



DEPARTMENT OF ENERGY
 THAMES HOUSE SOUTH
 MILLBANK
 LONDON SW1P 4QJ
 01-211 4391

From the Permanent Under-Secretary of State
 P L Gregson CB

T M Heiser Esq CB
 Department of the Environment
 2 Marsham Street
 London SW1P 3EB

22 August 1986

Dear Terry,

**PRIVATISATION OF BRITISH GAS - DISCLOSURE
 OF PROMOTERS' INTERESTS**

I am writing to seek your assistance, and that of a wide range of copy recipients, in identifying and describing any dealings between the Crown and British Gas which we will have to disclose to the company when shares in British Gas plc are offered to the public late this autumn. You may remember that DTI undertook a similar exercise two years ago, before the sale of British Telecom, and I understand this worked effectively. I hope that recipients will respond to this request in the same helpful way.

We need to take this action because the Crown is, in law, one of the promoters of the Company and has duties to disclose this information formally to the Company. Sufficient and proper disclosure is needed since otherwise it would be open to the Company, and indirectly its shareholders, to bring proceedings which might result in the rescission of contracts with the Government. Such proceedings could even give rise to Government liabilities to the Company. I am aware that this is a time consuming task - but I fear it is absolutely necessary. I would therefore be grateful if you would provide information about your dealings with British Gas along the lines set out in Annex 1 to this letter. If there are any questions about the details of this letter, I should be grateful if they could be directed to Margaret Jackson, Room 1113, Gas Division, Department of Energy, Thames House South, Millbank, London (01 211 4427). to whom you might also address your replies.

... I would

CCBG

[Handwritten initials]

[Handwritten initials]

(Cab. office will take care of No 10's interest in this)

Tony Syer of Finance Div. (Cab. office)

ray 23/9/86

MS 23/9

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I would be grateful for your initial response by 22 September 1986, and for notification of any changes as they occur between then and the issue of the prospectus in November.

I am sending a copy of this letter to the Permanent Secretaries, Directors and heads of all bodies listed in Annex 3 to this letter. I would be grateful if you and copy recipients would consider whether there is any associated organisation not listed in the Annex which, to your knowledge, should be regarded as a Crown body and if so to copy this letter to that body, informing this Department that you have done so.

Yours ever

Peter.

PRIVATISATION OF BRITISH GAS: DISCLOSURE OF PROMOTERS' INTERESTS

WHAT NEEDS TO BE DISCLOSED IN THIS TRAWL?

1. All dealings or transactions between the Crown and British Gas during the "promotion period", which are not on standard terms, need to be disclosed.
2. Expenditure by the Crown during the last financial year on gas supplied by British Gas, whether under standard or non-standard terms, also needs to be reported.

DEFINITIONS

The Crown

3. For this purpose, the Crown has a wide definition. It includes all manifestations of the Crown, except Her Majesty in a personal capacity. In essence the Crown includes all Government Departments. It does not, however, include those public bodies which, by reason of their nature or by statute, are not agents or servants of the Crown; it therefore does not include nationalised industries, or commercial companies controlled by the Government such as British Leyland plc.
4. Attached at Annex 3 is a list of bodies each of which we believe is or may be a Crown body, and at Annex 4, a letter sent from the Management and Personnel Office to the Department of Trade and Industry at the time of the sale of British Telecom, which seeks to define what constitutes a Crown body.

The promotion period

5. The promotion period commenced on 25 April 1985 and will end on the date of issue of the Prospectus, which until further notice should be assumed to be no later than 1 December 1986.

Non-standard terms

6. Transactions with British Gas arranged on terms which as far as you are aware are similar to those provided generally for other customers need not be disclosed. All other transactions which are known or believed to be preferential to the Crown should be disclosed in this trawl. Examples of possible non-standard transactions that may exist between the Crown and British Gas are set out in Annex 2.
7. The extent of a disclosure for non-standard transactions depends in part on the facts of each case. In general both the fact that the Crown is interested in the transactions and any "profit" made as a result of the transaction requires to be disclosed. For

these purposes "profit" means any net benefit accruing to the Crown as a result of the transaction and not just a cash surplus, so where the Crown has received some other sort of benefit from the transaction that too must be disclosed. Sufficient details of each transaction should be disclosed in order to enable the buyer of shares in the Company or the Directors of the Company to evaluate the transaction. Where non-standard transactions are identified Miss Jackson in the Department of Energy (01 211 4427) would be happy to advise on the level of detail that needs to be disclosed.

