

SECURITIES AND EXCHANGE COMMISSION

FORM SC 14D1/A

Tender offer statement. [amend]

Filing Date: **1995-02-22**
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SUBJECT COMPANY

DR PEPPER SEVEN UP COMPANIES INC /DE/

CIK: **836400** | IRS No.: **752233365** | State of Incorpor.: **DE** | Fiscal Year End: **1231**
Type: **SC 14D1/A** | Act: **34** | File No.: **005-42465** | Film No.: **95514013**
SIC: **2080** Beverages

Mailing Address
8144 WALNUT HILL LANE
P.O. BOX 655086
DALLAS TX 75231-4372

Business Address
8144 WALNUT HILL LN
DALLAS TX 75231-4372
2143607000

FILED BY

CADBURY BEVERAGES INC

CIK: **913260** | State of Incorpor.: **DE** | Fiscal Year End: **1231**
Type: **SC 14D1/A**

Mailing Address
P O BOX 3800
STAMFORD CT 069050800

Business Address
SIX HIGH RIDGE ROAD
STAMFORD CT 06905
2033290911

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 14D-1/A
TENDER OFFER STATEMENT
(AMENDMENT NO. 5)
PURSUANT TO SECTION 14(D) (1)
OF THE SECURITIES EXCHANGE ACT OF 1934

SCHEDULE 13D/A
UNDER THE SECURITIES AND EXCHANGE ACT OF 1934
(AMENDMENT NO. 12)

DR PEPPER/SEVEN-UP COMPANIES, INC.
(Name of Subject Company)

DP/SU ACQUISITION INC.
AND
CADBURY SCHWEPPES PLC
(Bidder)

COMMON STOCK, \$.01 PAR VALUE
(Title of Class of Securities)

256131 30 1
(CUSIP Number of Class of Securities)

HENRY A. UDOW, ESQ.
DP/SU ACQUISITION INC.
CADBURY SCHWEPPES PLC
C/O CADBURY BEVERAGES INC.
6 HIGH RIDGE PARK
P.O. BOX 3800

STAMFORD, CONNECTICUT 06905-0800
TELEPHONE: (203) 329-0911

(Name, Address and Telephone Number of Person Authorized to Receive Notices
and Communications on Behalf of Bidder)

COPY TO:
ALFRED J. ROSS, JR., ESQ.
SHEARMAN & STERLING
599 LEXINGTON AVENUE
NEW YORK, NEW YORK 10022
TELEPHONE: (212) 848-4000

FEBRUARY 21, 1995

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CUSIP NO. 256131 30 1

<TABLE>
<S> <C>

1	Name of Reporting Person S.S. or I.R.S. Identification No. of above Person CADBURY BEVERAGES INC.	
2	Check the Appropriate Box if a Member of a Group (See Instructions)	(a) / / (b) / /
3	SEC Use Only	
4	Source of Funds (See Instructions)	

	BK, AF, WC	
5	Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)	/ /
6	Citizenship or Place of Organization	
	DELAWARE	
7	Aggregate Amount Beneficially Owned by Each Reporting Person	
	15,620,746	
8	Check if the Aggregate Amount in Row (7) Excludes Certain Shares (See Instructions)	/ /
9	Percent of Class Represented by Amount in Row (7)	
	25.3%	
10	Type of Reporting Person (See Instructions)	
	CO	

</TABLE>

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CUSIP NO. 256131 30 1

<TABLE>		
<S>	<C>	
1	Name of Reporting Person	
	S.S. or I.R.S. Identification No. of above Person	
	CADBURY SCHWEPPEs plc	
2	Check the Appropriate Box if a Member of a Group (See Instructions)	(a) / / (b) / /
3	SEC Use Only	
4	Source of Funds (See Instructions)	
	BK, AF, WC	
5	Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)	/ /
6	Citizenship or Place of Organization	
	ENGLAND	
7	Aggregate Amount Beneficially Owned by Each Reporting Person	
	15,620,746	
8	Check if the Aggregate Amount in Row (7) Excludes Certain Shares (See Instructions)	/ /
9	Percent of Class Represented by Amount in Row (7)	
	25.3%	
10	Type of Reporting Person (See Instructions)	
	CO	

</TABLE>

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This Amendment No. 5 to the Tender Offer Statement on Schedule 14D-1 (as amended prior to the date hereof, the "Schedule 14D-1") and Amendment No. 12 to Schedule 13D relates to the offer by DP/SU Acquisition Inc., a Delaware corporation ("Purchaser") and an indirect wholly owned subsidiary of Cadbury Schweppes plc, a company organized under the laws of England, to purchase all outstanding shares of Common Stock, par value \$.01 per share (the "Common Stock"), of Dr Pepper/Seven-Up Companies, Inc., a Delaware corporation (the "Company"), and the associated preferred stock purchase rights (the "Rights" and, together with the Common Stock, the "Shares") issued pursuant to the Rights Agreement, dated as of September 1, 1993 (as amended), between the Company and Bank One, Texas, N.A., as Rights Agent, at a price of \$33.00 per Share, net to the seller in cash, upon the terms and subject to the conditions set forth in Purchaser's Offer to Purchase dated February 1, 1995 (the "Offer to Purchase") and in the related Letter of Transmittal, copies of which were attached to the Schedule 14D-1 as Exhibits (a) (1) and (a) (2) thereto, respectively. The Schedule 14D-1 was initially filed with the Securities and Exchange Commission on February 1, 1995.

