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DG MARKT G4  
European Commission  
C-107 03/004  
B-1049 Brussels

4 June 2004

Dear Sir,

**Response to European Commission consultation:**

**Board responsibilities and improving financial and corporate governance information**

**The Association of Corporate Treasurers (ACT)**

The Association of Corporate Treasurers was formed in 1979 to encourage and promote the study and practice of corporate finance and treasury management and to educate those involved in the field. Today, it is an organisation of professionals in corporate finance, risk and cash management operating internationally. A professional body and not a trade association, it has over 3,000 Fellows, Members and Associate Members. With more than 1,200 students in more than 40 countries, its education and examination syllabuses are recognised as the global standard setters for treasury education. Members of the Association work in many fields. The majority of Fellows work in large UK public companies, responsible for the treasury and corporate finance functions.

The ACT usually comments from the corporate and not the financial services sector standpoint.

## **Board responsibility**

We fully support the concept of collective board responsibility for financial and key non financial information reported in the financial statements. This reflects the set up in the UK where we have unitary boards that take collective responsibility for the management of their companies. Although we do not see the need to clarify this principle there is no harm if the Commission wishes to do so.

We would object in the strongest possible terms to any proposals that the responsibilities of the company for its financial statements be extended to parties other than the current shareholders. The responsibility of each the director is to the company, and therefore it would be the company that would take any action against a director for failing in his duties. You may wish to note that this same area has very recently been reviewed by the Department for Trade and Industry in the UK, with a public consultation.

Our comments do not affect the clear responsibilities of the company (and its board) under relevant securities market law and regulation, under fraud and misrepresentation laws and the like and any undertakings companies may make by way of contract with other parties.

## **Intra group transactions**

You are considering whether intra group transactions lack transparency when seen from an investor's perspective. We are not convinced that this is the case in the UK where group structures are predominantly carried on with wholly owned subsidiaries so that the problems of pyramid structures of minority holdings is not common. Even if this is perceived to be a problem in the wider EU we believe that this should then be a subject that is referred to the International Accounting Standards Board and that any improvements in reporting should be dependent on their recommendations. To the extent that this is an area that needs to be addressed there would be benefits in approaching it from a global perspective.

Transactions with related parties can cause a lack of transparency and therefore it is right that these are disclosed, however since this is already covered by IAS 24, we believe that it is unnecessary to ask the detailed questions that are in the electronic questionnaire.

## **Disclosure on Corporate Governance**

The proposal that listed companies should publish an annual corporate governance statement is of itself a very sensible concept. This should form part of the annual report to shareholders. However the content and requirements of this statement need not be specified in detail other than to require that the statement provided should refer to the relevant national code, (which may be a governmental code or other widely accepted non governmental code) and the extent of compliance or otherwise. We hold that the "comply or explain" approach is ideally suited to this area. It allows companies a measure of flexibility to apply governance that they consider appropriate to their own circumstances and then it is for the investors to make their own judgements on this

## Electronic questionnaire

The time allowed for this consultation is only just over a month, and in our view this is insufficient time properly to consider the subject. We would also point out that some of the questions in your electronic response form, such as 4.2, do not allow for answer that says that we disagree with all of the suggestions. Of course this means that the results of the electronic questionnaire need to be treated with great caution and it also invalidates the results for many purposes. For this reason we have not completed the questionnaire but prefer to reflect our comments in the form of this letter.

We note that you may wish to make public all responses to formal consultations. These comments are on the record and may be freely quoted and made available for public inspection.

We hope these responses are helpful for your deliberations and if you need any further information or clarifications please contact any of the people listed below.

Yours faithfully,

Richard Raeburn  
Chief Executive

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