approach (to be supported, if necessary, by an announcement that it would also reject any repetition of First Technology's counter-proposal after the Ricardo EGM) removed the possibility of a unilateral offer. First Technology's concern was that it wanted to keep all its options open, including the possibility of making a unilateral offer if the SAC merger was not approved by the Ricardo shareholders. In order to resolve these uncertainties the

Executive proposed various options to Kleinwort Benson Limited, First Technology's advisers. First Technology's position was that it would go no further than to state publicly that it was reserving all its rights which would include the possibility of a unilateral offer for Ricardo.

Rule 20 provides that parties to an offer must take care not to issue statements which, while not factually inaccurate, may mislead shareholders and the market or may create uncertainty. It is particularly important that those who intervene in bids at critical moments should not issue statements which may mislead shareholders and may create uncertainty. In this case it was important that Ricardo shareholders should know what alternatives were available to them in order to decide how they should cast their votes at the EGM on 12 March.

In the Panel's view First Technology's announcement needed clarification because in its terms it was directed only to the possibility of a recommended offer: most people reading it would not have understood that First Technology might have had it in mind to make a unilateral offer. Accordingly the Panel accepted that the announcement of 7 March needed to be clarified.

The Panel considered whether to allow First Technology an opportunity to state the terms of any unilateral offer which it intended to make for the share capital of Ricardo if the SAC merger proposed was not approved. The Panel recognised the importance of giving shareholders the opportunity of considering such an offer, and concluded that it ought to allow First Technology to announce the terms of such an offer if it wished to do so.

As against this, however, the Panel had to keep in mind the fact that proxy forms in relation to the Ricardo EGM had to be received by 11.00am on 10 March, and that the EGM itself was due to take place at 11.00am on 12 March. Accordingly, it

seemed to the Panel that the opportunity which should be given could not properly be extended beyond 4.00pm on 9 March.

The Panel had also to consider what should happen if no statement relating to a unilateral offer were made. Ricardo could not be said to have been under siege and, although in this event First Technology should not be permitted to make a unilateral offer in the immediate future, it should be permitted to do so after three months from today.

By 4.00pm on 9 March no statement had been made by First Technology, so that it is now precluded from making a unilateral offer for Ricardo before 10 June 1990.

9 March 1990