CC NO

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
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SWITCHBOARD 01-215 7877

JU436
Secretary of State for Trade and Industry

5 November 1984

CONFIDENTIAL

Prime Minister
To note
AT 6/11

Alan Davis Esq.
Private Secretary to the
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London SW1

Dear Alan,

BT SHARE ISSUE

Thank you for enquiry concerning whether there was any difficulty in Ministers acquiring BT shares in the course of the forthcoming share issue. In view of the applicability of this question more widely, I am copying this reply to the Private Secretaries to all Cabinet Ministers, with the request that they should copy it to Ministers within their Departments as appropriate. In preparing this reply, we have consulted Sir Robert Armstrong's office, to whom this is also copied.

The question essentially concerns two points: whether it is proper for Ministers to purchase shares in the BT issue, and, secondly, what are the constraints, either legal or of propriety, in respect of the holding of BT shares.

On the first question, we take the view that it would be ill-advised for Ministers in this Department to purchase shares in the forthcoming BT issue. This is because otherwise we risk a potential conflict of interest where Ministers are both share-holders themselves and are responsible for, or associated directly with, decisions which will affect the circumstances of share holders immediately following the flotation, either through the share price, or matters affecting the regulation of BT or its competitors and suppliers. For this reason, we believe that the same advice should apply in respect of Treasury Ministers who are concerned with the privatisation programme, and to the Prime Minister.

The position is less clear cut in the case of Ministers not directly concerned with the privatisation of BT. The guiding principle is that laid down in Questions of Procedure for Ministers that Ministers "must so order their affairs that no

conflict arises, or appears to arise, between their private interests and public duties" and specific guidance in share-holdings is contained in paragraphs 72 and 73.

Paragraph 73 says that Ministers should "scrupulously avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information likely to affect the price of those securities". The decision to privatise British Telecom, has, of course, been the subject of Cabinet and Cabinet Committee discussion and this has inevitably involved consideration of BT's prospects. Although many Ministers will not have had access to detailed financial information there is a danger that Ministers might be thought to have had access to inside knowledge. There is therefore some risk of embarrassment and the safest course would be for Ministers not to purchase shares, at least during the initial flotation.

I should now turn to the second question, concerning the subsequent holding of BT shares. Here, of course, the issues are very like those which would apply to the holding of any securities, but particularly shares held in any company where the Government continued to be a substantial minority share-holder, and to have substantial contractual and regulatory dealings. The legal issues are quite straightforward in broad outline;

i it is a criminal offence ("insider dealing") for a Crown servant (i.e a Minister or a civil servant) who has, because of his position, price sensitive information about a company's securities, to deal in them on the Stock Exchange (here or abroad) unless he can prove he did not intend to take advantage of the information. Actually applying for BT shares does not fall within this (because, in the view of our solicitors, it is not done on the Stock Exchange - it is, rather, a straight contract with the Secretary of State). However, it is most unlikely that a Minister (or civil servant) other than one concerned with the regulation of or contacts with BT or its competitors, will have such information because of his position per se.

ii If Ministers (or civil servants) are regulating BT or one of its competitors, or suppliers, or (conceivably), customers, a share holding in BT may well be evidence of bias. Bias invalidates administrative acts and may well found an action in damages against the Crown.

Here again, I should draw your attention to the advice contained in Questions of Procedure, and particularly to the paragraphs referred to above.

I hope you will understand that, in sum, the advice which we have to give is not categorical; whether or not Ministers think it would be appropriate in their circumstances for them to consider purchasing BT shares must be a matter for them. In deciding, Ministers will wish to take account of the advice contained in Questions of Procedure for Ministers, the considerations that I have mentioned above, and the involvement or lack of it which they may have with matters currently or prospectively affecting British Telecom. It should, however, be borne in mind that it is as important to avoid the appearance of conflict of interest as to avoid actual conflict and if in doubt it is usually better to err on the side of safety.

Yours ever.

