



OFFICE OF FAIR TRADING

ANNUAL REPORT OF THE DIRECTOR GENERAL OF FAIR TRADING

1995

ANNUAL REPORT OF THE DIRECTOR GENERAL OF FAIR TRADING

To the Secretary of State for Trade and Industry
and President of the Board of Trade

January to December 1995

*Presented to Parliament
in pursuance of section 125(3) of the Fair Trading Act 1973*

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FIELD HOUSE
15-25 BREAM'S BUILDINGS
LONDON EC4A 1PR
0171-242 2858 (Switchboard)
0171-269 8929 (Direct Line)
FAX 0171-269 8966

From the Director General of Fair Trading
John Bridgeman TD, DL

The Rt Hon Ian Lang MP
Secretary of State for Trade and Industry
and President of the Board of Trade
1 Victoria Street
London SW1H 0ET

23 April 1996

Dear Secretary of State,

I am required by Section 125 of the Fair Trading Act 1973 to make to you an annual report of my activities and those of the Monopolies and Mergers Commission. The accompanying report covers the calendar year 1995.

Part 1 is a personal reflection on my first three months in office, and Parts 2 and 3 provide a detailed account of the work undertaken during the year by the Consumer Affairs and Competition Policy Divisions of my Office.

Part 3 also examines those aspects of the work of the Monopolies and Mergers Commission that directly relate to the work of the Competition Policy Division. Those that do not are reviewed in Part 4.

I am copying this letter, together with a copy of the report, to the Chairman of the MMC.

Yours sincerely

JOHN S BRIDGEMAN
DIRECTOR GENERAL OF FAIR TRADING

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Cross-references to earlier reports

In a number of instances, the activities described in this report follow on action taken in earlier years. Where appropriate, attention has been drawn to previous discussion of the topics under review. So, for example, '(AR-94, p 31)' refers to page 31 of the Director General's annual report for 1994.

OFT senior staff December 1995



John Bridgeman, TD, DL
Director General of
Fair Trading



Jeffrey Preston, CB
Deputy Director General



Geoffrey Horton
Director, Consumer
Affairs Division



Anthony Inglese
Legal Director



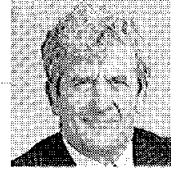
Pat Edwards
Legal Director designate



Martin Howe, CB
Director, Competition
Policy Division



Roger Watson
Assistant Director CA1



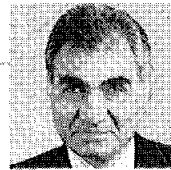
John Chapman
Assistant Director CA2



Peter Casey
Assistant Director CA3



Peter Rostron
Assistant Director (legal)
competition policy



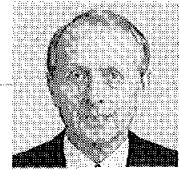
Arif Khan
Assistant Director (legal)
consumer affairs



Edward Whitehorn
Assistant Director CP1



Steven Wood
Assistant Director CP2



Henry Emden
Assistant Director CP3



Andrew White
Assistant Director CP4



Adrian Walker-Smith
Head of CP5



David Elliot
Senior Economic Adviser



Caroline Banks
Principal Establishment and Finance Officer



Dermot Hill
Head of Information

- CP1:** fair trading and competition investigations concerning goods and services; administration of the Resale Prices Act 1976.
- CP2:** investigations related to the supply of financial, professional and personal services.
- CP3:** investigations into restrictive trade practices, and fair trading matters related to construction, media services, and broadcasting.
- CP4:** United Kingdom and European Community merger control functions.
- CP5:** international competition work and liaison with the European Commission.
- CA1:** consumer credit policy, credit reference agency disputes, unfair terms in consumer contracts.
- CA2:** consumer policy, trading practice investigations, codes of practice, consumer redress issues, consumer information, monitoring complaints.
- CA3:** consumer credit licensing and enforcement activity, including that related to estate agency, unfair trading practices, misleading advertisements. Liaison with consumer organisations and the trading standards service. European and international aspects of consumer protection.

1 Taking stock



JOHN BRIDGEMAN, TD, DL
DIRECTOR GENERAL OF FAIR TRADING

1995 was unusual in that there were three Directors General of Fair Trading. Sir Bryan Carsberg resigned in May to take up the post of Secretary-General to the International Accounting Standards Committee. Jeffrey Preston filled in admirably until my appointment on 1 October and together they left me a rich inheritance. A number of the successes highlighted in this report were achieved during their terms of office. I acknowledge at the outset the debt I owe to them.

I have already seen that some commentators have tried to compare the approach that I take as Director General and the approaches taken by my immediate predecessors. They have looked at my background as an international businessman and contrasted it with the careers of my

predecessors. They have asked about Sir Bryan Carsberg's well-publicised views that there should be changes to the institutional structure for the administration of competition policy in the United Kingdom. Some have focused on the most illusory of differences between the decisions that I have made in the cases I consider and the decisions that my predecessors made in different cases and in different circumstances.

I am content to leave such musings to others. I value my independence but I shall always want to make my decisions understandable and I should like to highlight the common ground that I share with my predecessors. Like them, I am a firm believer in vigorous competition and the benefits that it generates for consumers. During my time in industry, I learned, at first hand, that competition keeps managers on their toes. It drives them continually to seek new ways of making their business more efficient. It emphasises the need for efficiency and a low cost base and forces firms to become more innovative in satisfying the needs of their customers. Without a low cost base it is difficult to compete on price; without investment in innovation it is difficult to compete with variety.

Competition and the open market

Vigorous competition depends on an open market place. What do I mean by that? I mean a market in which consumer preferences are effectively conveyed to suppliers and potential suppliers. I mean a market which newcomers can readily enter if they see profitable opportunities. And I mean a market where the conflicting forces of supply and demand determine both the immediate market price and the revenue stream which indicates whether investment in new capacity is attractive.

Competition thrives most successfully in a market of many suppliers and potential new suppliers. In that type of environment, small increases in market share can provide substantial financial rewards for firms. This encourages competition on quality, service, price, variety, special offers - the whole panoply of marketing skills and outlets for MBA commercial acumen. Competitive markets have many firms striving for increases in market share, new entrants coming in with modern equipment, small low-overhead operators in some sectors and large-scale operators in others. In such markets it is difficult to establish dominance and the consumer is blessed with abundant choice. This is the sharp, bracing air in which efficient companies thrive.

Competition then maximises consumer welfare. It provides choices. It ensures value for money. I acknowledge however, as my predecessors did, that competition is not always sufficient. Markets may be competitive but consumers may lack the information they need to make satisfactory choices - or they may be fed misleading information. Not many consumers will have as much expertise as the supplier of their goods and services; this inevitably puts them at a disadvantage. When problems arise, consumers need effective ways to get redress so that important warning signals are sent back to suppliers providing unsatisfactory goods or services.

This is where my consumer protection functions come in. With the increasing complexity of what is on offer, especially in durables and services,

consumers have never needed more support in helping them secure the best value for their precious, after-tax, disposable income. There have never been so many lenders of money tempting consumers with readily available debt. Furthermore, companies are more innovative than ever in their desire to improve their positions in markets and then defend them against less well resourced competitors.

I should like to highlight the example of the pre-paid funerals industry. Sir Bryan Carsberg published a report on the industry on 17 May. This called for new statutory regulation to protect the moneys paid in advance by consumers: such prepayments were vulnerable both to fraud or to mismanagement. I strongly support Sir Bryan's call for legislation. Although pre-paid funerals have given peace of mind to many consumers, the financial risks from rogue companies are significant. I agree with Sir Bryan that self-regulation will not adequately address the serious potential for fraud, mismanagement and over-selling that exists. The Government should, I believe, legislate without delay and I have made my views known.

The role of information in the market place

I mentioned that information was important for the proper functioning of markets. This includes information about how to deal with problems if and when they arise. The Office of Fair Trading has deservedly earned an excellent reputation for the quality of its informational material. An example was the booklet *Home Improvements* which was published in March in response to the high level of consumer complaints in this sector of the economy. Two major high-street banks agreed to make copies of the booklet available to their customers seeking home improvement loans. Four major retail chains also agreed to make the booklet available to their customers. I should like to express my appreciation of the support given by Abbey National, Barclays, and Great Mills, Texas Homecare, Do It All and Homebase stores.

Education goes hand in hand with regulation. The most responsible piece of legislation is worthless if nobody knows about it. I consider myself to be well-informed but I confess that until I took up the post of Director General I did not know that I was entitled to redress from a credit card company if I bought faulty goods or services costing more than £100 on my credit card. This is just one example. My fear is that pupils are leaving school with little understanding of what being a consumer entails in our complex consumer society today. Indeed far too many adults remain unaware of laws designed to protect their interests as consumers. I suspect that we also underestimate that the elderly are increasingly vulnerable. I shall ensure that the OFT does its part to increase understanding and awareness among consumers.

Consumer protection - focusing resources

There are many agencies which are concerned with consumer protection in the United Kingdom; the OFT, the National Consumer Council, the Consumers' Association and local authority trading standards departments are

predominant among these. We are all facing increasing demands on our limited resources.

I want to ensure that each organisation does what it is best at and that we do not duplicate each other's efforts. To use a military analogy, when ammunition is scarce, we need to make each bullet count. We must make sure that our best marksmen remain supplied and we do not waste bullets on those that cannot shoot straight.

I have therefore launched a fundamental review of the OFT's consumer affairs strategy. I want to be sure that the OFT is giving the best possible service to consumers. I want the Office to concentrate on its strengths and to let others do what they can do better. I consider myself beholden to the taxpayer to produce a focused, cost-effective service from our remarkably modest resources. My review of the OFT's consumer strategy, which I hope to complete in June 1996, will guide me in pursuit of this objective.

I want to pay tribute at this point to the work of trading standards departments. They are, some say, the eyes and ears of the OFT. I would add the legs, the arms and the voice too, for they do much work to gather evidence to help me fulfil my duties under the Consumer Credit Act and Part III of the Fair Trading Act and they help to spread the OFT's messages locally.

These are uncertain times for trading standards departments. There are fears that the trading standards service nationally is becoming unduly fragmented by moves to unitary authorities in some parts of the country. I share concerns that some new authorities will not have the critical mass to provide a cost-effective, multi-skilled trading standards service. I hope that joint arrangements can be put in place so that the public, wherever they may be, can receive the full range of services they expect from trading standards departments. Whatever happens, I am sure that the professionalism of individual trading standards officers will be undiminished.

Protecting consumers from unfair contract terms

Before I leave the subject of consumer protection, I want to mention the Unfair Terms in Consumer Contract Regulations. These came into force on 1 July and give me the power to take action in the High Court to prevent the continued use of unfair terms. The definition of 'unfair' is wide and includes elements new to United Kingdom law. The regulations help redress the inequality of bargaining power between consumers and businesses who deal on standard terms. In this way, they serve to make markets work more effectively.

I received about 340 complaints about unfair contract terms in the first six months that the regulations were in force. About one half of these complaints were about terms that I thought were potentially unfair and they were subsequently taken up with the firms concerned. These are still early days but our experience of enforcing the regulations is growing. Where appropriate, I am determined to use my powers to the full to prevent the use of terms which are unfair under the regulations. In particular, I see little justification for the use of almost unreadable small print in contracts.

Cartels and prices

I have other powers which have a more direct impact on competition and the workings of markets. My number one priority is the elimination of cartels - bid-rigging, price-fixing and market-sharing agreements. The agreement reached in any cartel must satisfy the least efficient member. Prices and the cost of producing the cartel's output will therefore be higher than in a competitive market and often supply is artificially limited. Cartels offer no efficiency benefits to society, whatever their apparent attractions to the participants.

Resale price maintenance, where a manufacturer or supplier dictates the price at which the retailers sell goods to consumers, can also lead to higher prices than consumers would otherwise pay. Here it is as a result of the restriction on price competition between retailers and the possible dampening of competition between their suppliers. Whenever price competition is prevented, the efficiency of market participants may be reduced.

I share my predecessors' instinctive dislike of resale price maintenance and cartels. I was pleased that in March Sir Bryan Carsberg started action against the Net Book Agreement (NBA). Although the Publishers Association announced in October that it would no longer enforce the collective arrangements underlying the NBA, I shall press ahead with court action to prevent individual publishers from fixing the price at which their books are sold. Furthermore, despite its not being enforced, the NBA remains in being and I want the Court to strike it down.

The OFT's efforts to stamp out cartels were given a tremendous boost by the outcome of several court cases in 1995. In August, record fines totalling £8,375,000 were imposed on 17 companies involved in secret price-fixing and market-sharing agreements in the ready-mixed concrete industry. The companies were guilty of contempt of court and, in passing judgment, Mr Justice Buckley, President of the Restrictive Practices Court, said, 'Such behaviour is intolerable. This blatant disregard of court orders strikes at the rule of law and public interest'. In imposing fines totalling £87,500 on five directors of the companies, he added, 'If individuals are ever again brought before this court for such blatant disregard of court orders on anything like such a scale, they should expect to go to prison for a significant period'.

These were strong words from the President of the Court. They underscore the OFT's efforts in pursuing allegations of cartel activity in the concrete industry. They also provide a timely reminder that the Restrictive Trade Practices Act is not the busted flush that some critics imply. I hope that the President's remarks, and the heavy fines he imposed, will deter others from taking part in price-fixing and market-sharing agreements. I feel that greater investigative powers would make our handling of such cases far easier. For that reason, I welcome the DTI's renewed commitment to reform, especially reform of the Restrictive Trade Practices Act. I look forward particularly to improvements such as an extension of my investigatory powers, both in pursuing secret cartels (where it is crucial) and in probing other possible abuses of market power (where our enquiries could be more focused and expeditious).

LEGISLATIVE REFORM

In the Queen's Speech at the opening of Parliament in November 1995 the Government announced its intention to review the need for competition law reform. The Director General would welcome changes in both competition and consumer law.

FAIR TRADING ACT 1973

The provisions of Part III of the Act which enable him to seek undertakings or prosecute rogue traders who persistently break the civil or criminal law are inadequate. The procedures are cumbersome and the need to establish persistency means that traders with no intention of improving their behaviour can delay action for a long time. There are also traders who employ deceitful or oppressive behaviour, such as the use of high-pressure selling techniques which, although not breaching the law, exploit the fears of vulnerable or elderly people. The Director General is seeking wider powers to act against such practices.

CONSUMER CREDIT ACT 1974

As part of the deregulation initiative, the Director General is proposing a range of reforms including removal of all business lending and hiring from regulation under the Act, revoking regulations relating to credit and hire quotations, simplifying rules for credit and hire advertisements, changing the way APRs (annual percentage rates of charge) are calculated or disclosed to improve their value for comparing credit terms, and introducing a more equitable method of calculating early settlement rebates. He is also seeking to make more effective the provisions in section 75 of the Act which relate to connected lender liability for goods and services with regard to credit card issuers.

RESTRICTIVE TRADE PRACTICES ACT 1976

The existing law creates unnecessary burdens on business by requiring that details of many trade agreements which may have little or no effect on competition be furnished to the Director General. Agreements which are anti-competitive must at present be challenged in court and there is no penalty for a first offence if the court strikes the restrictions down. He is therefore of the view that the law be replaced by a prohibition system which will make such agreements illegal and subject to penalties at the outset unless specifically exempted. In addition, he is seeking stronger powers to uncover cartels.

COMPETITION ACT 1980/FAIR TRADING ACT 1973

At present the Director General has limited powers to investigate abuses of market power before deciding whether a reference to the Monopolies and Mergers Commission, or binding undertakings in lieu, is appropriate. He has no powers to maintain the status quo while conducting investigations in which, for example, predation, refusal to supply, full line forcing, or other abuses are suspected. He is seeking powers to demand relevant information and supporting documents, and to impose interim measures when necessary.

PRE-PAID FUNERALS

The Director General has proposed new legislation to protect consumers who make payments in advance for their funerals. Large sums are potentially at risk, and he has recommended new laws requiring all funds to be put into trusts or similar arrangements managed by independent trustees, for the funds to be periodically valued, and for restrictions on the ability of the promoters to withdraw money from the funds.

Formal consultations on changes to the Fair Trading Act and the Consumer Credit Act have already been put in hand by the Department of Trade and Industry.

Assessing mergers

1995 saw an exceptionally high level of merger activity, surpassed only once before in the late 1980s. There were widely publicised cases involving Scottish and Newcastle and Courage, Halifax Building Society and Leeds Permanent Building Society, Granada and Trust House Forte, and Lloyds Bank and the TSB as well as a number of mergers in the electricity industry, including the bids by Powergen for Midlands Electricity and by National Power for Southern Electric, both of which were referred to the Monopolies and Mergers Commission.

Work on mergers has increased not only in volume but also in complexity. For instance, I have had to take account of two separate and quite different regulatory regimes in considering mergers involving electricity and water businesses. New emphasis has also been given to attempts to find solutions to the competition problems to which mergers give rise without the need for reference to the MMC. This follows the enactment of the Deregulation and Contracting Out Act 1994, which allows the Secretary of State to accept behavioural as well as divestment undertakings in lieu of reference to the MMC.

The ability to accept undertakings gives fresh importance to the quality of the analysis of the impact of a merger at the preliminary stage of an investigation. The right remedy for problems which arise, essentially, from the undesirable effect of a merger on the structure of a market would normally itself be structural: generally divestment is the preferred remedy. The acceptance of purely behavioural remedies needs, therefore, to be approached with considerable caution. I could not recommend purely behavioural remedies without confidence that they would provide an appropriate, proportionate and effective solution.

It is, therefore, vitally important that the analysis on which I base my recommendations to the Secretary of State should be of a quality which enables me to identify solutions which I am confident will remedy the adverse effects of a merger. Equally, this analysis needs to be undertaken quickly, to enable me to meet the commitment to make recommendations to the Secretary of State within 39 working days of receipt of complete submissions by the merging parties.

The increased numbers, scale and complexity of mergers in 1995 re-emphasises the importance of my role as an independent adviser on merger references, reaching my own view on the complex and conflicting issues that can arise.

Developments in the bus industry

I estimate that, for its size, the bus industry generates more work for the OFT than any other. Out of 318 public cases that the OFT looked at during 1995, 38 involved the bus industry and four of these were referred to the MMC. It was, perhaps, inevitable that the industry would consolidate after the twin blasts of deregulation in 1986 and subsequent privatisation of the National Bus Company. There are some economies of scale which large bus groups can exploit and some period of rationalisation within the industry was perhaps to be expected.

I do not think that the current stage in the development of the bus

industry will last much longer. The current sales of the remaining municipal bus companies provide, in effect, the last major chance of growth by acquisition. Soon, the large bus groups will have to consider other methods of growing to produce the returns expected by shareholders. There is a limit to the costs that can be trimmed. At some stage in the future the only way that large companies will be able to grow in the United Kingdom market is through winning market share by competing against each other.

In the meantime, the competition authorities have to consider the effects on competition of the many mergers in the deregulated bus industry. They have also to examine allegations of anti-competitive conduct, particularly so-called predatory pricing, by large bus companies against smaller rivals. The competition laws and processes in the United Kingdom are not well designed for these tasks. They take too long, with the consequence that the Secretary of State, when he comes to make his decision, is often presented with an unredeemable situation. There are no provisions for interim remedies while investigations are carried out and any penalties that exist are not strong enough to deter a determined company from behaving in a predatory manner. In its report, published in December, the Transport Select Committee recognised the inadequacy and ineffectiveness of the current OFT and MMC processes. I am encouraged that the Government has accepted that the existing arrangements to deal with abuses of market power need improvement and proposes to give me both greater investigatory powers and the powers to take quick interim measures where abuse threatens to damage competitors.

Organising for the challenges of the future

1995 saw the introduction of major changes in the way that the work of the OFT was managed and organised. Much work was done to improve the way resources were controlled and the Government has also delegated responsibility for pay, grading and accommodation. In the short term these are putting a strain on resources, but in due course these changes will bring benefits as they provide freedom to make decisions focused more directly on the needs of the OFT and its objectives.

The challenges that lie ahead are considerable. To meet them, it is necessary that staff are properly trained and developed. With this in mind, the OFT took the first steps towards seeking the Investors in People standards which I see as a quality threshold from which we can build much improved management processes.

I started by referring to the rich inheritance that my predecessors had left me. It is perhaps fitting that I conclude by thanking the staff that they left behind. I arrived at the OFT to find a well-organised team with a keen sense of purpose and a genuine desire to help consumers. I thank them all most sincerely for the way in which they have welcomed me as Director General and for the thoughtful way in which they have inducted me into my new responsibilities.

This text is also available on the Internet
Address: <http://www.open.gov.uk/ofthome/htm>

See page 44

2 Consumer affairs

Consumer markets

Extended warranties on electrical goods

In May, the Director General welcomed a new code of selling practice for extended warranties on electrical goods. The code had been drawn up by the British Retail Consortium (BRC) - with advice from the Office of Fair Trading (OFT) - and its introduction fulfilled one of the key recommendations of the OFT's report *Extended Warranties on Electrical Goods*, published in December 1994 (AR-94, p 29).

The code itself embodies another of the report's recommendations: namely, that retailers should provide take-away leaflets setting out details of warranty prices and the full terms and conditions of contract. It also requires the leaflets to give information about such things as the period of cover, cancellation rights, geographical limitations and any exclusions from cover. In addition, it prohibits the use of misleading or exaggerated claims and defines the form of contract documentation. Subscribers to the code include many of the major electrical retailers, and members of the Radio, Electrical and Television Retailers Association (RETRA), which represents many small and medium size independent traders.

Nevertheless, the OFT report's main recommendation had been that the prices of any extended warranties on offer should be clearly displayed in retail outlets. It was primarily to

discover how far retailers were complying with this recommendation that the OFT commissioned further independent research to find out what developments had taken place in this sector since it had published its report. Unidentified researchers visited 1,040 electrical retail outlets throughout the United Kingdom, posing as prospective purchasers of particular models of television and washing machine. Their findings were generally disappointing. Particularly unsatisfactory was the fact that prices were displayed in only around one-third of those stores visited that offered extended warranties. Moreover, many stores had no price leaflets on public view - although they were sometimes able to produce them when specifically asked.

Overall, the survey showed that, although there had been some movement towards the display of extended warranty prices, there was still insufficient transparency and little sign of competition in this market. These findings formed the basis of a second report, published in January 1996. The OFT is to examine the situation again during the course of the year and is looking for a major improvement - in both price display and the availability of leaflets with price information.

Used cars

As part of its continuing study of the market for used cars (AR-94, p 23), the OFT made further progress in identifying the scope for raising consumers' expectations of cars bought from dealers. Attention focused on the content and availability of inspection check-lists, whether claimed mileages were correct, whether cars had been stolen, or were subject to a financial charge, and whether they had suffered major accident damage. One noteworthy achievement in 1995 was the

THE WORK OF THE OFT'S CONSUMER AFFAIRS DIVISION

The OFT's Consumer Affairs Division exercises the Director General's powers to promote and safeguard the economic interests of consumers in the United Kingdom, with particular reference to credit, property transactions, and deceptive, unfair or misleading trading practices. In pursuit of these aims, the Division:

- exercises the Director General's various statutory powers, including regulatory action against individual traders and firms, and advises the Government on fair trading issues generally;
- keeps the United Kingdom market for goods and services under review in order to identify and investigate trading practices that appear to affect the economic interests of consumers adversely;
- keeps in close touch with consumer concerns generally and with the concerns of business about consumer issues, and seeks to ensure that Government policy takes them properly into account;
- provides information for consumers; and
- develops proposals for legislative or regulatory changes (or proposals for self-regulation) where consumers' interests are affected.

The Director General's consumer responsibilities are set out in the Fair Trading Act 1973, the Consumer Credit Act 1974, the Estate Agents Act 1979, the Control of Misleading Advertisements Regulations 1988, and the Unfair Terms in Consumer Contracts Regulations 1994.

adoption of an improved check-list by the Retail Motor Industry Federation. The revised document was largely based on an OFT analysis of equivalent check-lists in use in the United Kingdom and abroad.

The OFT's research programme was widened towards the end of the year to include an examination of warranties and mechanical breakdown insurance policies. This extension of the project, and the fact that a number of different bodies are currently pursuing various initiatives within the areas identified, means that the OFT's report on the used car market should now be published in 1996.

Health insurance

The health insurance industry has grown rapidly in recent years. In May, the Director General announced that the OFT would be undertaking an investigation into the sale of health insurance policies.

The aim of the investigation is to examine whether contracts have unfair or obscure clauses or exclusions, whether consumers' expectations about the premiums they have to pay and benefits they receive have been met, and whether the products available provide value for money and meet consumers' needs. The OFT consulted widely among insurance providers and other industry associations and it was anticipated that a report on its findings would be published early in 1996.

MORTGAGE REPAYMENT METHODS

An OFT report, *Mortgage Repayment Methods*, published in April, was intended to inform debate on what 'best advice' might be when prospective house-purchasers taking out mortgages were considering what sort of repayment method would be best suited to their individual circumstances. The report sought to quantify the effects of various factors - such as investment growth and charges - on which repayment method could provide them with the best value. It emphasised that consumers should weigh up their attitudes to certainty and investment risk, take account of the tax factors, consider possible developments in their personal circumstances, and shop around for products with low charges and high surrender values.

The OFT decided to prepare a consumer advice leaflet on mortgage repayment methods, and it is anticipated that this publication should be available early in 1996.

Photocopier leasing

An independent telephone survey into the experiences of users in the acquisition of photocopiers was commissioned in November. Concentrating on leases and service contracts

PRE-PAID FUNERALS

In May, following extensive research, the OFT published a report on pre-paid funeral plans. The primary purpose of the investigation was to examine the main features of the market and to identify areas of potential consumer detriment. In particular the OFT was concerned with the security of pre-paid funds.

The inquiry found that, for consumers, the introduction of pre-paid funeral plans had widened choice and provided peace of mind. For funeral directors, the plans presented a means for increasing or protecting future market shares. Indications from a survey undertaken as part of the inquiry were that most consumers purchasing plans were aged 70 or more. The pre-paid funeral market in the United Kingdom provided evidence of significant growth. The report indicated that the industry probably currently handled more than £130 million worth of pre-payments and this sum could rise to more than £500 million within five years.

The report recommended that there should be greater

protection for the large sums of pre-payments that were potentially at risk from fraud, mismanagement and over-selling. In particular, it called for statutory regulation to cover such aspects as: transparency in contract terms and trust arrangements; actuarial valuations; withdrawals to pay for funerals; fees to plan providers; and treatment of earnings and surpluses.

The report also expressed considerable concern about certain selling practices - especially the unsolicited marketing in nursing homes and hospital wards and the offer of inducements to charities for endorsing the products of specific plan providers. It recommended that these practices should cease. This problem, with others, could be addressed by strengthening the industry's self-regulation.

At the end of 1995, the Department of Trade and Industry had the need for statutory regulation to protect pre-payments under review, while the OFT was engaged in discussions with the industry about improving self-regulation. These discussions suggested that the industry would need to achieve a greater collective commitment, if there was to be agreement on how to take this forward.

entered into since January 1995, the survey was designed to find out how far firms hiring out photocopiers had acted on the recommendations in the OFT's March 1994 report *Photocopier Selling Practices* (AR-94, p 21). It is planned to publish the findings of the new survey in the spring of 1996.

New codes of practice

Under the Fair Trading Act the Director General has a general duty to encourage the preparation and dissemination of codes of practice which are aimed to protect consumers against exploitation or lack of care by traders. Apart from the BRC's code on extended warranties on electrical goods (see page 15), three new codes were introduced in 1995 - following negotiation between the OFT and the relevant trade associations. Revisions were also made to two existing codes in the field of consumer credit (see page 20).

The rental and leasing of road vehicles

In April, the Director General gave his support to a code drawn up by the British Vehicle Rental and Leasing Association. This provides for:

- a pre-rental check on all vehicles;
- an undertaking that vehicles provided to customers are in a safe and roadworthy condition;
- procedures to deal with complaints, together with a conciliation service; and
- a customers' charter statement.

Introduction agencies

The Director General welcomed a revised code of practice drawn up by the Association of British Introduction Agencies and introduced in May. The OFT has taken a close interest in the industry over number of years. The code provides for:

- a proportionate refund if clients receive less than the service promised;
- transfer of clients to another agency if the original agency ceases trading; and
- a conciliation service and low-cost arbitration.

One important provision - which the OFT hopes to encourage in other codes - is the establishment of a committee, with a majority of independent members from the legal and consumer worlds, to oversee all complaints received under the

code. The committee is to be responsible for disciplining current Association members and suggesting any revisions to the code that might prove to be necessary in the light of experience.

Tyre distribution

A code of practice drawn up by the National Tyre Distributors' Association was introduced in November. The code's main provisions cover:

- conciliation by the National Conciliation Service;
- access to independent arbitration;
- the provision of detailed information on prices for each item of goods or service or both; and
- a customers' charter statement.

Consumer information

During the course of the year, the OFT took exhibition stand space at various events in different parts of the country - ranging from the Daily Mail Ideal Home Exhibition at Earls Court in March and April to county shows throughout the summer. Such events provide an excellent opportunity to draw the attention of the public at large to the work of the OFT and to its range of consumer publications.

Advisory publications

A wholly revised and updated edition of the OFT booklet *Home Improvements* was published in February. This offers householders general advice on planning and managing work on the home and, in particular, on selecting and dealing efficiently with contractors - explaining, for instance, how to go about getting quotations. It also warns against being pressured into having unnecessary work done, and covers such aspects as the need to check on the planning and insurance implications before work is put in hand. Four magazines for householders took copies of the booklet as an insert, while a number of consumer advice columns in other journals noted its publication with approval. By the end of the year, around 800,000 copies had been distributed through a variety of channels.

There was continuing heavy demand for the OFT's general advisory booklet for consumers, *A Buyer's Guide*, first published in 1994. More than 110,000 copies were handed out at the Daily Mail Ideal Home Exhibition alone. Advantage was taken of the need of reprints in March and December to incorporate minor modifications to the text, taking account of recent legal developments - such as the coming into effect of the Unfair Terms in Consumer Contracts Regulations (see page 23).

Three additions were made to the OFT's 'Know Your Rights' series of booklets and leaflets in 1995:

Buying by Post (published in January) outlines consumers' rights when making purchases through mail-order catalogues or newspaper or magazine advertisements and gives advice on what to do if things go wrong;

Prepayments (February) gives a general warning against making advance down-payments whenever possible, but gives tips on how to lessen the dangers, and advises what can be done if problems do arise; and

Using a Pawnbroker (September) explains that pawn-broking is 'just another way of borrowing money' and advises consumers what steps to take when in difficulties with the system - as, for example, when they lose a pawn receipt.

Consumer redress

In September the OFT staged a symposium on consumer redress at the Law Society. Attended by academics, ombudsmen, lawyers and other specialists in this field, the symposium presented the findings of two pieces of research that had been commissioned by the OFT. The first, carried out by Professor John Baldwin of the University of Birmingham, examined the effectiveness of the small claims procedure in the county courts, while the second, by Ms Wendela Jacobs of the University of Utrecht, looked at the workings of various Ombudsman schemes. In the discussion that followed the papers a number of other useful observations about consumer redress were made by delegates. A comprehensive report on the proceedings, together with a note of subsequent developments, is expected to be published early in 1996.

Consumer credit

The European Consumer Credit Directive

The 1986 directive on consumer credit included a requirement that the European Commission should report to the Council of Ministers on the directive's operation, not later than 1 January 1995. In the event, the report - which drew in part on information and views supplied by Member States and others in response to a questionnaire issued by the Commission - was delivered in May. It commented that the national legislation of many Member States had exceeded the minimum requirements of the directive, and went on to propose that the directive's scope should be extended, so having the effect of achieving greater harmonisation of national legislation. It sought views on a number of detailed proposals, on the basis

of which the Commission would decide what measures should be included in its proposed Action Plan on Consumer Policy.

To assist in the development of the response of the United Kingdom Government, the Department of Trade and Industry (DTI) and the OFT jointly held a seminar in September, attended by representatives of industry, consumer interests, and enforcement bodies. The Government's response was delivered to the Commission in November. This argued against the need for greater regulation at the European level. It urged the Commission to allow sufficient time for a full consideration of responses to its report and for further discussion of the issues it covered.

The OFT was pleased to note that the Resolution of the Council of Ministers in November similarly urged the Commission to take the representations it had received fully into account before bringing forward any proposals for further action.

A further report on the operation of the subsequent 1990 directive, which amended the earlier directive by adding provisions about the calculation of annual percentage rates (APRs), was to have been produced by 1 July 1995. Again the Commission sought the views of Member States and others on the operation of the directive to assist it in the preparation of its report, which was eventually delivered in December. The report was accompanied by a proposal by the Commission to make a number of amendments to the directive. It was anticipated that Member States would be considering this proposal in early 1996.

Connected lender liability

Section 75 of the Consumer Credit Act provides that where a loan is made for a specific purchase, and there is a business link (an 'arrangement') between the lender and the supplier, then - subject to certain conditions - the lender shares the supplier's legal liabilities to the consumer if the transaction goes wrong. Credit card issuers have long contended that their liability should not arise where the issuer has not been responsible for acquiring the supplier for the card network.

In 1994 the Director General reported to Ministers on the workings of section 75 (AR-94, pp 30/31). A further report in May 1995 set out his final views on the case for change to the section, taking into account both written responses to his earlier report, and representations made at a public hearing in September 1994. The 1995 report recommended that:

credit card issuers should remain jointly and severally liable with suppliers for breach of contract or misrepresentation by suppliers, but that - in place of the existing unlimited liability - claims against issuers should be limited to the amount of credit involved in the transaction;

the upper and lower limits for section 75 to apply should be defined in terms of the amount of credit involved in the transaction, rather than the cash price of the item;

the lower limit should remain at £100 and the upper limit (currently £30,000) should be the same as the upper limit for regulated consumer credit agreements (currently £15,000 but anticipated to rise to £25,000); and

where an issuer met a claim for goods and services covered by an insurance or bonding scheme, that issuer should be able to assume ('be subrogated to') any rights which the cardholder might have against the insurer or bond administrator — only consumers normally having the right to claim from such schemes under existing arrangements.

The report concluded that, if they were implemented, the proposed changes would lead to a more equitable balance between the interests of consumers, lenders and suppliers. They would also retain the essential elements of consumer protection in connected lender transactions - which were the whole purpose of section 75 - while at the same time reducing card issuers' exposure to unpredictable losses. Card issuers

represented by the Association for Payment Clearing Services and the Credit Card Research Group responded to the report by announcing that, for an interim period until 31 December 1996, they would meet claims on overseas transactions on an *ex gratia* basis as though the law were what the report recommended it should be. Previously they had refused to meet such claims on the grounds that, contrary to the Director General's interpretation, they did not believe that the Act applied to such deals.

The DTI published its response to the Director General's report in December. This indicated that the Government had not been persuaded of the case for any immediate change to section 75. Before taking a final decision however, it wanted to consult further to establish the factual evidence bearing on the questions at issue.

Use of personal financial data in consumer credit granting

In March, following discussions with the consumer credit industry - including the colloquium staged in Oxford by the OFT's Consumer Affairs Division in 1994 (AR-94, p 27) - the Data Protection Registrar issued a heavily revised draft guidance note on credit referencing. This covered the way

CONSUMER CREDIT DEREGULATION

In February, the Government announced that - subject to consultation on detailed proposals, and the provision of more information on costs and benefits - it was minded to accept the recommendations for change to the Consumer Credit Act 1974 put forward in the Director General's report *Consumer Credit Deregulation*, published in June 1994 (AR-94, pp 22/23).

It was, however, not considered practicable to pursue all the recommendations at the same time. Priority was therefore to be given to:

- the exclusion from regulation of lending and hiring to unincorporated businesses;
- the revision of the monetary limits and amounts specified in the legislation;
- the reduction of the notification requirements imposed on the holders of standard consumer credit licences;
- the achievement of greater fairness in the rebates paid when credit agreements are settled early; and

- the revocation of the regulations on credit and hire quotations.

These recommendations were the subject of a consultation document published by the DTI for comments by the end of November. The Government intends to consult on the remaining recommendations in due course.

The OFT retains a close interest in the progress of the recommendations made in the 1994 report, and has provided the DTI with advice and assistance on its consultation to date. That report referred to the OFT's intention to consult further on those provisions of the Act that deal with multiple agreements - a subject which has been a particular cause of concern to the credit industry over a number of years. A discussion document *Multiple Agreements and section 18 of the Consumer Credit Act 1974* was published in June. Responses were received from representatives of the credit industry, consumer interests, and enforcement authorities; the OFT was considering the options at the end of the year, and will report its conclusions to the DTI in 1996.

personal financial data was obtained and processed by lenders, and collected and stored by the credit reference agencies. In particular, it set out the Registrar's proposed advice to both subscriber lenders and viewers about the interaction of the requirement to process information lawfully with the duty of confidence which lenders owe their customers.

