

**CABLE AND WIRELESS HKT LTD :
A CASE FOR CONCERN TO SOME ?**

Now that the dust has settled over the takeover of Cable and Wireless HKT Ltd by enterprises, controlled by Mr Li Ka Shing Faction, the corporate faction, controlled by one of the world's richest men, questions just might be raised about certain seeming anomalies, surrounding the takeover battle.

Certain people, close to Cable and Wireless HKT, prior to Pacific Century CyberWorks Ltd, the Li Ka Shing Internet investment company, entering the fray, made certain remarks that, as it turned out, were totally incorrect.

It is possible, of course, that these people were not kept in the picture with regards to the activities of the London-based parent, Cable and Wireless plc, but that would not protect them if push came to shove.

Shareholders of Cable and Wireless HKT, on or about January 21, 2000, just prior to Pacific Century CyberWorks, knocking the Singapore Government's Singapore Telecommunications Ltd (SingTel) out of the picture, completely, those who sold out, thinking that there would be no takeover of their company, might now like to reflect on their actions -- which, in retrospect, cost them a great deal of money.

And they may, just, feel more than a little betrayed at the fact that they were, without question, misled, by accident, perhaps, but they, just, might consider their unfortunate situation as being the result of design, stupidity, ignorance, or gross negligence (this is not meant to be a complete list of appropriate adjectives, mind you).

The Chief Executive of Cable and Wireless HKT, back on Friday, January 21, made this statement when there were widespread, unconfirmed reports that Cable and Wireless plc was negotiating the sale of its 54-percent-owned subsidiary, listed on The Stock Exchange of Hongkong Ltd:

'Don't believe those reports. I have no plans to change my parents ... I am very happy with our association with Cable and Wireless. That serves the purpose of a worldwide alliance for us ... We are much better off, Cable and Wireless HKT, being a member of Cable and Wireless plc, and have their worldwide networking ... Other Asian telecommunication firms without global parents must be feeling rather lonely ...'

After that, Mr Linus Cheung Wing Lam said very little.

One might be tempted to ask such questions as to what *'muscle'* Mr Linus Cheung had at his disposal to suggest that *'I have no plans to change my parents'*.

Since when did the tail of the dog wag the body?

Also, it would, indeed, appear to be very strange that the trusted Mr Linus Cheung would not have been kept in the picture about Cable and Wireless's intentions to sell its subsidiary in the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC).

But he maintained, on January 21, that that was the case.

There is no reason to doubt Mr Linus Cheung, but following his formal denial of the unconfirmed reports about SingTel, being in deep negotiations with Cable and Wireless plc over the takeover/merger of Cable and Wireless HKT with it, it was announced, officially, that, in fact, talks about the impending sale/merger of interests went all the way back to November 1999.

Just 4 days after the Linus Cheung denial of the takeover/merger talks, in an official announcement, published in the HKSAR on January 25, 2000, this was the statement that emanated from Cable and Wireless HKT Ltd:

Cable & Wireless HKT Limited announces possible merger with Singapore Telecommunications Limited.

'Cable & Wireless HKT Limited (the "Company") announced today (24 January 2000) that the Company was advised today that Cable and Wireless plc ("C&W") and Singapore Telecommunications Limited ("SingTel") are in discussions which, if successfully concluded, would lead to a proposed merger of equals between the Company (in which C&W has a 54 per cent stake) and SingTel to create a leading independent communications company in the Asia Pacific region. These talks are at a stage where there can be no certainty about their outcome. However, in the event that any proposal is made, it is likely to reflect market values of the Company and SingTel for recent periods.

'The Company would like to make clear that there is no certainty that any agreement will be reached from negotiations or otherwise. No terms have been agreed for the proposed transaction. In any event, the terms and conditions of any agreement would be subject to approval by the Board of Directors of the Company and obtaining any necessary governmental, shareholder and regulatory approvals. A further announcement will be made by the Company at such time as there is a material development.

INVESTORS ARE ADVISED TO EXERCISE CAUTION IN DEALING IN THE SHARES OF THE COMPANY.

'The directors of the Company (except for Sir S Y Chung, Dr Victor Fung and Mr Li Ping who were not contactable up to the release of this announcement) jointly and severally accept full responsibility for the accuracy... '.

But Mr Linus Cheung claimed that he did not know about these talks, just 3 days before this announcement, and, as far as he was concerned, Cable and Wireless HKT would be 'rather lonely' without its London parent.

Anyway, he, Mr Linus Cheung, had no intentions of changing parents.

Mr Li Ka Shing and his son, Richard, had nothing to do with this matter because that was long before Pacific Century CyberWorks decided to try to spike SingTel's bid for the HKSAR largest telecommunication's company.

Cable and Wireless HKT is a very large and important company. The man who heads it must be seen to be totally responsible in his every aspect of his professional life because thousands of lives depend on the company for their livelihoods.

That he erred in making those statements of January 21, 2000, with regard to truthfulness of his utterances in respect of SingTel and Cable and Wireless plc, as history has recorded, is unquestionable; and, now, questions may be raised as to whether or not his utterances are actionable.

