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BY APPOINTMENT
TO HER MAJESTY THE QUEEN
BREWERS

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Committee on the Financial Aspects
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Dear Sir

CORPORATE GOVERNANCE

I am writing on behalf of the Board of this company to express our jointly-held views on the aspects of Corporate Governance recommended by the Cadbury Committee.

I divide this response into three parts:

1 Broad commentary on the principles and likely effect of the totality of the recommendations and the Code of Practice.

2 Specific responses to a small number of important key issues.

3 Detailed commentary on the individual elements of the recommended code.

1 It is this company's contention that the recommendations and Code of Best Practice are, to an extent, an over-reaction to recent and spectacular corporate disasters brought about, evidently, by fraud and other illegal acts. Manifestly, voluntary codes cannot work if criminality is the reality of the problem.

We accept that a voluntary code can do a lot to identify desirable best practice and, thus, to introduce added discipline and improved standards. Such a code will do little to improve company achievement if it introduces a new level of bureaucratic interference and unrealistic compliance demands. The private sector will still thrive best on a spirit of freedom and individuality unfettered by those limitations associated with public sector control mechanisms.

The code, as proposed, appears to identify non-executive directors as 'the gamekeepers' and executives as 'the poachers'. Clearly, this must be quite wrong.

It is both divisive and intrusive and damaging to the positive partnership spirit essential in a unitary board. Non-executives have a strong requirement to encourage, to support and to enthuse - this concept is lacking and severely threatened by the proposals.

A balanced, moderate code could be an acceptable start against which, once agreed, self compliance can be publicly reported and questioned, in consequence, by shareholders.

2 (a) Pensions Governance (Page 23, para 4.51)

The principles of pension security are fundamental. However, total separation of pension Trustees from the company is not feasible until legislation or case law identifies clearly issues of ownership, responsibility and liability for the broad area of pension assets, shortfalls, management performance and funding.

(b) The Shareholders (Page 35, para 6.8)

Corporate Governance is carried out for and on behalf of the owners of the corporation by directors and officers. Until shareholders (institutional in particular) decide to exercise responsibility, as well as power, best practice will not ensue. This area of requirement must be built. [Para 6.81 Corporate 'performance' should read 'reported performance'].

(c) Summary of Recommendations (Page 39, para 3)

The Auditors should not be made responsible for identifying overall compliance with the Code. This lies outwith both their remit and their competence.

(d) Statement of Compliance (Page 10, para 3.7)

It is not acceptable for a voluntary code to be linked to Stock Exchange listing obligations. It should remain essentially voluntary and 'best practice'.

3 (i) Page 40, para 10

The rotation of Audit partners should not be mandatory. This should be put forward as a non prescriptive recommendation.

(ii) Page 40, para 11

It is considered that directors already have responsibility for internal financial control systems and it is difficult to see what such a general statement on internal controls would achieve. It is unlikely that directors would ever make any statement that was critical of their control systems.

(iii) Page 42, para 1.2

The wording in this paragraph relating to situations where the Chairman and Chief Executive roles are held by one person should be strengthened to say that the non-executive element on the Board should be 'particularly strong'.

(iv) Page 42, para 1.4

Such a list could be prepared but it is not clear what this would add to the position as the Board is already legally responsible for the direction and control of the company.

(v) Page 42, para 2.1

It is not considered appropriate for non-executive directors to be involved in appointments other than Board appointments. It is considered that the word 'judgement' requires some clarification as it does not convey the role of the non-executive as members of a 'team'.

(vi) Page 42, para 2.2

In the last sentence it is suggested that the word 'should' should be changed to the word 'may'.

It is likely that non-executive directors may have some business or financial connection with the company and this paragraph should, therefore, permit non-material business or financial connections.

(vii) Page 42, para 2.3

A six-year period of appointment seemed appropriate but the engagement letter should not be rigid in this respect. It should indicate the whilst it was the company's normal practice to make an appointment for six years, there may be cases where the company would wish to extend this period.

(viii) Page 42, paras 2.4 and 2.5

It is considered that both of these paragraphs should apply to all executives and not just non-executives. In the case of paragraph 2.4, all directors should have the right to take independent professional advice after agreement with the Board, which agreement should not be unreasonably withheld.

Paragraph 2.5, which relates to the formal process of electing directors, should be extended to both executive and non-executive directors.

(ix) Page 43, para 4.7

The Chairmen of the Audit and Remuneration Committees should only answer questions at the AGM if these are referred to them by the Chairman of the meeting.

Yours faithfully

SIR ALICK RANKIN
CHAIRMAN