ACTION REQUIRED

8. (a) Non-standard transactions For such transactions, including any in the categories identified in Annex 2, we need to know essential details. To help simplify the task, I would be grateful if replies could follow the following pro-forma:-

(1) A statement along the following lines:

"We confirm that, having made due enquiry, this Department [Crown body etc] has had no relationship with British Gas in the promotion period other than:

- (i) the supply of gas or services by British Gas on standard terms;
- (ii) the supply of gas or services under arrangements for which the PSA is responsible;
- (iii) the supply of gas or services by, or any other transaction with, British Gas on terms known or believed to be preferential to the Crown, details of which are set out below."

(2) For each item in (iii) above the following information:-

A Name of Crown body.

B Name of any other Crown body involved in or associated with this contract or transaction.

C Relevant date(s) of contracts or transactions - and the date on which the Crown obtain its interest.

D Description of nature of transaction or contract, including terms which you know or believe to be preferential to the Crown.

E Any "profit" (see paragraph 6 above) arising from the transaction.

F Any further details considered relevant.

G Name, address and phone number of a contact who could supply further details if necessary.

(b) Gas purchases whether standard or non-standard For all gas purchased by you from British Gas (irrespective of whether or not the terms are special) except under arrangements for which the PSA is responsible, you should complete the following statement:

"We understand that, for the purpose of writing the Prospectus, a reasonably accurate estimate of the revenue received by British Gas from the Crown over the year ended 31 March 1986 is required. After taking all due care to check on our gas supply expenses, we estimate the total expenditure on gas supplies during that year for this department [body, etc] (excluding gas supplied under arrangements for which the PSA is responsible) to be £ ".

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POSSIBLE NON-STANDARD TRANSACTIONS BETWEEN THE CROWN AND BRITISH GAS

1. Examples include:

- (a) dealings involving the supply of gas by British Gas on non-standard terms which are known or believed to be preferential to the Crown;
- (b) dealings involving the supply of goods or services by British Gas (eg maintenance contracts) on non-standard terms which are known or believed to be preferential to the Crown;
- (c) dealings involving the supply of special goods or services to the Crown by British Gas;
- (d) dealings under which the Crown supplies for payment, goods or services to British Gas;
- (e) dealings between the Crown and British Gas involving land and/or buildings: this would cover either sale or leases of land and/or buildings and pipeline easements.

2. Dealings to be disclosed should include the entering into a contract within the relevant period even though no action may occur under the contract until after the period has expired. It is not necessary to disclose transactions which although they occur in the promotion period, are in implementation of a contract entered into before that period began.

3. Transactions which merely represent the application of general fiscal or other similar regimes need not be disclosed, eg the payment of taxes or national insurance contributions.

4. The duty of disclosure arises in respect of any transaction and whether the Crown is, broadly speaking, the supplier or the customer. It is necessary to make disclosure in respect of both sides of any dealing (for example, both payment for goods and services supplied and details of the services supplied) and whether goods and services are supplied to the Crown for its own use or for resale.

CROWN BODIES

ADVISORY, CONCILIATION AND ARBITRATION SERVICE
AGRICULTURE, FISHERIES AND FOOD, MINISTRY OF
AGRICULTURE FOR NORTHERN IRELAND, DEPARTMENT OF
AGRICULTURE AND FISHERIES FOR SCOTLAND, DEPARTMENT OF
ARTS AND LIBRARIES, OFFICE OF
CABINET OFFICE
CENTRAL OFFICE OF INFORMATION
CHARITY COMMISSION
COUNCIL OF TERRITORIAL, AUXILIARY AND VOLUNTEER RESERVE ASSOCIATION
CROWN ESTATE COMMISSIONERS
CROWN OFFICE, SCOTLAND
CUSTOMS AND EXCISE, HER MAJESTY'S
DEFENCE, MINISTRY OF
DIRECTOR OF PUBLIC PROSECUTIONS, DEPARTMENT OF
DUCHY OF CORNWALL
DUCHY OF LANCASTER
ECONOMIC DEVELOPMENT DEPARTMENT, NORTHERN IRELAND
EDUCATION AND SCIENCE, DEPARTMENT OF
EDUCATION FOR NORTHERN IRELAND, DEPARTMENT OF
EMPLOYMENT, DEPARTMENT OF
ENERGY, DEPARTMENT OF
ENVIRONMENT, DEPARTMENT OF THE
ENVIRONMENT FOR NORTHERN IRELAND, DEPARTMENT OF
EXCHEQUER AND AUDIT DEPARTMENT, NORTHERN IRELAND
EXPORT CREDIT GUARANTEE DEPARTMENT
FAIR TRADING, OFFICE OF
FINANCE AND PERSONNEL, NORTHERN IRELAND, DEPARTMENT OF
FOREIGN AND COMMONWEALTH OFFICE
FORESTRY COMMISSION
GENERAL REGISTER OFFICE, SCOTLAND