Andrew Lansley

ANDREW LANSLEY
Private Secretary

6 NOV 1980

UNCLASSIFIED

FCH

FROM: B T GILMORE

9 November 1984

Note

Following criticism over the purchase of BT shares by RCB Rothschild staff working on Privatisation have been instructed not to apply for shares in BGC.

AT 5/6

SHARES IN BRITISH TELECOM (BT)

I attach an Office Notice giving guidance on the propriety of Treasury staff buying shares in British Telecom (BT). For the reasons given in that notice we believe that it could provide grounds for public criticism if you were to buy BT shares when they are issued or in the first month of dealing, and you should not therefore do so.

BRIAN GILMORE

HM TREASURY

OFFICE NOTICE

ON(General)(84) 106

9 November 1984

SHARES IN BRITISH TELECOM (BT)

Shares in British Telecom (BT) are being offered for sale directly to individuals on a wide scale. You may therefore like to be reminded of the rules about Treasury staff buying and dealing in shares.

2. The rules are attached. Applied to BT they mean there are two things you must not do. You must not buy or deal in BT shares if you have, or could be regarded as having, special knowledge affecting the value of the shares. And you must not buy or deal in BT shares if your work involves you in government decisions (like the award of contracts) affecting BT's business.

3. There are people whose position in the Treasury clearly makes it wrong for them to buy BT shares, because to do so could give rise to public criticism. I have so advised them separately. If you have not received that separate minute you must still consider whether it is proper for you to buy BT shares, but there is no prima facie reason that we can see why you are not free, like any member of the public, to do so or not as you wish. Brian Fox or I will be happy to discuss any particular circumstances which may not be clear. But in a matter of propriety like this, if you yourself have any doubt then the right course is not to buy.

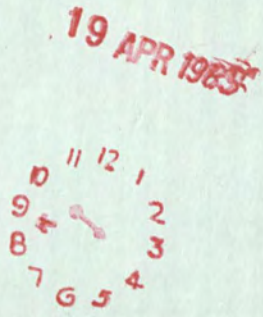
BRIAN GILMORE

Andrew

We're trying to track down the more specific note mentioned in §3 as I think that will be more relevant to your question.

Margaret

19/4


19 APR 1985

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BRIAN GILMORE

CIVIL SERVICE PAY AND CONDITIONS OF SERVICE CODE (Extracts)

General Principles of Conduct

9870 ....b. a civil servant must not subordinate his duty to his private interests, neither is he to put himself in a position where his duty and his private interests conflict and he must not make use of his official position to further those interests;

(c) though the State is in general not concerned with its servants' private activities, they must not be as might bring discredit on the service; for example heavy gambling and speculation are to be avoided, particularly in departments which have access to information which could be transmitted for gain;

(d) the high standard which the Service sets itself goes beyond the normal standards of personal honesty and integrity; the civil servant must not only be honest in fact, but also he must not lay himself open to suspicion of dishonesty;....

Shareholdings

9874 There is no objection to civil servants holding private investments. If, however, a shareholding might raise a question of possible conflict with the interests of the officer's department the officer should consult his Establishment officer about the desirability of acquiring it or retaining it.

9875 Under the provisions of the Companies Act 1980, it is an offence for an officer who has obtained information in his official capacity which, if known on the market, would be likely materially to affect the price of securities in a company, either to deal in any relevant securities, to procure such a deal, or to impart information which might facilitate such a deal. Any officer who has doubt about his position should consult his Establishment Officer.

TREASURY HANDBOOK (Extract)

C3 **BUSINESS ACTIVITIES**

Shareholdings

3.2 There is no objection to your holding private investments. Particular care should, however, be taken to ensure that dealings in stocks or shares do not leave you vulnerable to the charge of trading on information which has come to you in the course of your official duties. If your shareholding might raise a question of possible conflict of interest, you should consult the Deputy Establishment Officer.

