

KINGFISHER

6 August 1992

Nigel Pearce Esq
Secretary
Committee on the Financial Aspects of Corporate Governance
PO Box 433
Moorgate Place
London EC21P 2BJ

Geoffrey J. Mulcahy
Chairman
and
Group Chief Executive

Dear Mr Pearce,

I am writing on behalf of the Directors of Kingfisher plc who have given careful consideration to the draft Report of your Committee.

In general, we support both the aims and contents of the suggested Code of Best Practice. The following comments should be read in that light.

1. We are concerned that the general tone of the report is somewhat negative in concentrating on the need for financial control. If British companies are to grow and prosper they need positive leadership. The implicit working assumption of the draft report seems to be that the Executive Management of the Company cannot be trusted to work in the interests of the Company and its shareholders and need a body of Non-Executive Directors ("NED's") to act as a watch-dog. Casting the NED's in this role serves to limit the effectiveness of the positive aspects which they can add to Company policy. We consider it very important that all the directors can be and are seen to be united and not in two different camps.
2. We believe that one of the most effective ways of ensuring that shareholders' interests are protected is to ensure that Directors and senior management are well rewarded over the medium term for creating shareholder wealth. Concentrating on medium term incentives helps to focus the attention on medium term performance rather than the short term orientation of standard share options. Although these rewards may appear high to the ill-informed observer, they are in our view necessary in order to attract the best quality talent and to provide an attractive incentive to increase shareholder wealth. It is, of course, important that such schemes are approved by a properly constituted remuneration committee.

Similarly, there is perhaps a degree of unrealism about the role and remuneration of the NED's. To perform his or her duties effectively the NED will require a commitment of time and energy. Individuals who have the time and required skills but at the same expect little reward, are few and far



between, particularly because of the apparent increase in their legal and other obligations. There is a delicate balance to be struck between, on the one hand, having NED's who feel able, as a last resort, to resign without significant financial sacrifice and, on the other hand, being able to offer a package which is sufficient to attract the right calibre of NED's in sufficient numbers who will commit adequate time to the role.

3. It is also difficult to perceive that one system will be applicable to all companies. Circumstances vary, individuals vary and, indeed, conditions change over time. The Report and the Code must make it crystal clear that there are different ways of achieving the objectives set out therein. Otherwise, over time, companies who do not conform identically with your stated requirements will be considered "politically incorrect" by some influential commentators. For the same reason, it is important not to enshrine recommendations in legislation or regulation.
4. Nor should the Code be overly dependent on increasing the role of professional advisers. In our experience professional advisers are highly conscious of their responsibilities and as a practical consequence tend to seek legal comfort from their clients. It is, therefore, important that compliance with the Code does not require external audit on every issue.

It follows that we have considerable reservations regarding the implementation of the Code, where we are of the view that the minimum additional administration and professional costs should be incurred. For instance, although we favour a public statement of compliance by companies, we do not believe that it should necessarily need to be certified by auditors.

We appreciate that there have been some well publicised failures lately. However, we believe that this is mostly the result of current checks and balances not being operated effectively rather than showing the need for additional regulation.

5. Nor do we agree that certain provisions of the Code should be included as a listing requirement in the Yellow Book. It is important that companies should be able to interpret the Code flexibly and in a way which suits their own circumstances without it being regarded as simply another addition to company regulation to be observed to the letter.

At a more detailed level, we have two additional reservations:

6. We do not believe that the institution of a Nomination Committee is absolutely necessary for the occasional appointment of NED's, but is as well served by an



ad hoc process provided this gives a satisfactory degree of consultation and communication with existing Directors over the appointment.

7. We have our doubts about the recommendations in paragraphs 4.5 and 4.6 concerning explanations on responsibility for accounts and statements that a business is a going concern. We believe that these recommendations will not hinder unscrupulous Directors but may simply create an unnecessary burden for companies and their Directors.

Finally, we would like to stress the need for a positive appreciation of innovation and growth and the encouragement of risk taking. The control element needs to be kept very much in perspective. Otherwise the report will serve to add to other pressures which encourage companies to become more and more risk-averse, to the detriment of future shareholder wealth.

Yours sincerely,