The publication of the new draft was welcomed by the OFT. In a considered response, made in November, it noted with approval that there was no longer any unqualified opposition to consent, either express or implied, to data disclosure being made a condition of granting credit to individuals. In the OFT's view, responsible lending requires the fullest possible sharing of information consistent with proper consideration for the sensitivity of the material.

The OFT will continue to monitor events and to intervene in support of responsible lending whenever necessary. It maintains an active interest in the use of credit scoring: in particular, it has urged the industry to establish active monitoring of adherence to the industry's *Guide on Credit Scoring*.

Debt advice services

Staff from the Consumer Affairs Division regularly attended the quarterly meetings of the Money Advice Liaison Group as observers. During the course of the year, the OFT was also represented at the annual conferences of Money Advice Scotland in St Andrews, the Money Advice Association in Norwich, and the Money Advice Liaison Group in London. Contacts were maintained with the Consumer Credit Counselling Service.

Revised codes of practice

In welcoming revised codes of practice issued by the Consumer Credit Trade Association and the National Consumer Credit Federation, the Director General congratulated both bodies for introducing changes and improvements in the light of their experience operating the codes in their original form. He trusted that they would prove a powerful factor in maintaining and raising standards of responsible lending.

Licensing

Under the Consumer Credit Act, anyone who gives credit (of up to £15,000) to individual consumers, sole traders or partnerships - or anyone who hires out goods to such persons, or is involved in other credit activities - must hold a consumer credit licence issued by the Director General. The requirements cover many types of businesses from TV hire shops to high-street banks, as well as such businesses as retailers that offer credit, mortgage brokers, debt collectors and credit reference agencies - although firms that provide credit solely to limited companies do not require to be licensed.

A consumer credit licence is issued only if the Director General is satisfied that the applicant is fit to hold one. In assessing fitness, the OFT takes various factors into account - in particular, whether applicants or those associated with them have been guilty of an offence involving dishonesty or fraud, contravened any consumer protection law (including the Consumer Credit Act), committed race or sex discrimination, or engaged in any unfair or improper business practices. Applicants are told if the OFT has doubts about their fitness to hold a licence, and they have an opportunity to respond before a decision is taken. If, despite representations, their application is refused, they have a right of appeal to the Secretary of State.

The Director General can suspend or revoke an existing licence where there is clear evidence leading him to doubt the fitness of the licensee to continue to hold it. In this case, too, a licensee has the opportunity to respond to evidence, and a similar right of appeal to the Secretary of State.

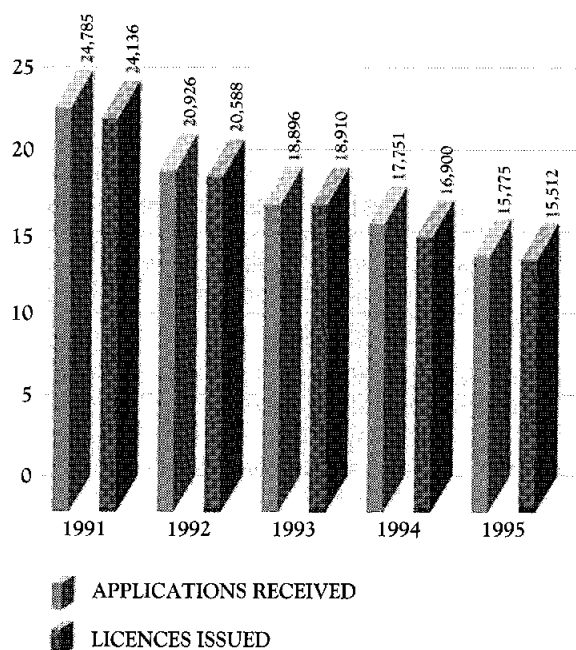
The year-on-year reduction in licence applications noted in previous annual reports continued through 1995 across all aspects of licensing work. For the fifth year running the number of new applications for standard licences fell; at 15,775 the total was 11% down on the figure recorded in 1994. A total of 15,512 licences was issued in 1995.

There were 6,615 applications to vary the terms of a licence, down 2% on the figure for 1994. The number of noti-

Consumer credit licensing

New licences

Thousands



fications of changes in particulars totalled 15,577 - representing a fall of no less than 64%. It is possible that the large drop in notifications came about, to a large extent, through licence holders anticipating a reduced obligation to notify such changes - as the DTI had suggested in its August 1995 consultation paper (see 'Consumer credit deregulation' on page 19).

During the course of the year, 1,733 renewal applications were received and 2,110 renewal licences were issued. A total of 13,907 licences lapsed. The rate of renewals also continued to fall. At the end of 1995, renewals were running at about 10% of the number of licences issued 15 years before. (Licences issued before June 1991 were valid for 15 years; those issued since then for only five.)

The continuing fall in demand for new, renewal and varied credit licences allowed for further staff reductions. At the end of 1995, 53 staff were engaged on this activity, compared with 60 a year earlier.

Licence fees remained unaltered in 1995. As forecast in the 1994 report however, a full review of the level of fees was undertaken, and changes can be anticipated in the coming year. These changes will not only help the OFT to recoup its necessary expenditure on all aspects of licensing, but will also allow the Director General to introduce 'all-category licensing'. New applicants and licensees applying for renewal will be encouraged to seek authority to engage in *all* categories of licensable activities, rather than the limited number specified

on existing licences. All-category applications will attract the same fee as those for limited categories. Although this will necessarily be slightly higher than the current basic charges, the proposed system should significantly reduce the need for licence holders to pay for subsequent category variations as required under the existing procedures. Moreover, since the relocation and reorganisation of the Licensing Branch has produced overall economies in the OFT's licensing operations, it will be possible to keep the size of the increase down to a minimum.

More detailed licensing statistics are shown in Appendix C.

Preparing for five-year licence renewals

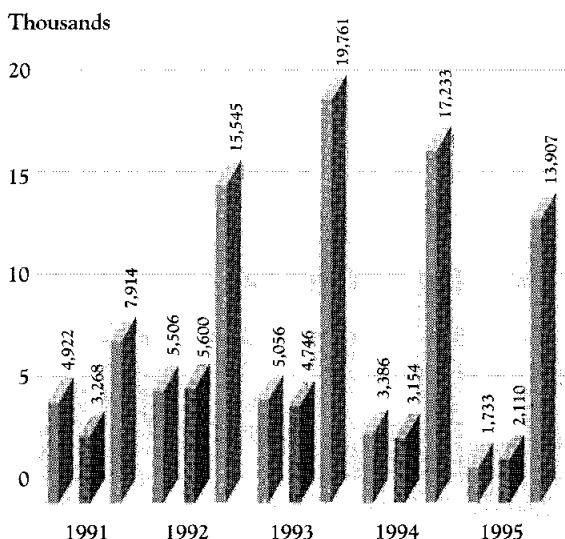
The level of renewals of the 15-year licences issued before June 1991 has proved to be considerably lower than had been anticipated. The likely impact of renewals of five-year licences, the first of which are not due until the middle of 1996, has been something of an unknown quantity. Naturally the Licensing Branch wants to keep its administrative costs - and hence the fees it charges - as low as possible. At the same time however, it needs to ensure that it has sufficient staff resources to meet demanding targets for licence issue where fitness is not in doubt.

The OFT therefore commissioned a research exercise which had the primary aim of improving the forecasting of likely trends in renewal applications by five-year licence holders. More than 4,300 interviews were carried out from an initial contact list of around 10,000 licensees. The results suggested renewal levels of 22% for first-time licence holders and 79% for those due to renew their licences a second time.

Nevertheless, because many licence holders could not be contacted, these results must inevitably reflect a high margin of error. In December, follow-up research was commissioned to try to improve the accuracy of the estimates. The results of both research exercises are to be published in 1996.

Consumer credit licensing

Renewals

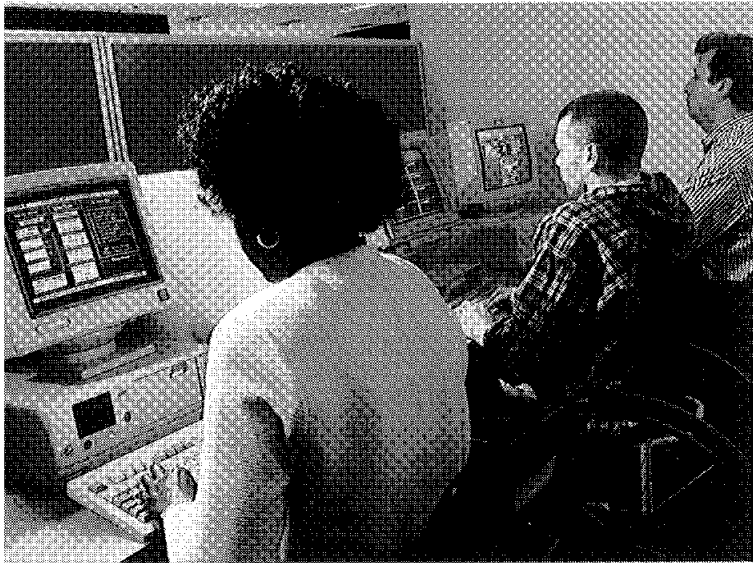


*Renewals started in June 1991

- APPLICATIONS RECEIVED
- LICENCES ISSUED
- LICENCES LAPSED

Consultation on the Central Register of Convictions

In December, the OFT issued a consultation paper on the operation of the Central Register of Convictions. Unlike the three statutory registers it maintains (see Appendix L), this is not a public register. It was set up to provide a service to those OFT staff who are engaged in assessing the fitness of applicants to hold consumer credit licences, and to the staff of local authority trading standards departments (TSDs) who are responsible for the prosecution of traders under various statutes concerned with consumer protection. Some of this legislation places TSDs under an explicit obligation to notify the Director General when they intend to take legal proceedings, and these details are placed on the Central Register.



Central Register of Convictions

TSDs also supply information about formal cautions and the outcome of legal proceedings over a wide range of legislation - although this additional material is submitted on a voluntary basis.

The consultation paper invited comments, by 1 March 1996, on the efficacy of the existing system. It also sought to explore ways in which the service the Central Register provided might be improved. Copies were sent to all TSDs in England, Scotland and Wales, the Department of Economic Development in Northern Ireland, other interested parties - including the Institute of Trading Standards Administration (ITSA) and the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) - and a number of government departments.

Computerisation of the Central Register of Convictions

During the course of the year the information in the Central Register was transferred to a computer database. Detailed statistics and reports can now be produced much more quickly and accurately than by the manual search procedures previously in use. The new database works in tandem with an optical imaging system which allows all the records, formerly on paper, to be held on disc, taking up a fraction of the office space required hitherto. Almost 45,000 records are held.

Relocation of the Licensing Branch

In July, the OFT's Consumer Credit Licensing Branch moved from Acton to new offices in Ealing. The move was prompted by the need for smaller, cheaper and more modern premises

for the computer-based operation. To minimise inconvenience to customers, the move took place over a weekend, on 29/30 July. Although it had publicised the necessity of operating a slightly restricted telephone enquiry service for two days before and after the move, the Licensing Branch was in fact fully operational a day sooner than had been anticipated. Despite the disruption therefore, performance against the targets set under the OFT Code of Practice on Enforcement was not substantially affected.

Consultation on group licensing

In June, the OFT published its report on the consultation exercise it had undertaken on the use of the group licensing provisions of the Consumer Credit Act (AR-94, pp 26/27).

The report said that little interest had been shown in the suggestion that the application of group licensing might be extended beyond the types of professional or altruistic and advisory organisations that were already covered. It was evident that most other organisations were unwilling to establish sufficiently rigorous controls to check the fitness of members to engage in credit activities, to investigate any complaints or evidence that cast doubt on the fitness of its members, or to take appropriate disciplinary action, including, where necessary, the exclusion of members from cover by the group licence.

Holding companies also expressed little interest in acquiring group licences to cover themselves and their subsidiaries. The only major benefit respondents saw in this proposal was that it would establish a single licence renewal date across a group of companies. The report pointed out that there was no bar against a holding company - or any other multiple licence

Consumer Credit Licensing Branch, licensing room



holder - establishing a common renewal date by surrendering all its existing licences and applying for new ones, all to start on the same day. The Consumer Credit Licensing Branch would be happy to discuss such arrangements with any licensees interested in this approach.

Administration of the Consumer Credit Act

Information about new general notices, statutory orders, and the exercise of the Director General's powers relating to exemptions, entry and inspection, credit reference agencies and overdrafts, is shown in Appendix C.

Action under the Unfair Terms in Consumer Contracts Regulations

The Director General gained important new responsibilities under the Unfair Consumer Contracts Terms Regulations 1994, which came into force on 1 July 1995. It was anticipated that the new regulations would involve the OFT in a considerable measure of additional monitoring and enforcement work and, towards the end of 1994, a new specialist unit within the Consumer Affairs Division was set up in order to handle this.

Before 1 July, the unit's main objective was to draw attention to the new legal requirements and to encourage firms to review standard consumer-contract forms to take account of them. To further this process, the OFT arranged a seminar in April, attended by major businesses and trade associations, other regulators and ombudsmen, and lawyers. It also circulated advice about the regulations to all chief trading standards officers, and offered guidance to a number of key trade associations on the fairness of proposed standard terms, and on the form of advice that they should give to their members.

From 1 July, the focus was on enforcement. The unit received a substantial flow of complaints from the outset - building up to a total of some 340 in the first six months. They covered a wide range of standard contract terms, and few trading sectors escaped notice altogether. Around one-half of the complaints that were registered drew attention to terms with some potential for unfairness and these were subsequently taken up with the companies concerned. The remainder (such as those about inter-business contracts) either did not come within the scope of the regulations, or were about terms that could not be considered unfair.

Inevitably, many of the complaints that are received affect consumer contracts made before the regulations came into



Unfair Terms in Consumer Contracts team

force - and which are, therefore, outside its remit. Nevertheless, in those cases where the contract terms are potentially unfair, the unit checks with the supplier whether they remain in use in its current contracts and, if so, asks that they should be dropped or amended.

The unit acts on complaints from any source. Most come directly from individual consumers, but many others are referred by trading standards departments and consumer advice agencies, such as citizens' advice bureaux.

Common categories of unfair terms

Many different types of terms in consumer contracts have been adjudged to be unfair, but those most commonly found can be grouped under the following headings:

exclusion clauses, which seek to disclaim liability for every possible eventuality;

variation clauses, which typically seek to give traders the right to put up prices with no balancing right for consumers to withdraw from the contract without penalty;

entire agreement clauses, which exclude from the contract anything said or promised by traders' sales representatives or agents;

hidden clauses, which conceal from consumers the full terms and conditions by which they are bound until the contract has been signed; and

penalty clauses, which, for example, seek to allow traders to retain consumers' deposits without imposing any penalty on traders who do not fulfil their obligations.

Impact of the regulations on businesses

In the main, it is small businesses that have been least aware of the new regulations, although they have generally proved willing to co-operate in bringing their terms and conditions into line with the requirements of the law when the shortcomings have been pointed out to them. (By the end of 1995 it had not proved necessary for the OFT to initiate any legal proceedings.) In most instances, therefore, the retention of unfair terms in consumer contracts appears to reflect the lack of informed advice rather than any deliberate intention to deny consumers a fair deal.

In vigorously and persistently seeking to persuade businesses to discontinue the use of unfair contract terms, the unit also aims to comment constructively on proposals for revised terms, particularly those submitted by trade associations. It cannot, however, offer help in detailed drafting. That is outside its remit, and - in any event - it does not have the necessary resources. Nevertheless, up to December 1995, it had played an active role in improving the standard contract terms of firms in a wide range of business sectors - including supermarket car washes, caravans, holiday caravan sites, mobile phones, travel, car sales, furniture and carpets, and double glazing.

The small print

Although many businesses, particularly in the financial services sector, have already redrafted their standard contract conditions to take account of the requirement that the terms should be written in plain, intelligible language, it is evident that many more have not. Many contracts include terms that are otherwise not unfair, but which could be drafted much more clearly. The use of almost unreadable small print in consumer contracts also remains surprisingly common. Not only are such terms likely to be unenforceable, they reflect badly on the firms concerned and indicate a lack of good faith in their dealings with their customers.

Publicity

To coincide with the introduction of the regulations, the OFT published a guidance leaflet, under the title *Unfair Standard Terms*. Primarily intended for consumer advisers, this offered general guidance on how the regulations should be interpreted and applied. Nevertheless, it carried the reservation that, since there had - as yet - been no court decisions on which more authoritative information could be based, the advice it gave must be regarded as provisional. As it gains experience in monitoring the application of the regulations, the OFT intends to update its guidance from time to time, and it is also considering publishing a periodical bulletin on key cases in the interests of public information.

UNFAIR TERMS IN CONSUMER CONTRACTS

The Unfair Terms in Consumer Contracts Regulations 1994 (SI 1994/3159) implement Council Directive 93/13/EC. The regulations give consumers new rights in relation to contracts with businesses entered into from 1 July 1995. The regulations say that a consumer is not bound by a standard term in a contract with a seller or supplier if that term is unfair. A standard term is unfair if it creates a significant imbalance in the parties' rights and obligations under the contract, to the detriment of the consumer, contrary to the requirement of good faith. This definition excludes terms which have been individually negotiated in advance and - provided it is in plain, intelligible language - any term which defines the goods or services provided or their contractual price (so-called 'core terms').

The regulations provide 17 examples of the types of term that may be unfair - such as exclusion of liability of death or injury, no liability for breach of contract, penalty clauses, hidden terms, variation clauses including the right to raise prices, unequal obligations and restrictions on legal remedies. They also say that standard terms must be written in plain and intelligible language. All types of terms are more liable to be found unfair if this rule is not complied with, and an ambiguous term will be interpreted so as to favour the consumer.

The regulations also give the Director General powers to stop the continued use of unfair standard terms and to stop anyone (trade associations, for example) recommending such terms, if necessary by obtaining a court injunction or

interdict. But he can act only on the basis of complaints he receives. He cannot help individual consumers to seek redress in private disputes.

Nevertheless, the regulations mean that a business cannot enforce terms that are unfair against individual consumers, although only a court can say definitely whether any specific term is unfair. There are no criminal penalties for the use of unfair terms.

Complaints about suspected unfair contract terms can be made to:

**Office of Fair Trading
Unfair Contract Terms Unit
Room 500, Chancery House
53-64 Chancery Lane
London WC2A 1SP**

Other regulatory action against problem traders

The Consumer Affairs Division's Regulatory Section uses the Director General's powers under Part III of the Fair Trading Act 1973, the licensing provisions of the Consumer Credit Act 1974, the Estate Agents Act 1979 and the Control of Misleading Advertisements Regulations 1988, to tackle traders who cause problems for consumers. The concern is to take the most appropriate regulatory action to the circumstances. The section is divided into six geographically based teams with a brief to investigate and take regulatory action against problem traders in their given area, always working closely with local authority trading standards departments and with other regulatory authorities.

The Regulatory Section continued its participation in a programme of visits, talks, training courses, and work placements to acquaint trading standards officers and other regulators with the work of the OFT. The section welcomed staff from other regulators who spent time on secondment to the OFT, while 11 of its own staff participated in exchanges with other bodies.

Staff from all parts of the Consumer Affairs Division continued to join trainee trading standards staff on courses for the Diploma in Consumer Affairs.

Action under the Consumer Credit Act

Considering fitness for a licence

In 1995, 211 notices were served on applicants and licensees about their fitness to be granted, or to retain, a licence. A statistical analysis of the notices in relation to various business and trade sectors since 1991 is given in Appendices C.11 and C.12. Local authority enforcement officers play an essential role in this field, both by providing information about applicants and licensees, and by assisting in subsequent investigations. The 211 notices issued during 1995 were made up as follows:

| | |
|---|------------|
| 'Minded to revoke' an existing licence | 142 |
| 'Minded to refuse' an application for a licence | 56 |
| 'Minded to grant the application but in terms different from those applied for' | 0 |
| 'Minded to refuse the application to vary an existing licence' | 13 |
| 'Minded to vary compulsorily an existing licence' | 0 |
| <i>Total</i> | <u>211</u> |

Anyone who receives such a notice has the opportunity to make written or oral representations, or both, against the proposed

course of action. In 1995, by comparison with the previous year, slightly fewer applicants and licensees exercised this right: traders made representations in 77 of the 138 cases determined (56%, compared with 64% in 1994), while 81% of those who elected to do so also asked for a personal hearing. During the course of the year, 204 cases were cleared, broken down as follows:

| | |
|---|------------|
| Determined favourably | 53 |
| Applications refused | 25 |
| Licence revoked | 59 |
| Application granted but in terms different from those applied for | 1 |
| Applications withdrawn | 14 |
| Licences surrendered | 47 |
| Notices withdrawn | 5 |
| <i>Total</i> | <u>204</u> |

Three appeals to the Secretary of State were dismissed and one was abandoned by the appellant. At the end of the year, five appeals remained outstanding.

Licences refused, revoked, suspended or granted in different terms, and decisions subject to appeal are listed in Appendix C.7. Appendix C.13 gives a statistical record of licensing decisions and appeals for each year since 1991.

As in previous years, licensing action was based on specific breaches of the law, or on the use of business practices which appeared to the OFT's Adjudicating Officers - appointed by the Director General to act on his behalf - to be deceitful or oppressive, or otherwise unfair or improper (whether unlawful or not).

During 1995 Adjudicating Officers considered the fitness of an unusually high number of larger corporate bodies or groups of companies, involving licensees trading in the financial, marketing, timeshare, and retail sectors. Such cases are invariably very complex, and often involve extensive written and oral representations. One case alone involved 35 licences held by companies within the same group: by the year's end 26 of them had been surrendered.

Looking at different trading sectors, the retail trades and commercial leasing attracted the largest number of notices issued, followed closely by motor traders. But motor traders accounted for the largest number of licences revoked and applications refused, followed by financial traders and moneylenders.

Unlicensed trading

In 1995 the OFT's Adjudicating Officers received seven applications for validation orders, which allow agreements made while traders were not licensed to be treated as though they had been. When considering such an application, the Adjudicating Officer must consider, in addition to any other relevant factors, whether the applicant is to blame for the unlicensed trading, whether the applicant's conduct causes prejudice to the cus-

tomers concerned, and whether it is likely that a licence would have been issued had proper application been made. Nevertheless, the granting of an order does not mean that an agreement is automatically enforceable, and the trader may still have to pursue enforcement through the courts.

Six validation orders were granted. One application remained outstanding at the end of the year.

Action under the Estate Agents Act

The Estate Agents Act empowers the Director General to prohibit persons from engaging in estate agency work if he considers them unfit to do so. He can issue prohibition orders against those who have been convicted for fraud, dishonesty, violence or other specified offences, against those who have committed racial or sexual discrimination in the course of estate agency work, and against those who have failed to comply with the Act's provisions or who have engaged in specified undesirable practices. Where estate agents are in breach of the Act or engage in such practices, the Director General can issue a warning order giving notice that any continuance of the conduct in question would lead to a prohibition order.

In 1995, the OFT's Adjudicating Officers notified 27 people that the Director General was considering issuing prohibition orders against them. There were no proposals to issue warning orders. Thirteen notices of total prohibition, and one notice of partial prohibition came into force. There was one appeal to the Secretary of State against a decision to make an order. In addition one appeal lodged in 1994 was dismissed.

Up to 31 December 1995, a total of 237 persons had been entirely banned from undertaking estate agency work, and a further 13 had been allowed to carry on such work in a limited manner only. Eleven warning orders had been issued.

In the case of individuals, the Director General may, following the issue of notices of proposal, accept undertakings not to engage in estate agency work, in lieu of making prohibition orders. In 1995 three such undertakings were accepted, bringing the total number to 72.

Action under Part III of the Fair Trading Act

When traders persistently neglect their responsibilities under civil or criminal law, to the detriment of consumers, the Director General has power under Part III of the Fair Trading Act to ask them to give assurances about their future conduct. If they refuse to do so, or give assurances which are then broken, he can bring proceedings for a court order

against them. Breach of such an order may result in proceedings for contempt of court.

Twenty-two assurances were given during the course of the year and three court orders were issued. These are listed in Appendix B.1.

The assurances received in 1995 covered a range of businesses and unfair practices. Among them were: a secondhand car dealer who gave assurances that he would not threaten violence against customers who complained; directors of a mail-order computer company who gave assurances that they would provide goods promptly and give refunds when required; several builders who gave assurances about the timing and quality of their work; and a baker who agreed not to sell food unfit for consumption and to display prices adequately.

Court action is taken against those traders who refuse to give voluntary assurances to the Director General. In July a timeshare operator, who purported to operate a timeshare resale service, gave an undertaking to the court not to induce customers to enter into contracts by making false representations that buyers had been found for properties when this was not the case, and to return customers' deposits when in breach of contract. Breach of such an undertaking would be contempt of court.

The Secretary of State's report on the findings of the DTI's consultation on the reform of Part III of the Fair Trading Act 1973 (AR-94, p 29) was still awaited at the end of the year.

Action under the Control of Misleading Advertisements Regulations

Most complaints about misleading advertising are handled by the Advertising Standards Authority (ASA) or local trading standards departments. The Director General's role, under the Control of Misleading Advertisements Regulations, is to support and reinforce the controls exercised by these bodies (known as 'the established means of control') in circumstances where they have been unable to take effective action. Advertising on commercial television, cable and radio is, however, outside his remit - this is a matter for the Independent Television Commission or the Radio Authority. Most advertising about investments and investment business is generally a matter for the Securities and Investments Board. Details of advertising complaints received and disposed of by the OFT during the year are shown in Appendix E.

Undertakings in lieu of court action

In February, the Director General received an assurance from Birbeck Marketing Services Ltd, trading as BMS and as BMS Leasing, that it would stop publishing leaflets which it sent to

licensees named in recent issues of the OFT's *Consumer Credit Bulletin*. The company's director and secretary also gave similar undertakings to the Director General. The leaflets gave the strong impression of having been issued by the OFT itself or by some other official body in connection with the issue of a consumer credit licence.

In June the Director General received an assurance from Cornerstone Estate Agency Ltd, that it would stop erecting 'sold' boards outside properties where no sale had taken place. The Director General considered that the boards gave false information about properties which had not been sold by the company and had, indeed, not been for sale. He believed that the boards might mislead consumers about the success of Cornerstone as opposed to any other estate agent. The assurance obtained was broadly similar to that given by Connell Residential in 1994 in connection with a similar practice (AR-94, p 31).

In August the Director General received undertakings from Golden Charter Ltd of London that it would cease using advertisements which implied that the company had been endorsed by the OFT. Advertisements published in local papers had stated 'Many of the company's operating principles have been recommended by the OFT'. They also suggested that many recommendations in the OFT's pre-paid funeral report were part of Golden Charter's code of practice. The Director General considered this to be misleading, particularly in respect of the independence of the trust arrangements and safeguards for payments.

International activities

With the development of the International Marketing Supervision Network (IMSN) - which the OFT was instrumental in establishing in 1992 - and with more consumers entering into cross-border transactions, work on international aspects of consumer protection continued to grow in 1995. The OFT handled a number of complaints from IMSN member countries and also referred enquiries from United Kingdom consumers to the appropriate authorities in other countries through the auspices of the IMSN.

A meeting of the IMSN in Stockholm in June focused on the specific subject of the marketing of medicines - in particular, so-called 'miracle products'. The OFT gave a presentation on the United Kingdom's experience of the advertising and marketing of such items.

The IMSN annual conference was held in Vienna in November. The OFT chaired a workshop on 'regulating the Internet'. At the conference the chairmanship passed from Sweden to Austria, and Canada was appointed vice-chairman.

During the course of the year the Consumer Affairs Division received a number of requests for information from countries developing their own consumer protection systems, and from others who wished to exchange information.

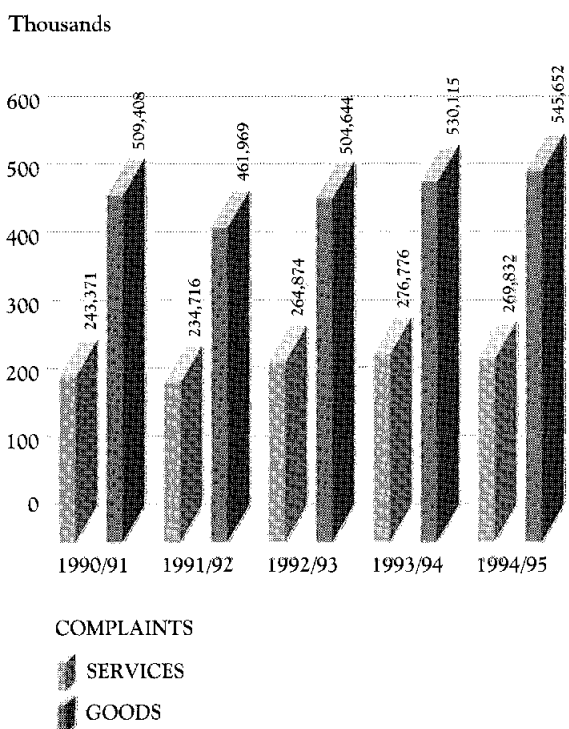
Visitors were welcomed from the Australian Competition and Consumer Commission, the Belarus Ministry of Trade, the State Planning Commission in China, the Hungarian Consumer Protection Superintendence, the Japan Direct Marketing Association, the Lithuanian Price and Competition Office, and the St Lucian Ministry of Trade and Industry. In addition, a senior legal official from the Danish National Consumer Agency spent three months on secondment to the OFT.

As a member of the United Kingdom delegation to the Committee on Consumer Policy of the Organisation of Economic Development and Co-operation (OECD), the OFT presented two papers on consumer redress through the payment card system, with the ultimate aim of increasing consumer confidence in cross-border transactions and thus promoting trading activities. It also contributed to a US-led study on codes of practice for distance selling and is to be involved in a study on the costs of international parcels delivery.

Completion of the European single market continues to present a challenge to regulatory authorities. Although the DTI has lead responsibility for this area, the OFT contributed to policy formulation and debate in areas such as the

Consumer complaints

Reported to OFT - 12 months to 30 September



revision of the Consumer Credit Directive, access to justice, commercial communications, comparative advertising, distance selling and cross-border funds transfers. The development of a free market economy in Russia has inspired considerable interest in the protection of consumers and the development of consumer law. Recognition of the United Kingdom's experience in this field has led the Russian Antimonopoly Office to seek the OFT's assistance in the development of consumer policy, information and education in the Russian Federation. At the end of the year, the OFT, with the Consumers' Association and Consumers International, was in the latter stages of developing a proposal which might be supported by the Foreign and Commonwealth Office Know How Fund.

Sources of information

A large number of organisations and individuals provide information about consumer problems. This is of considerable help to the OFT in formulating policy and fulfilling its regulatory duties. In particular, it acknowledges the help given by trading standards and consumer protection departments, environmental health departments, citizens' advice bureaux and their national association, and other organisations in supplying details of complaints made by consumers and prosecutions of traders for consumer-related offences. Analyses of consumer complaints that were notified by local sources are set out in Appendix F, and details of prosecutions and convictions in Appendix G.

3 Competition policy

Action on complaints and allegations

The Competition Policy Division examines every complaint it receives from business or members of the public about potential competition problems. Where necessary, it seeks additional information to allow the Director General to decide whether he would be justified in taking action under the competition legislation.

In 1995, a total of 1,261 complaints were recorded about alleged anti-competitive practices, monopoly abuses and attempts to impose resale price maintenance (compared with 1,162 in 1994). In some cases, the complaints proved to be unfounded, or not to come within the scope of the legislation; in others, the companies or organisations about which complaints were made were able to satisfy the OFT that there was no need for further investigation or action. The actions taken in the remaining cases are described in the following sections.

Monopolies

Section 2 of the Fair Trading Act 1973 requires the Director General to keep commercial activities in the United Kingdom under review in order to detect monopoly situations (as defined in sections 6-11) and uncompetitive practices.

The OFT carries out this function in two ways. First, it monitors the economic performance of industries to identify areas where there may be monopolies and abuses of monopoly situations. It pays particular attention to the economic performance of firms with large market shares, taking account of the degree of import penetration and of information on price levels and movements, profits and market behaviour. Secondly, it takes note of complaints and other representations it receives from business and the public.

Where evidence of the existence of a monopoly situation is detected, the Director General can refer the case to the Monopolies and Mergers Commission (MMC) for investigation, but there is no presumption that he must always do so. When he does make such a reference, however, it is for the MMC to determine whether a monopoly situation does exist and, if so, whether it operates, or may be expected to operate, against the public interest.

Alternatively, under new provisions introduced by the Deregulation and Contracting Out Act 1994, the Director General may, in lieu of a reference, accept formal undertakings about their future conduct from the companies concerned.

THE WORK OF THE OFT'S COMPETITION POLICY DIVISION

The OFT's Competition Policy Division administers the Director General's responsibilities for United Kingdom competition policy under the Fair Trading Act 1973, the Resale Prices Act 1976, the Restrictive Trade Practices Acts 1976 and 1977, and the Competition Act 1980. It also deals with his specific responsibilities under the Financial Services Act 1986, the Companies Act 1989, the Broadcasting Act 1990, the Courts and Legal Services Act 1990, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, and the Water Industry Act 1991.

In addition, the Division liaises with the European Commission on the enforcement of the competition rules of the European Communities, and, on behalf of the United Kingdom, attends meetings on competition policy matters at the Organisation for Economic Co-operation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD).

References to the MMC

The Director General made nine monopoly references in 1995:

| | |
|----------|---|
| 1 March | Classified directory advertising services |
| 27 April | The supply of electrical goods (<i>eight separate references</i>) |

Reports by the MMC

Two reports were published in 1995:

| | |
|----------|---|
| 9 March | Video games |
| 3 August | The supply of bus services in the North-East of England |

Video games - In its report, the MMC put a retail value of £550 million on the United Kingdom market for video games in 1993. This figure covered both software (the games themselves) and hardware (the consoles on which they are played). It identified a number of monopolistic practices in the industry which operated against the public interest and had adverse effects on the price and availability of video games.

The Japanese companies Nintendo and Sega were effectively the only suppliers of video games hardware, with 39% and 60% of the market respectively. Since software is also supplied by third-party publishers, their share of that market was smaller. Taking hardware and software together, Nintendo's market share was just under 25%, Sega's 38%, and third-party publishers 37%. In order to be useable on Nintendo or Sega machines however, third-party software had to conform to their formats - for which it required to be licensed by Nintendo or Sega.

The MMC found that a scale monopoly existed in favour of Sega Europe Ltd for video games for the year ending June 1994 but that Nintendo UK's share of the market was too small to qualify the company as a scale monopolist. It further found that a complex monopoly situation existed in favour of Nintendo UK Entertainment Ltd and Sega Europe Ltd, together with their respective Japanese parent companies, Nintendo Co Ltd and Sega Enterprises Ltd, and that they conducted their affairs so as to prevent, restrict or distort competition.

The MMC concluded that their arrangements for licensing third-party software enabled Nintendo and Sega to maintain their dominant positions in the market by exercising an unnecessarily restrictive control of the market for software development, and that these arrangements led to higher prices of games to consumers. In particular:

Nintendo and Sega used their licensing conditions - under which games must be approved by the two companies, the manufacture of cartridges is controlled by them, and numbers and timing of games have to be approved - to regulate the market for software development, the flow of product into the market and thus the choice of and prices of games;

prices charged by the two companies to software publishers for cartridges were excessive;

the restrictions helped these companies to maintain discriminatory prices for software and hardware; and

entry of software publishers and new systems was made more difficult.

The MMC recommended that certain restrictions in licensing conditions should be removed - in particular those limiting the number of games published, requiring approval

prior to publication, and controlling packaging and presentation (especially the requirement that the licensor should arrange for or control the manufacturer of cartridges). If this did not prove possible, an alternative remedy of price controls might have to be considered, in spite of its difficulties.

It also recommended that restrictions on rental should be removed and that games software supplied by Nintendo and Sega should be freely available to rent - if necessary, on payment of an appropriate royalty.

The MMC further recommended that, pending the introduction of this general remedy, Sega should give clear guidance (possibly through the Entertainment Software Retailers Association representing many retailers with an interest in rental) on the features that, in its view, would lead to a wider exchange scheme infringing its current rental rights.

