

Miss Melanie Lehmann
Companies Division
DEPARTMENT OF TRADE & INDUSTRY
Room 502
10 - 18 Victoria Street
London SW1H 0NN

5th January 1994

Dear Miss Lehmann,

CONSULTATIVE DOCUMENT ON PROPOSALS FOR REFORM OF SECTIONS
151-158 OF THE COMPANIES ACTS 1985

I confirm with thanks receipt of the above document. I wish to make two general comments on behalf of our Association.

1. We are concerned that the proposed changes to Sections 151-158 are too narrow in that they will not deal with the situation exemplified by the recent action of a major quoted PLC (A). In this particular case the minority shareholder in A formed another company (B), registered abroad. Subsequently B made a bid for A, having borrowed funds from A to enable it to make the bid.

It appears to us that the intention of the legislation is to Prevent that type of transaction. But as presently drafted Sections 151-158 evidently failed to do so. A solution could Perhaps involve precluding beneficial owners from borrowing from Company A and also precluding them from voting on such a Take-over proposal?

2. We are also concerned, as a general point, with the suggestion on page 24 of the document for "relaxing the procedure for shareholder approval". Section 7.2.8 prefaces this suggestion with the statement that "the general meeting is the key protection provided for shareholders". That key protection was, of course, the original intention of the legislation which established the joint stock company. However, such protection has in practice become progressively weaker. Today hardly anyone would argue that the general meeting affords other than minimal protection for shareholders. The focus of concern now is how to strengthen the 'ownership' role of shareholders in general meeting. For example, the recent Cadbury Committee made some suggestions as to how this might be achieved. In short, therefore, we would consider it a very retrograde step if the existing requirements for shareholder approval were in any way relaxed - even allowing for the fact that the document concerns only sections 151-158.

In the context of the above, I would like to mention that we are in the process of drafting a number of what we call "Position Papers" which will put forward the views of our private shareholder members on ways in which corporate governance could

be improved. One of these Papers concerns the reform of the Annual General Meeting. A number of our suggested reforms would need to be implemented via changes in the companies acts.

We would very much welcome an opportunity to meet with you and discuss further the contents of this letter.

Yours sincerely,

Donald B Butcher
Chairman