PARLIAMENTARY COUNSEL
PAYMASTER GENERAL'S OFFICE
POPULATION CENSUSES AND SURVEYS, OFFICE OF
PRIME MINISTER'S OFFICE
PRIVY COUNCIL OFFICE
PROPERTY SERVICES AGENCY
PUBLIC RECORD OFFICE
QUEEN'S HOUSEHOLD, THE
RATING OF GOVERNMENT PROPERTY, DEPARTMENT OF
REGISTRY OF FRIENDLY SOCIETIES
ROYAL HOSPITAL CHELSEA
ROYAL MINT
SCOTTISH COURTS ADMINISTRATION
SCOTTISH OFFICE
SCOTTISH DEVELOPMENT DEPARTMENT
SCOTTISH EDUCATION DEPARTMENT
SCOTTISH HOME AND HEALTH DEPARTMENT
SCOTTISH RECORD OFFICE
SPECIALISTS AND TECHNICAL CO-OPERATION OFFICERS, CORPS OF
STATIONERY OFFICE, HER MAJESTY'S
STATUTE LAW COMMITTEE, NORTHERN IRELAND
STATUTORY PUBLICATIONS OFFICE
TRADE AND INDUSTRY, DEPARTMENT OF
TRANSPORT, DEPARTMENT OF
TREASURY, HER MAJESTY'S
TREASURY SOLICITOR'S DEPARTMENT
WELSH OFFICE



CABINET OFFICE

MANAGEMENT AND PERSONNEL OFFICE
70 Whitehall
London SW1A 2AS
Telephone 233 8389

Machinery of Government Division

Mr C Bridge
Room 511
Department of Trade and Industry
1 Victoria Street
LONDON SW1H 0ET

21 February, 1984

Dear Charles,

DEFINITION OF "CROWN SERVICE"

1 You phoned to ask whether we could provide a list of bodies which perform their functions under the Crown. If I understood you correctly, you need this because the "Crown" is to be a promoter for the flotation of British Telecommunications shares, and a legal requirement is that the prospectus should spell out any interests of the promoter in the business.

2 I explained that it is not possible to provide a definitive list of Crown bodies. "The Crown" is a concept rooted in antiquity, whose significance has changed over time, and which rests on a combination of Prerogative and statutory powers, and interpretation by the Courts. Accordingly, it would be easier for us to start at the other end, by considering which of a list of BT's customers are Crown bodies. However, given that you are unable to provide such a list, I promised to send some guidance.

3 Generally speaking the Courts regard the Crown as representing the "sum total of Government powers", that is, as synonymous with the Executive. Accordingly the Crown includes:

- a) the Royal Household;
- b) Ministerial offices covered by the Ministerial and other Salaries Act 1975;
- c) the Armed Forces; and
- d) Government Departments operating under the direction of Ministers. (This concept has been modified by the practice over recent decades of conferring statutory functions on bodies outside the traditional structure of Government Departments.)

4 Legal opinion is that all bodies included in Schedule 2 to the Parliamentary Commissioner Act, 1967, and in the list published by the Minister for the Civil Service in pursuance of S.17 of the Crown Proceedings Act 1947, perform their functions under the Crown. Other bodies regarded as Crown bodies on the basis of express statutory provision or legal advice include the following:

The Royal Hospital, Chelsea
Greenwich Hospital Department
Cabinet Office
Lord Advocate's Department
Office of the Parliamentary Counsel
Office of the Paymaster General
Prime Minister's Office
Privy Council Office

Parliamentary Commissioner for Administration
Northern Ireland Civil Service
Northern Ireland Court Service
Corps of Specialists and Technical Cooperation Officers
Council of Territorial, Auxiliary and Volunteer Reserve Association
NHS Health Authorities
Overseas Civil Service (constituted on 1.10.54 under Special Regulations
by the Secretary of State for the Colonies)
Metropolitan Police (but not other police authorities)

It follows from what I have said earlier that this is not an exhaustive definition;
I hope that, nevertheless, it is of some help.

*Yours sincerely
Helen Leiser*

HELEN LEISER

