

**Excerpts from Statement of Raymond A. Mueller, Chairman-Elect,  
National Association of Over the Counter Companies**

**Before the Securities and Exchange Commission**

**Regarding the Issuance of Dual Class Common Stock**

**December 17, 1986**

**My name is Ray Mueller, Chairman of Conair Incorporated, a commuter airline operating out of Cincinnati, Ohio. I'm serving this year as Chairman-Elect of the National Association of Over the Counter Companies.**

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**Under existing NASD regulations, no restrictions are placed on the voting rights of the securities of these companies. And NAOTC is strongly opposed to restrictions which would impair the ability of a company to raise capital. It is essential to a company's financial wellbeing that it be able to have a flexibility to customize new issues to meet its objectives and fit the needs of various investment markets.**

**There are numerous legitimate business reasons for a company to have dual classes of common stock.**

**For example, firms controlled by founding families or entrepreneurs may wish to retain control and still have the flexibility to employ equity financing when needed. Often investors wish to participate with founders or entrepreneurs in the financial growth of their business, unrelated to their respective voting authority. Many investors want higher current income, especially in light of the new tax act.**

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**The investor should be allowed to select the type of security he wants to purchase, rather than having the choice made for him by regulatory restrictions. Today's investors have adequate sophistication and access to**

the information that they need to be able to make an intelligent decision whether or not to purchase shares with different voting rights.

Of course, it is imperative and NAOTC strongly believes that full disclosure of any voting differences be made by the issuing corporation. The securities marketplace in the United States should be allowed to operate with minimal governmental interference. While regulation of those who trade securities is essential for the benefit of the public as well as the company, the right to determine how best to govern a company should be left to its management, not to regulation or law.

NAOTC believes that it is the responsibility of Congress and the regulators to assure full disclosure of the terms and conditions of any securities offered to the public but not to determine the voting rights of the company's securities.

In addition, we question whether an exchange in general or the NASD in particular should be able to dictate the voting rights which a company may attach to a given classification of stock. Management, with advice and consent of the board of directors, should be permitted to determine what types of securities and voting rights best satisfy a company's need for capital. The determination as to the types of security a company issues and the voting rights associated with those securities are best controlled by the marketplace. If there is no market for shares with disparate voting rights, then they will quickly cease to exist.

We believe that there are potential costs associated with the prohibition of dual class common stock. According to a recent study on dual class common stock by Dr. Dan Fitzgerald, it is likely that prohibiting dual class common stock would result in a reduction in the extent of public ownership of corporations. Owners of family-held businesses and other entrepreneurs may be excluded from the capital markets if their ability to retain control over the

company is threatened by the elimination of stock with other than full voting rights.

This would have the effect of increasing the cost of capital for those firms, thereby reducing market efficiency and slowing the growth of the fastest growing business market in terms of job creation and product innovation in the United States.

In conclusion, let me say that NAOTC believes that the existence of dual class common stock serves an important role in the American free enterprise system and urges that no action be taken which would restrict the right of the company to seek the financing it needs through capital markets.