# OFFICE OF FAIR TRADING

## Competition Act 1998

Decision of the Director General of Fair Trading

Companies House, the Registrar of Companies for England and Wales

25 October 2002 Non-confidential version<sup>1</sup> (Case CP/1139-01)

# SUMMARY

The Director General of Fair Trading (the Director) has concluded that there is no evidence of Companies House (CH) cross subsidising its competing activities (Companies House Direct and WebCHeck). More specifically, it has not infringed the prohibition imposed by Section 18 (the Chapter II prohibition) of the Competition Act 1998 (the Act) by cross subsidising so as to allow it to engage in predatory pricing, or impose a margin squeeze on its competitors.

The Director has received complaints alleging that Companies House was abusing its dominant position by subsidising prices for its competing products, and thereby unfairly taking business from its competitors. It was alleged that this cross subsidisation had been financed from revenues earned from those activities where CH holds a statutory monopoly (i.e. the registration of company information) or from revenues earned in supplying other services where it does not face competition, for example, supplying bulk information products or magnetic tape products.

Traditionally CH has supplied company information in microfiche and paper formats. Since 1997 CH has in addition introduced an internet service, Companies House Direct (CHD). This subscription-based service allows users to select the company information they want. More recently CH has also launched an internet service which can be used

<sup>&</sup>lt;sup>1</sup> Certain information has been excluded from this document in order to comply with the provisions of section 56 of the Competition Act 1998 (confidentiality and disclosure of information). Excisions are denoted by [].

for individual sales to customers using credit cards for payment, WebCHeck. These two products compete with the activities of information providers (IPs) who purchase raw data in bulk form from CH and sell it on repackaged and with extra information. The complainants alleged that CH subsidised the price of its competing products, CHD and WebCHeck. The predatory pricing of competing products subsidised by revenues earned from activities where an undertaking is dominant, at a level so as to foreclose the market to competitors, would be an abuse of a dominant position and an infringement of the Chapter II prohibition. However, the Director's investigation found there to be no subsidisation of the competing products or of pricing of these products that would be considered predatory in this case.

The Director also investigated the possibility that CH was applying a margin squeeze on its competitors in the downstream business information market. The complainant alleged that CH was treating its own competing arm more favourably than its customers by subsidising its costs for the provision of electronic data by charging more to the complainants. A margin squeeze could arise if CH charged high prices for the raw company information that it sells in bulk and low prices for the downstream product that it sells in competitors from the downstream market and could lead to CH illegally forcing its competitors from the downstream market and could therefore be an abuse of a dominant position. The investigation found no evidence of such an abuse.

# I THE FACTS

### The complaint

- In March 2001, the Director received a complaint from one of the four main bulk purchasers of CH data. The complainant purchases bulk image and tape products from CH which it then analyses and resells on to its customers. The complainant is a member of the Business Information Providers Association (BIPA)<sup>2</sup>, which was formed in 1997 to lobby against CH's alleged abuse of a monopoly position in the provision of business information.
- 2 The complainant alleges anti-competitive practices by the Registrar of Companies for England and Wales (the public official responsible for the activities of CH).
- 3 The complaint was supported by other BIPA members.
- 4 The Director conducted an investigation into allegations that CH:
  - failed to set prices for the competing side of its operations that fully reflected its costs, resulting in predatory pricing; and
  - subsidised the price of its competing products by overcharging for products sold to competitors thereby anti-competitively squeezing the margins on products of its competitors.

### **Companies House**

5 Companies House is an Executive Agency of the Department of Trade and Industry. Companies in England and Wales are required to register at CH and to file certain documents as set out in company and insolvency legislation.<sup>3</sup> The Registrar of Companies is required to register those documents, and make them available to the public. Section 707A(1) of the Companies Act 1985<sup>4</sup> states that:

> 'The information contained in a document delivered to the Registrar under the Companies Act may be recorded and kept by him in any form he

 <sup>&</sup>lt;sup>2</sup> BIPA consists of Dun & Bradstreet, Equifax, Experian and Bonnier plc (which trades as ICC)
<sup>3</sup> This includes the Companies Act 1985 as amended, the Insolvency Act 1986, the Company Directors Disqualification Act 1986, the Business Names Act 1985, the Newspaper, Libel and Registration Act 1981, the Limited Partnership Act 1907, the Open Ended Investment Companies (Investment Companies with variable capital) Regulation 1996 and the European Economic Interest Groupings Regulation 1989.