UNCLASSIFIED

FROM: B T GILMORE
9 November 1984

SHARES IN BRITISH TELECOM (BT)

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BRIAN GILMORE

PURCHASES OF BRITISH TELECOM SHARES BY EMPLOYEES OF KLEINWORT BENSON LIMITED

LINE TO TAKE

Employees of Kleinwort Benson were in the same position as members of the public. They had no unfair advantage, and their applications for BT shares were treated in exactly the same way as members of the public. No employees therefore received more than 800 shares, and the maximum capital gain for any employee is correspondingly moderate.

Kleinwort Benson's practice in the BT issue was broadly consistent with market practice for broking and merchant bank advisers in new issues.

I believe the Hon Gentleman entirely misrepresents the highly professional approach of employees of Kleinwort Benson to suggest that their advice was influenced by the prospect of personal gain. In these circumstances I see no reason to insist on full disclosures of share dealings by Kleinwort Benson employees, or the disgorgement of any capital gains.

If required: We naturally sought independent advice on pricing, not at all because of the risk of personal conflicts of interest, but because of Kleinwort Benson's position as lead underwriters.

GLD.

Rle → cc TF Press Office

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5147
(Switchboard) 215 7877

From the Minister of State
for Industry and Information Technology

GEOFFREY PATTIE MP

Andrew Turnbull Esq
PS/Prime Minister
10 Downing Street
LONDON
SW1

28 November 1984

Dear Andrew

Following Mr Hattersley's remarks to the Prime Minister in the House yesterday on BT share dealings I attach a brief covering the main points.

I am copying this to Margaret O'Mara in the Chancellor's office.

Yours sincerely

Steve Mummery

STEVE MUMMERY
ASSISTANT PRIVATE SECRETARY

NO5/NO5AAD

BACKGROUND NOTE

Although a grey market clearly is operating, Kleinwort, Benson believe that the amounts involved are relatively insignificant and that those involved are predominantly fringe overseas firms such as Harvard Securities. The lead managers for all the overseas offerings have confirmed that neither they nor the other members of their underwriting syndicates have engaged in such dealings.

The Department's legal advisers are mystified by Mr Hattersley's suggestion that such dealings would be illegal if operated by British subscribers. They would of course be contrary to the Stock Exchange decision that dealings should not start till 3.00 pm on 3 December, but grey market dealings before then would not be illegal.

Q.1 Doesn't the high premium in the grey market, and the likely high premium when dealings start on 3 December, indicate that the price was too low? What will be the cost to the Exchequer

A.1 I cannot comment on dealings in the grey market. Nor can I speculate as to what may happen in the markets on Monday. We are satisfied that the price was the correct one in the circumstances at the time. It does not follow that if shares trade at a premium to the offer price, the offer would necessarily have been successful if the shares had been offered at a higher price. The size of any premium cannot be regarded as a cost to the Exchequer. [NOTE: references to a 40% premium are misleading. The whole of any increase in value on the shares is reflected in the price at which they trade on a partly-paid basis. Thus if the value increases by 20p, the partly-paid price increases from 50p to 70p, appearing as a 40% premium. But in reality the increase in value of the shares is 20p on £1.30, ie 15%.]

Q.2 How extensive have grey market dealings been? Have the overseas underwriters been involved?

A.2 Although some grey market dealing has undoubtedly taken place, we believe the amounts involved have been relatively small. We have no evidence that any member of an overseas underwriting syndicate has engaged in such dealing.

/Q.3

Q.3 What is the legal position?

A.3 I am advised that such grey market dealing would not be prohibited under English law. I understand, however, that it would be against US securities laws for ~~members of the~~ US subjects to deal in BT shares within the US or between the US and the UK ~~syndicate to trade in the grey market for their own account.~~ before they are registered in the US.

[~~CONFIDENTIAL NOTE: It would not however be illegal for~~ them to ~~trade on behalf of clients if so instructed.~~]

Prime Minister (2)

AT 6/11

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
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GTN 215
(Switchboard) 215 7877

From the Minister of State
for Industry and
Information Technology

GEOFFREY PATTIE MP

Margaret O'Mara
HM Treasury
Whitehall

16 November 1984

Dear Margaret

BT FLOTATION: STATEMENT

As I told you on the telephone, the Opposition has requested a statement on the BT Flotation this morning at 11.00 a.m.

