

THE TAKEOVER PANEL

THE PEOPLES PHONE COMPANY PLC/ MRS M P MARKS, MR J A D MARKS AND MR R MARKS

The Panel met on Tuesday, 6 June to hear an appeal lodged by Mrs M P Marks, Mr J A D Marks and Mr R Marks ("the appellants") against rulings by the Executive in connection with a proposal requiring a waiver from the obligation to make a general offer ("the waiver") for The Peoples Phone Company PLC ("the Company"), an unlisted company.

Background

The appellants hold 2,632 shares in the Company, comprising 0.75% of the issued share capital.

The Company has expanded significantly over recent years and towards the end of 1994 sought further funding. In a circular to shareholders dated 28 November 1994 (the "Circular") the Company set out proposals which involved fresh subscriptions of capital by Singer & Friedlander Group Plc ("S&F") and Ivory & Sime Plc, the conversion of certain debt due to S&F into equity, and the release of security in respect of debt remaining due to S&F. In addition, conditional upon these subscriptions being completed, the Company arranged further working capital to satisfy its requirements.

Code Issue

Prior to the proposals, S&F and parties acting in concert with it already held in excess of 30% of the issued share capital of the Company. As a result of the proposed financing, S&F and parties acting in concert with it were to increase their potential shareholding by more than 1% of the issued share capital of the Company, to approximately 48%. The Company therefore applied to the Panel to waive the obligation to make

a mandatory offer under Rule 9 of the Code, following the procedures described in Appendix 1 of the Code which includes the provision of competent independent advice to the Company. Such a waiver must be approved by a vote of independent shareholders.

In the event, the independent shareholders overwhelmingly approved the proposals at a meeting on 22 December 1994.

The Appeal

The appellants' principal assertion, on appeal, was that the Circular did not contain sufficient information to satisfy the requirements of the Code.

The Decision

The Panel is satisfied that, taking an overall view of the circumstances of the case, the Circular complied with the requirements of the Code. The appeal is accordingly dismissed.

9 June 1995