<sup>&</sup>lt;sup>4</sup> As inserted by section 126(1) of the Companies Act 1989.

thinks fit, provided it is possible to inspect the information and to produce a copy of it in legible form'

Sections 709 and 710 of the Companies Act 1985<sup>5</sup> relate to the public inspection of documents kept by the Registrar. Section 709 states:

'(1) Any person may inspect any records kept by the Registrar for the purposes of the Companies Acts and may require-

- (a) a copy, in such form as the Registrar considers appropriate, of any information contained in those records, or
- (b) a certified copy of, or extract from, any such record.

(2) The right of inspection extends to the original of the documents delivered to the Registrar in legible form only where the record kept by the Registrar or the contents of the document is illegible or unavailable.'

- 6 CH's statutory obligations to provide copies of its records currently are met by providing microfiche products, which consist of microfiche copies of the company information registered at CH. However, customers can obtain company data in a number of media. For example, paper copies of the microfiche can be ordered by phone or via the internet. CH charges for the provision of this information. Microfiches can also be studied and copies purchased from a number of CH information centres. The charges for these services are determined by a Statutory Instrument, known as the 'Fees Order'.<sup>6</sup> CH has stated that it will discontinue updating microfiche in 2003, after which customers will either access the company information registered at CH through electronic means or purchase paper copies. These will consist of photocopies of the original company documents sent to CH or the microfiche for pre-1995 company information. Microfiche charges will then not be covered by the 'Fees Order', except for charges on copies of archive microfiche but will be replaced by charges for paper copies.
- 7 In addition, CH provides information in the following formats,<sup>7</sup> where it is free to determine its own charges:
  - internet based subscription service (CHD);
  - limited information available via the internet for credit card purchases (WebCHeck);
  - bulk image information; and
  - magnetic tape holding bulk copies of microfiche data.

<sup>&</sup>lt;sup>5</sup> As amended by section 126(2) of the Companies Act 1989.

<sup>&</sup>lt;sup>6</sup> SI 2002/317 Companies (Fees) Amendment Regulations 2002.

According to the complainant, the internet based services of CH (as described in the first and second bullets) compete with certain products supplied by IPs.

8 CH operates as a public sector 'trading fund'.<sup>8</sup> It is therefore under a statutory duty to ensure that the revenue of the fund 'is not less than sufficient taking one year with another to meet outgoings which are properly chargeable to the revenue account',<sup>9</sup> and to meet such financial objectives as may be set by the responsible Minister with the agreement of the Treasury.<sup>10</sup> One of CH's current financial targets is 'to achieve, taking one year with another, a 6 per cent cumulative average rate of return based on the operating surplus expressed as a percentage of net assets'.<sup>11</sup>

# II LEGAL AND ECONOMIC ASSESSMENT

#### Introduction

9 The Chapter II prohibition is set out in section 18(1) of the Act, which states:

' ... any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in a market is prohibited if it may affect trade within the United Kingdom.'

- 10 In order to establish that an infringement of the Chapter II prohibition has occurred, the Director must show that the body concerned:
  - is an undertaking;
  - holds a dominant position in a relevant market;
  - has abused that dominant position; and
  - the abusive conduct may affect trade within the UK.

<sup>&</sup>lt;sup>7</sup> See also Annexe 1.

<sup>&</sup>lt;sup>8</sup> There is no statutory definition of what constitutes a 'Trading Fund', although Section 4 Cm 914 *The Financing and accountability of Next Steps Agencies*, December 1990, describes a 'Trading Fund' as a 'financial framework which covers operating costs and receipts, capital expenditure, borrowing and net cash flow'.