I attach a copy of the statement which Mr Pattie will be making.

I am copying this to Helen Goodman, Andrew Turnbull Murdo Maclean and Charles Marshall.

Yours ever

Neil

N M McMILLAN
Private Secretary

STATEMENT

Mr Speaker, with permission I would like to make a further statement about the privatisation of British Telecom.

This morning Kleinwort Benson Limited on behalf of my Right Hon Friend the Secretary of State has offered for sale three thousand and twelve million ordinary shares in British Telecom plc at a price of 130p per share. The issue has been fully underwritten. Discussions are now taking place with a group of financial institutions and I am hopeful that within the next few hours the shares being offered in the UK will have been fully applied for. Subject to the successful outcome of these discussions the institutions will retain just over half of these shares and the remainder will be made available for public offer next week. Prospectuses will be published on Tuesday 20 November and the last date for applications will be 10 am on Wednesday 28 November. Copies of the prospectuses will be placed in the Library of the House today.

Of the shares on offer 415 million which is just under 14 per cent have been provisionally allocated for issues to be made in New York, Tokyo and Toronto and these are being underwritten by the Bank of England.

16 NOV 1994

STATEMENT - BT PRIVATISATION

cc Questions
Press
TF

Mr Speaker, with permission I would like to make a further statement about the privatisation of British Telecom.

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Of the shares on offer 415 million have been provisionally allocated for issues to be made in New York, Tokyo and Toronto and these are being underwritten by the bank of England.

Press Notice

Prime Minister (2)

Underwriting and sub-underwriting completed. AT 16/11

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office: 01-215 5069
Out of hours: 01-215 7877

Ref: 656

November 16, 1984

BRITISH TELECOM FLOTATION

The following is the text of a statement made in the House of Commons today by Mr Geoffrey Pattie MP, Minister of State for Industry and Information Technology.

"Mr Speaker, with permission, I would like to make a further statement about the privatisation of British Telecom.

"This morning Kleinwort, Benson Limited on behalf of my Right Hon Friend the Secretary of State has offered for sale three thousand and twelve million ordinary shares in British Telecom plc at a price of 130p per share. The issue has been fully underwritten. Discussions are now taking place with a group of financial institutions and I am hopeful that within the next two hours the shares being offered in the UK will have been fully applied for. Subject to the successful outcome of these dicussions the institutions will retain just over half of these shares and the remainder will be made available for public offer next week. Prospectuses will be published on Tuesday 20 November and the last date for applications will be 10am on Wednesday 28 November. Copies of the prospectuses will be placed in the Library of the House today.

"Of the shares on offer 415 million which is just under 14 percent have been provisionally allocated for issues to be made in New York, Tokyo and Toronto and these are being underwritten by the Bank of England."

DO5AAX

British Telecom Share Information Office

2-12 Gresham Street,
London EC2V 7AG..

News Release

FOR IMMEDIATE RELEASE

British Telecommunications plc -
Priority Application Procedure Completed

Kleinwort, Benson Limited, on behalf of The Secretary of State for Trade and Industry, announces that applications have been received from priority applicants for all the 2,~~597~~ 415 million ordinary shares in British Telecommunications plc ~~which~~ 3018 have been underwritten by a syndicate of United Kingdom banks. Irrevocable undertakings have been given to accept applications for 55% of these shares. Those shares not underwritten by the UK banks have been provisionally allocated to proposed separate offerings in the United States of America, Canada and Japan.

