



House of Lords

LONDON SW1A 0PW

Michael Crane Esq QC  
Chairman  
The Takeover Panel  
One Angel Court  
London EC2R 7HJ

8 February 2021

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Dear Mr Crane

### **ANNOUNCEMENT OF TAKEOVER APPROACHES**

Many thanks for your comprehensive reply of 4 February to what I acknowledge again is a difficult area to police. Your letter is essentially a detailed defence of the Panel's established position and the maintenance of the status quo. I would make the following points in reply:

1. You quote the key objectives behind the creation of the Panel in 1968 - your first is - "The protection of shareholders". I have to say that your reply scarcely acknowledges that. By using phrases like, "I think the Code companies will be strongly opposed to any rules that required the announcement of approaches prior to them being properly baked" and similarly, "the potential damage to the offeree company that did not succeed might do to their position/perception in the marketplace" - suggest to me by content and tone, that you clearly hold the position of corporate bodies in much greater importance than the position of shareholders - who actually own the offeree company!
2. You tell me that of 22 offer periods currently identified on the disclosure table published by the Executive, 7 relate to situations where no firm offer has yet been made, and of the remaining 15 firm offers, 8 were announced in advance of the firm indication having been confirmed. By telling me this, which clearly pleases, the inference is that this is to be welcomed. Fifteen are doing the right thing - I just want an obligation on more to do it.
3. What evidence is there that failed talks - leading to no-bid - seriously affects the stability of employees/customers? Surely, I would suggest only temporary embarrassment at worst. The 15 companies quoted above were presumably fairly relaxed in this regard.
4. I would suggest that awareness of the need to make an announcement at an appropriate time would be likely to lead to fewer drawn-out protracted talks - minds would be more concentrated.

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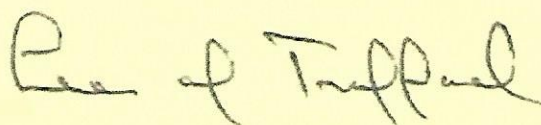
5. In my letter I quoted the case of Signature Aviation's failure to inform shareholders. You choose to make no comment on this at all. In an article in the Times of Saturday 6 February 2021 Robert Lea, Industrial Editor, writes: "It is reckoned that between them (rival bidders) they had tabled more than 10 indicative offers before a formal bidding war broke out before Christmas. Does your Executive really condone this seeming non-disclosure to shareholders and would not any selling shareholder during this period have clearly suffered very material loss?"
6. Could you please tell me what discussions the Panel has held with representatives of shareholders - particularly private shareholders - on the fairness and balance of current guidelines?
7. Currently many takeover bids - perhaps the majority - are coming from Private Equity or similar. These tend to be fairly "hard-nosed" financially driven bodies, likely to have done considerable research etc., before approaching the offeree. It is hard to imagine that they would be deterred from bidding by the requirement to make an appropriately timed announcement - indeed the making of that announcement may well alert other potential bidders which would obviously benefit shareholders.

To conclude, I cannot reconcile the requirements to immediately publish Directors' share transactions, similarly where profits are likely to be above or below market expectations - both relatively short-term phenomena - with your reluctance to require earlier disclosure of takeover discussions which surely are of much more fundamental importance to share valuations and a company's long-term future.

I have to say that in my view your current guidelines on takeovers are behind the curve of expected current day corporate transparency. They may well suit M&A practitioners, but manifestly fail to protect shareholders - particularly private investors.

I look forward to receiving your further comments.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lee of Trafford", written on a light-colored rectangular background.

LORD LEE

cc. Lord Callanan  
Lord Deben  
Lord Monks  
Tim Ward  
ShareSoc and others