Subsequently, the Department of Trade and Industry (DTI) announced that there would be a consultation period to allow the video games software publishers to provide information about the precise nature of the intellectual property rights required to produce games for use on Nintendo and Sega consoles, and to give their views on the possible effect of the actions recommended by the MMC on the supply of video games by United Kingdom publishers. The consultation period was later extended to allow the DTI to take subsequent market developments into account and to allow for further consideration of the complex intellectual property issues involved.

Bus services in the North-East of England - The MMC found that scale monopoly situations existed in favour of Stagecoach Holdings plc and The Go-Ahead Group plc, the two largest operators in the reference area, and that some of their actions had been against the public interest. The Minister for Competition and Consumer Affairs asked the Director General to seek undertakings from Stagecoach and Go-Ahead to provide that, within the reference area:

if, on any route, the companies reduced fares below those of a competitor or they increased frequencies against a competitor, and that competitor were to withdraw, they would maintain frequencies and fares for a period of at least three years at the levels ruling when the competitor withdrew;

if they timed buses at a shorter interval before a competitor's service than the competitor had itself timed buses before their own services, and the competitor were to withdraw, they would similarly maintain fares and frequencies; and

they would not operate services which did not at least cover their variable and semi-variable costs.

Negotiation of these undertakings was still in progress at the end of the year.

Action on earlier reports

Animal waste - In September 1993, the MMC found that a monopoly situation in the acquisition and processing of animal waste existed in England and Wales in favour of Prosper De Mulder Ltd and related companies (PDM), and that a similar monopoly situation existed in Scotland in favour of William Forrest & Son (Paisley) Ltd and its ultimate holding company Hillsdown Holdings plc. The MMC concluded that both companies had set prices and charges in a way which could not always be accounted for by physical factors such as the volume and condition of supplies, and that they had done so with the intention of exploiting and maintaining their monopoly position (AR-93, pp 30/31).

The Minister for Corporate Affairs accepted the MMC conclusions, and asked the Director General to seek suitable undertakings from PDM and Forrest. These were agreed in February, when both companies undertook to ensure that relevant information on their prices was published in each edition of the *Meat Trades Journal*. This should place suppliers of animal waste in a stronger position in their negotiations with these companies. In addition, PDM gave a number of other undertakings which the MMC hoped would increase the transparency of its business and facilitate competition in the animal waste business (see Appendix B.2).

Beer Orders - The OFT continued to monitor brewers' compliance with the 1989 Beer Orders (AR-89, pp 35 and 78/79). It has satisfied itself that the large brewery groups have complied with the requirement to keep their number of tied premises within the maximum permitted under the Supply of Beer (Tied Estate) Order 1989 (SI 1989/2390).

In February, following intervention by the Director General, Courage Ltd provided an assurance that it would in future comply with article 7 of the Order, so ensuring that tenants of Inntrepreneur Pub Co Ltd (then part of the same brewery group) would not be put at a disadvantage if they chose to supply a cask-conditioned beer from a supplier of their own choosing.

Bus services in mid and west Kent - In 1993, the Secretary of State requested the Director General to obtain undertakings from Maidstone & District Motor Services Ltd (M&D) in line with recommendations that had been made by the MMC (AR-93 p 30). When, after extensive negotiations, M&D proved unwilling to give such undertakings in a satisfactory form, it was decided to proceed by making an order. However, following the publication of the statutory notice by the DTI and further negotiations, M&D agreed in August to give the undertakings that had been requested. In December, however, these undertakings were superseded by those given by M&D's parent, British Bus plc, covering all its subsidiaries in the reference area (see Appendix B.2).

Contact lens solutions - The Director General continued to seek voluntary quarterly information about the price and availability of solutions from manufacturers, importers and a cross-section of retailers, including opticians, pharmacies and supermarkets (AR-94, p 40).

Fine fragrances - The Director General received annual returns from the fine fragrance houses providing details of their range stocking and minimum purchase arrangements for the 1994 calendar year. In December, the fine fragrance houses were invited to volunteer information for 1995. Similar information will also be requested for 1996. The information is being requested in response to a suggestion in the MMC's report published in 1993 (AR-93, p 31).

Films - Following the publication, in October 1994, of a report by the MMC, the Director General was asked to negotiate undertakings aimed to prevent alignment (the practice whereby, in 20 specified locations, distributors systematically prefer cinemas in one chain over those in another) and to limit the length of minimum exhibition periods imposed by distributors on exhibitors (AR-94, pp 38/39).

By the end of the year, the negotiations had not produced any undertakings that could be regarded as satisfactory. Nevertheless, following discussions with the OFT - and in line with a suggestion made by the MMC - the industry had established a panel to deal with cases of refusal by distributors to supply films to exhibitors.

Industrial and medical gases - In January, the Minister for Corporate Affairs accepted a recommendation from the Director General to release BOC (formerly British Oxygen Co Ltd) from undertakings on the supply of oxygen and dissolved acetylene. These had been given in 1958, following an MMC investigation two years earlier.

The Director General's recommendation followed an informal review by the OFT of the industrial and medical gases market in the United Kingdom. The review, carried out in 1994, had concluded that the undertakings were either outdated or duplicated by undertakings which - with other European industrial gas producers - BOC had given the European Commission in 1989.

Matches and disposable lighters - Bryant and May, identified by the MMC in 1992 as the monopoly supplier, complied with its undertakings to supply the Director General with information about the profitability of its matches and lighters business (AR-92, p 26, and AR-94, p 39).

National newspapers - The OFT continued to monitor closely the wholesale distribution of newspapers following the 1993 report of the MMC and the introduction, in October 1994, of a code of practice setting out objective criteria to

assess retailers' applications to wholesalers for supplies (AR-94, p 40). The industry has estimated that the number of new retailers who receive supplies of newspapers has risen by more than 7,000 since the code came into effect. During the course of the year, the OFT received no complaints from retailers about the refusal of wholesalers to supply them with national newspapers.

In June, following changes in wholesale distribution areas and increases in wholesalers' carriage charges, the OFT received a submission from retailers asking that a further reference should be made to the MMC. Having examined the views put forward by all the interested parties, the Director General concluded on 21 August that there were at that time insufficient grounds for a further reference. But he did not rule out that possibility at some time in the future.

Structural warranties for new homes - After negotiations with the OFT (AR-94, p 39), the National House Building Council (NHBC) agreed to amend its membership rules. The changes allow members to use competitors' warranty schemes instead of the NHBC scheme, and reflect other recommendations made by the MMC. The Council also gave the Secretary of State an undertaking not to make any significant amendments or additions to the rules of membership without the Director General's consent.

Electrical contracting services at exhibition halls in London - In line with the decision taken by the Minister for Corporate Affairs in August 1994 (AR-94, p 39), the DTI prepared a draft order designed to implement recommendations made by the MMC in 1990. Discussions between the monopolists and the DTI on the provisions of the draft order and its likely impact continued throughout 1995. The order was laid before Parliament in December.

Mergers

In 1995 there was a further large rise in the number of merger cases considered by the OFT. This was despite the procedural and statutory changes, introduced in 1994, which had been designed to reduce the number of mergers qualifying for investigation (known as qualifying mergers). The total number of mergers considered by the OFT, whether as merger situations in the public domain (public mergers), under the confidential guidance procedure, or by way of informal advice, rose from 381 in 1994 to 473 in 1995. This represented a year-on-year increase of around 24% and followed a rise of some 23% in 1994.

Under the Fair Trading Act, the Director

General is required to keep himself informed about actual or prospective merger situations and to recommend to the Secretary of State whether a qualifying merger should be referred to the MMC for more detailed investigation. Should the MMC find that a merger operates or is likely to operate against the public interest, the Secretary of State can make orders or obtain undertakings from the parties to remedy the adverse effects the MMC has identified. Alternatively, if recommended to do so by the Director General, the Secretary of State may now - in lieu of a reference - accept undertakings from the parties to remedy adverse effects identified by the Director General. Such undertakings were accepted in two cases in 1995 (see page 36).

A merger situation qualifies for investigation if the gross worldwide assets being acquired exceed £70 million, or if it meets a share-of-supply test - the merger produces a combined share of 25% or more in the supply (or acquisition) of goods or services of any description in the United Kingdom or a substantial part of it. Successive Ministers have made clear that the main, though not necessarily the only, grounds for making a reference are the effects of the merger on competition within the United Kingdom.

Certain large mergers are dealt with by the European Commission under the European Merger Regulation, rather than by national competition authorities (see page 45).

Confidential guidance

One or more parties to a merger can ask the OFT for confidential guidance on the chances of its being referred to the MMC by the Secretary of State once it is in the public domain. In 1995 the OFT considered 144 requests for confidential guidance, compared with 113 in 1994, an increase of

The OFT's Mergers Secretariat



some 21.5%. The Director General advised on 72 requests, a decrease of 5% on the 1994 total of 76. Of these, 61 received favourable, and seven unfavourable guidance. Unfavourable guidance was also given in two other cases, but the parties concerned provided suitable undertakings in lieu of reference. In two further cases - where, on the information available, it was impossible to establish the likelihood of reference with sufficient certainty - no guidance was given. The remaining 35 requests were found not to qualify or were abandoned. Another 37 cases remained outstanding at the end of the year. In addition, OFT staff gave informal advice to parties involved in possible mergers about qualification for investigation and the potential for reference in 48 cases.

Prenotification

There is a statutory procedure that allows parties to a merger to provide the OFT with details before the merger is completed. In such cases, the Secretary of State must announce his decision within 20 working days of the date the OFT receives the completed form - or 35 working days if the Director General exercises his power to extend the timetable - otherwise the power to refer it to the MMC is lost. During 1995 the OFT advised on 12 prenotified mergers under this procedure. Eleven of them were completed within the statutory timescale, and the other was abandoned. In eight cases (67%) a decision was reached within the initial consideration period of 20 working days.

Other proposed or completed public mergers

Unless a proposed merger has been prenotified under the statutory procedure there are no statutory time limits on reference to the MMC. For completed mergers, the Secretary of State loses the power to make a reference six months from the time the merger becomes public.

The OFT examined 306 proposed or completed public mergers, compared with 268 in 1994, an increase of 14%. The Director General advised on 191 cases, an increase of some 23% on the 1994 total of 155. The remaining 115 were either found not to qualify for investigation or were abandoned before a decision was taken. Another 24 remained outstanding at the end of the year.

These figures exclude newspaper mergers, which are dealt with by the DTI alone under sections 57-62 of the Fair Trading Act (see Part 4 of this report). Mergers of water enterprises (where each enterprise has gross assets of at least £30 million) are also considered separately, under the provisions of the Water Industry Act 1991. There was one reference under this head in 1995.

The total value of the assets acquired or bid for in the qualifying merger situations examined by the OFT in 1995

was £178 billion (1994, £162 billion). Horizontal mergers (where the largest and second largest activities of the merging firms overlap) accounted for 91% of the total number of qualifying cases examined in 1995 (88% in 1994). A more detailed statistical analysis of merger activity is given in Appendix H.

References to the MMC

In 1995 (besides the two newspaper mergers mentioned in Part 4 of this report), the Secretary of State made eight merger references to the MMC under the provisions of the Fair Trading Act, the same number as in 1994. All were made in accordance with the Director General's advice, and all were on competition grounds. In addition the Secretary of State made one reference of a merger under the Water Industry Act 1991, which requires him to refer mergers between water undertakings where certain statutory conditions are met. This, too, was in accordance with the Director General's advice.

The references were:

| | |
|-------------|---|
| 31 March | Lyonnais des Eaux SA/ Northumbrian Water Group plc (reference under the Water Industry Act) |
| 6 June | Stagecoach Holdings plc/ Ayrshire Bus Owners (A1 Service) Ltd |
| 31 July | Nutricia Holdings Ltd/Valio International UK Ltd |
| 1 August | Belfast International Airport Ltd/Belfast City Airport Ltd |
| 6 September | Stagecoach Holdings plc/ Chesterfield Transport (1989) Ltd |
| 8 September | The Go-Ahead Group plc/ OK Motor Services Ltd and associated companies |
| 26 October | British Bus plc/Arrowline (Travel) Ltd, trading as Star Line Travel of Knutsford |
| 23 November | Powergen plc/Midlands Electricity plc |
| 23 November | National Power plc/ Southern Electric plc |

Reports by the MMC

Ten merger reports were published in 1995:

| | |
|-------------|---|
| 9 March | Stagecoach Holdings plc/ 20% shareholding in Mainline Partnership Ltd |
| 23 March | Thomas Cook Group Ltd/ Interpayment Services Ltd |
| 27 April | Stagecoach Holdings plc/ 20% shareholding in SB Holdings Ltd |
| 27 April | SB Holdings Ltd/ Kelvin Central Buses Ltd |
| 23 May | The General Electric Company plc/ VSEL plc |
| 23 May | British Aerospace plc/VSEL plc |
| 25 May | Service Corporation International Ltd/ Plantsbrook Group plc |
| 26 July | Lyonnais des Eaux SA/ Northumbrian Water Group plc (reference under the <i>Water Industry Act</i>) |
| 3 November | Stagecoach Holdings plc/ Ayrshire Bus Owners (A1 Service) Ltd |
| 21 December | Nutricia Holdings Ltd/ Valio International UK Ltd |

All except SB Holdings/Kelvin Central and British Aerospace/VSEL were found to be against the public interest.

Stagecoach Holdings plc/20% shareholding in Mainline Partnership Ltd - The MMC concluded that the merger might be expected to operate against the public interest and recommended that Stagecoach should be prevented from increasing its shareholding beyond 20%. The MMC found that the merger had reduced bus competition in South Yorkshire by removing actual and potential competition between the parties, had enhanced Mainline's ability to weaken smaller operators, and would be a significant deterrent to new entrants. The Secretary of State decided however to invite the Director General to seek undertakings from Stagecoach to divest its 20% shareholding and its seat on

Mainline's Board, and not to reacquire shares in Mainline subsequently. Stagecoach was granted leave to seek judicial review of the report and the Secretary of State's decision. At the end of 1995 the case was waiting to be heard.

Thomas Cook Group Ltd/Interpayment Services Ltd - The MMC found that the merger might be expected to operate against the public interest. It would reduce from three to two the number of significant issuers of travellers cheques and increase Thomas Cook's share of the United Kingdom market from 32% to an estimated 49%. Although the enlarged Thomas Cook and its rival - American Express - could be expected to compete vigorously for the business of the main sales agents (banks and building societies), there were likely to be detrimental consequences for outlets such as travel agents, banks and bureaux de change, some of which had expressed concern about becoming sales agents for Thomas Cook, whose own retail travel operations competed with their businesses. In line with the MMC's recommendations the Secretary of State asked the Director General to seek behavioural undertakings from Thomas Cook designed to remedy the adverse effects.

Stagecoach Holdings plc/20% shareholding in SB Holdings Ltd (SBH) - The MMC found that the merger might be expected to operate against the public interest. It recommended that Stagecoach should be required to divest its shareholding and relinquish its seat on the SBH Board, and should not reacquire any interest in SBH. It further recommended that the company should be prevented from entering into any agreement which inhibited competition between SBH and Stagecoach in the Strathclyde region. The MMC found that the merger had eliminated competition between two of the largest bus operators in the area, and also deterred another adjacent operator from entering. Following advice given by the Director General, the Secretary of State asked him to seek undertakings from Stagecoach in line with the MMC's recommendations. Stagecoach was granted leave to seek judicial review of the report and the Secretary of State's decision, and the case was waiting to be heard at the end of 1995.

SB Holdings Ltd/Kelvin Central Buses Ltd - The MMC concluded that the merger did not operate against the public interest and was not expected to do so. One member of the inquiry group dissented from this conclusion.

The General Electric Company plc/VSEL plc and British Aerospace plc/VSEL plc - These two competing bids were referred and reported on together. Normally, both bids would have fallen to the European Commission to consider, under the European Merger Regulation, rather than to the United Kingdom authorities. In this case, however, the United Kingdom Government used Article 223 of the Treaty of Rome

to return the military aspects of the mergers to national jurisdiction. The European Commission cleared the non-military aspects (5% of VSEL's business) of both mergers. The MMC found that the British Aerospace bid might not be expected to operate against the public interest. At the same time, with two members of the inquiry group dissenting, it concluded that the bid by GEC might be expected to do so, principally because of the loss of competition for forthcoming warship orders, which was unlikely to be fully offset by the means available to the Ministry of Defence to obtain value for money. It also considered the ability of subcontractors to compete with GEC companies on prospective contracts would be harmed, and therefore recommended that this bid should be blocked - a view that was supported by the Director General.

The Secretary of State, however, cleared both bids. He said that, among other considerations, he had had regard to the views of the two dissenting members of the MMC inquiry team. They believed that, in the face of sharply declining orders, the industry would almost certainly be further rationalised, regardless of VSEL's eventual ownership. As the sole customer, the Ministry of Defence would have considerable power to obtain value for money after the merger. Consequently, the merger would not affect competition. Moreover, in the subcontracting operations which the company ran as a prime contractor, GEC had a strong commercial incentive not to give its own subsidiaries unfair preference. The Secretary of State also took note of various assurances GEC had given the Ministry of Defence about its conduct of the business after the merger if its bid were to prove successful.

Service Corporation International Ltd (SCI)/Plantsbrook Group plc - The MMC concluded that the merger might be expected to operate against the public interest in relation to competition between funeral directors and crematoria operators, and to the detriment of consumers. It recommended the divestment of certain funeral directing businesses and suggested certain behavioural remedies.

The inquiry found that the merger would increase SCI's market share from 20% to 28% in an area comprising parts of London and South-East England. The MMC concluded that, in a number of localities within that area the parties' combined market share (up to 51% combined) would lead to higher funeral prices and a reduced choice of funeral director, and would deter new entry.

The MMC was also concerned, among other things, about the transparency of charges for funerals and of the ultimate ownership of funeral directing outlets. It considered that the merger would increase SCI's ability to channel funerals to the crematoria it owned, where prices tended to be higher than those of competitors. The Secretary of State accepted these findings and asked the Director General to seek undertakings from SCI in line with the MMC's recommendations. At the end of 1995 SCI was seeking judicial review.

Lyonnais des Eaux SA/Northumbrian Water Group plc - The MMC found that this merger, which would bring together two water businesses (one also supplying sewerage services) in North-East England, might be expected to operate against the public interest. It would involve the loss of Northumbrian as a separate 'comparator', and so prejudice the ability of the Director General of Water Services to make comparisons between different water enterprises when carrying out his regulatory functions. If the merger were to be permitted to go ahead, the merged company should be required to maintain or exceed current customer service levels, and to make substantial price reductions, sufficient to compel it to the forefront of efficiency in the industry. What the level of price should be, the Director General of Water Services was best placed to advise.

The Secretary of State accepted these findings. In the light of the advice he was subsequently given by the Director General of Water Services, he asked the Director General of Fair Trading to obtain undertakings from Lyonnais that it would make price reductions amounting to 15% over the six years following the merger, and ensure that the merged company was listed on the London Stock Exchange by the year 2005.

This merger would normally have fallen to be considered by the European Commission (under the European Merger Regulation) rather than by the United Kingdom authorities. In response to an application by the Government however, the Commission recognised the United Kingdom's legitimate interest in examining the merger's implications for the regulatory arrangements in the Water Industry Act 1991, and returned the case to United Kingdom jurisdiction for that purpose (see page 45). While the European Commission retained jurisdiction on other aspects of the merger, it did not seek to prohibit it.

Stagecoach Holdings plc/Ayrshire Bus Owners (A1 Service) Ltd - The MMC found the merger was against the public interest, principally because it significantly reduced potential competition for bus services in parts of the Strathclyde region, and this could be expected to lead to higher fares and reduced levels of service. With the exception of one member of the inquiry group - who favoured divestment - it recommended a package of behavioural remedies. The Secretary of State accepted these findings. He asked the Director General to obtain undertakings from Stagecoach, designed to implement some, but not all, of the MMC's recommendations, on a range of matters designed to foster competition and restrict the company's ability to exploit its position. At the end of 1995, Stagecoach was seeking judicial review in the Court of Session.

Nutricia Holdings Ltd/Valio International UK Ltd - The MMC concluded that the merger might be expected to operate against the public interest since it would allow Nutricia to increase prices of certain gluten-free and low-protein products

(including bread, rolls and flour). It recommended that, for a period of four years, Nutricia should be required to set prices of such products at levels no higher than those currently in force, plus the annual change in the resale prices index less two percentage points.

The Secretary of State accepted these findings. He asked the Director General to seek an undertaking from Nutricia on the lines of the MMC's recommendation. Nevertheless, he took the view that the price controls should not automatically finish after four years; instead, the undertaking should then be reviewed to see whether it remained necessary.

Undertakings in lieu of reference

When it appears that a reference to the MMC might otherwise be necessary, the Secretary of State may, on the advice of the Director General, instead accept undertakings to remedy the adverse effects of a merger. This procedure was followed on two occasions in 1995 - bringing to 13 the total number of cases in which it has been used since its introduction in 1990.

The cases involved, and the dates on which the undertakings were given, were:

14 August Scottish and Newcastle plc/
the brewing assets of Courage plc

5 October Granada plc/Pavilion Ltd

Scottish and Newcastle plc/the brewing assets of Courage plc - On 14 August, following an earlier recommendation to refer the merger to the MMC, the Secretary of State accepted undertakings that:

Scottish and Newcastle would reduce the size of its tied estate to 2,624 licensed outlets within a year of completion of the merger; and

the agreement for the supply of Courage beer to Innentrepreneur Pub Co's pubs would be ended at 500 Innentrepreneur pubs by 31 December 1995 and at a further 500 by 31 December 1996, and further supply to such pubs would be the subject of open tender procedures.

Granada plc/Pavilion plc - In accordance with the Director General's recommendation, the Secretary of State accepted undertakings from Granada that it would sell two motorway service areas (one on the M4 and the other on the M61) and sell, close or cease to operate a third (also on the M4) unless the proposed new Severn Crossing were to be opened within 12 months. The undertakings were designed to remedy concerns about the reduction in competition and consumer choice in the provision of various goods and services on certain parts of the motorway network.

Action on earlier reports

Coats Viyella plc/Tootal Group plc - Coats Viyella asked to be released from an undertaking given in 1990 following its acquisition of the Tootal Group. This had required the merged company to divest and not reacquire Coats' 'Drima' domestic sewing-thread business. The MMC had recommended the divestment because it believed that the merger would create an effective duopoly in domestic sewing thread. Coats now wanted to reacquire the business from its current owners, Amman und Söhne of Germany. In accordance with the advice he had been given by the Director General, the Secretary of State refused the request.

Elders IXL Ltd/Grand Metropolitan plc - In November, in response to information provided by Innentrepreneur Estates Ltd (since renamed Innentrepreneur Pub Co Ltd), the Director General indicated that he had no objections to the company taking over the management of its own affairs from Grand Metropolitan.

Stagecoach Holdings plc/assets of Lancaster City Transport Ltd - At the end of the year, negotiations continued with Stagecoach (North West) Ltd on undertakings following its acquisition of Lancaster City Transport Ltd (AR-93, p34).

Charging

The three charging bands and the level of fees remained unchanged throughout 1995. Fees totalling approximately £1.6 million were received.

Competition Act investigations

Anti-competitive practices can be investigated under the provisions of the Competition Act 1980. Many complaints to the OFT are dealt with through informal enquiries. In some cases, however, these enquiries persuade the Director General that a reference to the MMC is warranted.

Before 1995, whenever he had grounds to believe that an anti-competitive practice was in operation, the Director General would undertake a formal investigation of the case, and publish a report. This would say whether he had determined that the course of conduct under examination did constitute an anti-competitive practice and whether it would be appropriate for the MMC to undertake a more detailed scrutiny.

Since section 12 of the Deregulation and Contracting Out Act 1994 came into force on 3 January 1995, the Director General is no longer required to complete such an investigation and publish a report before making a reference to the MMC. Under new procedures set out in the Act, he may now - in lieu of a reference - accept undertakings from the com-

pany concerned in order to remedy the anti-competitive effects of the behaviour. The report on the investigation into United Automobile Services Ltd was therefore the last such report to be published by the Director General under the Competition Act.

Reports by the Director General

The Director General published one report in 1995:

| | |
|----------|--------------------------------|
| 28 March | United Automobile Services Ltd |
|----------|--------------------------------|

United Automobile Services Ltd - The report concluded that United Automobile Services, operating buses in the Darlington area, had pursued a course of conduct which constituted an anti-competitive practice. Nevertheless, because there had been major changes in the competitive situation since the investigation had first started, the Director General proposed no remedies. Nor did he refer the case to the MMC which was already examining the provision of bus services in the North-East of England generally, under the monopoly provisions of the Fair Trading Act (see page 30).

References to the MMC

The Director General made one reference in 1995:

| | |
|---------|---------------|
| 21 June | Tambrands Ltd |
|---------|---------------|

Action on an earlier report

Ford - In June, the Ford Motor Co was released from undertakings it had given in 1986. These had required the company - after a seven-year protection period - to license independent firms to manufacture or supply Ford vehicle body replacement parts, subject to a 2% royalty (AR-86, p 31). The Director General decided that the undertakings were no longer needed following a House of Lords ruling that Ford did not have design rights in the various body parts.

Informal enquiries into other competition issues

A number of issues the OFT examined were resolved satisfactorily without the need for a reference, or undertakings in lieu of a reference, under either the Competition Act or the Fair Trading Act. The more significant cases are described in the following paragraphs.

Enquiry into brewers' wholesale pricing policy - This enquiry focused on the question whether tenants of tied pubs

paid more for beer than their competitors in the free trade and, if so, whether any action was justified under United Kingdom competition legislation. It was prompted by concerns expressed by the European Commission about price differentials between the tied and free trades following an application by Inntrepreneur Estates Ltd (now Inntrepreneur Pub Co Ltd) for exemption of its pub leases under Article 85(3) of the Treaty of Rome.

On the basis of information and views supplied to the OFT by a broad cross-section of the beer industry, the Director General concluded that there were insufficient grounds for a reference to the MMC.

The OFT's enquiry found that price differentials between the tied and free trades had widened and there was a demand for more transparency of information between pub estate landlords and their tenants. Nevertheless, in general, the higher prices paid by pub tenants for their beer were offset by benefits the free trade did not receive, including lower rents and a range of support measures such as training and promotional support. In a wider context, the enquiry indicated that divestment by the major brewers, following the Beer Orders put in place after the MMC's 1989 report on the supply of beer, had led to vigorous competition at retail level.

The report of the enquiry was passed in confidence to the European Commission to assist it in its work on the consideration of the Inntrepreneur leases under Article 85.

The supply of programming to cable companies - In March, British Sky Broadcasting Ltd (BSkyB) gave the Director General informal undertakings about the provision of programming to cable companies and the accounting procedures of its Direct-to-Home (DTH) distribution business. These undertakings, which were accepted in lieu of a monopoly reference, addressed the practices of 'bundling' (a requirement to take packages of programmes) and 'full-line forcing' (an incentive discount scheme dependent on acceptance of the full range of BSkyB-owned channels) by way of a revised rate card for supply of programming to cable operators. In addition, BSkyB undertook to maintain separate accounts for its DTH business in order to counter anxieties about cross-subsidisation. BSkyB's revised incentive discount scheme and a wholesale rate card, both effective from 1 May 1995, were approved by the Director General under the terms of the undertakings.

At this stage BSkyB had concluded programme supply agreements with TeleWest Communications plc and Nynex CableComms Ltd. In the light of these agreements BSkyB's wholesale rate card was amended so that it was broadly consistent with the rate cards in the agreements. The Director General approved the amended rate card in August.

On 1 December, after the OFT had received further complaints from cable companies, the Director General announced that he had decided to conduct a review of

BSkyB's position in the pay-tv market. This review is to be confined to issues relating to the wholesale supply, within the United Kingdom, of programming and related services such as access to encryption, subscriber management and transponder space. It is to include the March undertakings given by BSkyB.

The review is expected to take six months. The Director General will then decide whether any further action is appropriate under the competition legislation.

Recommended repairer schemes - The OFT has reviewed progress by the insurance industry to improve consumers' awareness of their right to use a non-recommended body repairer or glass fitter, and the consequences of doing so. It found that, in general, insurers had acted on the guidance circulated by the Association of British Insurers in 1994.

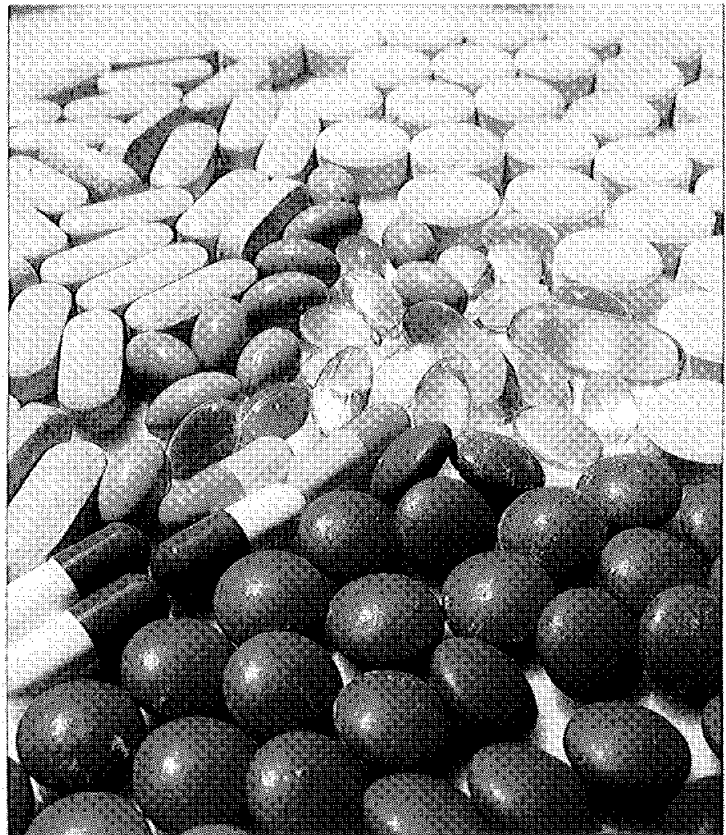
The milk industry - During the course of the year the OFT received a significant number of complaints about the nature of competition in the wholesale milk market following deregulation (excluding Northern Ireland) in November 1994 (AR-94, p 51). Developments in the industry were monitored closely in the light of those complaints. At the start of 1996, the Director General was considering whether there were sufficient grounds for him to intervene.

Resale prices

Under the Resale Prices Act 1976 it is unlawful for suppliers of goods to impose minimum resale prices on dealers, or to compel them to charge those prices by threatening to withhold supplies or impose some other penalty. In 1995 the OFT received 63 complaints alleging contravention of the Act, compared with 34 in 1994. In 10 cases the Director General obtained written assurances from suppliers that they would not seek to impose minimum prices at which dealers could resell their goods. The companies which gave assurances are listed in Appendix B.2.

Review of medicaments exemption - In October, the Director General announced a review of the exemption of medicaments from the general ban on resale price maintenance under the Resale Prices Act.

The exemption was approved by the Restrictive Practices Court in 1970, and it can be ended only by order of that Court. The Court can re-examine the case only if the Director General can show *prima facie* evidence of a material



change in the relevant circumstances since the exemption was so authorised.

The exemption covers two classes of medicaments. The first is 'ethicals' - products available only on prescription. In practical terms, however, resale price maintenance does not now exist on these products, because manufacturers no longer prevent wholesalers from offering discounts to retailers.

The second category is 'proprietarys' - products available over the counter without a prescription. In 1970 the Court took the view that, without resale price maintenance, supermarkets would stock a wider range of the more popular products at reduced prices. At that time there was much concern about the number of small chemists going out of business: the Court was anxious that the supermarkets' commercial drive might accelerate that process, leaving fewer outlets at which the less popular over-the-counter products were available and fewer chemists where prescriptions could be dispensed.

The review is being conducted in three stages. The first will attempt to establish exactly what products are covered by the exemption, particularly those that come under the general heading of vitamin and mineral supplements. Next, information is to be sought about prices, sales and shopping habits. Finally, against this factual background, the views of interested parties will be canvassed in a full consultation exercise.

Restrictive trade practices

The Restrictive Trade Practices Acts of 1976 and 1977 provide the means to evaluate the effect on competition of certain commercial agreements and to prevent the operation of arrangements that are significantly anti-competitive. Details of all relevant agreements must be sent to the OFT to be entered on the public register it maintains - the Register of Restrictive Trading Agreements (see Appendix L.3).

The Director General has two main responsibilities under the 1976 Act. First, he must appraise the relevant restrictions in agreements which have been sent for registration at the proper time and, if necessary, refers them to the Restrictive Practices Court. The restrictions in such agreements are lawful unless and until the Court strikes them down. Secondly, he seeks out, investigates and evaluates registrable agreements that have not been sent to him to be registered, many of which are harmful cartel agreements, with a view to referring them to the Court. It is unlawful to give effect to restrictions in a registrable agreement that has not been furnished for registration.

Agreements submitted for registration

Details of 1,393 agreements were sent to the OFT in 1995, compared with 1,280 in 1994. Not all agreements prove to be registrable. In 1995, 602 agreements were added to the register (4% more than in 1994), bringing the total number entered since the register was established in 1956 to more than 12,500.

The slight rise in the number of agreements submitted, evident in 1994, continued as economic activity picked up further.

Restrictions

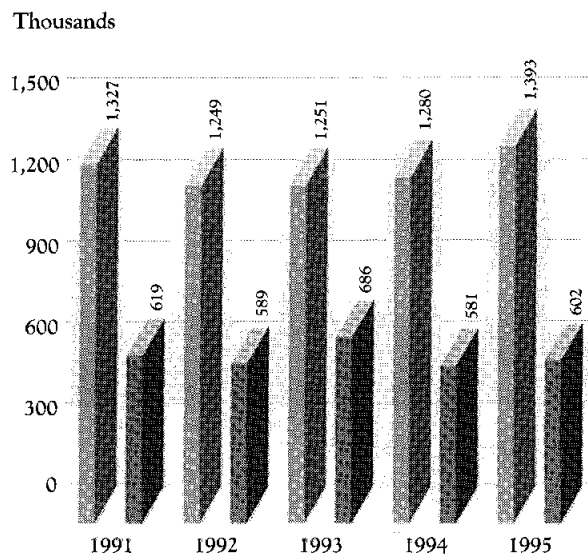
Most agreements placed on the public register do not contain restrictions of such significance that they call for investigation by the Court; in other instances the OFT is sometimes able to negotiate amendments which remove the anti-competitive effect of restrictions. In these circumstances, under section 21(2) of the 1976 Act the Secretary of State can - on the Director General's advice - direct that reference to the Court is not required. In 1995, the Director General was able to advise the Secretary of State that 1,406 agreements (11% more than in 1994) did not contain significant restrictions on competition.

In a number of other cases, the Director General was able to exercise his discretion - under section 21(1) of the 1976 Act - not to refer to the Court agreements which had ended or from which all restrictions had been removed.

Although a large number of agreements that contain restrictions are submitted for registration, the OFT continues to discover agreements which, by accident or design, have not been notified. When the Director General has reasonable

Restrictive Trade Practices Act 1976

Numbers of agreements submitted to the OFT and numbers registered.



NUMBER OF AGREEMENTS

- SUBMITTED
- REGISTERED

cause to believe that persons may be party to an undisclosed but registrable agreement, he can - under section 36 of the 1976 Act - issue a statutory notice requiring them to provide details. In 1995, 45 new investigations were started, section 36 notices were issued in respect of two investigations and a number of informal letters of enquiry were also sent.

When he has reason to believe that any unlawful agreement has deliberately been concealed, the Director General almost invariably refers the matter to the Court. Under section 35, the Court may then make orders requiring the parties not to enforce restrictions in the agreement and not to enforce restrictions in any other registrable agreements which have not been notified to the OFT within the prescribed time limits. The Director General may also ask the Court to make orders, under section 2, requiring the parties not to make any similar restrictive arrangements. Breaches of orders, or of undertakings given in lieu of orders, constitute contempt of court and may lead to unlimited fines and, for directors or employees, imprisonment for up to two years.

Review of restrictive agreements

On 19 June, the Director General announced that British Sky Broadcasting Ltd, TeleWest Communications plc and Nynex



The BSKyB enquiry team

CableComms Ltd had been given 30 days to reconsider significantly anti-competitive restrictions contained in their supply agreements. The parties have since agreed to remove or amend the restrictions, but further consideration is necessary before the OFT can confirm that the agreements do not warrant investigation by the Court. In the meantime BSKyB has undertaken to suspend operation of the restrictions.