Enquiries to: Lord Rockley
David Clementi

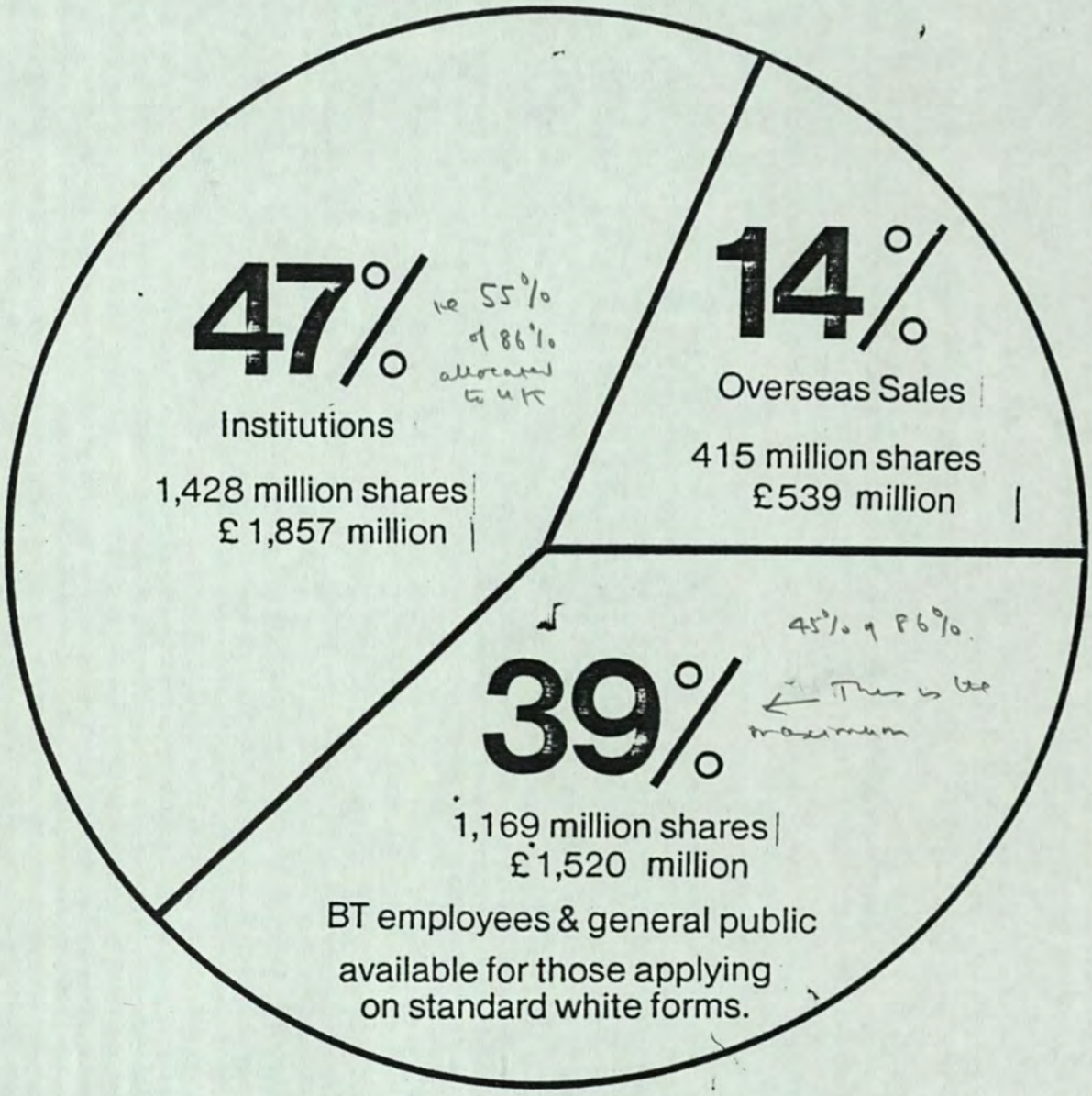
Kleinwort, Benson Limited
Tel: 01 623 8000

Date: 16th November 1984

The power
behind the button

British Telecom Share Offer

Totals 3,012 million shares
£ 3,916 million



Notes:

1) Institutions are predominantly United Kingdom institutions, but include a small number of overseas institutions, mainly European, who regularly underwrite UK offers.

2) Overseas sales represent the shares provisionally allocated to sales in the United States, Canada and Japan.