

COMMITTEE
ON
THE FINANCIAL ASPECTS
OF CORPORATE GOVERNANCE

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18th November, 1991

Steven Burkeman, Esq.,
Trust Secretary,
The Joseph Rowntree
Charitable Trust,
Beverley House,
Shipton Road,
YORK, YO3 6RB.

Dear Mr Burkeman,

I am writing to acknowledge your submission of 12th November, with many thanks. I confirm that it is not too late to be considered - we have yet to focus on companies' relations with their shareholders.

*Yours sincerely,
Nigel Peace*

Nigel Peace
Secretary

Sir Adrian

Cong for your retention.

I will give this a mention in the paper I am preparing for the Cttee's next meeting, on the role of shareholders.

However one section does not mean a lot to me - paras 2.7-8. Are there work pursuing - for example, should I ask Andrew High Smith for a view?

Nigel, 18/11

THE JOSEPH ROWNTREE CHARITABLE TRUST

BEVERLEY HOUSE, SHIPTON ROAD, YORK YO3 6RB
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12th November 1991

Mr N Peace
Secretary
Committee on The Financial Aspects
of Corporate Governance
PO Box 433
Moorgate Place
London EC2P 2BJ

Dear Mr Peace,

Please find enclosed submission from this Trust. I hope that this is not too late to be considered.

Yours sincerely,

Sally Scarlett
pp Steven Burkeman,
Trust Secretary

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Dictated by Steven Burkeman and signed in his absence.

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Submission to Cadbury Committee on Corporate Governance

1. The Joseph Rowntree Charitable Trust

This Trust is one of three founded by Joseph Rowntree in 1904 and we should like to address the subject with which your committee is concerned in two particular aspects. The views we express are our own; we act, and throughout the period which is relevant to what we have to say have always acted, independently of our sister trusts.

2. Lessons from our shareholding in Rowntree Mackintosh

2.1 Firstly, we should like to refer to our relationship with the company with which we share a name. When in 1969 the three trusts ceased between them to have a controlling interest in the company's shares, what little formality there had been in our relationship came to an end. However it continued informally through occasional meetings between all Trustees and, usually, several members of the board, interspersed with meetings which might be less formal between smaller groups on each side to discuss particular matters. The initiative for these meetings came from both sides, but more frequently from the Trust than from the company.

2.2 One of the results of these meetings was that the Trustees had a good general sense of the strategy being followed by the company and the environment in which it was operating. Although our position was, if anything, weaker than that attributed to a constitutional monarch - to advise, to warn and to be consulted - we did make a number of suggestions about matters of strategy over the years. These included support for what proved to be not a very extensive or successful diversification away from sugar-based foods and a long-running debate, based on first-hand knowledge not all of which was otherwise available to the directors in York, on the effect on the reputations of both the company and the Trust of the way the company's South African subsidiary was dealing with its black employees. In the latter case we reached the unusual position in 1987 of an impasse such that we felt we had no alternative but to issue a public statement of our views.

2.3 While aspects of our relationship were unique and not relevant to your committee's work, there were some lessons which ought to be considered further.

2.

- 2.4 There is uncertainty as to how much freedom a company has to talk to major shareholders. While the principle that all should be treated alike in the provision of information regardless of their size is admirable, it does not accord with expectations or practice. It is also undesirable that communication should be left entirely to the discretion and contacts of stockbrokers, who may have little interest in or understanding of the longer term strategy being pursued by a company.
- 2.5 However it is not acceptable that communication with significant shareholders should be entirely through shareholder liaison personnel. Accordingly, we feel that there should be recognition in The Stock Exchange's rules and any codes of practice that holders of more than a certain proportion - perhaps $\frac{1}{2}\%$ or 1% - of a company's share capital should be entitled to certain access to a company's management. Perhaps, in return, they should be subject to a period during which they may not deal - say a week after any such meeting - if they do not fall under any other restriction by virtue of the insider dealing legislation.
- 2.6 Rights issues particularly affect a company's relations with shareholders and are often badly handled. It was this Trust's practice whenever Rowntree Mackintosh had a rights issue to take up its entitlement and gradually sell those shares it could not afford to keep long term over the succeeding couple of years or so. On at least one occasion we made a public announcement of our intention to take up all our entitlement. This practice was in the company's interests as well as ours.
- 2.7 Notwithstanding that, we had great difficulty in arranging to subunderwrite shares equal to our rights. Despite discussions with members of the board and the company's merchant bank and stockbroker we were never offered more than a derisory participation. Explanations when coherent were fundamentally inadequate and left the impression of contempt for our position. If it had not been that questions about the company's activities in South Africa were uppermost in our minds and tending to cause strain on our relationship, the lack of any progress as successive rights issues were made would have become a major issue between us.
- 2.8 The solution to such problems would be for it to be part of a code of good practice by companies that, where a rights or other issue of shares is underwritten, a board should instruct the company's brokers to offer participation to holders of more than $\frac{1}{2}\%$ or 1% of the existing shares of the proportion corresponding to their shareholding.

3. The Trust's wider experience as a shareholder

- 3.1 Following the losses sustained by Rowntree Mackintosh in the cocoa market during 1973 the Trust decided to diversify its shareholding and in 1975 sold one-sixth of its shares, the proceeds of which were reinvested in a more traditional way. It kept the remaining shares until the takeover by Nestle in 1988.
- 3.2 Before 1975 however we had been taking an interest in the way companies related to their environment and in particular to people who were stakeholders in their business, whether shareholders, employees or customers. This led us to draw up criteria for selecting investments which, apart from excluding companies involved in activities such as the manufacture of tobacco and armaments, sought to select positively those with better than average practices in their dealings with these groups of people.
- 3.3 To do this effectively calls for information and we were heartened by the publication in 1975 by a working party appointed by the Accounting Standards Steering Committee of a discussion paper entitled "The Corporate Report". This made wide-ranging suggestions for extending the range of information included in annual reports. It was however somewhat ahead of its time and came to nothing.
- 3.4 Accordingly, in 1984 the Trust was one of the founders of the Ethical Investment Research Service (EIRIS), which seeks to meet this need by drawing on information from a variety of published sources as well as questionnaires sent to companies which an increasing number, but by no means all, complete.
- 3.5 This has met many but not quite all of our needs and we have tried to fill gaps by correspondence with companies. There has been surprising variation in the response, with no consistent pattern. A company may be regarded as a leader in handling relations with customers but have difficulty in providing answers to straightforward questions asked by a shareholder. There seem to be a number of reasons for this:
- 3.5.1 Companies are often unaware who their shareholders are where holdings are registered in nominee names. We are apprehensive that this may be made worse by the introduction of the TAURUS system.
- 3.5.2 Many rely too much on City analysts and their own brokers for communicating to institutional shareholders and do not distinguish carefully enough between the beneficial owner of shares and the intermediary investment manager.

3.5.3 It is not made clear enough to shareholders who should be their initial point of contact with a company, particularly where non-financial information is sought. It would help if the name and telephone number of such a person was printed in annual reports together with the member(s) of the board who take primary responsibility for relations with shareholders.

3.6 Since EIRIS was formed there has been a huge growth in interest in the issues with which it deals, not least the environmental, and we think the time has come for further consideration of the contents of corporate reports, to go beyond statements of principle and to include measures of progress in their implementation. Any working party should include not just accountants but people drawn from those using non-financial information, such as Friends of the Earth and EIRIS.

Steven Burkeman
Trust Secretary
12 November 1991

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