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COMMITTEE
ON
THE FINANCIAL ASPECTS
OF CORPORATE GOVERNANCE

21st August, 1992

PO Box 433
Moorgate Place
London EC2P 2BJ
Tel: 071-628 7060 ext 2565
Fax: 071-628 1874

Sir Andrew Hugh Smith,
Chairman,
London Stock Exchange,
LONDON, EC2N 1HP.

Dear Sir Andrew,

May I draw to your attention the attached letter from McMullen & Sons, Limited, who have only part of their shares listed on the London Stock Exchange and would prefer not to be caught by the proposed new Continuing Obligation in respect of the Code.

I have also had a 'phone call from the Secretary of the House of Fraser, asking whether the Continuing Obligation would apply to them. He said that House of Fraser were to all intents and purposes private, although some loan stock was listed.

I do not know whether there is anything to distinguish these cases from the generality of companies where the majority of stock is held privately but the shares are nevertheless listed. The Committee took the view that the Code should apply to them, and this line is supported on page 2 of attached submission from Grant Thornton.

I would be grateful for your advice on the general point, and more specifically how I should reply to Mr. McMullen.

Yours sincerely,

Nigel Peace

Nigel Peace
Secretary

McMullen & Sons, Limited

The Hertford Brewery
26 Old Cross
Hertford
Hertfordshire
SG14 1RD

Telephone: 0992 584911
Fax: 0992 500729

Our ref. DSM/HAS

Your ref.



N. Peace, Esq.,
Secretary,
Committee on The Financial Aspects
of Corporate Governance,
PO Box 433,
Moorgate Place,
LONDON,
EC2P 2BJ

31st July, 1992

Dear Mr. Peace,

I am writing in response to your invitation for comments on your Committee's report on The Financial Aspects of Corporate Governance. Could I first confirm our support for the underlying objects and purposes of the recommendations before moving on to the difficulty of application.

By way of background, McMullen & Sons, Limited ("the company") is a long-established (1827) family brewery based in Hertford with the equity share capital tightly held predominantly by lineal family shareholders. The company is a private company and not a PLC. In the year ended 28th September 1991 turnover was £31.8m and profit before tax was £4.3m. The Ordinary and Preferred Ordinary Shares are not listed on the London Stock Exchange, but the following Preference Shares are listed:

£841,000 6.5% Preference Shares of £1
£1,824,000 10.5% Preference Shares of £1

The proposals of your Committee particularly concern us in so far as they apply to the regulations of the London Stock Exchange, one of the sponsors of your Committee. Specifically, the implementation of both a formal "Audit Committee" and a formal "Remuneration Committee" is predicated on the presence of at least two non-executive directors. Given that the equity share capital is predominantly held by lineal family shareholders, it has not been our practice to have non-executive directors. We have instead always sought the highest quality external professional advice (Cazenoves, Slaughter & May, Lazard Brothers & Co, Ltd) rather than co-opt non-executive directors. It remains our view that this posture has served us well and we would not wish to change it. We therefore would not want to be compelled to appoint non-executive directors by reason of a Stock Exchange listing requirement applying to so small a part of the company's capital which is confined to fixed interest securities.

N. Peace, Esq.

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31st July, 1992

Paragraph four of page 5.02 of the Yellow Book exempts those companies having only fixed interest securities listed from certain paragraphs of the continuing obligations. I should therefore be grateful if our specific problem could be addressed by adding the requirement for an Audit Committee and Remuneration Committee to the list of exemptions. Alternatively, provision could be made for different procedures to be agreed with the Stock Exchange in substitution. For example, we believe it would be sensible for us to make a statement in our accounts along the lines of the enclosed draft and believe that this properly addresses the potential mispractices for which the Audit Committee and the Remuneration Committee were proposed.

The further suggestion in the Cadbury Report that Interim Reports should include a Balance Sheet would carry a cost to us that is clearly wholly disproportionate to the benefit of the holders of listed fixed interest preference shares. I would suggest that this is clearly a suitable item to be added to the list of exemptions on page 5.02.

I recognise that much of the content of this letter relates specifically to the listing requirements of the London Stock Exchange. I have written to you because not only have you invited comments but also your report proposes that its conclusions should be adopted by The London Stock Exchange. I would be very ready to copy this letter to The London Stock Exchange if you would wish it.

