

PRESS BRIEFING 24 MAY 1995

Question and Answer Brief for the Chairman

Successor Body

When will the successor body take over?

An announcement is likely to be made shortly. My Committee has, rightly, not been involved in convening the successor body. This has been done by our sponsoring organisations.

Who will Chair it?

The appointment of a chairman will again be up to the sponsors, however I can advise that it will not be me!

What will be on the new committee's agenda?

It will be up to them to decide on priorities. It would not be right for the current Committee to pre-determine their agenda in any way. Although of course we will be providing them with as much information as possible on the impact of the Report and Code.

Greenbury Committee

Will the Greenbury's Committee's conclusion which I understand is to be reported before the end of June be referred to the Cadbury Committee, or to its successor, or will it be dealt with by the Stock Exchange in its listing requirements?

I have seen it reported in the press that the Greenbury proposals could be incorporated into the Code of Best Practice. This is one possibility. However, I have no advance knowledge of either the content of that Committee's proposals, or how they intend to implement them. I am sure that the Greenbury Committee will liaise with the relevant bodies at an appropriate time.

Has the Cadbury Committee given evidence to the Greenbury Committee?

No it has not.

Stock Exchange Listing Requirement

There is some suggestion that the Stock Exchange is seeking to move away from a requirement that companies must make a statement of compliance in their annual report. Is this so? If it is, does this not negate the whole purpose of the code since there will then be no requirement to disclose?

I think you are referring to the discussion document "Proposed Changes for Amendment 5 to the Listing Rules" which was issued by the Stock Exchange on 18 April. One of the proposals made in that document is that the two points in the Code relating to the Directors' statement on internal control and going concern should become listing rules in their own right. The discussion document itself does not propose that the paragraph in the Yellow Book relating to the compliance statement should be deleted. However, the period for discussion has only just ended and I am sure that the Exchange will listen carefully to all the views put forward by interested parties. [I can confirm that as such an interested party, the Committee is putting forward its views.]

The Stock Exchange is, as you know, one of the Committee's sponsors, and will also sponsor our successor body. I think it very likely that it will liaise closely with other sponsors on any action which it proposes to take with regard to the enforcement of the requirement to make a statement of compliance, or non-compliance with the Code.

Background to the Research

Why did you carry out the research?

Because of the commitment given in our Report to hand over to our successor body as much information as possible on the progress of implementation of the Code. It was primarily initiated for them, however we consider that such information is of interest to a wider public and are therefore publishing it.

Is this the only research you have carried out?

Directly, yes. And this was done in collaboration with the Association of British Insurers.

However, we have the benefit of the results of several other research projects into compliance with and reaction to the Report and Code.

Examples:

Dibb Lupton Broomhead research into compliance by listed companies in the North and North East.

Professor John Samuels of Birmingham University research into compliance by listed companies in the West Midlands.

Also collaborated with the ICAEW into six major academic research projects into areas of corporate governance of interest to the Committee, funded by the ICAEW research board.

Examples:

"Role of Institutional Investors" - University of Warwick

"Audit Committees in small listed companies" University of Exeter.

"CEO Remuneration and Corporate Governance" - UMIST.

Who paid for the research?

It was jointly funded by the Committee and the Association of British Insurers.

What is the ABI's interest?

Suggest refer this to Richard Regan for response.

Details of research

Why haven't you mentioned any names of companies?

It was not the Committee's intention to point the finger at any company which was complying or not complying. The point I would like to stress is that the Committee are equally happy with a statement of full, or limited, compliance. What is important is disclosure. Our report looks at the aggregate figures for groups of companies by market capitalisation. We do not think that there would be anything to gain by singling out individual companies.

Why is there not more comparative research with pre-Code report and accounts?

This task is more difficult than might be expected. Many elements of good corporate governance which may have been in place in a company prior to the introduction of the Code, eg Schedule of Matters Reserved for the Board, may not have been reported in the report and accounts. We have therefore restricted our research into those areas of board committees which we felt were, on balance, likely to have been mentioned in the report and accounts.

Surely some companies will not have recorded their board committees in their 1991/92 accounts and your figures will be incorrect.

This is of course a possibility. But we consider that the information we have collected can serve as a useful benchmark from which future studies can draw comparison.

What action has the Committee taken against a company who is not complying with the Code, or has made an inappropriate statement of compliance?

None. We are not a regulatory authority. It is up to the Stock Exchange to deal with any company which they consider has not complied with the listing rules. It is up to the shareholders, both institutional and small shareholders, to take up any issues of compliance disclosed in the annual report if they so wish. The Report we are publishing today records the amount of disclosure companies are now making.

You mention in paragraph 3 that there was one company that did not make a satisfactory statement of compliance, who was it?

It is not the Committee's role to single out individual companies. I can say that it was not in the top 500. *[Company is Arlen plc - number 1305 out of 1550, so at the smaller end of the sample.]*

Where does the Committee stand on the independence of NEDs?

Tables 8 and 9 to contain information on NEDs relating to their independence. We have made a subjective judgement using the criteria set out in paragraph 2.2 of the Code, and expanded on on page 22 of the Report on Compliance. I should stress that it remains the Committee's view that "independence" is a matter of decision by the board, and in particular the Chairman. The Committee did not include a definition of independence in the original Report and Code, and readers should not interpret the criteria used in this research as being definitive. Circumstances differ between companies - for example a non-executive who was formerly an executive director with a company may be very independent, it depends alot on the person.

Why have you excluded internal control and going concern from the Report?

The guidance for directors on these two complicated areas was only published at the end of 1994, and we are just beginning to see reports and accounts published containing statements covering these areas. They will be included in future research.

You mention that some companies have given exemplary governance statements, can you give an example?

It has always been the Committee's policy not to name individual companies, for either praise or admonition.