<sup>&</sup>lt;sup>9</sup> Section 4(1)(a)(i) of the Government Trading Funds Act 1973, as inserted by the Government Trading Act 1990.

<sup>&</sup>lt;sup>10</sup> Section 4(1)(b) of the Government Trading Funds Act 1973.

<sup>&</sup>lt;sup>11</sup> CH's Report and Accounts 2001-2002, page 29. Note that for the year 2001-2 CH achieved an average rate of return of 9 per cent.

### Undertaking

11 The European Court of Justice in its judgment in *Höfner & Elser*,<sup>12</sup> stated:

'in the context of competition law,...the concept of an undertaking encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed.'

12 In the performance of their functions (whether statutory or non-statutory) public bodies will not generally be regarded as undertakings for the purposes of the Act. However, if a public body is engaged in economic activities, it should be regarded as an undertaking when engaged in those activities. Therefore, in so far as CH is engaged in economic activities, it can be regarded as an undertaking for the purposes of the Act. The competing activities of CH (including CHD and WebCHeck) are clearly economic in nature, and therefore, when engaged in those activities, CH constitutes an undertaking for the purposes of the Act. The Director has not assessed whether CH's other activities constitute economic activities for the purposes of the Act.

#### The relevant market

13 CH operates in two related markets. First, it operates in an upstream market where it supplies raw company information which it has received from companies incorporated in Great Britain (GB) to end users and IPs. This includes information it receives from companies in England and Wales in accordance with the statutory requirements to maintain a register, and information received by the Registrar for Companies in Scotland from companies incorporated in Scotland. The term 'raw information' is used to indicate that CH does not itself interpret or edit any of the material it supplies. This raw information is provided in a number of formats, e.g. microfiche, paper, bulk and tape products and electronically through CHD and WebCHeck. It is provided both to retail and wholesale customers. Second, it operates in a downstream market where, in addition to the provision of 'raw' material, it aims to supply more user-friendly smaller packages of GB company information. These services are delivered by its internet retail services, CHD and WebCHeck. In this second downstream market CH competes with the private sector IPs.

<sup>&</sup>lt;sup>12</sup> Case C-41/90 *Höfner & Elser v. Macotron* [1991] ECR I –1979 at paragraph 21. Under Section 60 of the Act the Director is required, in applying the Chapter II prohibition, to ensure that there is no inconsistency with either the principles laid down by the EC Treaty and the European Court or any relevant decisions of the European Court. The Director must also have regard to any relevant decision or statement of the European Commission.

- 14 As indicated below at paragraph 17, CH is a monopolist in the supply of raw company information in the upstream market. CH has indicated that its GB company information is supplied primarily to users and IPs within GB<sup>13</sup>. There is no substitute source of this information. Hence it is not necessary to determine whether the geographic market is wider than GB in order to establish that CH possesses a dominant position. As regards the downstream market, the Director has not reached any conclusions on the scope of the geographic market since, as explained in paragraph 17 below, it is not necessary to conclude whether or not CH possesses a dominant position in that market.
- 15 The alleged abuse would have taken place in the downstream market where CH competes with the IPs. This is principally in the area of CH's internet products when supplying 'value added' services where the added value derives from improved quality, selectability, ease of accessibility or ease of comprehension of information. It is in this area that it competes with the IPs who take and resell the raw information and also display it on their databases in a way that makes it more easily accessible for end users. This is different from the IPs' other 'value added' services, where they interpret or analyse the information and often combine it with information from other non-governmental sources. The market in which CH and the IPs compete is therefore the downstream market for GB company information.

#### **Dominant position**

16 A dominant position has been defined as:

'...a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of consumers.'<sup>14</sup>

17 As explained at paragraph 5, under the Companies Act 1985, as amended, companies registered in England and Wales are required to provide certain information to CH. As indicated above in paragraph 13, CH also receives data collected by the Registrar for Companies in Scotland. CH has a statutory

<sup>&</sup>lt;sup>13</sup> The IPs that buy raw data from CH are all based in Great Britain. Furthermore, CH has informed the OFT that CHD users from outside Great Britain amounted to less than 1 per cent of total users. Note that the Registry of Companies, Credit Unions and Industrial and Provident Societies carries out equivalent functions to CH in Northern Ireland.