Court cases concluded

Grounds maintenance - Proceedings against 11 grounds maintenance contractors were successfully concluded at a hearing on 25 May. The Court found that the contractors had been party to a registrable agreement on the charges that were to be made or quoted for the supply of services when tendering for grounds maintenance contracts awarded by the Property Services Agency. There had also been an additional agreement among four of the contractors not to bid competitively for contracts which one of the four already held and wanted to retain. Ten of the contractors gave undertakings in lieu of an order under section 2 not to enforce the agreements and not to enter into similar agreements in the future, and, in lieu of an order under section 35, not to give effect to any registrable agreements not furnished within the prescribed time limits. One contractor was made subject to orders under section 2 and section 35. The names of the parties are listed in Appendix B.2.

Concrete - The Court hearing of proceedings against 18 ready-mixed concrete companies and seven directors began on 6 June and final judgment was given on 4 August. Seventeen of the companies admitted breaches of undertakings given to, or orders made by, the Court in 1978/79 that they would not be involved in secret price-fixing and market-sharing agreements. (Proceedings against the remaining

company were discontinued.) Record fines totalling £8,375,000 (plus costs) were imposed on the companies themselves, while five directors who were found to have aided and abetted the contempt were ordered to pay £87,500 in fines and costs. The other two directors were acquitted. The names of the parties found to be in breach are listed in Appendix B.2. The judge made it clear that any individuals who were found guilty of similar offences in the future should expect to go to prison for a significant period.

At the end of 1995, preparations were in hand to obtain orders under sections 2 and 35 against other compa-

nies that had participated in the cartels but which were not in contempt of previous undertakings given to, or orders made by, the Court.

Pre-recorded music charts - On 6 June the Director General announced that, following the removal of a significantly anti-competitive clause, agreements that permitted the compilation of pre-recorded music charts would not, after all, be referred to the Restrictive Practices Court. A restriction in the existing agreement between, among others, Chart Information Network Ltd and the British Association of Record Dealers (BARD) - an umbrella organisation for retailers including HMV UK Ltd, Virgin Retail Ltd, Tower Records Ltd, and Woolworth plc - had prevented BARD from supplying retail information to competing music charts.

Court proceedings

Net Book Agreement (NBA) - On 31 March the Director General applied to the Court under section 4 for leave to apply for an order to discharge the Court's 1962 and 1964 orders and replace them with an order declaring the restriction in the NBA contrary to the public interest, prohibiting its enforcement, and ordering the parties not to enter into other agreements to the like effect. On the same date he applied under section 17 of the Resale Prices Act 1976 for leave to apply for an order to discharge the Court's 1968 order exempting books and maps from the prohibition on resale price maintenance.

In May, the Publishers Association applied for a stay of the proceedings pending an EC decision on possible exemption for the NBA under Article 85(3) of the Treaty of Rome (see page 46). Following a two-day hearing in July, the Court refused this application on 9 August. It found that the Publishers Association had not established sufficient grounds for a stay

and that, since the Director General's applications for leave were relevant to the continuing validity of the 1962 judgment, the Court should be prepared to make up its own mind and control its own proceedings.

The Court granted the applications for leave after a hearing held on 5/6 December, when it ruled that there had been a material change in circumstances. The application was made on 12 December, and a hearing to determine the public interest is expected to be held during the course of 1996.

Sugar - Proceedings continued against British Sugar plc and Tate & Lyle Industries Ltd under sections 1(3) and 35(3); these involved arrangements for the supply of sugar to the retail market between June 1986 and July 1990.

On 15 December 1994, British Sugar applied to the Court for an order that the register be rectified by the removal of all particulars about the memorandum of arrangement and for a declaration that the memorandum was not an agreement to which the Restrictive Trade Practices Act 1976 applied. At the same time the company also made a further application to the Court to stay the proceedings until separate hearings before the European Commission, arising from the same matters, had been concluded. This application, heard on 21 July, was refused on 9 August. The Court ruled that the European Commission's tasks and its own were very different and a decision by the Commission would not dictate the result of the proceedings before the Court. Subsequently, the Court gave directions on how the case should be pleaded.

Newsagents - Proceedings continued against the National Federation of Newsagents under section 35 for failing to furnish details of letters that had been sent to its officials and members in August 1992, and which had contained implied recommendations to boycott the Saturday edition of *The Daily Telegraph*.

Scottish solicitors' property centres - The Aberdeen and Edinburgh solicitors' property centres applied to the Restrictive Practices Court (Scotland) for an order, under section 26, to remove the centres' respective agreements with their members from the Register of Restrictive Trading Agreements (AR-94, p 48). After a four-day hearing in Edinburgh in December, the Court held that the arrangements relating to the two centres were not registrable as the restrictions in them related to legal services, which are not covered by the Act.

Financial services

Under the terms of the Financial Services Act 1986, the Director General is required to consider the implications for competition of the rules of the Securities and Investments Board (SIB) and of bodies seeking recognition as self-regulat-

ing organisations, investment exchanges and clearing houses, and to report his findings to the Chancellor of the Exchequer. He is further required to report on amendments to those rules and on the organisations' practices whenever he identifies competition concerns.

On the retail financial services front, the new product and commission disclosure rules of the SIB and the Personal Investment Authority (PIA) came into force for 'life products' in January. These rules have increased the information given to investors about such products, and are therefore welcome. Officials from the OFT continued to consult with the PIA on new disclosure rules for non-life products such as unit trusts.

On the wholesale side, dealing with financial markets, the Director General published reports on applications for recognition from two overseas investment exchanges. In the domestic financial markets, he reported on the rules of Tradepoint, a United Kingdom-based company seeking recognition as an investment exchange and, in March, published his review of the privileges and obligations of market makers on the London Stock Exchange.

The Director General also continued his study of the underwriting of share issues. In a report published in March (under the auspices of the Fair Trading Act), he concluded that competition was not working effectively. Although there was no indication of agreements between suppliers, there was evidence of overcharging for underwriting and little sign that issue prices were adjusted to bring the fixed fee into line with the risks of particular issues. While he had considered making a reference to the MMC, he had decided not to take this course because of evidence that some practitioners were considering alternative arrangements and the willingness of trade associations to take the debate forward. He had instead decided to monitor issues made between June 1995 and May 1997 to see whether there were signs of change. Subsequently, at the end of the year under review, the Director General decided to shorten the survey period to 12 months, ending in May 1996.

London Stock Exchange

Rules of the London Stock Exchange relating to market makers - In a report to the Chancellor of the Exchequer, published in March, the Director General said that he had concluded that certain rules of the London Stock Exchange were significantly anti-competitive. These rules gave market makers an exclusive right to display prices on the Stock Exchange Automated Quotation (SEAQ) system and prevented them from displaying better prices on other public display systems: they also covered restrictions on the dissemination of inter dealer broker (IDB) quotations, delayed publication of post-trade information, and arrangements for stock borrowing. The Director General commented that his views on the importance he attached to the anti-competitive effects of market makers' exclusive access to the IDB network

LONDON STOCK EXCHANGE REFORMS

A significant part of the OFT's work to stimulate greater competition in the operations of the London Stock Exchange (the Exchange) came to fruition on 29 September when the Chancellor of the Exchequer announced a Treasury statement responding to two reports by the Director General. These had been submitted in November 1994 and March 1995 under the competition scrutiny provisions of the Financial Services Act 1986.

In his first report (AIR-94, p. 49), the Director General had identified trade publication delays as one area where there were significant anti-competitive effects. He had criticised Exchange rules that permitted delays of

90 minutes in the publication of trade details in the case of large trades, and of five days in the case of very large trades.

In April 1995, the Securities and Investments Board (SIB) and the Exchange reached agreement on major changes to the rules. These were designed to improve post-trade transparency, and to bring the Exchange's rule book into compliance with the European Community's Investment Services Directive. The objective was to ensure that 75% by value of trades on the Exchange's domestic equity market would be published immediately and to seek to ensure that 95% of trades would be published within one hour. The

amended rules were subsequently endorsed by the Treasury in its statement of 29 September and took effect on 1 January 1996. Although not fully meeting the concerns that had been expressed by the Director General, the changes do serve to make for greater transparency in the operations of the Exchange. The SIB is to review the implementation of the agreement in the summer of 1996.

The Director General's second report (see main text) highlighted further competition concerns in the Exchange's rules. These affected the display of share-price quotations by market makers.

had been influenced by the Exchange's rules delaying publication of the larger trades.

Following the publication in June of the SIB's report on the regulation of the United Kingdom equity markets, and having undertaken its own consultation exercise, the London Stock Exchange decided to abolish the rule preventing market makers from showing better prices on public display systems other than SEAQ. Taken with the immediate publication of all IDB and other riskless transactions, this move went a long way to remove the Director General's anxieties. His report was also the subject of an announcement by the Chancellor of the Exchequer on 29 September (see accompanying panel).

Applications for recognition

Tradepoint - Reporting in May, the Director General cleared the rules of Tradepoint, a United Kingdom-based company seeking recognition as an investment exchange in domestic equities. He also commented that the advent of this company could introduce an important degree of competition into the London equity market.

Stockholm Stock Exchange - Also in May, the Director General reported on the application by the Stockholm Stock Exchange for recognised overseas investment exchange status in the United Kingdom. He concluded that none of the rules governing the operation of the Exchange had, or was

intended or likely to have, the effect of distorting or preventing competition to any significant extent.

Delta Government Options Corporation - In August, the Director General reported on an application by Delta, a US corporation, to become a recognised overseas investment exchange in the United Kingdom. He identified two rules with the potential to produce anti-competitive effects: the first concerned the capital requirements for banks and insurance companies; and the second the capital requirements for brokers and dealers.

Nevertheless, following assurances by Delta about the way the corporation would apply the first rule, he concluded that it would not have a significant effect on competition. Taking into account the likely competition for Delta's services and also of consultees' views, he further concluded that the second rule, too, created no significant restriction or distortion of competition, although the OFT would monitor its effects if Delta were to be recognised.

Broadcasting

Independent productions transmitted by the BBC

Under the terms of the Broadcasting Act 1990, the Director General has, since 1 January 1993, been required to report periodically to the Secretary of State for National Heritage

In London, market makers display their price quotations on the Stock Exchange Automated Quotation (SEAQ) system. Some members of the Exchange also operate their own electronic price display systems, while Tiradepoint (a private company) has now established a rival stock exchange, with its own electronic trading system.

Under the Exchange's rule 4.3, market makers had an exclusive right to display prices on the SEAQ system, while rule 4.18 (the 'best price' rule) forbade them to advertise more competitive prices on any rival display system. The Director General concluded that these rules restricted innovation and the development of competing order-matching systems, and restricted price competition. In a separate report, *Regulation of the*

United Kingdom Equity Markets, published in June, the SIB also questioned whether these rules were necessary.

After undertaking its own consultation exercise, the Exchange announced on 29 September (in parallel with the Treasury's statement) that it had decided to amend rule 4.18. In future it would permit the display of more competitive prices, both on member firms' own systems and on any competing system. The Chancellor welcomed this change, which also addressed the anxieties that had been expressed by the Director General. By allowing increased competition between trading systems, the amended rule 4.18 reduces the significance of the distortion created by rule 4.3.

In his second report, the Director General had identified one other significantly anti-competitive rule. This allowed market makers exclusive access to share price quotations displayed on the network of inter dealer broker (IDB) screens. The Director General wanted to see this access opened up to other market traders since these quotations were more competitive than those displayed on SEAQ - in a market where some 17% of all trades by value in United Kingdom shares were being done on the IDB network. In their April 1995 agreement, the SIB and the Exchange also agreed upon the immediate publication of all IDB trades. The Treasury accepted this change, which additionally met the Director General's concerns over lack of access to IDB screens.

on whether 25% or more of the BBC's broadcasting of qualifying programmes (as defined in the Broadcasting (Independent Productions) Order 1991 - SI 1991/1408) is made up of a range and diversity of independent productions.

In his first report, published in May 1995, the Director General concluded that, of the BBC's total output of broadcasting time of qualifying programmes in the period 1 January 1993 to 31 March 1994, 24.2% had been made by independent producers. The BBC had, therefore, failed narrowly to reach the target. If the first quarter of the period was omitted however, the BBC had achieved 25.04% for the remainder of the period. The Director General further concluded that the BBC had broadly ensured that the independent productions in the whole period were of a satisfactory range and diversity.

In his second report, published in September 1995, the Director General concluded that the BBC had reached 26.5% for the period 1 April 1994 to 31 March 1995. He also concluded that the BBC had broadly ensured that the independent productions in this period were of a satisfactory range and diversity.

New advisory publications

In March the OFT published a new booklet in its series on the application of competition law in the United Kingdom. *Monopolies and Anti-Competitive Practices: A Guide to the*

Provisions of the Fair Trading Act 1973 and the Competition Act 1980 explains the roles played by the OFT and the other competition authorities in enquiries under the legislation, taking full account of the amendments to both Acts incorporated in the Deregulation and Contracting Out Act 1994. This publication expanded on and superseded the earlier booklet *Anti-Competitive Practices*, last revised in 1993. There had not previously been any OFT guide dealing specifically with the monopoly provisions of the Fair Trading Act.

A revised and expanded version of the OFT's basic guide to the merger control process, *Mergers: A Guide to Procedures under the Fair Trading Act 1973*, was published in October. This takes account of changes in merger control law and procedures since 1991, when the last edition was published. It incorporates, for example, information about undertakings in lieu of reference and the various special regimes that affect mergers in such sectors as water services, newspapers and railways; and it also gives brief details of the European Merger Control Regulation and the roles the OFT and the DTI play in those mergers that fall under its provisions.

A related booklet, first published in March 1994 under the title *Mergers: The Content of Submissions*, was revised and reissued as *Merger Submissions: A Briefing Note*. Specifically aimed at the parties to prospective mergers and their advisers, it offers guidance on the information that needs to be contained in submissions in order to meet the OFT's administrative timetables for decisions on confidential guidance and proposed or completed public mergers.



There were also updated editions of An Outline of United Kingdom Competition Policy and Restrictive Agreements: A Short Guide to Restrictive Trading Agreements. Over the years, OFT publications on competition matters have tended to have been produced on a one-off basis as and when a particular need was identified, and they bore little obvious relationship to one another. Now, however, advantage has been taken of the necessity to produce amended reprints and wholly new editions to bring all these booklets into a common style.

Competition rules of the Treaty of Rome

Articles 85 and 86

The European Community's competition regime is founded on Articles 85 and 86 of the Treaty of Rome and various implementing regulations.

Article 85(1) prohibits agreements or concerted practices which prevent, restrict or distort competition, in so far as they may affect trade between Member States. It also provides for exemptions from this ban for agreements which are, on balance, beneficial. Article 86 prohibits abuse of a dominant position in so far as it may affect interstate trade. In order to assist the European Commission in applying the rules, 'competent authorities' have been declared in each Member State: for the United Kingdom, the Director General is a competent authority.

In this role, OFT staff represent the United Kingdom in meetings of the Community's competition advisory committees and the working group of government competition experts, and attend hearings in Brussels when companies comment orally on the Commission's objections alleging

infringement of the Community's competition rules. Assistance is also given to Commission officials on visits to companies in the United Kingdom under the provisions of Article 14 of Council Regulation 17/62. There is frequent informal contact between OFT staff and Commission officials to discuss progress on important cases.

In 1995, there were discussions about policy developments to take account of the Commission's continuing consideration of ways to decentralise some of its case work to national level. The Director General attended the annual meeting in October of the heads of the Member States' competition authorities, at which the Commission presented a report by a group of experts (the Van Miert Group Report): *Competition Policy in the New Trade Order: Strengthening International Co-operation and Rules.*

INTERNET AND THE OFT

Since May 1995 information about the OFT and its activities has been available on the Internet. The opportunities this provides for greater openness and access to information by consumers and business are large and the OFT will continue to keep under review how the potential can be developed.

At present information is available under three categories.

OFT worldwide web pages - These provide information about the role and responsibility of the Office in support of the Director General of Fair Trading. They contain biographies of senior staff, list currently available free OFT advisory material for consumers, traders and the business community - together with OFT reports and research papers - and give details of how to order these publications. Summaries of more recent reports are also available on these pages.

Address:

<http://www.open.gov.uk/oft/ofthome.htm>

OFT press releases - The full texts of all current releases are available.

Address:

<http://www.coi.gov.uk/coi/depts/GOF/GOF.html>

OFT e-mail address - This is available for all general enquiries direct to the OFT. Replies are normally sent by post within the timescales specified in the OFT's Code of Practice on Enforcement (see Appendix A) and correspondents are asked to provide their postal address.

Address:

enquiries@oftuk.demon.co.uk

Decisions

The Commission adopted five decisions: four under Article 85 and one under both Articles 85 and 86. These are listed in Appendix I.

Although three of the decisions found infringements of Article 85(1), the Commission imposed fines on the parties involved in only two of the cases. It granted an exemption under the provisions of Article 85(3) in one case and agreed to take 'interim measures' against the parties involved in another, pending the outcome of the substantive case. The more important cases are summarised in the following paragraphs.

Refinishing paint - This case concerned an exclusive distribution agreement between BASF Lacke + Farben AG, a manufacturer of paints used in the repair of motor vehicles, and Accinauto SA, its exclusive importer and distributor in Belgium and Luxembourg. The agreement required Accinauto to pass on to BASF any customer enquiries it received from outside these countries. Two British firms complained that, as a result, they were unable to buy refinishing paint direct from Accinauto and instead had to purchase it at a higher price from BASF's United Kingdom distributor. The Commission fined BASF and Accinauto for infringing Article 85(1) by preventing parallel imports into the United Kingdom.

FNK/SCK - The FNK, an association of Dutch crane-hire firms, infringed Article 85(1) by applying a system of recommended and internal crane-hire rates, which enabled its members to predict each other's pricing policy. The SCK, set up on the initiative of the FNK to guarantee the quality of cranes through a certification system, infringed Article 85(1) by prohibiting its member firms from hiring cranes from non-member firms. Furthermore, SCK rules did not allow acceptance of equivalent guarantees from other systems, and therefore access to the Netherlands crane-hire business was impeded. The Commission imposed fines of ECU 1.5 million on FNK and ECU 300,000 on SCK.

COAPI - The official Spanish association of industrial property agents (dealing with patents and trademarks), whose membership is dominant in this market in Spain, was found by the Commission to have infringed Article 85(1) by setting and enforcing minimum charges for the services provided by its members. Trade between Member States was affected as the charges related to both national and foreign clients and for services carried out by members in other Member States. COAPI was instructed to bring the infringements to an end and to inform its members that they were free to establish their own individual scales of charges.

Roscoff - In this case, Irish Ferries alleged that the port authority at Roscoff had abused its position by preventing the company from gaining access to the port and offering a service to the Republic of Ireland in competition with Brittany Ferries. Before being refused access, Irish Ferries had taken bookings in the belief that it had reached agreement with the authority on using the port. On the grounds that having to cancel these bookings would cause serious and irreparable damage to its reputation, Irish Ferries asked the Commission to take urgent interim action pending a final decision. The Commission granted this request, requiring the port authority to allow Irish Ferries to use the port from 10 June 1995.

The Merger Regulation

Under the Merger Regulation (Council Regulation EEC 4064/89) the European Commission has the power to control certain large cross-border mergers or concentrations. The OFT receives details of all mergers notified to Brussels. Acting on behalf of the Director General in his role as a competent authority in the United Kingdom, it examines each case, consults the DTI and other interested government departments and submits the United Kingdom view to the Commission's Merger Task Force. The OFT also represents the United Kingdom at hearings that provide an opportunity for the parties to a merger to answer any objections the Commission may have to the transaction, and at meetings of the Advisory Committee on Concentrations, at which the Commission's draft decisions are considered.

In 1995, 111 notifications were received, a 17% increase over the previous year. Of these, 92 were cleared at the first stage (after one month) and nine were found not to be caught by the Regulation. Where the Commission concludes that there are serious doubts about the compatibility of the merger with the common market, as it did in seven cases, it undertakes a more detailed (or second-stage) investigation, which generally lasts up to four months. In four cases the Commission reached an adverse view: one merger - Nordic Satellite Distribution - was prohibited; the other three - Orkla/Volvo, ABB/Daimler-Benz, and Crown Cork & Seal/Carnaudmetalbox - were allowed to proceed on the basis of certain undertakings. Three second-stage cases were still under consideration on 31 December: RTL/Veronica/Endemol (the result of an Article 9 request from the Dutch Government), Kimberly-Clark/Scott, and Gencor/Lonrho. At the year's end a decision was still awaited on three first-stage cases.

In one case, Lyonnaise des Eaux/Northumbrian Water, the Government invoked Article 21(3) so that its legitimate interest in the proposed water merger could be considered by the Monopolies and Mergers Commission, as provided for in the Water Industry Act 1991 (see pages 33-35). The MMC reported in July and the Commission cleared the non-regulatory aspects of the transaction on 21 December.

The OFT continues to provide assistance to the Commission in its informal review of procedures. Following the publication, by the Commission, of its new Notices and revised documents in January, the Director General participated in a meeting of Directors General for Competition in October. In the same month the Commission convened the Advisory Committee to discuss a number of issues such as the notion of Community interest, the revision of thresholds and the problem of multiple notifications. In December, the Commission produced a Green Paper which is to be published to allow for a period of consultation, and it intends to produce a White Paper with formal proposals by March 1997.

Court cases

Dutch building contractor associations - The Court of First Instance rejected an appeal by 29 Dutch building contractors against a 1992 European Commission decision that imposed fines totalling ECU 22.5 million. The Court confirmed the Commission's findings that the rules on tendering procedures and prices of the national umbrella organisation restricted competition and that there had been an unlawful exchange of price information. Of particular note was the Court's confirmation that such rules could be dealt with by the Treaty of Rome if they were potentially capable of affecting trade, even if there was no appreciable effect on actual trade. The Court also upheld the level of the fines, which represented 0.5 % of the average annual value of the contracts covered.

Transatlantic agreement - In 1994, a decision by the Commission had ruled that the Transatlantic agreement by shipowners infringed Article 85(1) (AR-94, p 52). Following an application by the shipowners, the Court of First Instance suspended that part of the decision which prohibited the setting of collective rates for the inland leg of journeys. The Court found that the drop in prices for the inland leg - which, the parties argued, would be the effect of the Commission's decision - risked serious and irreparable damage to the shipowners by compromising the stability of the market. An appeal by the Commission against the Court's decision was unsuccessful.

BPB Industries - The European Court of Justice upheld a £2 million fine imposed on BPB (British Plasterboard) industries for abusing its dominant position in the United Kingdom plasterboard market. The decision marks the end of a nine-year legal battle that began after the European Commission started an investigation in 1986. This found evidence that BPB had sought to protect its home market by giving fidelity rebates to builders' merchants that promised to deal exclusively with it.

Ice cream in Germany - Two German ice-cream producers appealed against decisions of the Commission that their exclusive distribution agreements infringed Article 85(1). The Court of First Instance agreed with the Commission's finding

of an infringement. Nevertheless the decisions also prohibited the producers from entering into similar exclusive agreements for five years. Here the Court agreed with the producers that the Commission's power to find an infringement of the competition rules was limited to existing agreements and practices.

The Net Book Agreement (NBA) - In January, the European Court of Justice ruled on the appeal made by the Publishers Association against the European Commission's 1988 decision not to grant an Article 85(3) exemption to the NBA in so far as it affects trade in books between European Community Member States (see also pages 40/41). The Court ruled that the decision was wrong on procedural grounds as the arguments for retaining the Agreement had not been taken properly into account. The European Commission is in the process of re-examining the case for exemption.

Magill - In April, the European Court of Justice, on appeal from the judgment of the Court of First Instance (AR-91, p 43) upheld the European Commission's decision that the companies Radio Telefis Eireann, Independent Television Publications Ltd and the BBC, who owned the copyright on television listings information, had breached Article 86 of the Treaty of Rome by preventing Magill TV Guide Ltd from publishing a comprehensive weekly television guide in Ireland. The Commission had ordered the companies to supply the information to third parties and had ruled that, if royalties were to be charged, they should be reasonable. The Court held that although mere ownership of an intellectual property right could not create a dominant position, in this case the companies had a *de facto* monopoly on television listings information and their behaviour towards Magill had constituted an abuse of a dominant position. Furthermore, as this conduct had the effect of preventing the emergence of a new product for which there was potential consumer demand, compulsory licensing was the only way to bring the infringement to an end.

The international football transfer system - On a reference from the Belgian courts to the European Court of Justice, under Article 177 of the Treaty of Rome, Advocate General Lenz considered the application of Articles 85 and 86 of the Treaty to UEFA's transfer rule allowing a football club to demand a transfer fee from another club taking a player on transfer, and to its rule limiting the number of foreign players a club was permitted to field. The Advocate General concluded that these rules were prohibited by Article 85(1), as they amounted to an agreement between 'undertakings' (in this case, football clubs) to share their sources of supply. The Court of Justice found that the UEFA rules contravened Article 48 of the Treaty (relating to the free movement of workers); it did not consider the impact of Articles 85 and 86 on these rules.

Organisation for Economic Co-operation and Development

OFT representatives attend meetings of the OECD Committee on Competition Law and Policy and its working parties. In 1995 there were two meetings of the Committee and ten meetings of working parties. One of the major subjects for discussion was co-operation between Member Countries, including the sharing of information, which resulted in the adoption by the OECD Council of a revised Recommendation on co-operation between Member Countries on anti-competitive practices affecting international trade.

United Nations Conference on Trade and Development

Members of the United Nations Conference on Trade and Development (UNCTAD) work to the Set of Multilaterally Agreed Principles and Rules for the Control of Restrictive Business Practices (the Set). An Intergovernmental Group of Experts (IGE) meets every year to work on competition issues, exchange experiences, and promote technical assistance in the control of anti-competitive practices. The fourteenth meeting of the IGE in March prepared the way for the Third Review Conference, held in November, which reviewed the last five years of the Set and set out the work programme for the next five years. The OFT was represented at both meetings. It was agreed that intergovernmental exchanges on competition law and policy issues should continue, and that they would examine the feasibility of a study on the benefits of competition policy for economic development. It was also planned to set up a programme of small workshops at which experts from developed countries would share their experiences on specific competition issues with delegates from developing countries and those in transition.

Other international liaison

At a bilateral meeting with the French Competition Authority, the Director General discussed competition issues of mutual interest and future co-operation. Meetings were held with officials from several overseas competition authorities including those of Australia, Russia and the USA. The Director General also met senior officials from the Chinese State Administration of Industry and Commerce - the body responsible for overseeing and promoting competition in China.

In all, 63 visitors from 18 countries were received in London. Most of them came under the auspices of the OFT's Technical Assistance programme, spending one or two days meeting staff to discuss specific competition issues. Some attended presentations on the work of the OFT, while others sought help with research and surveys.

In addition, six longer attachments were organised. They

included an official from the South African Competition Board, who stayed a month, and a case-officer from the Swedish Competition Authority, who spent two months working in one of the OFT's casework sections. This attachment, which followed Sweden's entry into the European Community, was designed to give the officer first-hand experience of how the United Kingdom implements competition policy. A shorter attachment of two weeks was organised for one official each from Hungary and Lithuania, who were taking part in the European Commission's first collective training programme for staff from central and eastern European competition authorities. The aim of the programme was to expose officials from recently-formed competition authorities to competition policy and casework in the European Community. A full programme of meetings with OFT staff was arranged, together with visits to other government departments.

The most ambitious of the OFT's technical assistance activities was a year-long project, supported by the Know How Fund, to provide practical support to the Russian Anti-Monopoly Committee. An OFT economist and a Russian-speaking assistant were sent to Moscow to work alongside their Russian counterparts.

ASSISTANCE TO THE ANTI-MONOPOLY COMMITTEE IN MOSCOW

In November 1994, the OFT embarked on a project funded by the British Government's Know How Fund aimed at providing practical advice to Russia's fledgling competition authority. It was the first time the OFT had provided assistance on such a scale. For 12 months, a team of OFT experts worked in Russia, at first in the central Anti-Monopoly Committee in Moscow and then in six of the eighty-three regional offices.

The team sought to offer support that took account of the circumstances peculiar to Russia. It included seminars, advice on methodologies, the creation of case studies drawing on Russian experience, and working with case officers on live cases. This approach enabled the team to demonstrate specific ideas through practical means. The two 'resident' advisers were joined for the major seminars by a number of experts in specific fields from the OFT in London. The outcome has been the delivery of a new perspective on the approach to casework and a training package containing hypothetical case studies to enable this new perspective to be spread as widely as possible. The OFT plans to review the impact of the project in the summer of 1996.

4 Monopolies and Mergers Commission

This part of the report records the Monopolies and Mergers Commission's work on references it received under aspects of commercial and competition law where the Director General of Fair Trading has no direct statutory role. Work on issues referred to the MMC directly by the Director General or by the Secretary of State for Trade and Industry (having taken account of advice from the Director General) is covered in Part 3.

The MMC has also published its own annual review for 1995, a separate comprehensive record of its activities during the year (see Appendix J.4). This includes a personal statement by the Chairman, Graeme Odgers, and gives brief biographical details of the MMC's members.

Newspaper transfers and mergers

The transfer of the ownership of newspapers can raise issues that touch on accurate news presentation and the free expression of opinion. For this reason, newspaper transfers and mergers are treated differently from other company mergers (see pages 32-36). These procedures, first introduced under the Monopolies and Mergers Act 1965 and retained in the Fair Trading Act 1973, are administered by the Secretary of State for Trade and Industry.

In some circumstances, newspapers cannot change hands without the Secretary of State's consent. Unless the proposed transfer meets particular conditions, the Secretary of State cannot give that consent until the MMC has reported on the matter. When he does refer a newspaper merger, he may appoint additional members of the MMC from the panel maintained for that purpose (see Appendix M.2).

References to the MMC

The Secretary of State made two references in 1995:

| | |
|-------------|---|
| 20 July | Trinity International Holdings plc/Thomson Regional Newspapers (report published on 10 November) |
| 21 November | Northcliffe Newspapers Group Ltd/AberdeenJournals Ltd |

Trinity International Holdings plc/Thomson Regional Newspapers - The MMC concluded that there were no concerns on public interest grounds. Accordingly the Secretary of State gave his consent to the proposed merger.

Transfers not referred to the MMC

The Secretary of State announced his consent to the following transactions without requiring the MMC to report:

| | |
|------------|--|
| 3 March | EMAP Newspapers Ltd/ Scarborough & District Trader and Weekly News |
| 30 June | United Provincial Newspapers Ltd/ Spenborough Guardian |
| 25 July | EMAP Newspapers Ltd/ Luton and Dunstable Herald & Post, Sunday in Luton, and others |
| 24 October | Independent Newspapers (UK) Ltd/London Recorder Newspapers Ltd |
| 7 December | Johnston Press plc/ W & J Linney Ltd |

Investigations of privatised industries

Under various Acts of Parliament, bodies that monitor the working of industries and other organisations that have been privatised can refer aspects of those industries' operations to the MMC for detailed investigation.

References to the MMC

| | |
|-------------|------------------------------|
| 27 April | Telephone Number Portability |
| 11 December | BAA plc |

Reports by the MMC

Four reports were published in 1995:

| | |
|-------------|-------------------------------|
| 15 June | Scottish Hydro-Electric plc |
| 28 July | Portsmouth Water plc |
| 28 July | South West Water Services Ltd |
| 14 December | Telephone Number Portability |

Scottish Hydro-Electric plc - This reference was made by the Director General of Electricity Supply after Scottish Hydro-Electric had rejected his proposals on pricing. The MMC was asked to investigate whether the continuation, without modification, of Schedules 6 and 7 to Hydro-Electric's licence would operate against the public interest. (Schedule 6 is the price control under which separate charges for generation, transmission, distribution and supply are combined into a price per unit in customers' tariffs. Schedule 7 provides for a cross-subsidy - known as hydro benefit - from the company's generation business to its distribution and transmission businesses.)

The MMC's report said that Hydro-Electric was a vertically integrated company which generated and transmitted electricity and was the public electricity supplier for Northern Scotland - an area of around 25,000 sq km, 25% of Britain's land mass, together with 60 islands, but with only some 2% of the population of the United Kingdom as a whole. Difficult terrain, harsh winters and a dispersed population made the distribution and transmission systems costly to operate. But the geography and climate also provided Hydro-Electric with the ability to generate a quarter of its output from hydro-electricity, with low operational costs. Schedule 7 provided for transfers from the generation business to the transmission and distribution businesses to help cover the higher costs entailed in supplying electricity throughout Hydro-Electric's area. In this way, the transmission and distribution systems could be refurbished without the company's small number of customers being charged excessive prices.

The MMC found that the continuation, unchanged, of Schedules 6 and 7 might be expected to operate against the public interest, leading to higher charges than were necessary for the company to finance its activities and undertake the necessary capital expenditure to improve the quality of supply, especially to outlying areas.

On Schedule 6, the MMC recommended that appropriate changes should be made to Hydro-Electric's price constraints. On Schedule 7, it confirmed that the principle of cross-subsidy should continue to be available to the transmission and distribution businesses up to a maximum of £40 million a year (increased by inflation). It further recommended that Schedule 7 should be amended to make clear that the cross-subsidy arose from the profitability of hydro-generation and set out principles as to how it should be calculated.

These recommendations implied a reduction in real prices to the average Hydro-Electric customer of 8.5% by 1997/98. At the same time, it would allow the company to accelerate the refurbishment of its distribution network and improve the reliability of supply in the Highlands and Islands.

The MMC also recommended that the Director General of Electricity Services should set specific targets for this improvement and should monitor its performance against them.

Portsmouth Water plc and South West Water Services Ltd - The MMC was required to determine the adjustment factors and the standard amounts by which infrastructure charges were calculated for South West Water Services and Portsmouth Water for the 10 years from 1 April 1995 to 31 March 2005. The adjustment factor is the percentage by which weighted average charges for the supply of water and (for South West) sewerage services are allowed to change in relation to the retail price index. Infrastructure charges are among a number of charges that can be levied to recover the cost of providing new connections for both water and (for South West) sewerage.

The Director General of Water Services had determined an adjustment factor for South West of +1.5 for 1995/96, of +1 for the years 1996/97 to 1999/2000, and of zero for the next five years, and for Portsmouth an adjustment factor of -1.5 for each of these 10 years. For both companies (as for the rest of the industry) he determined standard amounts for the infrastructure charge of £200 (which, for South West, applied to water and sewerage). The two companies disputed these determinations, claiming that they were insufficient to enable them to finance the proper discharge of their functions.

In the case of both references, the MMC concluded that it was appropriate to allow for somewhat different levels of capital and operating expenditure (and, in the case of Portsmouth, commercial metered demand) from those that had been assumed by the Director in making his determinations. At the same time, it believed that there was scope for substantially lower expenditure than the companies considered necessary.

The MMC considered that the water industry was of relatively low risk, with a pre-tax cost of capital for the industry as a whole in the range of 6%-8%. It believed that, for South West, the cost of capital would be towards the lower end of that range but, for Portsmouth (given the company's different circumstances), it was towards the upper end. Current returns on capital value were well in excess of the cost of capital, which suggested that there was considerable scope for reducing rates of return towards the cost of capital within the first five years.

The MMC determined an overall adjustment factor of +1 for the first five years and zero subsequently for South West, and -1.5 for the first five years and -0.5 thereafter for Portsmouth. For both companies, it determined standard amounts for infrastructure charges of £200.

Telephone Number Portability - Following his failure to agree with British Telecommunications plc (BT) on a modification of the company's licence, the Director General of Telecommunications referred the matter to the MMC. The proposed modification concerned number portability - a facility that allows customers to retain their existing phone numbers when transferring their business to another operator.

Under the provisions of the BT licence, the Director General could direct the company to provide number portability, while the company was entitled to recover its reasonable costs. In August 1994, BT was directed to provide portability to a cable company, Videotron, but it could reach no agreement on the financial terms.

In its report, the MMC explained that there were three main technical solutions for the provision of portability, of which only one, known as 'tromboning' (where the call doubles back between the called party's previous local exchange and the associated trunk exchange) would be available in the immediate future. A more efficient version, 'call drop-back' (where the local exchange sends a signal back to the trunk exchange and then releases the call), was expected to be available in late 1997. The third solution, 'intelligent network' (which involves interrogating a database somewhere in the network to determine how a call should be routed), was identified as the likely preferred system in the longer term.

The MMC concluded that the introduction of number portability was necessary to promote effective competition between operators, thus benefiting customers and promoting efficiency. But the facility needed to be introduced more rapidly and effectively than was likely if BT were able to recover from other operators all the costs it was claiming

under its licence. Consequently, the situation was against the public interest.