I would emphasise again that we are not looking to rock the boat but to achieve a sensible and proportionate solution.

Yours sincerely,



D.S. McMULLEN
Managing Director

DRAFT STATEMENT ON CORPORATE GOVERNANCE

The Company is a private limited company.

The Ordinary and Preferred Ordinary shares are not listed on the London Stock Exchange but the 6.5% Cumulative Preference Shares and 10.5% Cumulative Preference Shares are.

In considering the requirements of the London Stock Exchange for the adoption of a code of practice on corporate governance, the Board considers that the costs involved in a detailed application would be prohibitive. Arrangements have therefore been made to address the purpose and spirit of the code in a cost-effective manner.

1. Audit Review

For many years, it has been the company's practice for the group's accounts to be formally considered in detail and at length by the full board together with Associate Directors and in the presence of two partners from the auditors with representatives of the audit team. Each department has explained to this composite meeting all significant transactions undertaken in the year under review.

In addition there is a meeting of the full board with the audit partner before the commencement of the final audit for the purposes of identifying and resolving matters having a significant bearing on the audit.

2. Board Remuneration

For many years, it has been the Board's practice to engage wholly independent management consultants every three years to review the remuneration of the members of the board by reference to analogous positions in similar companies and in the light of the qualifications and experience of the individuals concerned.

There are no directors' contracts having an unexpired term of over one year.

COMMITTEE
ON
THE FINANCIAL ASPECTS
OF COMPANY GOVERNANCE

2nd December, 1992

PO Box 433
Moorgate Place
London EC2P 2BJ
Tel: 071-628 7060 ext 2565
Fax: 071-628 1874

D. S. McMullen, Esq
Managing Director
McMullen & Sons Limited
The Hertford Brewery
26 Old Cross
Hertford
HERTFORDSHIRE SG14 1RD

Dear Mr McMullen,

I am sorry that I have not replied before now to your letter of 31st July (copy attached for ease of reference). I hope that you received yesterday three copies of the Committee's final report.

In general, the Committee believes that where a company seeks access to the public markets, be it for preference or ordinary shares, it should try to meet the standards generally expected of public companies, particularly with regard to the information to be given to shareholders. On this basis it should give a coherent explanation of its compliance with the Code and the reasons for any departures so that its shareholders can take issue with the Board if they so wish. The Stock Exchange believes that it would be wrong to exempt smaller companies or private companies with only certain classes of shares listed from the requirement for disclosure.

Our advice would therefore be that you should state your support in principle for the Code, spell out where you do comply, and give reasons for any areas of non-compliance. The Committee would hope, in line with paragraph 3.15 of the final report, that any areas of non-compliance would be as limited as possible, as it does believe that full compliance will bring benefits to the boards of smaller listed companies.

Hi Adrian

Yours sincerely

Nigel Peace

Nigel Peace
Secretary

You might like to add this to your set of letters offering guidance to companies on compliance with the Code.

*Nigel
10/12*



London STOCK EXCHANGE

4 September 1992

Nigel Peace Esq
Committee on the Financial Aspects
of Corporate Governance
PO Box 433
Moorgate Place
London
EC2P 2BJ

London EC2N 1HP
Telephone 071 588 2355
Telex 886557
Facsimile 071 334 8932

Sir Andrew Hugh Smith
Chairman

Dear Nigel,

Thank you for your letter dated 21 August 1992. I appreciate you sending the letter from McMullen & Sons Limited as it is with examples like this that the principles of corporate governance can be tested.

In general, I believe that where a company seeks access to the public markets, be it for preference or ordinary shares, it should try to meet the standards generally required of public companies, particularly with regard to the information to be given to shareholders. On this basis it should give a coherent explanation of the extent of its compliance with the Code and the reasons for any departures so that its shareholders can take issue with the Board if they so wish. The Stock Exchange does not intend to make its own judgements on what is appropriate in individual cases. It recognises that full compliance may will be inappropriate for a number of smaller public companies and for private companies with only certain classes of shares listed, but I believe it would be wrong to exempt these companies from the requirement for disclosure.

Accordingly McMullen should be advised to state their support in principle, to spell out where they have complied and to give reasons why they do not think it is appropriate in certain regards. The same arguments apply to House of Fraser.

Yours ever

Andrew