<sup>&</sup>lt;sup>14</sup> Case 27/76 *United Brands v EC Commission* [1978] ECR 207, [1978] 1 CMLR 429. See also paragraph 3.10, *The Chapter II Prohibition*, OFT guideline 402.

monopoly as regards the supply of bulk and magnetic products containing this information. There is no alternative source of supply within that market. Hence CH holds a dominant position in the upstream market. CH competes with the IPs (to whom it provides such information) in the downstream market.<sup>15</sup> It is a well-established principle that an undertaking with a dominant position on one market may abuse that position by engaging in predatory conduct on a neighbouring or associated market.<sup>16</sup> The up- and downstream markets in the present case can clearly be regarded as constituting associated/neighbouring markets for this purpose.

18 Section 18 of the Act requires that a dominant position be held within the United Kingdom or any part of it. The requirement is met by CH since it holds a dominant position in the upstream market within GB.

#### Abuse

19 In order to investigate the alleged abuses a thorough exercise was conducted to allocate revenue, costs, assets and liabilities between CH's different business lines. This required significant analytical effort to determine how CH's accounts should be represented in order for the OFT to make a proper assessment. For those items that remained unallocable it was decided that the accounts should be prepared allocating them across different lines by means of headcount or floorspace apportionment methods. On this basis CH supplied the following profit and loss and balance sheet figures: actuals for 2000/01, actuals for 2001/02 (which were subject to audit sign-off at the time they were provided<sup>17</sup>) and budgeted figures for 2002/03.

CROSS-SUBSIDISATION AND PREDATORY PRICING

20 In EC law, predatory pricing facilitated by cross-subsidisation by a dominant undertaking has been considered an abuse when revenues arising from markets where the undertaking is dominant are used to subsidise activities in markets where the undertaking is not dominant. Such cross-subsidisation also occurs where the costs of activities in markets where the undertaking is not dominant are inappropriately allocated to activities in markets where the undertaking is

<sup>&</sup>lt;sup>15</sup> The Director has not reached a conclusion on whether or not CH is also dominant on the downstream market. However, at the present time, his analysis and conclusions would remain unchanged regardless of CH's position on that market.

<sup>&</sup>lt;sup>16</sup> See Case C-333/94 *Tetra Pak II* [1996] ECR I-5951 [1997] 4 CMLR 662 and also *The Chapter II Prohibition* Guideline, OFT 402, paragraph 4.50.

<sup>&</sup>lt;sup>17</sup> CH's Annual Report and Accounts 2001-2002 have now been published and are available on CH's website.

dominant.<sup>18</sup> However, it should be noted that cross-subsidisation (however achieved) by a dominant firm may affect competition, and is capable of being abusive, without necessarily being predatory.<sup>19</sup>

- 21 To consider whether or not there has been cross-subsidisation and/or predatory pricing in the present case, it is necessary to split CH's business lines to distinguish its statutory activities from its non-statutory activities. CH acknowledges that, in fulfilling its statutory obligations in respect of the provision of information, it enters and becomes part of the market for GB company information.<sup>20</sup> In the past it acted only as the primary source for this information, yet since the launch of internet access to its data, with CH Direct in 1997 and direct internet sales with WebCHeck in October 2000, it has begun to compete with the IPs.
- 22 The OFT's analysis has therefore distinguished between three separate areas of activity:
  - statutory, or reserved, activities;
  - non-statutory activities where CH faces no competition; and
  - non-statutory activities where CH faces competition.
- 23 Those products which CH is required to make available by statute, and which have their prices set by statutory instrument fall within the statutory remit (the reserved area). CH is required by statute to make a copy of the company records it holds available to the public. Changing market conditions due to technological developments mean that the form of 'a copy' for this purpose has changed over time. At present copies are provided in microfiche format. To date microfiche prices have been set as part of the Fees Order, although this will change when CH ceases to update microfiche in December 2002, and instead fulfils its statutory remit by the provision of paper copies of company information.<sup>21</sup>
- For the non-statutory (non reserved) area, CH has discretion to set the level of prices. Within this area a distinction can be drawn between those products in which it competes with the IPs (CHD and WebCHeck), and those in which it