In order to remedy the situation, the MMC proposed modifications to BT's licence which would allocate the costs of implementing number portability between BT and other licensed operators as follows:

BT should bear the initial costs of modifying its network (system set-up);

BT should be able to pass on to the other operator concerned the costs of enabling individual customers to port their numbers (per line set-up); and

under call drop-back, BT should bear the additional costs involved in routeing a call to a ported number (conveyance) - during the period of tromboning however, the additional costs by comparison with call drop-back should be shared equally between BT and the other operator.

These recommendations would lead to BT bearing roughly two-thirds, and other operators one-third, of the total of BT's per-line set-up and additional conveyance costs over the period 1996/97 to 1999/2000.

A The OFT Code of Practice on Enforcement

A.1 Consumer credit licensing

Since the Consumer Credit Licensing Branch's Quality Policy statement, reflecting the legislation, requires the Branch to issue licences only 'to those [applicants] whose fitness is not in doubt', it is not possible to issue a licence where the relevant data is incomplete. To reflect this, since April 1995 the target figures have been produced on a 'net' basis, that is to say they make allowance for delays in processing caused, for example, by applicants inadvertently failing to provide all the relevant information required. They do not, however, make any allowance for those cases in which, having received the data, the OFT concludes that further investigation is required.

The unbracketed figures shown below are for the year as a whole, but comprise a mix of 'gross' and 'net' amounts. The bracketed figures cover April to December only, but they provide a more reliable guide to performance against target since they record 'net' amounts exclusively.

Target: to issue a consumer credit licence within 20 working days of receipt of application in 90% of cases

- Number of licences issued in year: 15,509 (11,299)
- Performance against target: 88.4% (93.4%)

Target: to issue a variation on a consumer credit licence within 15 working days of receipt of application in 90% of cases

- Number of variation licences issued in year: 6,359 (4,740)
- Performance against target: 84.7% (89.6%)

Target: to process notification of changes to licence details within 15 working days of receipt of information in 90% of cases

- Number of notifications processed in year: 15,257 (10,962)
- Performance against target: 96.2% (96.1%)

Target: to issue renewal licences:

before expiry of the existing licence in 90% of all applications received no later than one month before expiry

- Number of such renewal applications received in year: 1,621 (731)
- Performance against target: 79.9% (89.1%)

or within 20 working days in 90% of all applications received less than one month before expiry

- Number of such renewal applications received in year: 489 (277)
- Performance against target: 81.6% (89.5%)

Target: in cases where there is doubt about whether a licence may be granted or retained, to adjudicate within three months of receiving the final representations

- Number of cases dealt with in year: 178
- Performance against target: 82%

A.2 Credit reference disputes

Target: to resolve disputes between a credit reference agency and a consumer within two months of receiving information from the parties

- Number of cases dealt with in year: 47
- Performance against target: 98%

A.3 Estate agency

Target: to adjudicate within three months of receiving final representations on whether a prohibition or warning order should be made

- Number of cases dealt with in year: 15
- Performance against target: 82%

A.4 Monopolies and anti-competitive practices

Target: to ensure that all parties to an enquiry are kept informed of progress and the issues of concern, and to give a substantive response to complaints and other correspondence within 30 working days in 90% of cases

- Number of cases dealt with in year: 1,260
- Performance against target: 94%

Target: to complete an enquiry, by deciding the matter requires no further action, calls for assurances or undertakings or merits reference to the MMC, within six months in 75% of cases

- Number of cases dealt with in year: 144
- Performance against target: 80%

A.5 Mergers

Target: to advise the Secretary of State in confidential guidance cases within 19 working days of receipt of satisfactory information from the parties in 90% of cases

- Number of cases dealt with in year: 68
- Performance against target: 62%

Performance improved slightly on that for 1994, but remained significantly below target on a similar number of cases completed. Experience has shown that the 19-day target period was based on certain assumptions which proved to be unrealistic in practice. In particular, many of the cases submitted for confi-

dential guidance have been far more complex than had been expected. The assessment period was reviewed during 1995, but no revised target had been set by the end of the year.

Target: to advise the Secretary of State in the case of mergers not pre-notified under statutory provisions within 39 working days of receipt of satisfactory information from the parties in 90% of cases

- Number of cases dealt with in year: 175
- Performance against target: 94%

A.6 Restrictive trading agreements

Target: to acknowledge agreements furnished for registration within five working days

- Number of cases dealt with in year: 1,393
- Performance against target: 100%

It has been agreed to drop this target from the formal record from 1 January 1996 since it is standard OFT procedure to acknowledge all agreements and other correspondence as soon as they are received and performance against this target will always be 100%.

Target: to register an agreement subject to published *de minimis* criteria, and advise on the significance of the restrictions, within two months of receipt

- Number of cases dealt with in year: 3
- Performance against target: 100%

Target: to register other agreements and, provided all necessary information has been submitted, to assess the significance of the restrictions, within six months of receipt in 60% of cases

- Number of cases dealt with in year: 1,229
- Performance against target: 96%

Following a review, this target has now been tightened. From 1 January 1996 the aim is to assess the significance of the restrictions in agreements within six months in 70% of cases.

A.7 Responses to enquiries

Target: to respond to general enquiries from members of the public within five working days

- Number of enquiries processed in year: 2,164
- Performance against target: 97%

Target: to respond to general enquiries from students about the work of the OFT within 10 working days

- Number of enquiries processed in year: 649
- Performance against target: 95%

In addition, the OFT's Public Liaison Unit dealt with 28,514 general enquiries by phone during the course of 1995.

Target: to respond to enquiries from business about aspects of the law administered by the OFT or about the OFT's internal procedures within 10 working days

- Number of enquiries processed in year: 5,017
- Performance against target: 99%

The vast majority of these enquiries were made to the Consumer Credit Licensing Branch. Many of these were simple phone queries about licensing procedures and could be answered immediately.

Note: 'Performance against target' relates to the total workload under each head. So, where a target is set 'in 90% of cases' for example, a performance of 93% shows that the target has been bettered - not that performance has been met in 93% of the target cases.

B Assurances, undertakings and court orders

B.1 Action under consumer protection legislation

Full details of individual assurances and undertakings listed in this appendix are available from the OFT's Consumer Affairs Division

Fair Trading Act 1973 - action under Part III

See also page 26 of this report

■ Assurances given by traders persistently in breach of their obligations

| | |
|--------------|--|
| 11 January | Charlotte Margaret Loraine Hunter McClupha |
| 24 January | Andrew Evans |
| 25 May | Alan Albert Pullinger |
| 5 June | Elias Antoun Bouciri |
| 8 June | Kitchen Magic Ltd |
| 9 June | Susan Elizabeth Davies |
| 9 June | John Anthony Davies |
| 18 June | John Charles Rimell |
| 21 June | Christopher Fulke-Greville |
| 17 July | David Pleece |
| 17 July | WTS Electronics Ltd |
| 17 July | Mark Jago Barnby |
| 3 August | Nigel Pitt |
| 14 September | Diana Patricia Smith |
| 14 September | Mark Leslie Smith |
| 4 October | Richard Taylor |
| 20 October | Total Computer Supplies Ltd |
| 20 October | Patricia Dykes |
| 26 October | Peter Thompson |
| 30 October | Adrian Rees |
| 1 December | David Hubert Hough |
| 1 December | Grace Kirkland Hough |

■ Court orders under section 38

| | |
|------------|--------------------------|
| 20 January | Christopher Barry Davies |
| 20 January | John Haughey |
| 1 February | Shakrat Sheikh |

Control of Misleading Advertisements Regulations 1988

See also pages 26/27 of this report

■ Undertakings received in lieu of court action

| | |
|-------------|--------------------------------|
| 9 February | Andrew Mark Hall |
| 9 February | Trevor John Roberts |
| 21 February | Birbeck Marketing Services Ltd |

| | |
|-----------|-------------------------------|
| 27 June | Cornerstone Estate Agency Ltd |
| 11 August | Golden Charter Ltd |

B.2 Action under competition policy legislation

Full details of individual assurances, undertakings and court orders listed in this appendix are available from the OFT's Competition Policy Division.

Fair Trading Act 1973 - action on monopolies

See also pages 29-32 of this report

■ Undertakings given following a report from the MMC

| | |
|------------|---|
| 1 February | Prosper De Mulder Ltd |
| 1 February | William Forrest and Son (Paisley) Ltd |
| 7 August | The Maidstone & District Motor Services Ltd |

Resale Prices Act 1976

See also page 38 of this report

■ Assurances

| | |
|-------------|---|
| 25 January | Ventana Europe Ltd |
| 26 January | Nisa-Today's (Holdings) Ltd |
| 14 March | Roland (UK) Ltd |
| 22 March | Charles E Eaton and Son Ltd |
| 5 June | Cornish Weekly Newspapers Ltd |
| 19 July | Buoyant Upholstery Ltd |
| 20 July | Rover Group Ltd |
| 21 July | Brompton Bicycles Ltd |
| 23 November | Orange Personal Communications Services Ltd |
| 5 December | R J Chicken and Sons Ltd |

Restrictive Trade Practices Act 1976

See also pages 39-41 of this report

■ Undertakings given in lieu of court orders

| | |
|--------|---|
| 5 July | AAH Environmental Services Ltd (formerly Tyler Environmental Services Ltd) |
| 5 July | G Burley and Sons Ltd |
| 5 July | Basil H Childs |
| 5 July | R Hewison and Sons |
| 5 July | Landscape Maintenance Ltd |
| 5 July | Mitchell and Struthers (Contracts) Ltd |
| 5 July | J V Strong & Co Ltd |
| 5 July | Tonrin Contractors Ltd |
| 5 July | Turfsoil Ltd |
| 5 July | Welbourn Sportsgrounds Ltd |

■ Court order

| | |
|--------|---------------------------|
| 5 July | Cliff Evans (Knockin) Ltd |
|--------|---------------------------|

■ Findings of contempt of court for breach of undertakings or orders

| | | | |
|----------|---|----------|--|
| 4 August | ARC Ltd <i>(formerly Amey Roadstone Corporation Ltd)</i> | 4 August | RMC (South East) Ltd |
| 4 August | Hartigan Readymix Ltd | 4 August | Redland Readymix Ltd |
| 4 August | Mixconcrete Ltd (taken over by Pioneer) | 4 August | Tarmac Roadstone Holdings Ltd |
| 4 August | Pioneer Mixconcrete (UK) Ltd | 4 August | Tilcon Holdings Ltd <i>(formerly Tilling Construction Services Ltd)</i> |
| 4 August | Quickmix Ltd | 4 August | Willment Ready Mix Concrete Ltd |
| 4 August | RMC (Eastern Counties) Ltd | 4 August | John Wilson <i>(then general manager and a director of RMC (London))</i> |
| 4 August | RMC (London) Ltd | 4 August | Stephen Webb-Jones <i>(then a director of RMC (Eastern Counties) and RMC (London))</i> |
| 4 August | RMC (North West) Ltd | 4 August | Michael Halling <i>(then a director of RMC (North West))</i> |
| 4 August | RMC (Transite) Ltd | 4 August | Bernard Henry <i>(then a director of Mixconcrete)</i> |
| 4 August | RMC (Thames Valley) Ltd | 4 August | Peter Pretty <i>(then a director of Pioneer)</i> |
| 4 August | RMC (East Midlands) Ltd | | |
| 4 August | RMC (West Midlands) Ltd | | |

C Action under the Consumer Credit Act 1974

C.1 General notices

The following notices, issued by the Director General, were advertised in the *London, Edinburgh, and Belfast Gazettes*.

■ Group licences

| No | Date issued | Subject |
|------|-------------|---|
| 1057 | 28 February | Small Firms Service Counsellors - Notice inviting representations in respect of proposed revocation of licence |
| 1058 | 2 March | Institute of Chartered Accountants in Scotland - Renewal (reissue of GN 1055) |
| 1059 | 27 April | Small Firms Service Counsellors - Revocation of Group Licence 900015 |
| 1060 | 11 May | The Chartered Association of Certified Accountants - Renewal (amended version of GN 1052) |
| 1061 | 3 November | Institute of Business Counsellors - Notice inviting representations in respect of proposed compulsory variation |

C.2 Regulations and orders

The Secretary of State for Trade and Industry made the following orders in 1995. Copies can be purchased from HMSO bookshops or, by post, from HMSO Publications Centre, PO Box 276, London SW8 5DT.

The Consumer Credit (Exempt Agreements) (Amendment) Order 1995: SI 1995/1250 - This Order amends the Consumer Credit (Exempt Agreements) Order 1989 by adding the names of six bodies corporate to the list, in Part III of Schedule I to the Order, of bodies corporate named or specifically referred to in Orders made under certain sections of the Housing Act 1985. Where such a body is named in Part III, the Consumer Credit Act 1974 does not regulate certain of the agreements under which it advances money on the security of a dwelling-house.

The Consumer Credit (Exempt Agreements) (Amendments) (No 2) Order 1995: SI 1995/2914 - This Order amends the Consumer Credit (Exempt Agreements) Order 1989. It adds the name of one insurance company to the list in Part I of Schedule I to the Order as well as the names of five bodies corporate to the list in Part III of that Schedule.

Part I lists certain insurance companies, friendly societies and charities. Part III lists certain corporate bodies that have been named or specifically referred to in Orders made under certain sections of the Housing Act 1985.

Where the name of a body is included in either of these lists the Consumer Credit Act 1974 does not regulate certain of the agreements under which it advances money.

C.3 Exemptions

Under section 101(8) of the Consumer Credit Act, a consumer hire business can seek a direction from the Director General that the agreements it makes should be exempted from the general right of consumers to terminate agreements made under the Act. One such application was refused in 1995.

Under section 60(3) a consumer hire or credit business can seek a direction from the Director General that the agreements it makes should be exempted from the need to comply with Part V of the Act on the grounds of impracticability. One such application was refused in 1995.

C.4 Powers of entry and inspection

Six applications were received during the year from local authority enforcement officers, seeking the Director General's authorisation under section 162(5) to use powers of entry and inspection. Four authorisations were granted, one application was refused and one application was withdrawn by the local authority.

C.5 Credit reference agencies

Sixty-four applications (14 more than in 1994) were made for the Director General to exercise his powers under section 159(5) to arbitrate between a consumer and a credit reference agency about information held on a credit reference file. Fifty-three were resolved by negotiation, without the Director General having to make an Order, as were eight out of the ten applications which were outstanding at the end of 1994. For the first time since 1992, it proved impossible to resolve all the cases by negotiation. Consequently, three separate Orders were made in 1995, requiring a credit reference agency to place on the appropriate file a statement by the Director General, instead of the notice of correction drafted by the individual concerned.

Ten applications were still outstanding at the end of 1995.

C.6 Overdrafts on current accounts

By determinations made under section 74(3), on certain conditions - including notification to the Director General - banks and building societies are exempted from some of the Act's requirements when they advance overdrafts on current accounts or finance certain defined probate agreements. (The exemptions cover requirements relating to the form and contents of agreements and the provision of advance notice of cancellation rights.) In 1995, notifications were received from two banks.

C.7 Licensing decisions

Refusals of applications for a standard licence (25)

■ Determinations against which there was no appeal (21)

| | |
|--------------|--|
| 6 January | Shander Herian |
| 26 January | Mohammed Azam |
| 6 March | Linda Jane Fowler |
| 30 March | Speed 4177 Ltd |
| 11 April | Centalfare Ltd |
| 22 May | Northern Development Properties (UK) Ltd |
| 25 May | Jason Eddic Jones |
| 1 June | Robert John Morris |
| 15 June | Brian Robert Jones |
| 25 July | John Edward Ryan |
| 26 July | Dean Rowan |
| 4 August | Eurodealer Ltd |
| 8 August | Alexandra Joy Head |
| 15 August | Arrow Garages Ltd |
| 31 August | Martin Cairns |
| 31 August | Business Creditors Management UK Ltd |
| 31 August | Alan Delroy Mullings |
| 14 September | John Moore Security Ltd |
| 9 October | Balbir Singh Lall |
| 17 November | Peter Jackson Waddell |
| 20 November | Stuart Graham Carter |

■ Determinations where the appeal period had not expired by 31 December (2)

| | |
|-------------|---------------------------------|
| 5 December | John Simpson |
| 11 December | Hootys Supplies (Wholesale) Ltd |

■ Determinations where an appeal was pending on 31 December (2)

| | |
|------------|---------------------|
| 13 January | MF Securities Ltd |
| 12 June | Colin George Walker |

■ Determinations where an appeal was dismissed (1)

| | |
|--------|--------------|
| 24 May | Iain Thomson |
|--------|--------------|

Applications for licences granted in terms different to those applied for (1)

■ Determinations against which there was no appeal (1)

| | |
|------------|-----------------------|
| 7 February | Inexpensive Loans Ltd |
|------------|-----------------------|

Revocations of standard licences (59)

■ Determinations against which there was no appeal (55)

| | |
|------------|------------------------------------|
| 10 January | Gary Sidney Baldwin |
| 10 January | John Batty |
| 11 January | Stately Home Interiors |
| 23 January | Medas (UK) Ltd |
| 31 January | Rajinder Kumar |
| 2 February | Abdul-Latif Akintokunbo Akinbobola |
| 2 February | Fairfield Thompson |
| 9 February | Mohammed Yaqoob Daar |
| 5 April | Alper Ismail |

| | |
|--------------|---|
| 6 April | Christine Jane Duncan |
| 7 April | Martin Dennis Dunn |
| 11 May | Alan Thomas |
| 11 May | Barry Lehaney |
| 12 May | Neil Prestwich |
| 17 May | Ivan Frederick Brown |
| 22 May | Mark Robert Witchell |
| 22 May | Pauline Francis Proudfoot |
| 22 May | Emlyn David Williams (<i>two determinations</i>) |
| 25 May | Stratton Auto Mart Ltd |
| 25 May | Edward Jones |
| 1 June | Hoffnant Service Station (<i>two determinations</i>) |
| 6 June | Money Matters |
| 23 June | Michael Taylor |
| 23 June | Colin Cox and Michael Cox |
| 27 June | Malcolm Chapman Financial Services Ltd |
| 11 July | Alan Redpath - also known as Alan Ridpath (<i>two determinations</i>) |
| 4 August | Draysol Ltd |
| 4 August | Anthony Lewis Wren |
| 16 August | ECU Securities plc |
| 16 August | Vincenzo Angelo Stanzione |
| 31 August | Finance Accounts and Business Services Ltd |
| 31 August | Jeffrey Frederick Gold |
| 31 August | Cat Motorcycles Ltd |
| 31 August | John Cairns |
| 31 August | Bertram Everton Greene |
| 13 September | Paul Merrington |
| 15 September | Robert Tancock |
| 22 September | Marlowe Sachs (Independent Financial Advice) Ltd |
| 3 October | David William Harris |
| 11 October | Dalvir Bansal |
| 12 October | Angelo Psaila |
| 24 October | Gary J Westwood Ltd |
| 24 October | Gary Westwood |
| 2 November | Kevin Norman John Edmondson |
| 3 November | Robert Alfred Harwood |
| 3 November | Ian Anthony Jewers |
| 9 November | Christopher Hcaney |
| 9 November | Paul Pearson |
| 13 November | Roy John Watterson |
| 20 November | John McGroty |
| 28 November | Firehawk Ltd |
| 28 November | Linda Joan O'Leary |

■ Determinations where the appeal period had not expired by 31 December (1)

| | |
|------------|-------------|
| 5 December | Paul Davics |
|------------|-------------|

■ Determinations where an appeal was pending on 31 December (3)

| | |
|-------------|-------------------|
| 5 January | A MAG Ltd |
| 13 January | Falco Finance Ltd |
| 1 September | Ikonland Ltd |

■ Determinations where an appeal was dismissed (2)

| | |
|---------|------------------------------|
| 15 June | Baljit Singh Khosa |
| 18 July | Richard Lee and Suzanne Lunt |

■ Determinations where an appeal was abandoned (1)

| | |
|------------|------------|
| 20 January | Alan Hardy |
|------------|------------|

C.8 New standard licences: 1991-95

| | | | | | | Cumulative totals |
|--|--------|--------|--------|--------|--------|----------------------|
| | 1991 | 1992 | 1993 | 1994 | 1995 | 1976-95 |
| Applications received | 24,785 | 20,926 | 18,896 | 17,751 | 15,775 | 404,272 |
| Licences issued | 24,136 | 20,588 | 18,910 | 16,900 | 15,512 | 387,138 |
| Still under consideration on 31 December | 1,925 | 1,841 | 1,278 | 1,487 | 1,169 | n/a |

Source: Office of Fair Trading

C.9 Analysis of types of business covered by standard licences issued: 1991-95¹

| Type of business | | | | | | Cumulative totals |
|---|--------|--------|--------|--------|--------|----------------------|
| | 1991 | 1992 | 1993 | 1994 | 1995 | 1976-95 |
| A: Consumer credit | 7,276 | 8,676 | 8,082 | 7,669 | 7,489 | 123,191 |
| B: Consumer hire | 4,053 | 4,613 | 4,344 | 4,533 | 4,497 | 71,292 |
| C: Credit brokerage | 22,913 | 18,813 | 17,227 | 16,150 | 14,458 | 340,611 |
| D: Debt adjusting and debt counselling | 13,202 | 10,943 | 9,361 | 7,900 | 5,860 | 141,675 |
| E: Debt collecting | 3,013 | 3,015 | 2,461 | 2,533 | 2,432 | 38,891 |
| F: Credit reference agency | 1,887 | 1,901 | 1,819 | 2,371 | 2,406 | 18,388 |
| With the right to canvass debtor-creditor-supplier or regulated consumer hire agreements off trade premises | 8,894 | 7,038 | 6,755 | 6,215 | 5,025 | 125,193 |

Source: Office of Fair Trading

¹ A single licence can cover more than one type of business; consequently, for any year, the totals of the figures shown in this table exceed the number of licences issued.

C.10 Existing licences – action instigated by licensees: 1991-95

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|--|--------|--------|--------|--------|--------|
| <i>Renewal of licences:</i> | | | | | |
| applications received | 4,922 | 5,506 | 5,056 | 3,386 | 1,733 |
| renewal licences issued | 3,268 | 5,600 | 4,746 | 3,154 | 2,110 |
| still under consideration on 31 December | 1,162 | 630 | 633 | 626 | 123 |
| licences allowed to lapse | 7,914 | 15,545 | 19,761 | 17,233 | 13,907 |
| <i>Variations of the terms of licences:</i> | | | | | |
| applications received | 7,782 | 7,856 | 7,182 | 6,747 | 6,615 |
| variations granted | 6,703 | 7,129 | 6,599 | 6,051 | 6,359 |
| still under consideration on 31 December | 581 | 458 | 380 | 519 | 350 |
| <i>Changes in particulars about licensees:</i> | | | | | |
| notifications received | 39,668 | 62,306 | 46,667 | 43,696 | 15,577 |
| <i>Voluntary surrender of licences:</i> | | | | | |
| notices of surrender received | 1,774 | 3,179 | 3,053 | 1,533 | 1,367 |

Source: Office of Fair Trading

C.11 Licence applications the Director General was minded to refuse, to grant in different terms, or to refuse to vary: 1991-95

| Year | Numbers by business and trades affected | | | | | |
|-------------------------------------|---|-----------------------------------|--|-------------------|--------------------------------------|--|
| | Motor dealers | Debt collectors and investigators | Estate, insurance, and mortgage agents | Finance companies | Retail trades and commercial leasing | Building and home improvements companies |
| 1991 | 37 | 2 | 19 | 52 | 13 | 4 |
| 1992 | 26 | 6 | 3 | 17 | 16 | 4 |
| 1993 | 23 | 6 | 3 | 16 | 12 | 12 |
| 1994 | 26 | 3 | 9 | 10 | 19 | 14 |
| 1995 | 26 | 6 | 1 | 1 | 15 | 10 |
| <i>Cumulative totals</i> 1977-95 | 697 | 59 | 127 | 246 | 402 | 139 |

Source: Office of Fair Trading

C.12 Licences the Director General was minded to revoke, suspend, or vary compulsorily: 1991-95

| Year | Numbers by business and trades affected | | | | | |
|-------------------------------------|---|-----------------------------------|--|-------------------|--------------------------------------|--|
| | Motor dealers | Debt collectors and investigators | Estate, insurance, and mortgage agents | Finance companies | Retail trades and commercial leasing | Building and home improvements companies |
| 1991 | 26 | 0 | 13 | 31 | 30 | 3 |
| 1992 | 32 | 1 | 12 | 34 | 20 | 1 |
| 1993 | 46 | 7 | 6 | 47 | 7 | 5 |
| 1994 | 26 | 2 | 15 | 33 | 11 | 9 |
| 1995 | 38 | 9 | 2 | 36 | 51 | 6 |
| <i>Cumulative totals</i> 1977-95 | 874 | 73 | 224 | 496 | 369 | 127 |

Source: Office of Fair Trading

C.13 Licensing decisions and appeals: 1991-95¹

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|--|------------------------|------------------------|------------|------------|------------|
| <i>Notices served on applicants and licensees regarding fitness:</i> | | | | | |
| number served | 220 | 172 | 190 | 177 | 211 |
| not determined in earlier years | 100 | 102 | 95 | 70 | 122 |
| <i>Totals</i> | <u>320²</u> | <u>274²</u> | <u>285</u> | <u>247</u> | <u>333</u> |
| <i>Cases concluded as follows:</i> | | | | | |
| favourable determination | 72 | 68 | 83 | 39 | 53 |
| adverse determination | 91 | 92 | 104 | 66 | 85 |
| application withdrawn | 37 | 11 | 5 | 7 | 14 |
| licence relinquished | 18 | 8 | 16 | 10 | 47 |
| still under consideration on 31 December | 102 | 95 | 70 | 122 | 111 |
| 'Minded to refuse' notices withdrawn | 0 | 0 | 7 | 3 | 5 |
| <i>Totals</i> | <u>320²</u> | <u>274²</u> | <u>285</u> | <u>247</u> | <u>333</u> |
| <i>Appeals to the Secretary of State:</i> | | | | | |
| lodged | 11 | 9 | 6 | 4 | 5 |
| brought forward from earlier years | 18 | 11 | 5 | 6 | 4 |
| <i>Totals</i> | <u>29</u> | <u>20</u> | <u>11</u> | <u>10</u> | <u>9</u> |
| <i>Disposed of as follows:</i> | | | | | |
| upheld | 3 | 2 | 0 | 2 | 0 |
| dismissed | 10 | 5 | 4 | 4 | 3 |
| abandoned | 5 | 5 | 1 | 0 | 1 |
| terminated | 0 | 1 | 0 | 0 | 0 |
| still under consideration on 31 December | 11 | 5 | 6 | 4 | 5 |
| <i>Totals</i> | <u>29</u> | <u>20</u> | <u>11</u> | <u>10</u> | <u>9</u> |

Source: Office of Fair Trading

¹ These figures cover all decisions where an adverse fitness notice was issued, including licence and other applications and the variation or revocation of existing licences. Appendix C.7 lists all adverse determinations and appeal decisions made in 1995.

² The totals shown in the annual reports for 1991 (page 52) and 1992 (page 46) erroneously combined annual and cumulative figures. The year-by-year totals shown here have been corrected.

C.14 Unlicensed trading – validation orders sought: 1991-95

| Year | Cases decided | Others made | Applications withdrawn or made of no effect | Orders refused | Orders granted in different terms | Outstanding cases |
|--|---------------|-------------|---|----------------|-----------------------------------|-------------------|
| Section 40(2): regulated credit or hire agreements made by an unlicensed trader | | | | | | |
| 1991 | 6 | 3 | 0 | 0 | 3 | 1 |
| 1992 | 6 | 5 | 0 | 0 | 1 | 0 |
| 1993 | 6 | 5 | 0 | 0 | 1 | 0 |
| 1994 | 4 | 1 | 0 | 3 | 0 | 2 |
| 1995 | 0 | 1 | 2 | 0 | 0 | 0 |
| Section 148(2): agreements for the services of an unlicensed trader carrying on an ancillary credit business | | | | | | |
| 1991 | 1 | 1 | 0 | 0 | 0 | 0 |
| 1992 | 1 | 0 | 0 | 1 | 0 | 0 |
| 1993 | 2 | 2 | 0 | 0 | 0 | 0 |
| 1994 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1995 | 0 | 2 | 0 | 0 | 0 | 0 |
| Section 149(2): regulated credit or hire agreements made by a trader with consumers introduced by an unlicensed credit broker | | | | | | |
| 1991 | 5 | 2 | 0 | 1 | 2 | 2 |
| 1992 | 1 | 0 | 1 | 1 | 1 | 3 |
| 1993 | 3 | 2 | 0 | 0 | 1 | 2 |
| 1994 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1995 | 0 | 3 | 0 | 0 | 0 | 1 |

Source: Office of Fair Trading

C.15 Group licences in effect on 31 December 1995

| Organisation | Categories of business ¹ | Persons and bodies covered |
|---|-------------------------------------|----------------------------|
| Law Society | A, C, D, E | 66,654 members |
| Law Society of Scotland | A, C, D, E | 1,189 firms |
| Law Society of Northern Ireland | A, C, D, E | 1,542 members |
| National Association of Citizens Advice Bureaux | D | 716 bureaux |
| Age Concern England | D | 370 organisations |
| Chartered Association of Certified Accountants | A, C, D | 3,378 members |
| Institute of Chartered Accountants in England and Wales | A, C, D | 29,739 members |
| Institute of Chartered Accountants in Ireland | A, C, D | 443 members |
| Institute of Chartered Accountants of Scotland | A, C, D | 1,355 members |
| Citizens Advice Scotland | D | 64 bureaux |
| Local Enterprise Agencies | C, D | 373 agencies |
| Federation of Independent Advice Centres | D | 906 members and associates |
| Higher Education Institutions | C | 594 institutions |
| Scottish Enterprise | A, B, C, D | 12 companies |
| Highlands and Islands Enterprise | A, B, C, D | 10 companies |
| Institute of Business Counsellors | C, D | 1,621 members |

Source: Office of Fair Trading

¹ Licence categories:

| | |
|----------------------------|---------------------------------------|
| A Consumer credit business | D Debt adjusting and debt counselling |
| B Consumer hire business | E Debt collecting |
| C Credit brokerage | F Credit reference agency |

D Action under the Estate Agents Act 1979

D.1 General notices

No general notices were issued in 1995.

D.2 Regulations and orders

No new regulations or orders were made in 1995.

D.3 Prohibition and warning orders

Prohibition orders against which there was no appeal (9)

| <i>Date order came into force</i> | <i>Name</i> |
|-----------------------------------|----------------------|
| 1 March | Rajinder Kumar |
| 10 March | Mohammed Yaqoob Daar |
| 10 June | John Anthony Lyons |
| 4 July | Mohammed Aslam |

| | |
|--------------|---|
| 6 September | Jelena Jenkins |
| 29 September | Garry Roland Hersh |
| 19 October | Michael Evans <i>(partial prohibition)</i> |
| 25 November | Graham Lawrence Steele |
| 25 November | Peter Burke |
| 28 November | Christopher Anthony Evans |
| 28 November | Kyriacos Menicou |
| 29 November | Kamlesh Panchal |
| 1 December | David Frederick Duff |
| 1 December | Victor Kinsey |

Prohibition order against which an appeal was pending on 31 December 1995 (1)

| <i>Date appeal was lodged</i> | <i>Name</i> |
|-------------------------------|-----------------------|
| 31 August | Martin Robert Stevens |

Refusal to vary a prohibition order where an appeal was dismissed (1)

| <i>Date appeal was dismissed</i> | <i>Name</i> |
|----------------------------------|--------------------------|
| 12 June | John Michael Ward-Horner |

No warning orders were issued in 1995.

E Action under the Control of Misleading Advertisements Regulations 1988

E.1 Complaints received

The OFT received a total of 116 complaints about misleading advertisements in 1995. This represented a 17% reduction on the total of 139 complaints recorded in 1994. The complaints that were received can be broken down as follows:

Complaints received from:

| | |
|---------------------------------|----|
| Consumers | 51 |
| Trading standards departments | 28 |
| Businesses | 4 |
| Trade associations | 3 |
| Advertising Standards Authority | 2 |
| Members of Parliament | 1 |
| Government departments | 1 |
| Others | 15 |

Subjects featured in advertisements giving rise to complaints:

| | |
|-----------------------------|----|
| Personal goods and services | 23 |
|-----------------------------|----|

| | |
|--------------------------------------|----|
| Business and employment | 20 |
| Holidays, travel and leisure | 7 |
| Homeworking schemes | 19 |
| Banking and financial services | 18 |
| Leisure (including books, toys, etc) | 18 |
| Other subjects | 11 |

The types of media in which these advertisements appeared:

| | |
|---------------------------------|----|
| Brochures and leaflets | 53 |
| Local newspapers | 13 |
| National newspapers | 16 |
| Magazines and other periodicals | 13 |
| Direct mailshots | 9 |
| Other media | 12 |

Trade practices complained of:

| | |
|---|----|
| Selling techniques - | |
| misleading claims about goods | 71 |
| misleading claims about availability | 10 |
| misleading price claims | 5 |
| other selling techniques | 23 |
| Defective goods | 3 |
| Non-delivery of goods | 3 |
| Breaches of Consumer Credit (Advertisements) Regulations 1989 | 1 |

Of the 116 complaints received, 42 were passed to other established means of control:

| | |
|---------------------------------|----|
| Advertising Standards Authority | 23 |
| Trading standards departments | 15 |
| Other government departments | 4 |

F Consumer complaints – 12 months to 30 September 1995

F.1 Introduction to the statistical returns and analyses

Many bodies record details of complaints made by individual consumers. There are arrangements for trading standards and environmental health departments, citizens' advice bureaux and certain other advice agencies to supply the OFT with quarterly returns of the complaints reported at local level (although the OFT has no authority to intervene in individual cases). The figures supplied are aggregated to produce the complaints information given in **Appendices E2** to **E4**.

In **Appendices E2** and **E3** the aggregated returns have been broken down by product or service group and specify the trading practices that gave rise to individual complaints. **Appendix E2** analyses the complaints that were reported by trading standards departments and advice agencies (while **Appendix E2a** gives a breakdown of the sources of the complaints figures in each group of goods or services). **Appendix E3** analyses those reported by environmental health departments.

Appendix E4 combines the complaints data shown in **Appendices E2** and **E3** and compares them with the equivalent figures for the preceding 12 months. It also provides some indication of the relationship between the number of complaints in 1994/95 and consumer expenditure in the same period.

Trends in the complaints figures

In the 12 months to 30 September 1995, the OFT was notified of almost 815,500 complaints recorded by local bodies. This represented an increase of 1% on the total of 806,900 complaints notified in 1993/94 — but the number of aggregated complaints returns submitted also rose slightly, from 427 in 1993/94 to 431 in 1994/95.

Almost 98% of the reported complaints had been taken up with local authority trading standards departments — the same proportion as in the preceding 12 months' — while the total number of complaints recorded by this source increased by 1%. The number of complaints recorded by environmental health departments was almost unchanged, but those recorded by citizens' advice bureaux fell by 3% and those by other advice agencies by 27%.

Within the overall 1% rise in recorded complaints, the total concerning goods grew by 2.9% whereas those concerning services fell by 2.5%. In 1994/95, goods still accounted for two-thirds of all recorded consumer complaints.

Complaints in the six groups of goods and services

Among the six broad groups of goods and services into which complaints are divided there were again marked differences in

movements in 1994/95. Three groups saw a rise in complaints, the largest being in group A 'House fittings and appliances' and group B in 'Other household requirements', each up by 5%, while in group E 'Transport' there was an increase of 3%. In contrast, there was a fall of 1% in group C 'Personal goods and services' and a drop of no less than 9% in both group D 'Other services' and group F 'Leisure'. Nevertheless the share of total complaints within each group remained broadly similar to that of the previous 12 months, with more than half of all complaints falling in two groups — group A 'House fittings and appliances' accounting for 32% of all complaints, and group C 'Personal goods and services' for 23%.

Complaints in specific categories

Within the groups of goods and services, seven specific categories each attracted more than 40,000 complaints. These were: category EE 'Other personal goods and services' (79,200 complaints); category AG 'Radio, TV, other electrical goods and hire' (64,600); category AB 'Home maintenance, repairs and improvements' (49,400); category CA 'Clothing and clothing fabrics' (47,400); category BA 'Food and drink' (46,100); and category AH 'Major appliances' (42,500). Only in the first-named of these categories were there fewer complaints than in the previous 12 months — with the total down by 5,370, a reduction of 6% — following large percentage increases in each of the five preceding years. In each of the other six categories mentioned, the number of complaints rose by less than 10%.