Capitalized terms used but not defined herein have the meanings

ascribed to such terms in the Offer to Purchase and the Schedule 14D-1.

ITEM 10. ADDITIONAL INFORMATION.

Item 10(b) is hereby amended and supplemented by adding to the end thereof the following:

As previously described in the Schedule 14D-1, the Company and certain of its directors are defendants in certain purported stockholder class action lawsuits in which the plaintiffs have alleged, among other things, violations by the defendant directors of their fiduciary duties to the Company's stockholders. The plaintiffs in In Re: Dr Pepper/Seven-Up Companies, Inc. Shareholders

Litigation, Civil Action No. 13109 (the "Consolidated Action"), which represents

the consolidation of eight purported class action lawsuits filed in the Court of Chancery of the State of Delaware (the "Delaware Court"), as represented by plaintiffs' counsel, have entered into a Memorandum of Understanding, dated February 21, 1995 (the "Memorandum of Understanding"), with the defendants (through their counsel) pursuant to which the Consolidated Action will be settled. The settlement contemplated by the Memorandum of Understanding will not be effective unless, among other things, the plaintiffs in Sarnoff v. Dr

Pepper/Seven-Up Companies, Inc. et al, Civil Action No. 94-11313-B (the "Sarnoff

Action"), a purported class action lawsuit filed in the District Court for the 44th Judicial District of Texas in Dallas County, Texas (the "Texas Court"), execute the appropriate documentation necessary to have the action pending before the Texas Court non-suited and refiled with the Delaware Court at which time the refiled Sarnoff Action will be consolidated with and become part of the Consolidated Action. The proposed settlement is subject to, among other things, approval of the Delaware Court.

The Memorandum of Understanding provides for a settlement of the Consolidated Action (which will include the refiled Sarnoff Action) on the following general terms: (i) the certification of the Consolidated Action, as class actions under the rules of the Delaware Court, which class would consist of all holders of common stock of the Company (other than the defendants) on and between September 1, 1993 and the effective date of the Merger; (ii) the complete discharge, settlement and release of, and an injunction barring, all claims, rights, causes of action, suits, matters and issues, whether known or unknown, that have been, could have been, or in the future might be asserted in the Consolidated Action or in any court or proceeding (including, but not limited to, any claims arising under federal or state law relating to alleged fraud, breach of any duty, negligence or otherwise) by or on behalf of plaintiffs or any member of the class, whether individual, class derivative, representative, legal, equitable or any other type or in any other capacity against the defendants or any of their associates, affiliates, subsidiaries, present or former officers, directors, employees, attorneys, accountants, financial advisors or other advisors or agents, heirs, executors, personal representatives, estates, administrators, and successors and assigns (in each case, in each and every capacity) (the "Defendants"), which have arisen, arise now or hereafter rise out of or relate in any way to the Offer, the Merger, the Merger Agreement, the Rights Agreement, the Stockholders Agreement or any of the transactions or events described in the

complaints in the Consolidated Action or any disclosures related thereto

(collectively, the "Settled Claims") (subject to certain limited exceptions); (iii) the Defendants in each such action have denied, and continue to deny, that any of them have committed or have threatened to commit any violations of law or breaches of duty to the plaintiffs or any members of the class; (iv) the Defendants in the actions are entering into the Memorandum of Understanding, and will be entering into proposed settlement documentation, solely because the proposed settlement would eliminate the burden and expense of further litigation and would facilitate the consummation of the Offer and the Merger, which they believe to be in the best interests of the Company and all of its stockholders; and (v) subject to the order of the Delaware Court, pending final determination of whether the settlement provided for by the Memorandum of Understanding should be approved, the plaintiffs and all members of the class, or any of them, are barred and enjoined from commencing or prosecuting any action asserting any Settled Claims, either directly, representatively, derivatively or in any other capacity against any of the Defendants. An amendment to the Schedule 14D-9 is being filed with the Securities and Exchange Commission and mailed by the Company to stockholders of the Company pursuant to the terms of the settlement provided for in the Memorandum of Understanding. In addition, the parties have agreed in the Memorandum of Understanding that plaintiffs' counsel in the Consolidated Action will apply to the Delaware Court for an aggregate award of attorneys' fees and expenses in an amount not to exceed \$690,000, which Defendants have agreed not to oppose.

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After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

DP/SU ACQUISITION INC.

By: /s/ HENRY A. UDOW
.....

Name: Henry A. Udow
Title: Vice President

February 21, 1995

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After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

CADBURY BEVERAGES INC.

By: /s/ HENRY A. UDOW
.....

Name: Henry A. Udow
Title: Vice President

February 21, 1995

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

CADBURY SCHWEPPE'S PLC

By: /s/ HENRY A. UDOW

.....

Name: Henry A. Udow

Title: Legal Director of Beverages

Stream

February 21, 1995