<sup>&</sup>lt;sup>18</sup> See the Commission Notice on the Application of the Competition Rules to the Postal Sector and on the Assessment of Certain State Measures Relating to Postal Services, OJ 1998 C39/2, which states at paragraph 3.3 that 'subsidising activities open to competition by allocating their costs to reserved services is likely to distort competition'.

<sup>&</sup>lt;sup>19</sup> See the *Assessment of Individual Agreements and Conduct* Guideline, OFT 414, paragraphs 4.26-7.

<sup>&</sup>lt;sup>20</sup> 'Companies House-Market Context', Paper prepared by Companies House for OFT: 14 June 2002.

<sup>&</sup>lt;sup>21</sup> See also paragraph 6 above.

does not face competition and thus holds an effective monopoly position. This split between statutory and non-statutory activities accords with the division of public bodies' services suggested in the Treasury's Fees and Charges Guide.<sup>22</sup>

Table 1: Categorisation of CH's activities			
STATUTORY	NON-STATUTORY	NON-STATUTORY	
(RESERVED)	(NON-COMPETING)	(COMPETING)	
Annual registration	CHIC – others	CHD	
Mortgage	CHIC – postal	Internet WebCHeck	
Incorporation/dissolution	Bulk		
Microfiche – CHIC	Magnetic tape		
Microfiche – postal	Certified copies		
Microfiche – CHD			

#### Table 1: Categorisation of CH's activities

- 25 Table 1 indicates the split across different CH business lines. The Director has investigated the possibility of cross-subsidisation between the categories identified. Annex 1 contains an explanation of the business lines shown in this table.
- 26 In order to establish whether cross subsidisation took place, the Director has assessed whether CH's competing services are loss-making in aggregate. The Director obtained aggregate profits achieved by CH using the split shown above for 2000/01, 2001/02, 2002/03.

# Table 2: Aggregate profit figures by category – allocating overhead costs by floor area (£ thousands)

Year	RESERVED	NON-COMPETING	COMPETING
00/01	[]	[]	[]
01/02	[]	[]	[]
02/03*	[]	[]	[]

\* The figures for 2002/3 are budgeted figures.

# Table 3: Aggregate profit figures by category – allocating overhead costs by headcount (£ thousands)

Year	RESERVED	NON-COMPETING	COMPETING
00/01	[]	[]	[]
01/02	[]	[]	[]
02/03*	[]	[]	

\* The figures for 2002/3 are budgeted figures.

27 Tables 2 and 3 provide a summary of the aggregate profits achieved by CH using the split shown above. These results appear to be robust to whatever cost

<sup>&</sup>lt;sup>22</sup> The Fees and Charges Guide (HM Treasury, 1992).

allocation methodology is employed.<sup>23</sup> This approach is a more stringent test for cross subsidisation than the incremental costs method used by the European Commission in the *Deutsche Post* Case.<sup>24</sup>

28 The results obtained from the cost allocation exercise do not support any allegation that CH is subsidising the price of its competing products in aggregate. Particularly, the results fail to show that CH was engaged in the predatory pricing of its competing products. Case law (and common sense) indicate that if a price generates revenues that exceed total costs, that price will not be predatory.<sup>25</sup> The analysis in Tables 2 and 3 shows that CH's revenues from activities where it faces competition exceed the total costs of those activities. The analysis of returns on net assets, as part of the margin squeeze analysis below, confirms that revenues from competing products easily cover the costs incurred in their production, and that their prices are therefore not predatory.

