

28 February 2003

Mre Fabrice Demarigny
CESR (Committee of European Regulators)
11-13 Avenue de Friedland
Paris
75008
FRANCE

Dear Mr Demarigny

RE: MARKET ABUSE MANDATES – SECOND CALL FOR EVIDENCE

The International Primary Market Association (IPMA) welcomes the opportunity to respond to the Second Call for Evidence on implementing measures relating to the definition of ‘accepted market practices’.

IPMA represents international banks and financial institutions in their capacity as arrangers and underwriters of debt and equity securities of private and public issuers in the international primary markets. A list of IPMA’s members is attached.

Implementing measures relating to the definition of ‘accepted market practices’

We agree that a firm which has acted in accordance with accepted market practice should be able to bring that as a defence to a charge of market abuse. It is important that this should apply to on and off market transactions. We suggest that CESR should clarify this in its advice.

We encourage CESR to develop a broad methodology for competent authorities in determining acceptable market practice, which should include market practitioner input. We agree that the focus should be on developing factors to be considered. Level 2 implementing measures should not consist of a list of accepted market practices.

.../2.

Introducing implementing measures by way of Regulation

We note that the Commission may propose Regulations to implement Level 2 measures, so as to resolve timetabling issues. We are concerned that Regulations may be used in such complex and difficult areas rather than through individual country legislation.

We would be pleased to discuss any aspect of our submission with you further.

Yours sincerely

Mary Hustings