Large year-on-year percentage increases were recorded under a number of heads. Proportionately, the largest were in category CH 'Tobacco and smokers' requisites' (up 51%), category DH 'Other financial services' (up 48%), category BG 'Telecommunications' (up 43%), and category BC 'Gas' (up 27%). Apart from category CH, each of these categories had also seen percentage increases between 1992/93 and 1993/94, with a particularly large rise (of 44%) in category BG (categories BC and DH had each seen increases of less than 10%).

At the other end of the scale, there was a large drop in the number of complaints recorded in 1994/95 in category EB 'Air travel' (down 38%), while seven other categories experienced falls of 20% or more. These were: category BB 'Domestic solid and liquid fuel'; category BD 'Electricity'; category DA 'Banking'; category DF 'Life insurance'; category DG 'Non-life insurance'; category FB 'Package holidays abroad'; and category FE 'Timesharing in the UK and abroad'.

Complaints related to consumer spending

The figures for 'Complaints per £m spent' in the last column of **Appendix E4** give a rough indication of the balance between the numbers of complaints reported in each category and the value and frequency of purchases. Nevertheless, because the mapping between the OFT complaints classification and that used by the Central Statistical Office for consumers' expenditure is not precise, this is a somewhat crude measure and should be treated with caution. In terms of the ratios produced, category BH 'Laundry and dry cleaning' (15 complaints per £m spent) and category AJ 'Repairs to major appliances and equipment' (14 complaints per £m spent) continued to head the list.

| Reported cases | Trading practices ¹ | | | | | | | | | Totals | Group totals |
|--|--------------------------------|-------|--------|-------|-------|-----|-------|-------|-----|--------|--------------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | | |
| <i>Group E: Transport</i> | | | | | | | | | | | |
| EA Rail (incl underground), bus and coach travel | 540 | 142 | 355 | 56 | 3 | 58 | 99 | 47 | 1 | 1,301 | |
| EB Air travel | 404 | 340 | 618 | 67 | 11 | 90 | 99 | 11 | 2 | 1,642 | |
| EC Other public transport (incl taxis, ferries) | 382 | 135 | 872 | 36 | 3 | 41 | 93 | 31 | 1 | 1,594 | |
| ED New motor cars | 4,655 | 296 | 1,887 | 1,017 | 436 | 186 | 210 | 103 | 2 | 8,792 | |
| EE Secondhand cars | 44,179 | 1,199 | 22,034 | 6,796 | 1,635 | 981 | 965 | 1,335 | 43 | 79,167 | |
| EF Car repairs and servicing | 13,722 | 1,084 | 3,924 | 2,313 | 215 | 381 | 1,009 | 262 | 13 | 22,923 | |
| EG Motorcycles and motorcycle repairs | 2,396 | 236 | 678 | 366 | 47 | 60 | 76 | 96 | 10 | 3,965 | |
| EH Bicycles and bicycle repairs | 1,929 | 152 | 497 | 319 | 21 | 66 | 68 | 302 | 23 | 3,377 | |
| EJ Other vehicles and repairs | 2,487 | 252 | 960 | 396 | 46 | 101 | 138 | 267 | 13 | 4,660 | |
| EK Petrol and oil | 1,026 | 52 | 1,934 | 38 | 6 | 37 | 346 | 944 | 14 | 4,397 | |
| EL Other vehicle running costs | 4,806 | 761 | 2,518 | 758 | 51 | 345 | 313 | 545 | 99 | 10,196 | |
| | | | | | | | | | | | 142,014 |
| <i>Group F: Leisure</i> | | | | | | | | | | | |
| FA Package holidays in the UK (incl travel) | 1,197 | 287 | 1,033 | 80 | 9 | 83 | 119 | 28 | 6 | 2,842 | |
| FB Package holidays abroad (incl travel) | 5,137 | 1,145 | 5,325 | 545 | 52 | 491 | 515 | 63 | 14 | 13,287 | |
| FC Travel agents | 541 | 283 | 965 | 65 | 15 | 127 | 140 | 1 | 6 | 2,143 | |
| FD Holiday caravan renting and caravan sites | 711 | 112 | 492 | 124 | 32 | 95 | 71 | 64 | 2 | 1,703 | |
| FE Timesharing in the UK and abroad | 481 | 245 | 2,777 | 70 | 81 | 156 | 68 | 10 | 1 | 3,889 | |
| FF Sports goods, toys, games, camping equipment | 3,987 | 791 | 2,479 | 443 | 33 | 179 | 364 | 3,981 | 135 | 12,392 | |
| FG Books, newspapers and magazines | 1,091 | 1,118 | 2,663 | 163 | 37 | 210 | 337 | 64 | 313 | 5,996 | |
| FH Entertainment, catering and accommodation | 1,933 | 800 | 2,661 | 220 | 72 | 288 | 382 | 526 | 39 | 6,921 | |
| FJ Other recreational goods and services | 8,941 | 2,928 | 10,225 | 1,077 | 164 | 638 | 795 | 1,894 | 392 | 27,054 | |
| | | | | | | | | | | | 76,227 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards departments, citizens' advice bureaux and other advice agencies

1 Trading practices:

- 1 Defective goods or substandard service.
- 2 Non-delivery of goods, and delay or non-completion of services.
- 3 Selling techniques: misleading claims, representations or advertisements (price, quality, etc); presentation of goods or services (availability, labelling and packaging); and lack of information.
- 4 Difficulty in getting faults put right.
- 5 Credit practices.
- 6 Unfair terms and conditions, including attempts to restrict liability.
- 7 Price complaints not falling in categories 3 or 4, and complaints about 'value' not falling in categories 1 or 3.
- 8 Health or safety.
- 9 Mail order or prepayments.

F.2a Breakdown of sources of complaints show in Appendix F.2

| Complaints reported by: | Goods and services in: | | | | | | Totals |
|--------------------------|------------------------|---------|---------|---------|---------|---------|---------|
| | Group A | Group B | Group C | Group D | Group E | Group F | |
| Citizens' advice bureaux | 3,193 | 733 | 1,473 | 918 | 1,544 | 732 | 8,593 |
| Local authorities | 260,612 | 86,912 | 186,757 | 47,821 | 140,427 | 75,479 | 798,008 |
| Others | 46 | 24 | 42 | 16 | 43 | 16 | 187 |
| <i>Totals</i> | 263,851 | 87,669 | 188,272 | 48,755 | 142,014 | 76,227 | 806,788 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards departments, citizens' advice bureaux and other advice agencies

E.3 Consumer complaints reported by environmental health departments: 1 October 1994 to 30 September 1995

| Reported cases | Trading practices ¹ | | | | | | | | | Totals | Group totals | |
|--|--------------------------------|----|----|---|---|---|---|-------|---|--------|--------------|-------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | | | |
| <i>Group A: House fittings and appliances</i> | | | | | | | | | | | | |
| AB Home maintenance, repairs and improvements | 1 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 4 | |
| AE Upholstered furniture | 5 | 0 | 1 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 9 | |
| AH Major appliances | 4 | 1 | 2 | 0 | 0 | 2 | 0 | 13 | 0 | 0 | 22 | |
| | | | | | | | | | | | | 35 |
| <i>Group B: Other household requirements</i> | | | | | | | | | | | | |
| BA Food and drink | 2,246 | 0 | 75 | 0 | 0 | 0 | 1 | 4,097 | 9 | 6,428 | | |
| BD Electricity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | | |
| BE Water | 123 | 0 | 0 | 0 | 0 | 0 | 0 | 303 | 0 | 426 | | |
| BK Textiles and soft furnishings | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 6 | | |
| BL Other household goods and services | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 9 | 1 | 15 | | |
| | | | | | | | | | | | | 6,876 |
| <i>Group C: Personal goods and services</i> | | | | | | | | | | | | |
| CB Footwear | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | | |
| CE Toilet articles, perfumery, hairdressing | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 | 0 | 4 | | |
| CG Prams and other nursery furniture | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 17 | 0 | 22 | | |
| CJ Other personal goods and services | 0 | 1 | 3 | 0 | 0 | 0 | 1 | 3 | 0 | 8 | | |
| | | | | | | | | | | | | 36 |
| <i>Group E: Transport</i> | | | | | | | | | | | | |
| EA Rail (incl underground), bus and coach travel | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 19 | 0 | 20 | | |
| EC Other public transport (incl taxis, ferries) | 13 | 36 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 50 | | |
| EH Bicycles and bicycle repairs | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 4 | | |
| EL Other vehicle running costs | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 3 | | |
| | | | | | | | | | | | | 77 |
| <i>Group F: Leisure</i> | | | | | | | | | | | | |
| FA Package holidays in the UK (incl travel) | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | | |
| FD Holiday caravan renting and caravan sites | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 48 | 0 | 52 | | |
| FF Sports goods, toys, games, camping equipment | 3 | 1 | 0 | 0 | 1 | 0 | 0 | 53 | 0 | 58 | | |
| FH Entertainment, catering and accommodation | 91 | 0 | 0 | 0 | 3 | 0 | 0 | 1,458 | 0 | 1,552 | | |
| FJ Other recreational goods and services | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 6 | 0 | 7 | | |
| | | | | | | | | | | | | 1,672 |

Source: Office of Fair Trading, based on figures supplied by local authority environmental health departments

1 Trading practices: see footnotes to Appendix F.2.

E.4 Consumer complaints and expenditure: 1 October 1994 to 30 September 1995

| Reported cases | Complaints | | % change | Complaints per £m 1994/95 |
|---|------------|---------|-------------|---------------------------------|
| | 1993/94 | 1994/95 | | |
| <i>Group A: House fittings and appliances</i> | 250,397 | 263,886 | 5.4 | 6 |
| AA House construction | 3,385 | 3,586 | 5.9 | n/a |
| AB Home maintenance, repairs and improvements | 45,583 | 49,422 | 8.4 | 3 |
| AC Double glazing products and installation | 25,443 | 26,199 | 3.0 | n/a |
| AD Furniture (not upholstered), pictures, etc | 17,919 | 19,009 | 6.1 | } 9' |
| AE Upholstered furniture | 27,976 | 29,492 | 5.4 | |
| AF Carpets and other floor coverings | 15,577 | 14,829 | -4.8 | |
| AG Radio, TV, other electrical goods and hire | 59,379 | 64,600 | 8.8 | 9 |
| AH Major appliances | 42,399 | 42,542 | 0.3 | 7 |
| AJ Repairs to major appliances and equipment | 12,736 | 14,207 | 11.5 | 14 |
| <i>Group B: Other household requirements</i> | 89,859 | 94,545 | 5.2 | 1 |
| BA Food and drink | 42,529 | 46,092 | 8.4 | 1 |
| BB Domestic solid and liquid fuel | 1,563 | 1,242 | -20.5 | 1 |
| BC Gas | 2,374 | 3,014 | 27.0 | 1 |
| BD Electricity | 2,592 | 1,905 | -26.5 | 0 |
| BE Water | 1,656 | 1,496 | -9.7 | 0 |
| BF Postal services | 881 | 926 | 5.1 | 1 |
| BG Telecommunications | 5,893 | 8,438 | 43.2 | 1 |
| BH Laundry and dry cleaning | 5,642 | 5,843 | 3.6 | 15 |
| BJ DIY materials and tools | 4,881 | 4,473 | -8.4 | 1 |
| BK Textiles and soft furnishings | 7,194 | 7,453 | 3.6 | 3 |
| BL Other household goods and services | 14,654 | 13,663 | -6.8 | 1 |
| <i>Group C: Personal goods and services</i> | 190,329 | 188,308 | -1.1 | 2 |
| CA Clothing and clothing fabrics | 45,631 | 47,373 | 3.8 | 2 |
| CB Footwear | 19,294 | 19,470 | 0.9 | 4 |
| CC Footwear repairs | 1,035 | 896 | -13.4 | 11 |
| CD Pharmaceutical products and medical services | 6,816 | 7,243 | 6.3 | 1 |
| CE Toilet articles, perfumery, hairdressing | 6,170 | 5,627 | -8.8 | 1 |
| CF Jewellery, silverware, clocks and watches | 12,753 | 12,780 | 0.2 | 6 |
| CG Prams and other nursery furniture | 8,785 | 9,450 | 7.6 | n/a ² |
| CH Tobacco and smokers' requisites | 1,960 | 2,954 | 50.7 | 0 |
| CJ Other personal goods and services | 87,885 | 82,515 | -6.1 | 4 |
| <i>Group D: Other services</i> | 53,682 | 48,755 | -9.2 | 1 |
| DA Banking | 2,828 | 2,257 | -20.2 | 0 |
| DB Hire and credit - unsecured | 14,261 | 12,980 | -9.0 | n/a |
| DC Credit secured by a first mortgage | 1,657 | 1,822 | 10.0 | n/a |
| DD Other secured credit | 1,708 | 1,403 | -17.9 | n/a |
| DE Ancillary credit business | 5,866 | 4,865 | -17.1 | n/a |
| DF Life insurance | 1,378 | 1,030 | -25.3 | 0 |
| DG Non-life insurance (incl holiday insurance) | 14,878 | 11,292 | -24.1 | 3 |
| DH Other financial services | 4,064 | 6,022 | 48.2 | n/a |
| DJ Legal services | 2,044 | 1,998 | -2.3 | n/a |
| DK Estate agency | 4,998 | 5,086 | 1.8 | n/a |

| | Complaints | | % change | Complaints per £m 1994/95 |
|--|------------|---------|-------------|---------------------------------|
| | 1993/94 | 1994/95 | | |
| <i>Group E: Transport</i> | 137,377 | 142,091 | 3.4 | 2 |
| EA Rail (incl underground), bus and coach travel | 1,327 | 1,321 | -0.5 | 0 |
| EB Air travel | 2,660 | 1,642 | -38.3 | 0 |
| EC Other public transport (incl taxis, ferries) | 1,748 | 1,644 | -5.9 | 1 |
| ED New motor cars | 8,949 | 8,792 | -1.8 | } |
| EE Secondhand cars | 73,977 | 79,167 | 7.0 | |
| EF Car repairs and servicing | 22,354 | 22,923 | 2.5 | } |
| EG Motorcycles and motorcycle repairs | 3,695 | 3,965 | 7.3 | |
| EH Bicycles and bicycle repairs | 3,404 | 3,381 | -0.7 | } |
| EJ Other vehicles and repairs | 4,172 | 4,660 | 11.7 | |
| EK Petrol and oil | 3,999 | 4,397 | 10.0 | 0 |
| EL Other vehicle running costs | 11,092 | 10,199 | -8.1 | 2 |
| <i>Group F: Leisure</i> | 85,247 | 77,899 | -8.6 | 1 |
| FA Package holidays in the UK (incl travel) | 3,069 | 2,845 | -7.3 | 4 |
| FB Package holidays abroad (incl travel) | 16,608 | 13,287 | -20.0 | 2 |
| FC Travel agents | 2,384 | 2,143 | -10.1 | n/a |
| FD Holiday caravan renting and caravan sites | 1,862 | 1,755 | -5.7 | n/a |
| FE Timesharing in the UK and abroad | 5,044 | 3,889 | -22.9 | n/a |
| FF Sports goods, toys, games, camping equipment | 12,721 | 12,450 | -2.1 | 3 |
| FG Books, newspapers and magazines | 6,183 | 5,996 | -3.0 | 1 |
| FH Entertainment, catering and accommodation | 8,091 | 8,473 | 4.7 | 0 |
| FJ Other recreational goods and services | 29,285 | 27,061 | -7.6 | 2 |
| <i>Totals - overall</i> | 806,891 | 815,484 | 1.1 | 2 |
| <i>Totals - goods</i> | 530,115 | 545,652 | 2.9 | |
| <i>Totals - services</i> | 276,776 | 269,832 | -2.5 | |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments, and other advice agencies, and on consumers' expenditure data collated by the Central Statistical Office (CSO), supplemented by other CSO data

- 1 Also includes 'complaints per £m' in category CG 'Prms and other nursery furniture'.
- 2 Included in 'complaints per £m' in categories AD/AE/AF.

G Prosecutions of traders

G.1 Introduction to the statistical returns and analyses

In past years, the compilation of these statistics involved a time-consuming manual process, and the figures reproduced in the Director General's annual reports reflected the returns made for the 12-month period 1 October to 30 September rather than for the calendar year. Now that the raw information is entered on a computerised retrieval system, it is possible to include the totals up to 31 December. Accordingly two sets of figures have been shown in the following tables: **series a** - for 1 October 1994 to 30 September 1995, in order to provide a comparison with the equivalent figures in previous reports; and **series b** - for the calendar year 1 January to 31 December 1995, which will provide a comparative base for future reports. This does mean,

however, that the returns for the first three quarters of 1995 are included in both sets of figures.

The tables within each series are compiled from information supplied voluntarily by local authority trading standards and environmental health departments. The trading categories shown are the same as those in Appendix F.

The figures reflect the number of cases that were brought to court. In general, they do not show the number of individual alleged offences, but when a conviction in a particular case involves offences under different sections of the same Act and it is possible to divide the fines accordingly, that case is counted against the appropriate section, together with the individual penalty. A similar procedure is followed in a case involving offences under different statutes. The numbers of cases shown in the tables include all those where prison sentences were imposed. Details of these and other sentences are summarised in the footnotes to each table.

Rounding of figures

In the tables, all monetary values have been rounded to the nearest £. Consequently there may be some slight discrepancy between the sum of the individual entries for fines and compensation and the totals shown.

G/a.2 Prosecutions under the Trade Descriptions Acts: 1 October 1994 to 30 September 1995

| Reported cases | False description of goods (s 1) | | | False statements about services (s 14) | | |
|---|----------------------------------|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AA House construction | 2 | 200 | - | 10 | 7,385 | - |
| AB Home maintenance, repairs and improvements | 8 | 7,750 | 300 | 74 | 44,235 | 5,120 |
| AC Double glazing products and installation | 6 | 8,450 | 2,155 | 6 | 6,200 | 600 |
| AD Furniture (not upholstered), pictures, etc | 9 | 7,500 | 243 | 1 | 250 | - |
| AE Upholstered furniture | 3 | 800 | 400 | 2 | 1,000 | - |
| AF Carpets and other floor coverings | 11 | 5,700 | - | - | - | - |
| AG Radio, TV, other electrical goods and hire | 21 | 7,355 | 73 | 7 | 2,700 | 64 |
| AH Major appliances | 8 | 10,900 | 590 | 6 | 1,000 | - |
| AJ Repairs to major appliances and equipment | 4 | 1,000 | 1,361 | 8 | 1,820 | 29 |
| <i>Totals</i> | 72 | 49,655 | 5,122 | 114 | 64,590 | 5,813 |
| <i>Group B: Other household requirements</i> | | | | | | |
| BA Food and drink | 89 | 60,239 | - | 1 | 200 | - |
| BB Domestic solid and liquid fuel | 2 | 400 | 17 | - | - | - |
| BC Gas | - | - | - | 1 | 400 | - |
| BD Electricity | - | - | - | 3 | 400 | - |
| BG Telecommunications | 1 | 200 | - | 2 | 2,000 | - |
| BJ DIY materials and tools | 8 | 16,800 | 43 | - | - | - |
| BK Textiles and soft furnishings | 44 | 26,800 | - | - | - | - |
| BL Other household goods and services | 12 | 7,550 | - | 3 | 2,350 | - |
| <i>Totals</i> | 156 | 111,989 | 60 | 10 | 5,350 | - |

| Reported cases | False description of goods (s 1) | | | False statements about services (s 14) | | |
|---|----------------------------------|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 189 | 81,832 | 66 | 1 | 1,200 | - |
| CB Footwear | 2 | 600 | - | - | - | - |
| CD Pharmaceutical products and medical services | 28 | 37,412 | - | 2 | - | - |
| CE Toilet articles, perfumery, hairdressing | 57 | 17,080 | - | - | - | - |
| CF Jewellery, silverware, clocks and watches | 23 | 7,607 | 1,340 | - | - | - |
| CG Prams and other nursery furniture | 1 | 120 | - | - | - | - |
| CJ Other personal goods and services | 22 | 11,772 | - | 11 | 3,770 | - |
| <i>Totals</i> | <i>323</i> | <i>157,025</i> | <i>-</i> | <i>14</i> | <i>4,970</i> | <i>-</i> |
| <i>Group D: Other services</i> | | | | | | |
| DA Banking | - | - | - | 2 | 1,000 | - |
| DE Ancillary credit business | - | - | - | 1 | - | - |
| DF Life insurance | - | - | - | 2 | 700 | - |
| DG Non-life insurance (incl holiday insurance) | - | - | - | 1 | - | 1,497 |
| DH Other financial services | - | - | - | 2 | 3,500 | - |
| DK Estate agency | - | - | - | 4 | 600 | - |
| <i>Totals</i> | <i>-</i> | <i>-</i> | <i>-</i> | <i>12</i> | <i>5,800</i> | <i>1,497</i> |
| <i>Group E: Transport</i> | | | | | | |
| EB Air travel | 2 | 3,000 | 540 | 1 | - | - |
| ED New motor cars | 3 | 5,550 | - | - | - | - |
| EE Secondhand cars | 523 | 305,528 | 161,845 | 17 | 12,460 | 1,137 |
| EF Car repairs and servicing | 12 | 8,750 | 3,745 | 37 | 23,275 | 2,881 |
| EG Motorcycles and motorcycle repairs | 4 | 1,450 | - | - | - | - |
| EH Bicycles and bicycle repairs | 7 | 3,500 | - | - | - | - |
| EJ Other vehicles and repairs | 1 | 1,000 | - | 2 | 1,200 | - |
| EL Other vehicle running costs | 7 | 3,560 | 35 | 7 | 10,500 | 1,150 |
| <i>Totals</i> | <i>559</i> | <i>332,338</i> | <i>166,165</i> | <i>64</i> | <i>47,435</i> | <i>5,168</i> |
| <i>Group F: Leisure</i> | | | | | | |
| FA Package holidays in the UK (incl travel) | - | - | - | 3 | 550 | 500 |
| FB Package holidays abroad (incl travel) | 1 | 500 | 208 | 4 | 3,400 | 500 |
| FC Travel agents | 1 | 500 | - | 11 | 7,150 | 500 |
| FD Holiday caravan renting and caravan sites | 7 | 4,300 | - | 2 | 1,100 | - |
| FE Timesharing in the UK and abroad | - | - | - | 3 | 5,900 | 196 |
| FF Sports goods, toys, games, camping equipment | 11 | 14,750 | - | - | - | - |
| FG Books, newspapers and magazines | 2 | 500 | - | - | - | - |
| FH Entertainment, catering and accommodation | 21 | 3,690 | - | 15 | 21,690 | 2,361 |
| FJ Other recreational goods and services | 318 | 114,105 | 516 | 3 | 1,850 | - |
| <i>Totals</i> | <i>361</i> | <i>138,345</i> | <i>724</i> | <i>41</i> | <i>41,640</i> | <i>4,057</i> |
| - Unable to code | 17 | 15,600 | - | 21 | 22,435 | 2,786 |
| <i>Grand totals</i> | <i>1,488</i> | <i>804,952</i> | <i>173,477</i> | <i>276</i> | <i>192,220</i> | <i>19,321</i> |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

179 defendants were conditionally discharged
 54 defendants received prison sentences
 3 defendants were discharged absolutely
 55 defendants were required to undertake community service
 10 defendants were admonished

2 In addition to the fines shown:

23 defendants were conditionally discharged
 6 defendants received prison sentences
 9 defendants were discharged absolutely
 6 defendants were required to undertake community service
 7 defendants had no penalty

G/a.3 Prosecutions under the Fair Trading Act 1973: 1 October 1994 to 30 September 1995

| Reported cases | Restriction on Statements Order | | | Business Advertisements Disclosures Order | | |
|---|---------------------------------|-------------------------|-------------------|---|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AE Upholstered furniture | - | - | - | 1 | 500 | - |
| AH Major appliances | - | - | - | 5 | 400 | 170 |
| <i>Totals</i> | - | - | - | 6 | 900 | 170 |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 1 | 250 | - | - | - | - |
| CF Jewellery, silverware, clocks and watches | 1 | 50 | - | - | - | - |
| <i>Totals</i> | 2 | 300 | - | - | - | - |
| <i>Group E: Transport</i> | | | | | | |
| EE Secondhand cars | 17 | 3,875 | 1,970 | 22 | 5,250 | 9,225 |
| <i>Totals</i> | 17 | 3,875 | 1,970 | 22 | 5,250 | 9,225 |
| <i>Group F: Leisure</i> | | | | | | |
| FD Holiday caravan renting and caravan sites | - | - | - | 1 | 600 | - |
| FJ Other recreational goods and services | - | - | - | 1 | - | - |
| <i>Totals</i> | - | - | - | 2 | 600 | - |
| - Unable to code | 3 | 800 | - | - | - | - |
| <i>Grand totals</i> | 22 | 4,975 | 1,970 | 30 | 6,750 | 9,395 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

- 1 defendant was conditionally discharged
- 1 defendant received a prison sentence
- 1 defendant was discharged absolutely
- 2 defendants were required to undertake community service
- 1 defendant was admonished

2 In addition to the fines shown:

- 5 defendants were conditionally discharged
- 6 defendants received prison sentences
- 2 defendants were required to undertake community service
- 4 defendants had no penalty

G/a.4 Prosecutions under the Consumer Protection Act 1987: 1 October 1994 to 30 September 1995

| Reported cases | Action under Part II (safety regulations) | | | Action under Part III (misleading prices) | | |
|--|--|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AA House construction | - | - | - | 1 | 750 | - |
| AB Home maintenance, repairs and improvements | - | - | - | 3 | 1,400 | - |
| AC Double glazing products and installation | 2 | 1,000 | 419 | - | - | - |
| AD Furniture (not upholstered), pictures, etc | 36 | 17,325 | - | 6 | 4,400 | - |
| AE Upholstered furniture | 39 | 14,130 | - | 1 | 500 | - |
| AF Carpets and other floor coverings | - | - | - | 2 | 3,000 | - |
| AG Radio, TV, other electrical goods and hire | 21 | 8,255 | - | 9 | 23,320 | 8 |
| AH Major appliances | 74 | 28,185 | 285 | 4 | 2,050 | 4 |
| AJ Repairs to major appliances and equipment | 1 | 750 | - | - | - | - |
| <i>Totals</i> | 173 | 69,645 | 704 | 26 | 35,420 | 12 |
| <i>Group B: Other household requirements</i> | | | | | | |
| BA Food and drink | 2 | 1,500 | - | 18 | 11,750 | 4 |
| BB Domestic solid and liquid fuel | 1 | 400 | - | - | - | - |
| BD Electricity | - | - | - | 1 | 2,500 | - |
| BE Water | 1 | 1,500 | - | - | - | - |
| BG Telecommunications | - | - | - | 1 | - | - |
| BJ DIY materials and tools | 4 | 6,450 | - | - | - | - |
| BK Textiles and soft furnishings | 9 | 2,545 | 629 | 2 | 4,000 | - |
| BL Other household goods and services | 11 | 11,280 | - | 3 | 250 | - |
| <i>Totals</i> | 28 | 23,675 | 629 | 25 | 18,500 | 4 |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 14 | 13,450 | 24 | 4 | 6,500 | - |
| CB Footwear | 2 | 800 | 42 | 1 | - | - |
| CD Pharmaceutical products and medical services | 1 | 1,000 | - | 4 | 1,450 | - |
| CE Toilet articles, perfumery, hairdressing | - | - | - | 2 | 1,000 | - |
| CF Jewellery, silverware, clocks and watches | 5 | 6,400 | - | - | - | - |
| CG Prams and other nursery furniture | 5 | 5,720 | 708 | - | - | - |
| CJ Other personal goods and services | 9 | 9,250 | - | 2 | 300 | - |
| <i>Totals</i> | 37 | 36,820 | 774 | 13 | 9,250 | - |
| <i>Group D: Other services</i> | | | | | | |
| DG Non-life insurance (incl holiday insurance) | - | - | - | 2 | 1,700 | - |
| <i>Totals</i> | - | - | - | 2 | 1,700 | - |
| <i>Group E: Transport</i> | | | | | | |
| EA Rail (incl underground), bus and coach travel | - | - | - | 1 | 25 | - |
| EB Air travel | - | - | - | 1 | 100 | 500 |
| ED New motor cars | - | - | - | 1 | 2,000 | - |
| EE Secondhand cars | - | - | - | 12 | 8,460 | 812 |
| EF Car repairs and servicing | - | - | - | 4 | 2,950 | 90 |
| EG Motorcycles and motorcycle repairs | - | - | - | 2 | 2,250 | - |
| EH Bicycles and bicycle repairs | 2 | 1,000 | - | 2 | 500 | - |
| EK Petrol and oil | - | - | - | 3 | 800 | - |
| EL Other vehicle running costs | 4 | 2,850 | - | 4 | 1,600 | 550 |
| <i>Totals</i> | 6 | 3,850 | - | 30 | 18,685 | 1,952 |

| Reported cases | Action under Part II (safety regulations) | | | Action under Part III (misleading prices) | | |
|---|--|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group F: Leisure</i> | | | | | | |
| FA Package holidays in the UK (incl travel) | - | - | - | 3 | 1,600 | - |
| FB Package holidays abroad (incl travel) | - | - | - | 9 | 14,450 | 157 |
| FC Travel agents | - | - | - | 2 | 2,000 | - |
| FD Holiday caravan renting and caravan sites | 2 | - | - | - | - | - |
| FF Sports goods, toys, games, camping equipment | 61 | 79,120 | 21 | 4 | 5,575 | - |
| FH Entertainment, catering and accommodation | - | - | - | 4 | 4,200 | 156 |
| FJ Other recreational goods and services | 17 | 4,310 | 1 | 4 | 6,300 | - |
| <i>Totals</i> | 80 | 83,430 | 22 | 26 | 34,125 | 313 |
| - Unable to code | 15 | 9,700 | - | 4 | 1,100 | - |
| <i>Grand totals</i> | 339 | 227,120 | 2,129 | 126 | 118,780 | 2,282 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

54 defendants were conditionally discharged
5 defendants were discharged absolutely
4 defendants had no penalty

2 In addition to the fines shown:

9 defendants were conditionally discharged
2 defendants received prison sentences
1 defendant was required to undertake community service
5 defendants were admonished

G/a.5 Prosecutions under the Consumer Credit Act 1974:

1 October 1994 to 30 September 1995

| Reported cases | Numbers | Fines £ | Compensation £ |
|---|---------|---------------------|-------------------|
| Giving false information (s 7) | 7 | 1,450 | - |
| Carrying on a business while unlicensed (s 21) | 1 | - | - |
| Unlicensed trading (s 39(1)) | 21 | 13,555 | 950 |
| Trading under a name not specified on the licence (s 39(2)) | 1 | - | - |
| Issuing false or misleading advertisements (s 46(1)) | 17 | 14,700 ¹ | - |
| Other advertising infringements (s 47) | 1 | 200 | - |
| Soliciting debtor-creditor agreements during visits (s 49(2)) | 1 | 875 | - |
| Failing to give information to an enforcement officer (s 165(1)(c)) | 1 | - | - |
| Giving false information to an enforcement officer (s 165(2)) | 1 | - | - |
| Contravention of regulations (s 167(2)) | 20 | 14,350 ² | - |
| Breaches of Consumer Credit Advertisement Regulations 1989 | 11 | 9,200 ³ | - |
| <i>Totals</i> | 82 | 54,330 | 950 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

In addition to the fines shown:

- 1 1 defendant was admonished
- 2 2 defendants were admonished and 1 was discharged absolutely
- 3 3 defendants were conditionally discharged and 2 were admonished

**G/a.6 Prosecutions under other consumer legislation:
1 October 1994 to 30 September 1995**

| <i>Reported cases</i> | <i>Numbers</i> | <i>Fines¹ £</i> | <i>Compensation £</i> |
|---|----------------|--------------------------------|---------------------------|
| Estate Agents Act 1979 | - | - | - |
| Food and Drugs Acts | - | - | - |
| Food Safety Act 1990: | | | |
| not of nature, substance or quality demanded | 109 | 112,250 | 22 |
| unfit food | 119 | 138,030 | 100 |
| labelling regulations and other offences | 106 | 75,367 | 22 |
| improvement notices | 8 | 1,400 | - |
| food premises | 26 | 28,328 | - |
| hygiene | 149 | 291,020 | 1 |
| obstruction | 5 | 1,500 | - |
| other offences | 159 | 84,765 | - |
| Hallmarking Act 1973 | 4 | 350 | 150 |
| Package Travel Regulations 1992 | 8 | 3,150 | 2,236 |
| Property Misdescriptions Act 1991 | 30 | 28,700 | 100 |
| Road Traffic Act 1972: unroadworthy vehicles | 167 | 110,505 | 29,168 |
| Shops Act 1950 | - | - | - |
| Weights and Measures Acts: | | | |
| false or unjust equipment | 18 | 4,000 | - |
| short weight or measure | 80 | 35,095 | - |
| average weight and quantity offences | 14 | 2,870 | - |
| packaged goods | 36 | 25,440 | - |
| other offences | 18 | 4,925 | - |
| Other legislation enforced by trading standards and environmental health departments | 1,544 | 861,620 | 50,106 |
| <i>Totals</i> | <u>2,600</u> | <u>1,809,315</u> | <u>81,905</u> |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

- 287 defendants were conditionally discharged
- 59 defendants received prison sentences
- 30 defendants were discharged absolutely
- 60 defendants were required to undertake community service
- 5 defendants were admonished
- 86 defendants had no penalty

**G/b.2 Prosecutions under the Trade Descriptions Acts:
1 January to 31 December 1995**

| Reported cases | False description of goods (s 1) | | | False statements about services (s 14) | | |
|---|----------------------------------|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AA House construction | - | - | - | 11 | 7,760 | - |
| AB Home maintenance, repairs and improvements | 9 | 5,650 | - | 62 | 42,800 | 6,970 |
| AC Double glazing products and installation | 6 | 8,450 | 2,155 | 5 | 6,050 | 600 |
| AD Furniture (not upholstered), pictures, etc | 8 | 7,800 | 243 | 1 | 250 | - |
| AE Upholstered furniture | 10 | 3,000 | 400 | 4 | 4,300 | - |
| AF Carpets and other floor coverings | 5 | 3,250 | - | - | - | - |
| AG Radio, TV, other electrical goods and hire | 25 | 10,255 | 73 | 5 | 1,650 | - |
| AH Major appliances | 10 | 13,100 | 590 | 3 | 1,150 | - |
| AJ Repairs to major appliances and equipment | 4 | 1,000 | 1,362 | 7 | 1,320 | 29 |
| <i>Totals</i> | 77 | 52,505 | 4,822 | 98 | 65,280 | 7,599 |
| <i>Group B: Other household requirements</i> | | | | | | |
| BA Food and drink | 93 | 58,990 | - | 1 | 200 | - |
| BB Domestic solid and liquid fuel | 3 | 450 | 17 | - | - | - |
| BC Gas | - | - | - | 1 | 400 | - |
| BD Electricity | 2 | - | - | 3 | 400 | - |
| BJ DIY materials and tools | 5 | 11,100 | 43 | - | - | - |
| BK Textiles and soft furnishings | 44 | 30,000 | - | - | - | - |
| BL Other household goods and services | 15 | 10,650 | - | 3 | 3,050 | - |
| <i>Totals</i> | 162 | 111,190 | - | 8 | 4,050 | - |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 183 | 67,685 | 39 | 1 | 1,200 | - |
| CB Footwear | 5 | 2,700 | - | - | - | - |
| CD Pharmaceutical products and medical services | 25 | 48,350 | - | 1 | - | - |
| CE Toilet articles, perfumery, hairdressing | 47 | 15,865 | - | - | - | - |
| CF Jewellery, silverware, clocks and watches | 26 | 21,345 | 1,340 | - | - | - |
| CJ Other personal goods and services | 28 | 15,550 | - | 9 | 4,270 | - |
| <i>Totals</i> | 316 | 172,245 | 1,379 | 11 | 5,470 | - |
| <i>Group D: Other services</i> | | | | | | |
| DA Banking | - | - | - | 2 | 1,000 | - |
| DE Ancillary credit business | - | - | - | 1 | - | - |
| DF Life insurance | - | - | - | 2 | 700 | - |
| DG Non-life insurance (incl holiday insurance) | - | - | - | 2 | - | 2,604 |
| DH Other financial services | - | - | - | 1 | 2,500 | - |
| DK Estate agency | - | - | - | 1 | 500 | - |
| <i>Totals</i> | - | - | - | 9 | 4,700 | 2,604 |

| Reported cases | False description of goods (s 1) | | | False statements about services (s 14) | | |
|---|----------------------------------|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group E: Transport</i> | | | | | | |
| EB Air travel | 2 | 3,000 | 540 | 1 | - | - |
| ED New motor cars | 2 | 5,050 | - | - | - | - |
| EE Secondhand cars | 544 | 339,668 | 148,935 | 13 | 15,710 | 175 |
| EF Car repairs and servicing | 13 | 8,750 | 4,003 | 32 | 20,550 | 855 |
| EG Motorcycles and motorcycle repairs | 4 | 1,450 | - | - | - | - |
| EH Bicycles and bicycle repairs | 7 | 3,500 | - | - | - | - |
| EJ Other vehicles and repairs | 1 | 1,000 | - | 3 | 1,300 | 62 |
| EL Other vehicle running costs | 9 | 4,560 | 35 | 5 | 1,500 | 50 |
| <i>Totals</i> | 582 | 366,978 | 153,513 | 54 | 39,060 | 1,142 |
| <i>Group F: Leisure</i> | | | | | | |
| FA Package holidays in the UK (incl travel) | - | - | - | 4 | 1,550 | 500 |
| FB Package holidays abroad (incl travel) | 2 | 2,000 | 209 | 4 | 4,600 | - |
| FC Travel agents | 1 | 500 | - | 11 | 14,750 | - |
| FD Holiday caravan renting and caravan sites | 9 | 4,500 | - | 2 | 1,100 | - |
| FE Timesharing in the UK and abroad | - | - | - | 2 | 1,900 | 196 |
| FF Sports goods, toys, games, camping equipment | 13 | 11,100 | - | - | - | - |
| FG Books, newspapers and magazines | 2 | 500 | - | - | - | - |
| FH Entertainment, catering and accommodation | 22 | 5,290 | - | 16 | 20,290 | 2,361 |
| FJ Other recreational goods and services | 305 | 147,730 | - | 5 | 2,000 | 83 |
| <i>Totals</i> | 354 | 171,620 | 209 | 44 | 46,190 | 3,140 |
| - Unable to code | 22 | 15,300 | 2,145 | 24 | 26,565 | 2,662 |
| <i>Grand totals</i> | 1,513 | 889,838 | 162,128 | 248 | 191,315 | 17,147 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

