

British Airways Response to the Combined Code Review

Overall the Code is one of the best corporate governance codes that exists and is regarded by most people as the definitive standard for running a public listed company. Nothing is perfect, however, and the Code would certainly benefit from one or two enhancements.

Our response to the specific questions asked by the FRC is set out below:

1. *Which parts of the Code have worked well? Do any of them need further reinforcement?*

The code works well providing, as it does, an excellent framework for good corporate governance. The “comply or explain” mechanism enables companies to tailor the provisions of that framework to suit their circumstances by making an explanation of any alternative methods of compliance with the code provisions that may have been used. That said, we believe that it would be helpful to make the code consistent with the mandatory requirements of the Disclosure and Transparency Rules (DTRs), which overlap in some areas with the Code.

A rigorous evaluation of the board and its committees is an important aspect of the Code identifying potential weaknesses giving the opportunity for continuous improvement. We do not, however, agree that this should mean that external independent reviews should be mandated. Companies should continue to be able to choose how best to undertake their own evaluations as their circumstances require.

2. *Have any parts of the Code inadvertently reduced the effectiveness of the board?*

The Code may have focused too much on the independence of non-executive directors where its main thrust might better be directed towards skills and experience. In common with many other companies, we do not believe that the independence of non-executive directors is necessarily compromised with a tenure greater than nine years. Whilst we would be able to explain and justify any decision to continue to regard a non-executive who had served more than nine years on the board as independent, the current drafting of the Code inevitably results in opposition from the box ticking approach amongst some of the governance bodies and voting advisory services. On a similar theme, three years is a short period for a non-executive to get to understand a complex organisation. Some adjustment of the Code to recognise this would be welcomed by companies.

3. *Are there any aspects of good governance practice not currently addressed by the Code or its related guidance that should be?*

We do not believe there are any aspects of good governance practice that are not currently addressed by the Code to some extent. That said, incorporating the revised Turnbull Guidance (October 2005) into the Code would provide further support for risk management.

We would recommend that the FRC should review the original Higgs Report again as part of its review of the Code and consider whether there are aspects of it which could be relevant. An example of this is his work on the role of the chairman which is recognised as a critical part of good governance. This might lead to some

enhancement to the Code for example by restoring the schedule on the role of the chairman that formed part of the 2003 Combined Code.

4. *Is the 'comply or explain' mechanism operating effectively and, if not, how might its operation be improved? Views are invited on the usefulness of company disclosures and the quantity and quality of engagement by investors.*

On the whole, we feel that the 'comply or explain' mechanism is satisfactory although this could be improved upon and made a little clearer. The current nomenclature implies that any explanation given by a company will be seen as non-compliance of the Code. This may lead to an incorrect assumption that the governance arrangements within the company are in some way weaker than the code provisions which again increases the risk of unjustified opposition from those investors, governance bodies and voting advisory services which use a box ticking approach. For this reason, we support those calling for an "apply or explain" regime for the code provisions.

Finally, as we have alluded to above, we believe that there is an opportunity to increase compliance and to assist both companies and investors by taking the opportunity afforded by this review to transition the Code into a "one-stop shop" for all corporate governance matters by importing some of the mandatory requirements from the DTRs and other relevant regulation.