

4th July 2002

Role of Non-Executive Directors

I have been urged by my friends and former colleagues to make this submission to your enquiry due to the fact that my past career (in the UK, USA and France) has given me some fairly unique insights into the role of non-executive directors seen from both sides of the table. I am now retired but would be prepared to elaborate on this letter in person if you wish.

As you may know I am a Chartered Accountant and spent the first part of my career in the accounting profession with some seven years with Price Waterhouse in London where I qualified and became a manager at a time when the firm in the UK was much smaller. I also spent a year with Arthur Andersen in their Oslo office.

After I left the accounting profession, I spent twenty years as a Finance Director of companies in both the financial services sector (with Lloyds of London and Midland Bank) and in industry and commerce. When I joined Midland Bank, I became the first Chartered Accountant to become Financial Director of a clearing bank.

During my time in industry and commerce I was responsible for setting up Audit Committees in BICC and Guinness. In the latter case, it was just after the Guinness affair and the Audit Committee was just one of the mechanisms used by the non-executives to assert themselves after the DTI began their investigation in December 1997.

My experience at Midland Bank involved the resolution of the bank's problems with Crocker Bank (its then recently acquired 54% subsidiary) in California where there had been significant failures in management and control at both banks. On arrival at Midland, I set up a network of internal control committees to reinforce the responsibility of management for control.

On my arrival at Guinness (as part of the two man new executive team appointed to replace Ernest Saunders and Olivier Roux), it was necessary to restore confidence in the company and its financial condition and to make the new non-executives effective as members of the newly formed "Non-Executive Committee".

The powers of the "Non-Executive Committee" were embedded in the Articles of Association at the behest of the Bank of England after the "Risk affair" when Guinness failed to meet its commitment during the takeover of Distillers to appoint Sir Thomas Risk as an independent Chairman. These powers were unique in UK corporate history.

I later joined the Non-Executive Committee when I left to become CEO of Storehouse and was asked to stay on the Board as a non-executive director. I remained a member of the Committee for nine years and only left when Guinness merged with Grand Metropolitan to form Diageo. I was Chairman of the Guinness Audit Committee for five of those years.

I was very disappointed to see the Articles changed immediately after the merger and was surprised to see how meekly the institutions accepted the proposal to remove the powers of the Non-Executives in the Articles which gave them the power to hire and fire both the Chairman and the CEO and added weight to their role as non-executive directors.

It was always of considerable concern to me that so much responsibility was heaped on the non-executive directors under new corporate governance rules but with generally little real power to back up their role. As a non-executive director I yearned for more support from the institutions who at no time showed any interest in meeting any of the non-executive directors.

I had been very impressed by the influence of the French non-executive directors appointed to the Eurotunnel board during my time there as Deputy CEO. The French non-executive directors were all nominees of the G.I.E (Groupe d'Intérêt des Entreprises) set up by the French Institutions to ensure that their interests as major shareholders were represented.

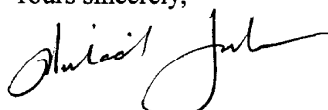
The most significant difference between the French and British non-executive directors is that we all knew that the French non-executive directors could not be removed without the consent of the institutions whereas the British non-executive directors only owed their continuing membership of the Board to the other members of the Board.

This inevitably means that the British non-executive directors are always "playing off the back foot" and cannot be as forceful on some key issues as they might like for fear of alienating the other members of the Board. British non-executives can only operate with the goodwill of their fellow Board members (and especially the Chairman and CEO) and have to tread a fine line to be effective.

When the time came for me to leave the Guinness Board on the merger with Diageo in December 1997, I decided that the time had come for me to remove myself from all public company Boards. I concluded that the liabilities as a non-executive director outweighed the rewards by a very considerable margin. I therefore retired when I became 60 in March 1998.

The recent billion pound lawsuit against past members of the Board of Equitable Life (seemingly including non-executive directors) has only reinforced the sense of my decision. To be both vulnerable to such lawsuits (the size of which exceeds by a long way any available D & O insurance) and to have insufficient powers is an impossible position for anyone.

Yours sincerely,



MICHAEL JULIEN