PRICE SQUEEZE/MARGIN SQUEEZE

- A margin squeeze arises when a vertically integrated firm sets a margin between its wholesale and retail prices which is insufficient in the sense that an efficient firm competing downstream buying in raw material at the wholesale price could not make a reasonable return when setting prices so as to compete with the vertically integrated firm's downstream retail prices.<sup>26</sup>
- 30 The European Commission found a margin squeeze to be an abuse of a dominant position in *Napier Brown/British Sugar*,<sup>27</sup> stating that:

'The maintaining by a dominant company, which is dominant in the markets for both a raw material and a corresponding derived product, of a margin between the price it charges for a raw material to the companies which compete with the dominant company in the production of the derived product and the price which it charges for the derived product, which is insufficient to reflect that dominant company's own costs of

<sup>&</sup>lt;sup>23</sup> The approach taken by the OFT was to attempt to allocate all costs. Those overhead costs that could not be allocated directly were apportioned according to the proportion of CH's workforce active in the provision of that service ('headcount'), or by the proportion of CH's property that the service occupied ('floor area').

<sup>&</sup>lt;sup>24</sup> Case Comp./35.141 *Deutsche Post AG*, OJ 2001, L125/27.

<sup>&</sup>lt;sup>25</sup> Case C-62/86 *AKZO Chemie v Commission* [1993] 5 CMLR 215, and Case 333/94P *Tetra Pak International SA v Commission* [1997] 4 CMLR 662.

<sup>&</sup>lt;sup>26</sup> See the *Assessment of Individual Agreements and Conduct* Guideline, OFT 414, at paragraph 3.12.

<sup>&</sup>lt;sup>27</sup> Case IV/30.178 [1998] OJ L-284/41.

transformation (in this case the margin maintained by Napier Brown between its industrial and retail sugar prices compared to its own repackaging costs) with the result that competition in the derived product is restricted, is an abuse of a dominant position.<sup>28</sup>

31 The EC Commission's Telecommunications Access Notice<sup>29</sup> sets out methods of demonstrating a price squeeze, which is the same as that set out in *Napier Brown/British Sugar*.

'A price squeeze could be demonstrated by showing that the dominant company's own downstream operations could not trade profitably on the basis of the upstream price charged to its competitors by the upstream operating arm of the dominant company.<sup>30</sup>

- 32 To conduct a margin squeeze analysis it is therefore necessary to establish the wholesale price, i.e. the price of the good supplied, by the vertically integrated undertaking holding a dominant position in the upstream market, to the firms competing with it downstream. Here it is the price set by CH for bulk raw company information.
- 33 The Director's analysis involved treating the wholesale price charged to downstream competitors as a cost in the accounts of CH's downstream competing products. These competing products are CHD and WebCHeck. To carry out a margin squeeze analysis the Director estimated the return on assets that would have been earned on these products had they faced the prices charged to its downstream competitors. This return can then be compared with what is considered to be a reasonable rate of return. If the return is below this reasonable rate then a conclusion of margin squeeze may be drawn.
- 34 The CH 'Guide to Fees' gives the prices that are charged for CH products. In order to provide a service comparable with CHD and WebCHeck it would be necessary for a competitor to purchase the information available on CHD and WebCHeck in bulk image tape and magnetic tape forms. The wholesale cost of this information to a competitor would have been [] for 2000, and [] for 2001 and 2002.<sup>31</sup>

<sup>&</sup>lt;sup>28</sup> *Ibid*, paragraph 66.

<sup>&</sup>lt;sup>29</sup> Notice on the application of the competition rules to access agreements in the telecommunications sector, OJ C265, 22/08/1998.

<sup>&</sup>lt;sup>30</sup> *Ibid*, paragraph 117.

<sup>&</sup>lt;sup>31</sup> There are separate charges for archive 'full snapshot' material and for daily/weekly updates. The cost of the archive material is a once off cost. This cost has been equally divided across the three years so as to estimate the average cost per year of an IP entering the market. The average cost per year would be lower for an IP staying in the market for longer than three years.

35 These wholesale costs are added to the costs attributed to CHD and WebCHeck in the cost allocation exercise in order to show the profits that CH would have earned from CHD and WebCHeck if it had had to pay the wholesale prices faced by the competing IPs.