172 defendants were conditionally discharged
 55 defendants received prison sentences
 6 defendants were discharged absolutely
 58 defendants were required to undertake community service
 8 defendants were admonished

2 In addition to the fines shown:

19 defendants were conditionally discharged
 4 defendants received prison sentences
 7 defendants were discharged absolutely
 6 defendants were required to undertake community service
 9 defendants had no penalty

G/b.3 Prosecutions under the Fair Trading Act 1973: 1 January to 31 December 1995

| Reported cases | Restriction on Statements Order | | | Business Advertisements Disclosures Order | | |
|---|---------------------------------|-------------------------|-------------------|---|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AE Upholstered furniture | - | - | - | 1 | 500 | - |
| AG Radio, TV, other electrical goods and hire | 1 | 100 | 50 | 4 | 400 | 170 |
| <i>Totals</i> | 1 | 100 | 50 | 5 | 900 | 170 |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 1 | 250 | - | - | - | - |
| CF Jewellery, silverware, clocks and watches | 1 | - | - | - | - | - |
| <i>Totals</i> | 2 | 250 | - | - | - | - |
| <i>Group E: Transport</i> | | | | | | |
| EE Secondhand cars | 22 | 4,575 | 2,615 | 25 | 11,450 | 1,925 |
| <i>Totals</i> | 22 | 4,575 | 2,615 | 25 | 11,450 | 1,925 |
| <i>Group F: Leisure</i> | | | | | | |
| FJ Other recreational goods and services | - | - | - | 1 | - | - |
| <i>Totals</i> | - | - | - | 1 | - | - |
| - Unable to code | 2 | 750 | - | - | - | - |
| <i>Grand totals</i> | 27 | 5,675 | 2,665 | 31 | 12,350 | 2,095 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

- 4 defendants were conditionally discharged
- 1 defendant received a prison sentence
- 1 defendant was discharged absolutely
- 2 defendants were required to undertake community service
- 1 defendant was admonished

2 In addition to the fines shown:

- 5 defendants were conditionally discharged
- 5 defendants received prison sentences
- 2 defendants were required to undertake community service
- 4 defendants had no penalty

G/b.4 Prosecutions under the Consumer Protection Act 1987: 1 January to 31 December 1995

| Reported cases | Action under Part II (safety regulations) | | | Action under Part III (misleading prices) | | |
|--|--|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group A: House fittings and appliances</i> | | | | | | |
| AB Home maintenance, repairs and improvements | - | - | - | 2 | 700 | - |
| AC Double glazing products and installation | 2 | 1,000 | 419 | - | - | - |
| AD Furniture (not upholstered), pictures, etc | 15 | 8,000 | - | 5 | 4,700 | - |
| AE Upholstered furniture | 48 | 14,030 | - | 1 | 500 | - |
| AG Radio, TV, other electrical goods and hire | 21 | 11,080 | - | 8 | 7,720 | 8 |
| AH Major appliances | 57 | 19,805 | 215 | 3 | 2,000 | 4 |
| AJ Repairs to major appliances and equipment | 1 | 750 | - | - | - | - |
| <i>Totals</i> | 144 | 54,665 | 634 | 19 | 15,620 | 12 |
| <i>Group B: Other household requirements</i> | | | | | | |
| BA Food and drink | 2 | 1,500 | - | 22 | 24,970 | 4 |
| BB Domestic solid and liquid fuel | 1 | 400 | - | 1 | 500 | - |
| BD Electricity | - | - | - | 1 | 2,500 | - |
| BG Telecommunications | - | - | - | 3 | 1,000 | - |
| BJ DIY materials and tools | 2 | 2,200 | - | 1 | 500 | - |
| BK Textiles and soft furnishings | 11 | 3,645 | 629 | 2 | 4,000 | - |
| BL Other household goods and services | 10 | 9,580 | - | 2 | 250 | - |
| <i>Totals</i> | 26 | 17,325 | 629 | 32 | 33,720 | 4 |
| <i>Group C: Personal goods and services</i> | | | | | | |
| CA Clothing and clothing fabrics | 16 | 14,450 | 24 | 1 | 400 | - |
| CB Footwear | 2 | 800 | 42 | 7 | 19,250 | 60 |
| CC Footwear repairs | - | - | - | 1 | - | - |
| CD Pharmaceutical products and medical services | 1 | 1,000 | - | - | - | - |
| CE Toilet articles, perfumery, hairdressing | 1 | 500 | 500 | 4 | 1,800 | - |
| CF Jewellery, silverware, clocks and watches | 3 | 5,200 | - | - | - | - |
| CG Prams and other nursery furniture | 4 | 5,600 | 708 | - | - | - |
| CJ Other personal goods and services | 6 | 6,350 | - | 4 | 3,600 | - |
| <i>Totals</i> | 34 | 34,100 | 1,274 | 17 | 25,050 | 60 |
| <i>Group D: Other services</i> | | | | | | |
| DG Non-life insurance (incl holiday insurance) | - | - | - | 1 | 1,700 | - |
| DK Estate agency | - | - | - | 2 | 750 | - |
| <i>Totals</i> | - | - | - | 3 | 2,450 | - |
| <i>Group E: Transport</i> | | | | | | |
| EA Rail (incl underground), bus and coach travel | - | - | - | 1 | 25 | - |
| ED New motor cars | - | - | - | 2 | 4,000 | - |
| EE Secondhand cars | - | - | - | 10 | 3,550 | 312 |
| EF Car repairs and servicing | - | - | - | 5 | 3,200 | 90 |
| EG Motorcycles and motorcycle repairs | - | - | - | 2 | 2,250 | - |
| EH Bicycles and bicycle repairs | 2 | 1,000 | - | 2 | 500 | - |
| EK Petrol and oil | - | - | - | 3 | 800 | - |
| EL Other vehicle running costs | 3 | 2,500 | - | 2 | - | - |
| <i>Totals</i> | 5 | 3,500 | - | 27 | 14,325 | 402 |

| Reported cases | Action under Part II (safety regulations) | | | Action under Part III (misleading prices) | | |
|---|--|-------------------------|-------------------|--|-------------------------|-------------------|
| | Numbers | Fines ¹ £ | Compensation £ | Numbers | Fines ² £ | Compensation £ |
| <i>Group F: Leisure</i> | | | | | | |
| FA Package holidays in the UK (incl travel) | - | - | - | 1 | 500 | - |
| FB Package holidays abroad (incl travel) | - | - | - | 6 | 6,600 | 157 |
| FC Travel agents | - | - | - | 2 | 2,000 | - |
| FF Sports goods, toys, games, camping equipment | 44 | 48,000 | 34 | 4 | 1,375 | - |
| FH Entertainment, catering and accommodation | - | - | - | 4 | 4,200 | 156 |
| FJ Other recreational goods and services | 18 | 4,410 | 1 | 5 | 7,000 | - |
| <i>Totals</i> | 62 | 52,410 | 35 | 22 | 21,675 | 313 |
| - Unable to code | 10 | 5,400 | - | 6 | 4,300 | - |
| <i>Grand totals</i> | 281 | 167,400 | 2,572 | 126 | 117,140 | 792 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

1 In addition to the fines shown:

- 47 defendants were conditionally discharged
- 3 defendants were discharged absolutely
- 5 defendants had no penalty

2 In addition to the fines shown:

- 10 defendants were conditionally discharged
- 2 defendants received prison sentences
- 1 defendant was required to undertake community service
- 3 defendants were admonished
- 1 defendant had no penalty

G/b.5 Prosecutions under the Consumer Credit Act 1974:

1 January to 31 December 1995

| Reported cases | Numbers | Fines £ | Compensation £ |
|---|---------|---------------------|-------------------|
| Giving false information (s 7) | 6 | 1,450 | - |
| Carrying on a business without a licence (s 21) | 1 | - | - |
| Unlicensed trading (s 39(1)) | 17 | 4,825 | - |
| Failure to notify changes in particulars (s 39(3)) | 3 | 150 | - |
| Issuing false or misleading advertisements (s 46(1)) | 26 | 45,150 ¹ | 2,036 |
| Other advertising infringements (s 47) | 2 | 5,000 | - |
| Soliciting debtor-creditor agreements during visits (s 49(2)) | 1 | 875 | - |
| Contravention of regulations (s 167(2)) | 19 | 18,900 ² | - |
| Breaches of Consumer Credit Advertisement Regulations 1989 | 14 | 13,500 ³ | - |
| <i>Totals</i> | 89 | 89,850 | 2,036 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

In addition to the fines shown:

- 1 1 defendant was admonished
- 2 2 defendants were admonished and 1 was discharged absolutely
- 3 3 defendants were conditionally discharged and 2 were admonished

**G/b.6 Prosecutions under other consumer legislation:
1 January to 31 December 1995**

| <i>Reported cases</i> | <i>Numbers</i> | <i>Fines¹ £</i> | <i>Compensation £</i> |
|---|----------------|--------------------------------|---------------------------|
| Estate Agents Act 1979 | 2 | 6,000 | - |
| Food and Drugs Acts | - | - | - |
| Food Safety Act 1990: | | | |
| not of nature, substance or quality demanded | 110 | 115,550 | 172 |
| unfit food | 114 | 128,250 | 66 |
| labelling regulations and other offences | 79 | 69,880 | 22 |
| improvement notices | 15 | 5,025 | - |
| food premises | 27 | 28,725 | - |
| hygiene | 167 | 263,315 | 1 |
| obstruction | 2 | 1,100 | - |
| other offences | 162 | 104,550 | - |
| Hallmarking Act 1973 | 4 | 350 | 150 |
| Package Travel Regulations 1992 | 8 | 2,750 | 1,783 |
| Property Misdescriptions Act 1991 | 31 | 34,800 | 100 |
| Road Traffic Act 1972: unroadworthy vehicles | 175 | 118,895 | 29,429 |
| Shops Act 1950 | - | - | - |
| Weights and Measures Acts: | | | |
| false or unjust equipment | 16 | 9,585 | - |
| short weight or measure | 74 | 34,560 | - |
| average weight and quantity offences | 14 | 3,620 | - |
| packaged goods | 29 | 18,865 | - |
| other offences | 19 | 7,225 | - |
| Other legislation enforced by trading standards and environmental health departments | 1,632 | 988,189 | 45,681 |
| <i>Totals</i> | 2,680 | 1,941,234 | 77,404 |

Source: Office of Fair Trading, based on figures supplied by local authority trading standards and environmental health departments

- 1 In addition to the fines shown:
- 288 defendants were conditionally discharged
 - 63 defendants received prison sentences
 - 32 defendants were discharged absolutely
 - 68 defendants were required to undertake community service
 - 5 defendants were admonished
 - 6 defendants received a probation order
 - 1 defendant received a non-fine penalty
 - 1 defendant received a prohibition order
 - 1 defendant was unconditionally discharged
 - 94 defendants had no penalty

H Merger activity

H.1 Introduction to the statistical analyses

The statistics shown in **Appendices H.2 to H.18** broadly relate only to those mergers that the OFT examined in the context of the Director General's responsibilities under the Fair Trading Act 1973. They do not represent an estimate of total merger activity in the United Kingdom. The following points should be borne in mind:

- the figures cover merger proposals as well as completed mergers and, where there is more than one proposal for a given target, each is counted separately;

- the figures cover only those proposals considered for investigation under the 'other mergers' provisions of the Fair Trading Act (newspaper mergers, considered separately by the DTI, and mergers of water enterprises, considered under the provisions of the Water Industry Act 1991, are both excluded);

- the figures include requests for confidential guidance as well as publicly announced mergers – although confidential guidance cases that subsequently become public are not included twice;

- because some time may elapse between the opening of a file on a case and a decision by the Secretary of State on whether to make a reference to the MMC, the mergers that are referred in any particular year may not necessarily correlate to the cases first recorded in that year.

A better indicator of overall merger activity in the industrial and commercial sectors (but excluding the financial sector) is provided by statistics collected by the Central Statistical Office, and published in *Business Bulletin: Acquisitions and Mergers within the UK*. These figures are shown in **Appendix H.2**.

To qualify for reference to the MMC under the terms of the Act, a merger must either involve the acquisition of gross (fixed and current) assets of more than £70 million (raised from £30 million from 8 February 1994) or lead to the creation or augmentation in a particular market of a share of 25% or more.

Merger activity considered in 1995

In 1995 the OFT considered 473 mergers and merger proposals under the terms of the Fair Trading Act (see **Appendix H.3**) – a 24% increase on the total for 1994, when 381 cases were considered. There was a 19% rise in the number of cases that qualified for reference to the MMC – from 231 in 1994 to 275 in 1995 (**Appendix H.2**). The Director General recommended reference in 11 cases, and the Secretary of State followed his advice in nine of them. In 1994 there had been eight such recommendations, and the Secretary of State followed the Director General's advice in each case.

Of the 275 'qualifying cases' in 1995, 27 qualified for referral on both assets and share of supply criteria (**Appendix H.6**); of these 27, two were referred (**Appendix H.5**).

There were 107 confidential guidance cases in 1995, 41% more than the 76 cases the year before. In addition there were 12 pre-notified cases, compared with seven in 1994.

The value of assets bid for in all qualifying cases increased by 8% (**Appendix H.4**). (In order to give some indication of the real, inflation-adjusted value of assets bid for, the current asset values shown have been deflated by the Gross Domestic Product – GDP – deflator). Despite the rise in the number of qualifying mergers (**Appendix H.3**) the average assets bid for fell from £702 million in 1994 to £648 million in 1995.

The ratio of the number of qualifying industrial and commercial company mergers to those identified in the *Business Bulletin* rose considerably, from 31.7% in 1991 to 52.9% in 1995.

The OFT also examines concentrations notified under the European Community Merger Regulation (Council Regulation 4064/89) – see Part 3 of this report.

Analyses by size of target companies' gross assets

Comparing the figures for mergers within the United Kingdom examined in 1995 with those for 1991, there has been a dramatic increase in the proportion of target companies in the smallest asset-size band and a minimal increase in the second to largest band. The proportions of companies in all other bands has fallen (**Appendix H.8**). Between 1994 and 1995, the proportion of total assets bid for accounted for by companies in the largest asset size class fell by more than 5% (**Appendix H.9**).

Analyses by target companies' activities

The industrial sector that has experienced the largest overall increase in its annual share in the five-year period since 1991 is 'Transport and communications' (although there was a fall between 1994 and 1995). Over the same five-year period, 'Chemicals' and 'Insurance' saw the largest falls in their shares, of some 7% and 6% respectively (**Appendix H.11**).

In terms of assets, the 'Banking and finance' sector accounted for more than 58% of total assets in 1995, and the 'Electricity, gas and water', and 'Food, drink and tobacco' sectors each for over 7% (**Appendix H.12**). The fluctuating year-on-year figures in these sectors clearly demonstrate how sensitive sectoral shares are to particular large acquisitions.

The number of foreign companies involved in mergers as targets and bidders rose in 1995. They also accounted for a higher proportion of total mergers than in 1994, but did not reach the 1991 high (**Appendix H.13**).

Analyses by types of merger

The percentage shares of horizontal, vertical and diversifying mergers is shown in **Appendix H.14** – while a numerical breakdown is given in **Appendix H.16**. ('Horizontal' mergers are those where the largest and/or second-largest activities of the enterprises overlap. 'Vertical' mergers are those where either the largest or second-largest activities are at different stages in the production or distribution of the same product. Mergers that are neither horizontal nor vertical are classified as 'diversifying'.)

Comparing the analyses for 1995 with those for 1991, the figures show that, over the five-year period, horizontal mergers have remained the dominant type. Over the same period, the proportion of mergers classified as vertical has fallen.

Analyses by numbers and values of cases by size of assets

In 1995, the single most important category of bidding company was that with gross assets of at least £1 billion; it accounted for

nearly 34% of the total number of bids (**Appendix H.17**). Bidding companies with gross assets in excess of £1 billion accounted for 87% of total assets – compared with 51% in 1994 (**Appendix H.18**).

Rounding of figures

In the tables, asset values have generally been rounded to the nearest £m, and percentages to one decimal place. Consequently there may be some slight discrepancy between the sum of the individual entries and the totals shown.

H.2 Merger activity: 1991-95

| Year | Proposals qualifying under the Fair Trading Act 1973 | | | Business Bulletin | Fair Trading Act cases as percentage of industrial and commercial cases |
|------|--|--------------------|---------------------------|---------------------------|---|
| | All cases | | Industrial and commercial | Industrial and commercial | |
| | Numbers | Assets bid for: £m | Numbers | Numbers | |
| 1991 | 183 | 87,333 | 158 | 506 | 31.7 |
| 1992 | 125 | 83,172 | 112 | 432 | 26.3 |
| 1993 | 197 | 50,085 | 181 | 524 | 34.5 |
| 1994 | 231 | 162,202 | 215 | 676 | 31.8 |
| 1995 | 275 | 178,096 | 255 | 482 | 52.9 |

Source: Office of Fair Trading

H.3 Supplementary data on numbers of mergers examined and references to the MMC: 1991-95

| Year | Qualifying cases | | | | | | | References to the MMC | | | Total references as % of | | |
|------|---------------------------------|--|----------|-------|-----------------------------|--------------------|---|--------------------------------------|---------------------------|---------------------------|--------------------------|------------------|---|
| | Total numbers of cases examined | Found not to qualify and proposals abandoned | Nos | | Confidential guidance cases | Pre-notified cases | Qualifying cases less confidential guidance cases | Recom-mended by the Director General | Recom-mended but not made | Made but not recom-mended | Total references | Qualifying cases | Qualifying cases less confidential guidance cases |
| | | | % change | | | | | | | | | | |
| 1991 | 285 | 102 | 183 | -29.9 | 15 | 38 | 168 | 8 | 1 | 0 | 7 ¹ | 3.8 | 4.2 |
| 1992 | 200 | 75 | 125 | -31.7 | 21 | 9 ² | 104 | 10 | 0 | 0 | 10 ³ | 8.0 | 9.6 |
| 1993 | 309 | 112 | 197 | +57.6 | 46 | 13 | 151 | 5 | 2 | 0 | 3 | 1.5 | 2.0 |
| 1994 | 381 | 150 | 231 | +17.3 | 76 | 7 | 155 | 8 | 0 | 0 | 8 | 3.5 | 5.2 |
| 1995 | 473 | 198 | 275 | +19.0 | 107 | 12 | 203 | 11 | 2 | 0 | 9 | 3.3 | 4.4 |

Source: Office of Fair Trading

- This figure excludes three divestments in lieu of reference: International Marine Holdings Inc/Benjamin Priest Group plc; Trafalgar House plc/The Davy Corporation; Williams Holdings plc/RacalElectronics plc.
- One other merger notice was withdrawn.
- This figure excludes three divestments in lieu of reference: Redland plc/Steetley plc; Bowater plc/Assets of Pembridge Investments plc (DRG Packaging); Schlumberger Ltd/Assets of the Raytheon Company (Seismographic Service Group). It includes The Gillette Company/Parker Pen Holdings Ltd reference.

H.4 Value of assets bid for in merger proposals qualifying under the Fair Trading Act 1973 at current and at constant prices: 1991-95

| Year | All cases: assets bid for | | | |
|------|---------------------------|----------|----------------------|----------|
| | at current prices | | at 1990 prices | |
| | £m | % change | £m | % change |
| 1991 | 87,333 | -12.7 | 82,003 | -18.0 |
| 1992 | 83,172 | -4.8 | 74,862 | -8.7 |
| 1993 | 50,085 | -39.8 | 43,685 | -41.6 |
| 1994 | 162,202 | +223.9 | 139,070 ¹ | +218.8 |
| 1995 | 178,096 | +9.8 | 150,081 | +7.9 |

Source: Office of Fair Trading

1 Deflated by GDP at factor cost; estimate based on first three quarterly statistics only (not full year).

H.5 References to the MMC under the Fair Trading Act 1973: 1995

| Findings of the MMC | Qualification criteria under the Fair Trading Act 1973 | | | |
|--|--|--|-----------------------|--------|
| | Share of supply of at least 25% | Assets in excess of £70 million ¹ | Meeting both criteria | Totals |
| Not against the public interest | 2 | 0 | 0 | 2 |
| Against the public interest | 3 | 1 | 0 | 4 |
| Proposal abandoned | 0 | 0 | 0 | 0 |
| Decision awaited | 1 | 0 | 2 | 3 |
| Totals | 6 | 1 | 2 | 9 |
| as percentage of all qualifying mergers in this category | 2.2 | 0.4 | 0.7 | 3.3 |

Source: Office of Fair Trading

1 Threshold raised from £30 million in February 1994.

H.6 Analysis by main activity and qualification criteria: 1995

| Industry | Number of cases | | |
|---------------------------------------|---------------------------------------|---------------------------------------|--------------------------|
| | Share of supply of at least 25% | Assets in excess of £70 million | Meeting both criteria |
| Agriculture, forestry and fishing | 1 | 0 | 0 |
| Coal, oil and natural gas | 0 | 2 | 0 |
| Electricity, gas and water | 2 | 10 | 2 |
| Metal processing and manufacturing | 4 | 0 | 1 |
| Mineral processing and manufacturing | 8 | 4 | 2 |
| Chemicals and man-made fibres | 2 | 5 | 3 |
| Metal goods (not elsewhere specified) | 1 | 1 | 0 |
| Mechanical engineering | 5 | 3 | 1 |
| Electrical engineering | 8 | 2 | 1 |
| Vehicles | 1 | 2 | 0 |
| Instrument engineering | 2 | 0 | 0 |
| Food, drink and tobacco | 12 | 9 | 6 |
| Textiles | 1 | 1 | 0 |
| Leather goods and clothing | 1 | 0 | 0 |
| Timber and wooden furniture | 1 | 0 | 0 |
| Paper, printing and publishing | 12 | 2 | 0 |
| Other manufacturing industries | 12 | 3 | 1 |
| Construction | 3 | 0 | 1 |
| Distribution | 11 | 10 | 3 |
| Hotels, catering and repairs | 5 | 5 | 2 |
| Transport and communications | 49 | 3 | 0 |
| Banking and finance | 0 | 9 | 2 |
| Insurance | 0 | 3 | 0 |
| Ancillary financial services | 0 | 6 | 0 |
| Other business services | 10 | 8 | 1 |
| Other services | 2 | 7 | 1 |
| Totals | 153 | 95 | 27 |

Source: Office of Fair Trading

H.7 Analysis by size of gross assets of target companies: 1995

| Size of assets: £m | Numbers | Total assets: £m | Average assets: £m |
|--------------------|------------|------------------|--------------------|
| 0-24.9 | 118 | 758 | 7 |
| 25-49.9 | 23 | 845 | 37 |
| 50-99.9 | 33 | 2,574 | 78 |
| 100-249.9 | 46 | 7,366 | 160 |
| 250-499.9 | 21 | 7,330 | 349 |
| 500-999.9 | 18 | 12,856 | 714 |
| 1,000 and over | 16 | 146,368 | 9,148 |
| Totals | 275 | 178,096 | 648 |

Source: Office of Fair Trading

H.8 Analysis by size of gross assets of target companies – numbers and percentages of totals: 1991-95

| Numbers in: | Gross assets of target companies: £m | | | | | | | Totals |
|---------------------------|--------------------------------------|---------|---------|-----------|-----------|-----------|----------------|--------|
| | 0-24.9 | 25-49.9 | 50-99.9 | 100-249.9 | 250-499.9 | 500-999.9 | 1,000 and over | |
| 1991 | 39 | 28 | 38 | 36 | 17 | 11 | 14 | 183 |
| 1992 | 28 | 39 | 16 | 21 | 6 | 8 | 7 | 125 |
| 1993 | 67 | 31 | 39 | 31 | 10 | 8 | 11 | 197 |
| 1994 | 112 | 25 | 29 | 25 | 17 | 9 | 14 | 231 |
| 1995 | 118 | 23 | 33 | 46 | 21 | 18 | 16 | 275 |
| Percentages of totals in: | | | | | | | | |
| 1991 | 21.3 | 15.3 | 20.8 | 19.7 | 9.3 | 6.0 | 7.6 | 100.0 |
| 1992 | 22.4 | 31.2 | 12.8 | 16.8 | 4.8 | 6.4 | 5.6 | 100.0 |
| 1993 | 34.0 | 15.7 | 19.8 | 15.7 | 5.1 | 4.1 | 5.6 | 100.0 |
| 1994 | 48.5 | 10.8 | 12.6 | 10.8 | 7.4 | 3.9 | 6.1 | 100.0 |
| 1995 | 42.9 | 8.4 | 12.0 | 16.7 | 7.6 | 6.5 | 5.8 | 100.0 |

Source: Office of Fair Trading

H.9 Analysis by size of gross assets of target companies – value of assets and percentages of totals: 1991-95

| Total assets in: | Gross assets of target companies: £m | | | | | | | Totals | (average assets: £m) |
|---------------------------|--------------------------------------|---------|---------|-----------|-----------|-----------|----------------|---------|----------------------|
| | 0-24.9 | 25-49.9 | 50-99.9 | 100-249.9 | 250-499.9 | 500-999.9 | 1,000 and over | | |
| 1991 | 209 | 1,116 | 2,795 | 5,478 | 6,300 | 7,368 | 64,067 | 87,333 | (477) |
| 1992 | 171 | 1,356 | 1,152 | 3,123 | 1,880 | 5,882 | 69,607 | 83,172 | (665) |
| 1993 | 536 | 1,174 | 2,515 | 5,069 | 3,374 | 6,149 | 31,268 | 50,085 | (254) |
| 1994 | 1,018 | 777 | 2,181 | 3,522 | 6,305 | 6,321 | 142,079 | 162,202 | (702) |
| 1995 | 758 | 845 | 2,574 | 7,366 | 7,330 | 12,856 | 146,368 | 178,096 | (648) |
| Percentages of totals in: | | | | | | | | | |
| 1991 | 0.2 | 1.3 | 3.2 | 7.5 | 7.2 | 8.4 | 73.4 | 100.0 | |
| 1992 | 0.2 | 1.6 | 1.4 | 3.8 | 2.3 | 7.0 | 83.7 | 100.0 | |
| 1993 | 1.1 | 2.3 | 5.0 | 10.0 | 6.7 | 12.3 | 62.4 | 100.0 | |
| 1994 | 0.6 | 0.5 | 1.3 | 2.2 | 3.9 | 3.9 | 87.6 | 100.0 | |
| 1995 | 0.4 | 0.5 | 1.4 | 4.1 | 4.1 | 7.2 | 82.2 | 100.0 | |

Source: Office of Fair Trading

H.10 Analysis by main activity, number, assets size and nationality of target companies: 1995

| Industry | Numbers | Assets £m | Average assets £m | Foreign companies | |
|---------------------------------------|------------|----------------|-------------------------|-------------------|--------------------|
| | | | | Target numbers | Bidding numbers |
| Agriculture, forestry and fishing | 1 | 13 | 13 | 0 | 0 |
| Coal, oil and natural gas | 2 | 254 | 127 | 0 | 0 |
| Electricity, gas and water | 12 | 12,629 | 1,052 | 0 | 5 |
| Metal processing and manufacturing | 5 | 117 | 23 | 0 | 2 |
| Mineral processing and manufacturing | 12 | 830 | 69 | 1 | 4 |
| Chemicals and man-made fibres | 7 | 1,221 | 174 | 2 | 7 |
| Metal goods (not elsewhere specified) | 2 | 2,056 | 1,028 | 0 | 0 |
| Mechanical engineering | 6 | 419 | 70 | 1 | 2 |
| Electrical engineering | 10 | 1,091 | 109 | 4 | 4 |
| Vehicles | 3 | 568 | 189 | 1 | 0 |
| Instrument engineering | 3 | 259 | 86 | 0 | 2 |
| Food, drink and tobacco | 29 | 13,475 | 465 | 9 | 10 |
| Textiles | 2 | 882 | 441 | 2 | 0 |
| Leather goods and clothing | 1 | 21 | 21 | 0 | 0 |
| Timber and wooden furniture | 2 | 150 | 75 | 1 | 0 |
| Paper, printing and publishing | 16 | 895 | 56 | 4 | 4 |
| Other manufacturing industries | 22 | 9,994 | 454 | 11 | 8 |
| Construction | 5 | 823 | 165 | 1 | 3 |
| Distribution | 24 | 4,921 | 205 | 1 | 4 |
| Hotels, catering and repairs | 11 | 1,872 | 170 | 2 | 3 |
| Transport and communications | 50 | 1,170 | 23 | 0 | 2 |
| Banking and finance | 14 | 103,773 | 7,412 | 3 | 0 |
| Insurance | 4 | 8,202 | 2,051 | 0 | 2 |
| Ancillary financial services | 5 | 5,346 | 1,069 | 2 | 1 |
| Other business services | 17 | 2,720 | 160 | 4 | 2 |
| Other services | 10 | 4,395 | 440 | 2 | 5 |
| <i>Totals</i> | <i>275</i> | <i>178,096</i> | <i>648</i> | <i>51</i> | <i>70</i> |

Source: Office of Fair Trading

H.11 Analysis by activity of target companies – numbers of cases and percentages of totals: 1991-95

| Industry | Numbers of cases | | | | | Percentages of all cases | | | | |
|---------------------------------------|------------------|------|------|------|------|--------------------------|-------|-------|-------|-------|
| | 1991 | 1992 | 1993 | 1994 | 1995 | 1991 | 1992 | 1993 | 1994 | 1995 |
| Agriculture, forestry and fishing | 0 | 0 | 1 | 1 | 1 | 0.0 | 0.0 | 0.5 | 0.4 | 0.4 |
| Coal, oil and natural gas | 9 | 4 | 4 | 5 | 2 | 5.0 | 3.2 | 2.0 | 2.2 | 0.7 |
| Electricity, gas and water | 2 | 3 | 3 | 0 | 12 | 1.1 | 2.4 | 1.5 | 0.0 | 4.4 |
| Metal processing and manufacturing | 5 | 4 | 4 | 2 | 5 | 2.7 | 3.2 | 2.0 | 0.9 | 1.8 |
| Mineral processing and manufacturing | 9 | 2 | 7 | 3 | 12 | 5.0 | 1.6 | 3.6 | 1.3 | 4.4 |
| Chemicals and man-made fibres | 18 | 15 | 20 | 19 | 7 | 9.8 | 12.0 | 10.2 | 8.2 | 2.6 |
| Metal goods (not elsewhere specified) | 2 | 1 | 4 | 2 | 2 | 1.1 | 0.8 | 2.0 | 0.9 | 0.7 |
| Mechanical engineering | 7 | 10 | 13 | 5 | 6 | 3.8 | 8.0 | 6.6 | 2.2 | 2.2 |
| Electrical engineering | 13 | 7 | 11 | 5 | 10 | 7.1 | 5.6 | 5.6 | 2.2 | 3.6 |
| Vehicles | 3 | 0 | 4 | 9 | 3 | 1.6 | 0.0 | 2.0 | 3.9 | 1.1 |
| Instrument engineering | 1 | 2 | 1 | 2 | 3 | 0.5 | 1.6 | 0.5 | 0.9 | 1.1 |
| Food, drink and tobacco | 15 | 20 | 15 | 23 | 29 | 8.2 | 16.0 | 7.6 | 10.0 | 10.6 |
| Textiles | 3 | 0 | 1 | 2 | 2 | 1.6 | 0.0 | 0.5 | 0.9 | 0.7 |
| Leather goods and clothing | 2 | 1 | 1 | 0 | 1 | 1.1 | 0.8 | 0.5 | 0.0 | 0.4 |
| Timber and wooden furniture | 1 | 0 | 0 | 1 | 2 | 0.5 | 0.0 | 0.0 | 0.4 | 0.7 |
| Paper, printing and publishing | 5 | 6 | 5 | 6 | 16 | 2.7 | 4.8 | 2.5 | 2.6 | 5.8 |
| Other manufacturing industries | 7 | 5 | 4 | 2 | 22 | 3.8 | 4.0 | 2.0 | 0.9 | 8.0 |
| Construction | 3 | 4 | 4 | 8 | 5 | 1.6 | 3.2 | 2.0 | 3.5 | 1.8 |
| Distribution | 18 | 8 | 17 | 24 | 24 | 9.8 | 6.4 | 8.6 | 10.4 | 8.7 |
| Hotels, catering and repairs | 2 | 2 | 11 | 5 | 11 | 1.1 | 1.6 | 5.6 | 2.2 | 4.0 |
| Transport and communications | 13 | 11 | 30 | 63 | 50 | 7.1 | 8.8 | 15.2 | 27.3 | 18.2 |
| Banking and finance | 12 | 11 | 9 | 10 | 14 | 6.6 | 8.8 | 4.6 | 4.3 | 5.1 |
| Insurance | 13 | 1 | 3 | 1 | 4 | 7.1 | 0.8 | 1.5 | 0.4 | 1.5 |
| Ancillary financial services | 2 | 1 | 4 | 5 | 5 | 1.1 | 0.8 | 2.0 | 2.2 | 1.8 |
| Other business services | 12 | 4 | 12 | 16 | 17 | 6.6 | 3.2 | 6.1 | 6.9 | 6.2 |
| Other services | 6 | 3 | 9 | 12 | 10 | 3.3 | 2.4 | 4.6 | 5.2 | 3.6 |
| <i>Totals</i> | 183 | 125 | 197 | 231 | 275 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: Office of Fair Trading