If they be actionable, the question would be: By whom and for what purpose? (the use of the subjunctive mood indicates the inferred negative)

TARGET asked just 2 questions of The Stock Exchange of Hongkong Ltd, without mentioning that the Cable and Wireless HKT-SingTel Affair had touched off the questions:

1. *At what point in a series of negotiations of materiality, whereby the offshore parent company of a subsidiary, listed on The Stock Exchange of Hongkong Ltd, does it become incumbent for The Stock*

Exchange of Hongkong Ltd to be notified of the negotiations by the Hongkong subsidiary?

2. *How does The Stock Exchange of Hongkong Ltd define the term 'misleading' with reference to a chief executive officer of a major company, listed on The Stock Exchange of Hongkong Ltd, claiming that a merger/takeover/sale is not taking place when, in fact, it becomes apparent that that which he uttered was either falsehood or a lie?*

A 'Falsehood' is defined as being a statement or assertion known to be untrue and intended to deceive. A willful act or declaration contrary to the truth.
--

A 'Lie' is defined as being a falsehood uttered for the purposes of deception; an intentional statement of an untruth designed to mislead another.
--

(Black's Law Dictionary Sixth Edition)
--

The following are the answers, received by TARGET about one month after submission of our 2 questions:

'... and our reply is as follows:

1. *The directors of the Hong Kong listed subsidiary would need to have special regard to the provisions of Paragraph 2 of the Listing Agreement under the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited which imposes on listed issuers an obligation to keep the Exchange, members of the company (i.e. the subsidiary) and other holders of its listed securities informed, by way of a paid announcement in the newspapers, of any information relating to the company's group which:*
 - (i) *is necessary to enable them and the public to appraise the position of the group;*
 - (ii) *is necessary to avoid the establishment of a false market in its securities; and*
 - (iii) *might be reasonably expected materially to affect market activity in and the price of its securities.*
2. *The term "misleading" is not defined as such in the Listing Rules. However, a director of a listed company would need to have special regard to the following:*
 - (i) *Paragraph 2 of the Listing Agreement as referred to above.*
 - (ii) *Rule 3.08 of the Listing Rules which clearly states that the Exchange expects the directors, both collectively and individually, to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. This means that every director must, in the performance of his duties as a director:-*
 - (a) *act honestly and in good faith in the interests of the company as a whole;*
 - (b) *act for proper purpose;*
 - (c) *be answerable to the company for the application or misapplication of its assets;*
 - (d) *avoid actual and potential conflicts of interest and duty;*
 - (e) *disclose fully and fairly his interests in contracts with the company; and*
 - (f) *apply such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience and holding his office within the company.*
 - (iii) *His Declaration and Undertaking given to the Stock Exchange in the form set out in Appendix 5b of the Listing Rules in which he undertook with the Exchange that, among*

other things:-

- (a) in the exercise of his powers and duties as a director of the company he would comply to the best of his ability with the Listing Rules and use his best endeavours to procure that the company would so comply;*
- (b) he would, in the exercise of his powers and duties as a director of the company, comply to the best of his ability with all securities laws and regulations from time to time in force in Hong Kong, and he would use his best endeavours to procure that the company would so comply; and*
- (c) he would cooperate in any investigation conducted by the Listing Division and/or the Listing Committee of the Exchange... '.*

TARGET is not suggesting anything untoward or improper with regard to the actions, or the lack of appropriate actions, on the part of Mr Linus Cheung and his false statements (as they turned out to be), but if a general in a battle-zone were to make a mistake of the calibre and extent of Mr Linus Cheung's, due to any number of reasons, a great number of lives could be lost.

In the case of Mr Linus Cheung, it is reasonable to assume that a great number of people either did lose money, if they sold their Cable and Wireless HKT shares on reliance of the statements of Mr Linus Cheung, back on January 21, 2000; or, they lost the opportunity to obtain a profit by not increasing their interest in Cable and Wireless HKT, also due in part, at least, to the false utterances of Mr Linus Cheung.

There is no reason to doubt that Mr Linus Cheung's utterances were made in good faith, but, if so, for what reason did he not check, first, with the Chairman of Cable and Wireless plc in London in order to obtain the facts of the matter?

One is tempted to state that, in fact, that would have been his express duty of fidelity as titular head of Cable and Wireless HKT Ltd, if not the Chief Executive Officer's implied responsibility.

If, as TARGET would suppose, Mr Linus Cheung did, in fact, contact Cable and Wireless plc in London and was told that there were no takeover/merger negotiations, then the Chairman (or whoever misled Mr Linus Cheung -- assumed) should be taken to task for uttering lies.

That the Authorities in the HKSAR will take no action in respect of this matter is assumed, also, but one wonders whether or not such important corporate matters go to reducing the credibility and effectiveness of the regulatory authorities of The Stock Exchange of Hongkong Ltd, the Securities and Futures Commission -- which is, normally, very uncooperative to members of the Press -- and of the Government of the Hongkong Special Administrative Region of the People's Republic of China.

-- E N D --