	00/01	01/02	02/03*
CHD and	[]	[]	[]
WebCHeck –			
revenue			
CHD and	[]	[]	[]
WebCHeck – total			
costs			
Wholesale price	[]	[]	[]
plus total costs			
Profit	[]	[]	[]
Return on net	[]	[]	[]
assets			

Table 4: Returns under margin squeeze analysis- allocating overhead costs by headcount (£ thousands)

\* The figures for 2002/03 are budgeted figures.

Table 5: Returns under margin squeeze analysis- allocating overhead costs by
floor area (£ thousands)

	00/01	01/02	02/03*
CHD and	[]	[]	[]
WebCHeck-			
revenue			
CHD and	[]	[]	[]
WebCHeck – total			
costs			
Wholesale price	[]	[]	[]
plus total costs			
Profit	[]	[]	[]
Return on net	[]	[]	[]
assets			

\* The figures for 2002/03 are budgeted figures.

36 The analysis in tables 4 and 5 shows a significant positive rate of return, and therefore there is no evidence of CH applying a margin squeeze despite the high charges for bulk and magnetic products paid by the IPs. As noted above at paragraph 28, this analysis further confirms that CH is not engaged in predatory pricing.

#### Effect on trade within the UK

37 Given that there is no evidence of an abuse of a dominant position, it is not necessary to establish whether CH's conduct may affect trade within the UK.

# III NON-INFRINGEMENT

- 38 On the basis of the facts and for the reasons set out above, the Director has decided that CH has not infringed the Chapter II prohibition because the Director has found that CH has neither:
  - Engaged in predatory pricing by setting prices for the competing side of its operations that failed to recover its costs; nor
  - subsidised the price of its competing products by overcharging for products sold to competitors thereby anti-competitively squeezing the margins on the products of its competitors.

John Vickers Director General of Fair Trading

# ANNEXE 1

# Explanation of Terms Shown in Table 1

#### Categorised as Statutory Activities

Annual registration. An annual return must contain the following information:

- the name of the company;
- its registered number;
- the type of company it is, for example, private or public;
- the registered office address of the company;
- the address where certain company registers are kept if not at the registered office;
- the principal business activities of the company;
- the name and address of the company secretary;
- the name, usual residential address, date of birth, nationality and business occupation of all the company's directors;
- the date to which the annual return is made-up (the made-up date).

And if the company has share capital, the annual return must also contain:

- the nominal value of total issued share capital;
- the names and addresses of shareholders and the number and type of shares they hold or transfer from other shareholders.

Mortgage registration: company information on the details of mortgages/charges whether they have been satisfied or not.

Incorporations and dissolutions: information on company incorporations and dissolutions.

Microfiche – CHIC: customers can go to one of Companies House's information centres (CHIC) and access microfiche records of company details and buy copies of these.

Microfiche – postal: CH has a call centre that accepts orders for microfiches which are then sent by post from Cardiff.

Microfiche – CHD: CHD subscribers can access the internet Companies House Direct system and choose microfiches to be sent by post.

#### Categorised as Non-Statutory (Non-Competing) Activities

CHIC – Others: customers can go to a CHIC and download information not available on microfiche.

CHIC – Postal: customers can obtain CH information from CHIC by post.

Bulk: bulk image company information provided to information providers.

Magnetic tape: company information provided on magnetic tapes mainly to large users such as banks and to information providers.

Certified copies: certified copy of annual return by post, fax or personal collection

### Categorised as Non-Statutory (Competing) Activities

CHD: Companies House Direct. CH offers 'packages' of data selected by the customer from a company file via CHD - for example, list of directors and latest annual accounts for a named company – as an alternative to ordering/downloading the whole company file or each document individually. This is an internet based electronic platform which can only be accessed by subscribers.

Internet WebCHeck sales: No need for subscription. Customer pays via credit card, but only the following limited information is available:

- The registered office address
- Made up dates / due dates for the last accounts and annual returns
- Date of incorporation
- Country of origin (original country of registration)
- Status e.g. live, dissolved, etc.
- Insolvency details
- Previous names
- Company Type
- Nature of business
- Branch details
- Overseas company information\_