H.12 Analysis by activity of target companies – values of assets and percentages of totals: 1991-95

| Industry | Values of assets: £m | | | | | Percentages of total asset values | | | | |
|---------------------------------------|----------------------|---------------|---------------|----------------|----------------|-----------------------------------|--------------|--------------|--------------|--------------|
| | 1991 | 1992 | 1993 | 1994 | 1995 | 1991 | 1992 | 1993 | 1994 | 1995 |
| Agriculture, forestry and fishing | 0 | 0 | 2 | 73 | 13 | 0.0 | 0.0 | (.) | (.) | (.) |
| Coal, oil and natural gas | 8,807 | 352 | 107 | 55,540 | 254 | 4.4 | 0.4 | 0.2 | 34.2 | 0.1 |
| Electricity, gas and water | 189 | 1,898 | 270 | 0 | 12,629 | 0.2 | 2.3 | 0.5 | 0.0 | 7.0 |
| Metal processing and manufacturing | 2,752 | 160 | 382 | 47 | 117 | 3.2 | 0.2 | 0.8 | (.) | 0.1 |
| Mineral processing and manufacturing | 441 | 15 | 1,509 | 543 | 830 | 0.5 | (.) | 3.0 | 0.3 | 0.5 |
| Chemicals and man-made fibres | 4,483 | 787 | 1,996 | 13,762 | 1,221 | 5.1 | 0.9 | 4.0 | 8.5 | 0.7 |
| Metal goods (not elsewhere specified) | 198 | 668 | 358 | 17 | 2,056 | 0.2 | 0.8 | 0.7 | (.) | 1.1 |
| Mechanical engineering | 384 | 469 | 625 | 647 | 419 | 0.4 | 0.6 | 1.2 | 0.4 | 0.2 |
| Electrical engineering | 10,778 | 586 | 2,313 | 190 | 1,091 | 12.3 | 0.7 | 4.6 | 0.1 | 0.6 |
| Vehicles | 341 | 0 | 583 | 2,806 | 568 | 0.4 | 0.0 | 1.2 | 1.7 | 0.3 |
| Instrument engineering | 109 | 63 | 2 | 20 | 259 | 0.1 | 0.1 | (.) | (.) | 0.1 |
| Food, drink and tobacco | 1,189 | 6,007 | 758 | 6,110 | 13,475 | 1.3 | 7.2 | 1.5 | 3.8 | 7.6 |
| Textiles | 502 | 0 | 6 | 32 | 882 | 0.6 | 0.0 | (.) | (.) | 0.5 |
| Leather goods and clothing | 283 | 236 | 326 | 0 | 21 | 0.3 | 0.3 | 0.7 | 0.0 | (.) |
| Timber and wooden furniture | 51 | 0 | 0 | 147 | 150 | 0.1 | 0.0 | 0.0 | (.) | 0.1 |
| Paper, printing and publishing | 2,703 | 320 | 705 | 12,036 | 895 | 3.1 | 0.4 | 1.4 | 7.4 | 0.5 |
| Other manufacturing industries | 630 | 626 | 495 | 77 | 9,994 | 3.1 | 0.8 | 1.0 | (.) | 5.6 |
| Construction | 3,753 | 1,283 | 1,298 | 1,069 | 823 | 4.3 | 1.5 | 2.6 | 0.7 | 0.5 |
| Distribution | 4,498 | 2,056 | 2,052 | 1,856 | 4,921 | 5.2 | 2.5 | 4.1 | 1.1 | 2.8 |
| Hotels, catering and repairs | 115 | 581 | 2,914 | 448 | 1,872 | 0.1 | 0.7 | 5.8 | 0.3 | 1.0 |
| Transport and communications | 2,235 | 508 | 11,960 | 3,158 | 1,170 | 2.6 | 0.6 | 23.9 | 1.9 | 0.7 |
| Banking and finance | 39,223 | 64,272 | 3,751 | 51,387 | 103,773 | 44.9 | 77.3 | 7.5 | 31.7 | 58.3 |
| Insurance | 4,197 | 30 | 1,088 | 5,527 | 8,202 | 4.8 | (.) | 2.2 | 3.4 | 4.6 |
| Ancillary financial services | 221 | 2 | 1,279 | 811 | 5,346 | 0.3 | (.) | 2.6 | 0.5 | 3.0 |
| Other business services | 2,343 | 318 | 10,220 | 4,354 | 2,720 | 2.7 | 0.4 | 20.4 | 2.7 | 1.5 |
| Other services | 1,908 | 1,935 | 5,086 | 1,545 | 4,395 | 2.2 | 2.3 | 10.2 | 0.9 | 2.5 |
| Totals | 87,333 | 83,172 | 50,085 | 162,202 | 178,096 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: Office of Fair Trading

(.) Less than 0.05

H.13 Foreign companies involved in merger situations: 1991-95

| Year | Target companies | | Bidding companies | |
|------|------------------|---------------------------|-------------------|---------------------------|
| | Total numbers | Total as % of all mergers | Total numbers | Total as % of all mergers |
| 1991 | 36 | 19.6 | 70 | 38.3 |
| 1992 | 18 | 14.4 | 40 | 32.0 |
| 1993 | 37 | 18.8 | 51 | 25.9 |
| 1994 | 30 | 13.0 | 49 | 21.2 |
| 1995 | 51 | 18.5 | 70 | 25.5 |

Source: Office of Fair Trading

H.14 Percentages of proposed mergers by number and value of assets of target companies classified by type of integration: 1991-95

| Year | Horizontal | | Vertical | | Diversifying | |
|------|------------|----------|-----------|----------|--------------|----------|
| | by number | by value | by number | by value | by number | by value |
| 1991 | 88 | 89 | 5 | 5 | 7 | 6 |
| 1992 | 93 | 97 | 1 | 0 | 6 | 3 |
| 1993 | 90 | 81 | 3 | 1 | 7 | 18 |
| 1994 | 88 | 86 | 5 | 11 | 7 | 3 |
| 1995 | 91 | 96 | 1 | 0 | 8 | 4 |

Source: Office of Fair Trading

H.15 Analysis by main activity, numbers of cases, total value of assets of target companies and type of merger: 1995

| Industry | Horizontal | | Vertical | | Diversifying | |
|---------------------------------------|------------------|--------------------|------------------|--------------------|------------------|--------------------|
| | numbers of cases | value of assets £m | numbers of cases | value of assets £m | numbers of cases | value of assets £m |
| Agriculture, forestry and fishing | 1 | 13 | 0 | 0 | 0 | 0 |
| Coal, oil and natural gas | 2 | 254 | 0 | 0 | 0 | 0 |
| Electricity, gas and water | 11 | 11,761 | 0 | 0 | 1 | 869 |
| Metal processing and manufacturing | 5 | 117 | 0 | 0 | 0 | 0 |
| Mineral processing and manufacturing | 12 | 830 | 0 | 0 | 0 | 0 |
| Chemicals and man-made fibres | 6 | 1,113 | 0 | 0 | 1 | 108 |
| Metal goods (not elsewhere specified) | 1 | 6 | 0 | 0 | 1 | 2,050 |
| Mechanical engineering | 5 | 317 | 0 | 0 | 1 | 103 |
| Electrical engineering | 9 | 1,003 | 1 | 88 | 0 | 0 |
| Vehicles | 3 | 568 | 0 | 0 | 0 | 0 |
| Instrument engineering | 3 | 259 | 0 | 0 | 0 | 0 |
| Food, drink and tobacco | 29 | 13,475 | 0 | 0 | 0 | 0 |
| Textiles | 2 | 882 | 0 | 0 | 0 | 0 |
| Leather goods and clothing | 1 | 21 | 0 | 0 | 0 | 0 |
| Timber and wooden furniture | 1 | 2 | 0 | 0 | 1 | 148 |
| Paper, printing and publishing | 13 | 359 | 1 | 273 | 2 | 264 |
| Other manufacturing industries | 20 | 9,785 | 0 | 0 | 2 | 209 |
| Construction | 5 | 823 | 0 | 0 | 0 | 0 |
| Distribution | 21 | 4,347 | 0 | 0 | 3 | 574 |
| Hotels, catering and repairs | 9 | 1,761 | 1 | 30 | 1 | 81 |
| Transport and communications | 49 | 1,090 | 0 | 0 | 1 | 80 |
| Banking and finance | 13 | 103,564 | 0 | 0 | 1 | 209 |
| Insurance | 3 | 8,087 | 0 | 0 | 1 | 115 |
| Ancillary financial services | 4 | 4,766 | 0 | 0 | 1 | 580 |
| Other business services | 16 | 2,515 | 0 | 0 | 1 | 205 |
| Other services | 7 | 2,890 | 0 | 0 | 3 | 1,505 |
| Totals | 251 | 170,607 | 3 | 391 | 21 | 7,100 |

Source: Office of Fair Trading

H.16 Analysis by size of assets of target companies, and type of merger: 1995

| Size of assets: £m | Horizontal | | Vertical | | Diversifying | |
|--------------------|------------------|--------------------|------------------|--------------------|------------------|--------------------|
| | numbers of cases | value of assets £m | numbers of cases | value of assets £m | numbers of cases | value of assets £m |
| 0-24.9 | 118 | 758 | 0 | 0 | 0 | 0 |
| 25-49.9 | 22 | 815 | 1 | 30 | 0 | 0 |
| 50-99.9 | 28 | 2,165 | 1 | 88 | 4 | 321 |
| 100-249.9 | 34 | 5,578 | 0 | 0 | 12 | 1,788 |
| 250-499.9 | 19 | 6,799 | 1 | 273 | 1 | 258 |
| 500-999.9 | 16 | 11,408 | 0 | 0 | 2 | 1,449 |
| 1,000 and over | 14 | 143,084 | 0 | 0 | 2 | 3,284 |
| <i>Totals</i> | 251 | 170,607 | 3 | 391 | 21 | 7,100 |

Source: Office of Fair Trading

H.17 Analysis by size of assets of target companies by assets of bidding companies – numbers of cases: 1995¹

| Assets of bidding companies: £m | Assets of target companies: £m | | | | | | | Totals |
|---------------------------------|--------------------------------|---------|---------|-----------|-----------|-----------|----------------|--------|
| | 0-24.9 | 25-49.9 | 50-99.9 | 100-249.9 | 250-499.9 | 500-999.9 | 1,000 and over | |
| 0-24.9 | 18 | 0 | 2 | 4 | 3 | 1 | 2 | 30 |
| 25-49.9 | 25 | 1 | 0 | 0 | 0 | 0 | 0 | 26 |
| 50-99.9 | 20 | 1 | 5 | 2 | 2 | 0 | 0 | 30 |
| 100-249.9 | 29 | 5 | 6 | 4 | 2 | 0 | 0 | 30 |
| 250-499.9 | 10 | 7 | 2 | 7 | 2 | 1 | 0 | 29 |
| 500-999.9 | 5 | 4 | 2 | 8 | 0 | 2 | 0 | 21 |
| 1,000 and over | 11 | 5 | 16 | 21 | 12 | 14 | 14 | 93 |
| <i>Totals</i> | 118 | 23 | 33 | 46 | 21 | 18 | 16 | 275 |

Source: Office of Fair Trading

¹ This table excludes management buyouts where the assets of the bidding company are recorded as zero. Also excluded are the insurance sector (SIC 8200-8299) and other takeovers where the assets of the bidding company are unknown.

H.18 Analysis by size of assets of target companies by assets of bidding companies – total value of assets: 1995¹

| Assets of bidding companies: £m | Assets of target companies: £m | | | | | | | Totals |
|---------------------------------|--------------------------------|------------|--------------|--------------|--------------|---------------|----------------|----------------|
| | 0-24.9 | 25-49.9 | 50-99.9 | 100-249.9 | 250-499.9 | 500-999.9 | 1,000 and over | |
| 0-24.9 | 47 | 0 | 179 | 670 | 1,001 | 631 | 10,431 | 12,959 |
| 25-49.9 | 138 | 41 | 0 | 0 | 0 | 0 | 0 | 179 |
| 50-99.9 | 130 | 29 | 420 | 363 | 660 | 0 | 0 | 1,602 |
| 100-249.9 | 244 | 168 | 414 | 578 | 699 | 0 | 0 | 2,103 |
| 250-499.9 | 61 | 231 | 174 | 1,127 | 677 | 808 | 0 | 3,078 |
| 500-999.9 | 52 | 151 | 172 | 1,297 | 0 | 1,504 | 0 | 3,176 |
| 1,000 and over | 86 | 226 | 1,215 | 3,331 | 4,293 | 9,914 | 135,937 | 155,002 |
| Totals | 758 | 845 | 2,574 | 7,366 | 7,330 | 12,856 | 146,368 | 178,097 |

Source: Office of Fair Trading

- ¹ This table excludes management buyouts where the assets of the bidding company are recorded as zero. Also excluded are the insurance sector (SIC 8200-8299) and other takeovers where the assets of the bidding company are unknown.

I Action under the Treaty of Rome

I.1 Decisions by the European Commission: 1995

| <i>Description</i> | <i>Date of Decision</i> | <i>Date published in Official Journal</i> |
|---------------------------------------|-------------------------|---|
| COAPI | 30 January | L122 of 2.6.95, p 37 |
| PMI/DSV | 31 January | L221 of 19.9.95, p 34 |
| Irish Continental Group v CCI Morlaix | 16 May | <i>Not published in Official Journal</i> |
| BASF | 13 July | L272 of 15.11.95, p 16 |
| SCK/FNK | 29 November | L312 of 23.12.95, p 79 |

J New publications

J.1 Published by the Office of Fair Trading

Copies of the following publications are available, free of charge, from: Office of Fair Trading, PO Box 2, Central Way, Feltham, Middx TW14 0TG (tel: 0181-398 3405):

■ Advisory material

Buying by Post (OFT 0102), new edition, 'Know your Rights' leaflet No 3 - January

Prepayments (OFT 127), 'Know your Rights' leaflet No 4 - February

Buying Goods (OFT 120), 'Know your Rights' leaflet No 5 - February

Buying Goods - Scotland (OFT 121), 'Know your Rights' leaflet No 6 - February

Buying Goods - Northern Ireland (OFT 122), 'Know your Rights' leaflet No 7 - February

Buying a Service (OFT 128), 'Know your Rights' leaflet No 8 - February

Buying a Service - Scotland (OFT 129), 'Know your Rights' leaflet No 9 - February

Buying a Service - Northern Ireland (OFT 130), 'Know your Rights' leaflet No 10 - February

Home Improvements (OFT 118), new edition of consumer advice booklet - February

Monopolies and Anti-Competitive Practices (OFT 126), business guidance booklet on the provisions of the Fair Trading Act 1973 and the Competition Act 1980 - March

Unfair Standard Terms (OFT 143), briefing note for consumer advisers - July

Using a Pawnbroker (OFT 146), 'Know your rights' leaflet No 11 - September

Mergers (OFT 0036), new edition of business guidance booklet on procedures under the Fair Trading Act 1973 - October

Merger Submissions (OFT 148), new edition of business briefing note formerly titled *Mergers: the content of submissions* - November

Equal Liability (OFT 0013), new edition of briefing note for consumer advisers - November

Moneyfax 4 (OFT 0090), new edition of consumer advice booklet - December

■ Other principal publications

Underwriting of Equity Issues (OFT 124), report - March

Rules of the London Stock Exchange relating to Market Makers (OFT 123), report - March

United Automobile Services Ltd: the operation of local bus services in Darlington (OFT 125), report - March

Mortgage Repayment Methods (OFT 131), report - April

Connected Lender Liability (OFT 0097), second report (first report, March 1994) - May

Independent Productions Transmitted by the BBC (OFT 135), first report, for period 1 January 1993 to 31 March 1994 - May

Pre-Paid Funeral Plans (OFT 133), report - May

The Use of Consumer Credit Group Licensing (OFT 139), report - June

Register of Undertakings and Orders under the Competition Act 1980 and the Monopoly Provisions of the Fair Trading Act 1973 (OFT 138), updated register - June

Independent Productions Transmitted by the BBC (OFT 145), second report, for period 1 April 1994 to 31 March 1995 - September

The Operation of the Central Register of Convictions (OFT 149), consultation document - December

■ Discussion paper

Copies of the following publication are available, free of charge, from: Office of Fair Trading, Room 306, Field House, 15-25 Bream's Buildings, London EC4A 1PR (tel: 0171-269 8890):
Multiple Agreements and section 18 of the Consumer Credit Act 1974 - June

■ Other reports to Ministers

Copies of the following reports (in the form of letters from the Director General) are available, free of charge, from: Office of Fair Trading, Room 306, Field House, 15-25 Bream's Buildings, London EC4A 1PR (tel: 0171-269 8890):

Reports to the Lord Chancellor

Lord Chancellor's Department: Proposal for a Directive on Lawyers' Right of Establishment - February

Bar Council: Application to amend the Code of Conduct and Consolidated Regulations - February

Bar Council and Law Society: Joint application to abolish the Certificate of Eligibility - February

Bar Council: Application to amend regulations relating to the academic stage of legal education - March

Lord Chancellor's Department: Green paper, Legal Aid - Targeting Need (draft 6) - March

Law Society: Application to amend the Qualified Lawyers Transfer Regulations 1990 - April

Lord Chancellor's Department: Application by the Law Society to extend rights of audience to employed solicitors - August

Lord Chancellor's Department: Green paper, Legal Aid - Targeting Need - September

Advisory Committee of Legal Education and Conduct: Vocational stage of legal education - October

Law Society: Application to amend the Qualified Lawyers Transfer Regulations 1990 - December

Reports to the Chancellor of the Exchequer

Tradepoint: Application for recognised investment exchange status by Tradepoint Financial Networks plc - May

Stockholm Stock Exchange: Application for recognised investment exchange status by Stockholm Stock Exchange - May

Delta Government Options Corporation: Application for recognition as an overseas investment exchange by Delta Government Options Corporation - August

J.2 Published by Her Majesty's Stationery Office

Copies of the following publications can be purchased from HMSO bookshops or, by post, from: HMSO Publications Centre, PO Box 276, London SW8 5DT (tel: orders only, 0171-873 9090; enquiries, 0171-873 0011):

■ For the Office of Fair Trading

Annual Report of the Director General of Fair Trading 1994 (HC 419, ISBN 0-10-241995-7), £16.55 - May

■ For the Monopolies and Mergers Commission

Video Games (Cm 2781, ISBN 0-10-127812-8), £19.75 - March

Stagecoach Holdings plc and Mainline Partnership Ltd (Cm 2782, ISBN 0-10-127822-5), £11.35 - March

Thomas Cook Group Ltd and Interpayment Services Ltd (Cm 2789, ISBN 0-10-127892-6), £14.15 - March

SB Holdings Ltd and Kelvin Central Buses Ltd (Cm 2829, ISBN 0-10-128292-7), £10.40 - March

Stagecoach Holdings plc and SB Holdings Ltd (Cm 2848, ISBN 0-10-128452-7), £10.20 - April

British Aerospace plc and VSEL plc (Cm 2851, ISBN 0-10-

128512-4), £15.75 - May

The General Electric Company plc and VSEL plc (Cm 2852, ISBN 0-10-128452-7), £19.20 - May

Service Corporation International and Plantsbrook Group plc (Cm 2880, ISBN 0-10-128802-6), £18.10 - May

Scottish Hydro-Electric plc (ISBN 0-11-701932-1), £21.00 - May

South West Water Services Ltd (ISBN 0-11-701945-3), £35.00 - June

Portsmouth Water plc (ISBN 0-11-701946-1), £21.00 - June

Lyonnaisse des Eaux SA and Northumbrian Water Group plc (Cm 2936, ISBN 0-10-129362-3), £15.30 - July

The Supply of Bus Services in the North-East of England (Cm 3032, ISBN 0-10-129332-1), £23.75 - August

Stagecoach Holdings plc and Ayrshire Bus Owners (AI Service) Ltd (Cm 3032, ISBN 0-10-130322-X), £11.75 - November

Trinity International Holdings and Thomson Regional Newspapers Ltd (Cm 3064, ISBN 0-10-130332-7), £13.90 - November

Nutricia Holdings Ltd and Valio International UK Ltd (Cm 3064, ISBN 0-10-130642-3), £8.90 - December

Telephone Number Portability (ISBN 0-11-515451-5), £20.00 - December

J.3 Published by the Monopolies and Mergers Commission

Copies of the following publications are available, free of charge, from: MMC Library, New Court, 48 Carey Street, London WC2A 2JT (tel: 0171-324 1467):

Annual Review 1994 - January 1995

Annual Review 1995 - January 1996

K Research

In 1995, the OFT sponsored research work on the following subjects.

K.1 Economic research

The effectiveness of measures implemented after monopoly investigations – The aim of this study, carried out by Professor Davies at the University of East Anglia and Professor Clarke at the Cardiff Business School, was to assess the relative effectiveness of different remedies implemented to counter monopoly problems identified in MMC investigations.

Contracts and competition initiative – The OFT continued to part-fund one of a number of research projects under this initiative, which is under the overall sponsorship of the Economic and Social Research Council. The project supported by the OFT is being undertaken by Professor Vickers and others at the University of Oxford, and is concerned with competition and competition policy for firms with market power.

International retail price differences – This study by Professor McGoldrick, Professor Bosworth and others at UMIST and the Manchester Business School examined the measurement and explanation for differences in international retail prices. It covered conceptual, methodological and comparative database issues.

Vertical restraints – Professor Waterson at the University of Warwick and Dr Dobson at the University of Nottingham worked on the theory of vertical restraints in order to develop a model to assess the welfare effects of particular types of restraint in particular types of market.

Forecasting mergers – Professor Clarke and Dr Ioannidis at the Cardiff Business School refined their multivariate model of United Kingdom merger activity, which can be used for forecasting purposes.

Distributional issues in welfare assessment and competition policy – Dr Vaughan at University College London completed a survey paper on the arguments for a non-neutral approach to surplus transfers in competition policy work.

Competition in retailing – London Economics examined competition issues in retailing. This covered contemporary economic and consumer buyer behaviour and the analytical issues for competition casework that this raises.

Article 85 and 86 cases in the European Community – In conjunction with the Centre for Economic Policy Research, the OFT part-funded Professor Neven at the University of Lausanne and Dr Seabright at Cambridge University in their examination of decisions taken by the European Commission in Article 85 and 86 competition cases.

Market mobility – Professor Cable of the University of Aberystwyth began work on a survey paper on statistical measures of market mobility and their policy implications.

Seasonal sales and consumer protection – Professor McGoldrick and Ms Betts at UMIST and the Manchester Business School were commissioned to examine consumer reaction to seasonal sales and the implications for consumer protection.

Cost allocation – Professor Cave of Brunel University began work on a survey paper on modern economic theories of joint cost allocation - an issue arising principally in monopoly regulation.

Buyer power – Work on a survey paper on the modern economic theory of buyer power, commissioned from Dr Williams of the University of Oxford, was subsequently extended to cover secondary market issues.

Premier league football – Dr Williams was also commissioned to prepare a survey paper on the allocation of football rights for television broadcast and the competition implications.

The effectiveness of remedies in bus markets – National Economic Research Associates were appointed to examine the relative effectiveness of different remedies that have been implemented through 'undertakings' to counter monopoly problems identified in MMC and other investigations in the bus industry.

K.2 Consumer affairs research

Pre-paid funeral plans – Commissioned through the Scottish Consumer Council, Carole Millar Associates completed a survey of purchasers of pre-paid funeral plans. The purpose of the survey was to examine the reasons for buying such a plan, the purchasing process itself, and purchasers' understanding of what they had bought. Bacon & Woodrow was also commissioned to provide actuarial and accountancy advice in this area. This research formed the basis of the OFT report on pre-paid funeral plans, published in May (see Appendix J.1).

Consumer credit licence holders – Business and Market Research plc completed a survey of five-year consumer credit licence holders in order to help the OFT forecast who would renew such licences when they first expire in mid-1996.

Extended warranties on electrical goods – Following up the OFT report published in December 1994 (AR-94, pp 20 and 87), Falcon Research Ltd was contracted to carry out a 'mystery shopping' exercise to assess whether extended-warranty selling practices had improved since the introduction of the British Retail Consortium's code of practice. The survey results formed the basis of a second report published by the OFT in January 1996.

Office equipment – Network Research and Marketing Ltd was commissioned to carry out a survey of recent photocopier purchasers and lessees to assess whether trading malpractices continue to be rife in this sector. This work is a follow-up to the OFT report published in March 1994 (AR-94, pp 21 and 87).

Pitfalls in personal finance – Shepherd Associates continued to assist with the preparation of projected consumer guidance material on avoiding hazards in the choice of mortgages, investments, pensions, and other personal financial services.

Consumer redress – In parallel research projects, Professor Baldwin of Birmingham University examined the effectiveness of the county court small claims procedures and Ms Jacobs of the University of Utrecht examined various ombudsman schemes. The findings were presented at a symposium arranged by the OFT in September (see page 18).

Consumer detriment – London Economics was commissioned to examine what meanings can, and should, be given to the terms ‘consumer detriment’ and ‘adverse effects on the economic interests of consumers’ and how they can best be measured. The project also sought to produce guidelines on the identification of areas of economic activity where these terms are likely to apply.

K.3 Competition policy research

Independent television production initiative – David Graham & Associates monitored television output in support of the

Director General’s duty, under section 186 of the Broadcasting Act 1990, to report on the BBC’s achievement of a 25% share of transmissions for independent producers.

Regulation of the professions – Professor Shapland of Sheffield University was appointed to write a survey paper on the ways professional bodies communicate to members (or clients) information or guidance on matters such as members’ qualifications, specialisms, types of charge, and charging structure.

Scottish solicitors’ property centres – Dr Dobson of Nottingham University was commissioned to produce a theoretical paper on the restrictive access provisions of the Aberdeen and Edinburgh solicitors’ property centres. Professor Stephen of Strathclyde University also undertook some empirical work on this topic.

Net Book Agreement – In connection with the case presented in the Restrictive Practices Court, Professor Utton of the University of Reading provided the OFT with expert advice on changes that had taken place in the publishing and bookselling industry since 1962, and on the likely consequences of the ending of the Net Book Agreement.

L Public registers

Both the Consumer Credit and Estate Agents Act public registers maintained by the OFT are kept at its Consumer Credit Licensing Branch, Craven House, 40 Uxbridge Road, London W5 2BS.

The Register of Restrictive Trading Agreements is kept at Field House, 15-25 Bream's Buildings, London EC4A 1PR.

L.1 The Consumer Credit Public Register

The register is open on Mondays to Fridays between 9.30 am and 4 pm (between 9.30 am and 12.30 pm on Maundy Thursday). It is closed on Saturdays, Sundays, public holidays and the Friday before the Spring Bank Holiday. Personal callers can ask for a search to be made of the index of applicants and licensees - by true name and business name - free of charge, but there is a fee of £3.50 to inspect any individual file on the register itself. Copies of documents on file can be supplied at £1 a sheet (or £2 a sheet for certified copies), and 60p a sheet for each additional copy. Provided that any documents required are clearly identified, copies can also be supplied by post, subject to an additional postal charge of £2.50.

Further information about the register is given in the leaflet *The Consumer Credit Public Register* available, free of charge, from the Consumer Credit Licensing Branch at the address shown above.

L.2 The Estate Agents Act Public Register

The register is open on Mondays to Fridays between 9.30 am and 4 pm (between 9.30 am and 12.30 pm on Maundy Thursday). It is closed on Saturdays, Sundays, public holidays and the Friday before the Spring Bank Holiday. It gives particulars of prohibition and warning orders made under the Estate Agents Act 1979, and of applications for such orders to be varied or revoked. Personal callers can examine an index of names of persons on the register free of charge, but there is a fee of £1 to inspect each file on the register itself. Copies of documents, certified by the Director General, can be obtained by personal callers at a charge of 75p a sheet. Provided that any documents required are clearly identified, copies can also be supplied by post at the following charges: one sheet £2.25; two sheets £3; three sheets £3.75; four sheets £4.50; five sheets £5.25; for the sixth and each additional sheet an extra £1.

L.3 The Register of Restrictive Trading Agreements

Apart from the special section maintained under section 23(3) of the Restrictive Trade Practices Act 1976, the register is open on Mondays to Fridays between 10 am and 4.30 pm (between 10 am and 12.30 pm on Maundy Thursday), and closed on Saturdays, Sundays and public holidays. An index to agreements on the register may be consulted free of charge but there is a fee to inspect the register itself: £1 an agreement for five or fewer agreements inspected on any one day, or £10 a day. The fee for supplying copies of, or extracts from, particulars on the register is 35p a sheet. A further charge of 35p a sheet is made for certification by the Director General of copies or extracts.

M Personnel and resources

M.1 Office of Fair Trading

Principal Office address

Field House, 15-25 Bream's Buildings, London EC4A 1PR

Director General of Fair Trading

Sir Bryan Carsberg (to 20 May)
 Jeffrey Preston, CB (21 May to 30 September)
 John Bridgeman, TD, DL (from 1 October)

Deputy Director General

Jeffrey Preston, CB

Consumer Affairs Division

- **Director**
- John Mills (to 31 March)
- Peter Casey (1 April to 31 July)
- Geoffrey Horton (from 1 August)

- **Assistant Directors**
- David Lightfoot (to 29 September)
- Roger Watson (from 27 March)
- John Chapman
- Peter Casey

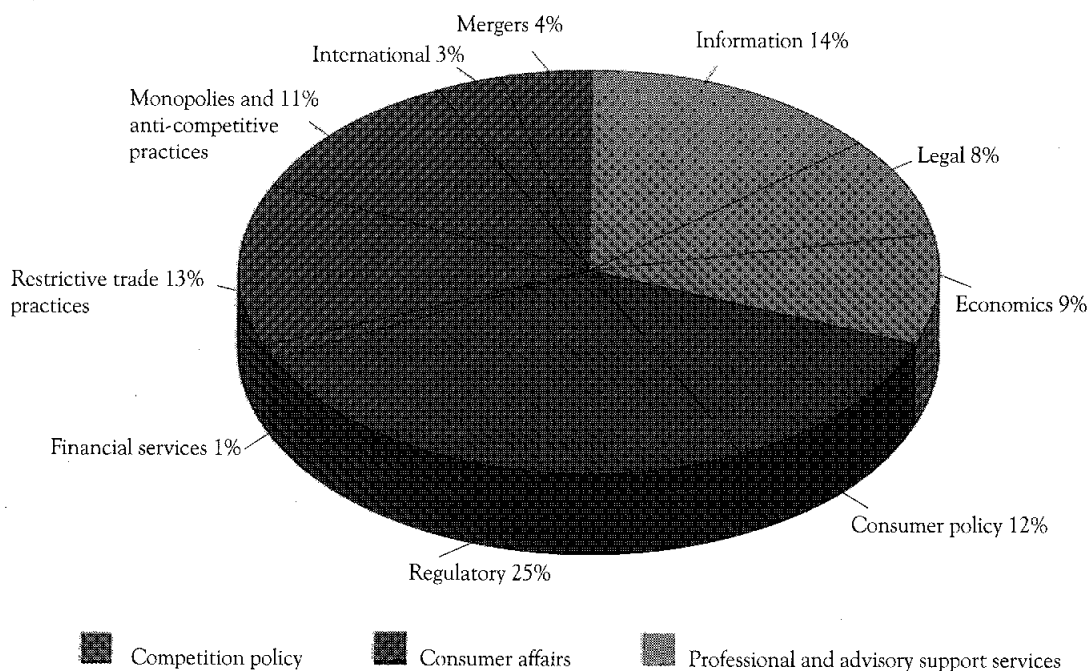
Competition Policy Division

- **Director**
- Martin Howe, CB
- **Assistant Directors**
- Richard Upson (to 30 November)
- Steven Wood (from 11 December)
- Christopher Wright (to 17 November)
- Edward Whitehorn (from 1 December)
- Henry Emden
- Andrew White
- **Head of International Section**
- Edward Whitehorn (to 30 November)
- Adrian Walker-Smith (from 1 December)

Legal Division

- **Director**
- Anthony Inglese (to 24 November)
- **Assistant Directors**
- Arif Khan
- Peter Rostron

Percentage allocation of running cost resources: 1995/96



This diagram excludes running cost resources for Treasury Solicitors

Economics Branch

- **Head of Economics**
David Elliott

Administration Branch

- **Principal Establishment and Finance Officer**
Miss Caroline Banks

Information Branch

- **Chief Information Officer**
Dermod Hill

Resources

For accounting purposes, the OFT's financial year runs from 1 April to 31 March. In the 1995/96 financial year, the Director General had a budget of £19.4 million to meet running costs and capital spending. The accompanying diagram shows, in percentage terms, how the running-cost resources were allocated among the OFT's main activities, including the respective shares of overheads and administration costs.

Spending in 1995/96 is expected to show efficiency gains of at least 2%. In addition, 'good housekeeping' initiatives have continued to reduce energy, water and telecommunications costs.

Over the period of this report the OFT's permanent staff averaged 410, made up as follows:

67 senior staff
165 executive grades
178 others

These figures include the following professional advisers:

12 lawyers
18 economists
4 statisticians
2 accountants
4 internal auditors
3 staff inspectors
10 information officers

The OFT provides a number of common services to other regulatory authorities: the Office of Telecommunications (OFTEL); the Office of Gas Supply (OFGAS) and the Office of Electricity Regulation (OFFER). These services include: internal audit; staffing consultancy and review; and personnel and payroll.

Recruitment

The OFT is committed to the Civil Service recruitment principles of fair and open competition and selection on merit. All systems are based on these principles and are subject to audit.

In 1995, of 16 staff recruited by open competition, 50% were women, and 37% were from ethnic minorities. None were registered disabled. These include staff recruited on the OFT's behalf by the Recruitment and Assessment Agency. The 16 posts filled include one Director (male, white), two Grade 7s (both women), five Executive Officers (two women, three from ethnic minorities), and eight clerical and support staff (four women, three from ethnic minorities). The OFT also filled several posts from interdepartmental trawls.

The only exceptions to open recruitment were one re-appointment of a former member of staff and four short-term appointments extended beyond 12 months to meet the OFT's operational needs. None were retained permanently.

M.2 Monopolies and Mergers Commission*Office address*

New Court, 48 Carey Street, London WC2A 2JT

Chairman

Graeme Odgers

Part-time Deputy Chairmen

Peter Dean, CBE
Dan Goyder, CBE
Hans Liesner, CB (to 30 September, but remained a member of the MMC)
Dr Derek Morris (from 1 October)

Members

Alan Armstrong (to 16 July)
Ian Barter
Prof Jack Beaston (from 13 December)
Catherine M Blight
Patrick Brennan
John Bridgeman (to 30 September)
Roy Croft, CB (from 1 May)
Roger Davies
Prof Sam Eilon
James Evans, CBE
Nicholas Finney, OBE
Sir Archibald Forster, F Eng
Sir Ronald Halstead, CBE
David Hammond (from 1 May)
Patricia Hodgson, CBE
David Jenkins, MBE
Leonard Kingshott
Roger Lyons (from 1 February)
Nigel Matthews
Prof Stanley Metcalfe, CBE
Prof Patrick Minford, CBE
Kate Mortimer (from 1 June)
John Montgomery (to 8 August)
Prof John Pickering
Leslie Priestley
M Richard Prosser
Dr Ann Robinson
James Roe
Dr Lynda Rouse
Graham Stacy, CBE (from 15 December)
Clare Tritton, QC
Prof Geoffrey Whittington

Newspaper panel

Timothy Bowdler (from 9 October)
David Churchill (to 28 February)
Geoffrey Copeman (from 9 October)
Sir Peter Gibbins
Simon Jenkins (to February)

Robert Kernohan
 Mark Kersen
 Caroline Marland (from 9 October)
 Michael Nelson (to June)
 Ian Park, CBE (to 3 January)
 Timothy Willis

Telecommunications panel

David Fairbairn, OBE
 Stephen Finch, OBE
 Prof John Flood, OBE
 Michael Johnson
 Dr Gill Owen
 Lady Esme Scott, CBE (to January)

Water panel

Prof Michael Bromwich
 Peter Bullock
 Sir Trevor Hughes, KCB
 David Kinnersley
 Dr Gill Owen
 Lady Esme Scott, CBE (to January)
 Alister Sutherland (to June)

Electricity panel

John Boyd, QC
 Prof Michael Bromwich
 Dr Malcolm Kennedy
 Prof Tony Kennerley
 Bill Morgan
 Dr Gill Owen
 Prof Colin Robinson
 Lady Esme Scott, CBE (to January)

Resources

On 1 January 1996, the MMC had 95 full-time equivalent staff. During the course of 1995, it published 17 reports.

The cost of the MMC is borne on the Department of Trade and Industry vote. Its estimated outturn for 1995/96, excluding accommodation, is £5.9 million, compared with expenditure of £5.0 million in 1994/95. Accommodation charges over the two years are expected to fall slightly, to give a total expenditure of £7.4 million against £6.6 million in 1994/95.

In accordance with its response to recommendations in the quinquennial review of the way in which it operates, the MMC expects to publish unaudited accounts for the year ending 31 March 1996. For the following and subsequent years it will publish accounts audited by the National Audit Office.

Government accounting guidelines on accountability in non-departmental public bodies require a financial memorandum and management statement, or an equivalent document such as a Memorandum of Understanding (MOU), to be drawn up between each such body and its sponsoring department. The purpose of the document is to set out the strategic framework within which that body is required to operate, including the conditions under which any government funds are provided. The MMC has been preparing an MOU with the DTI. The MOU is an understanding between the DTI and the MMC, involving commitments, on the part of both, in respect of the appointment and conduct of members, funding arrangements, employment of staff, contracting out, and the publication of reports. Nothing in the MOU derogates from the powers and duties respectively conferred on the Secretary of State and the MMC in the relevant legislation.

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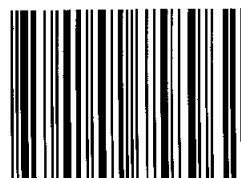
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