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10 DOWNING STREET

From the Principal Private Secretary

17 March 1989

BROADCASTING WHITE PAPER
LORD BUXTON'S CONCERNS

The Prime Minister has seen your letter to me of 15 March and was grateful for the explanation of the way in which Lord Buxton's concerns can be met.

Andrew Turnbull

Miss Catherine Bannister
Home Office

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Prime Minister
It appears there are
ways round Lord Buxton's
problem.

SEP

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWH 9AT

AT 16/3

15 March 1989

Dear Andrew

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at floor

Philip Mawer wrote to you on 13 February about the point raised by Lord Buxton with the Prime Minister on the Broadcasting White Paper's proposal to allocate independent television contracts by competitive tender.

We asked the Department of Trade & Industry to make enquiries of the Stock Exchange as a matter of urgency. A copy of the letter from the Stock Exchange is attached for information. In summary:

- (i) if the bid is a revenue bid (expressed in yearly amounts and shown in the profit and loss accounts) it would fall outside the Stock Exchange requirements for shareholders to be informed;
- (ii) if the bid is a capital bid (i.e. a fixed sum) then
 - (a) if it were less than 15% of the company's assets or net profits it would not fall within the terms of a Class 1 bid;
 - (b) if it were 15% or more but less than 25% of the company's assets or net profits it would be a Class 1 bid, but the requirement to notify shareholders would apply only if the bid were successful. In other words, the bid could be confidential, and declared to shareholders only if it were successful;
 - (c) if it were 25% or more of the company's assets or net profits it would be a Major Class 1 bid requiring shareholders to be informed. But there are other ways around this:
 - (i) the Stock Exchange, though unlikely to grant a general waiver, might be willing to grant a specific waiver on request. There is a precedent for doing this on the grounds that shareholders' interests would otherwise be damaged;

- (ii) the company could seek shareholders' approval in advance to waive their right to an EGM to allow a bid to be made in confidence.

Thus the basic message from the Stock Exchange is that the problem raised by Lord Buxton is not insuperable; but we will need to bear in mind the Stock Exchange rules in further work on the tender process, and to consult further with them at an appropriate stage.

Yours sincerely
Catherine Bannister

MISS C J BANNISTER

Andrew Turnbull, Esq.

G. H. DOUGLAS MANN
EXECUTIVE DIRECTOR



ANNEX B

P.O. Box 119
THE STOCK EXCHANGE
LONDON EC2P 2RT
TELEPHONE 40 688 2355

H. FRYER
DIRECTOR OF QUOTATIONS

Our Ref: Q/RAGM1.54/AJ

6th March 1989

PRIVATE & CONFIDENTIAL

L. B. Green, Esq.,
Financial Services Division,
Department of Trade and Industry,
10-18 Victoria Street,
London, SW1H 0NN.

Dear Sirs,

Thank you for your letter of 10th February 1989 addressed to Keith Walmsley which has been passed to me for attention. We have discussed within the Quotations Department the problem raised in your letter and I set out below some initial views on the matter.

In the first place, it is not immediately clear that the proposed bids would be subject to the provisions of Section 6 of the "Admission of Securities to Listing". That section covers transactions of a capital nature and specifically excludes transactions of a revenue nature and transactions by investment dealing companies in the ordinary course of their business. Prima facie, therefore, the proposed tenders will only be caught by Section 6 if they involve the payment of amounts which will be treated as capital payments. However, on the assumption that they do involve capital transactions, their treatment under Section 6 would vary according to the size of the transactions.

If a transaction is deemed to be Class I or smaller, the bidding listed company will be required to publish an announcement or send a circular to shareholders in the event that its bid is accepted. There would, however, be no breach of commercial confidentiality since there is no requirement to publish any information until the outcome of the bid is known. If the transaction is Major Class I, the successful bidding company will not only be required to send a circular to shareholders when it knows that its bid has been accepted but will also normally be required to make its bid subject to prior shareholder approval. Obviously the requirement to make a bid subject to prior shareholder approval - and thus to tender conditionally - may place the bidder at a disadvantage to other bidders not subject to the same restriction and might even make the terms of a bid

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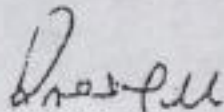
unacceptable to the ITC. To address the problem, I do not think it would be desirable to give a blanket waiver in advance of the relevant listing rules. In similar situations, such as those which frequently arise in the oil and gas industry, companies may apply to the Committee on Quotations for a waiver of the requirement for prior shareholder approval and such applications will normally be sympathetically received if the applicant can demonstrate that the grant of a waiver will be significantly to shareholders' advantage.

In this particular case, an application might well be viewed more sympathetically if a company is simply bidding to retain an existing franchise and, conversely, less so if it has no previous experience as a television company. Any application would probably be assisted if the ITC were to make known that it would not be prepared to accept conditional bids at all.

If the above procedures are for some reason not acceptable, one further possibility might be for a company to announce its intention to bid to its shareholders and ask them, in general meeting, to formally waive, without knowing the proposed terms of the bid, the requirement for further shareholder approval. It would appear unlikely that any company could show that it was seriously disadvantaged simply by having to publish the fact that it intended to bid.

There are, therefore, a number of potential solutions to the problem. If you do have any queries or require further information, please do not hesitate to contact me. Finally, I should perhaps mention that the treatment outlined above relates specifically to listed companies. If any USM company chose to make a bid, it would be accorded similar treatment, although the class test thresholds would differ somewhat.

Yours faithfully,



R.A.G. Miller
Secretary to the Committee

BROADCASTING: BBC France
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