

CHAPTER 2

General background

The reference

2.1. The subject of our reference is:

the service supplied by or on behalf of the licence-holder of making arrangements for a person to put or keep on land in Northern Ireland a caravan (within the meaning of Part I of the Caravan Sites and Control of Development Act 1960) other than arrangements by virtue of which the person may occupy the caravan as his only or main residence and other than arrangements by which the person may put or keep a touring caravan on land.

Section 23 of the Competition Act 1980 expressly extended the scope of the provisions of the Fair Trading Act 1973 to cover the supply of this type of service.

2.2. Since the reference is limited to 'the service supplied by . . . the licence-holder', unlicensed caravan sites are outside the scope of our inquiry. Unlicensed sites comprise not only those, such as the municipal sites, which are exempt from the statutory licensing requirements (see paragraph 2.7) but also a few privately owned sites whose owners have not complied with the licensing requirements (see paragraph 3.7).

Licence-holder

2.3. The reference defines 'licence-holder' as:

a person who has applied for a site licence under section 3 of the Caravans Act (Northern Ireland) 1963 in accordance with the provisions in the Caravan Sites (Licence Applications) Order (Northern Ireland) 1963 and to whom such licence has been granted.

The Act prohibits the use of land as a caravan site without a site licence, except in certain specified cases. Section 3 of the Act provides that:

- (a) an application for a site licence should be made in writing to the appropriate local authority in such form as may by order be prescribed; and
- (b) the issue of such a licence is mandatory provided that the applicant has paid the appropriate fee, has received planning permission for the use of the land as a caravan site, and has not had a site licence revoked within the past three years.

A copy of the Caravan Sites (Licence Applications) Order (Northern Ireland) 1963, which sets out the particulars to be given by an applicant for a site licence, is at Appendix 1.

Planning permission

2.4. Section 3 of the Act provides that a site licence may be issued only if the applicant is 'entitled to the benefit of a permission for the use of the

land as a caravan site granted under the Planning (Interim Development) Act (Northern Ireland), 1944'. Originally the responsibility for determining applications for planning permission rested with the appropriate local authority. Since 1973, however, the Department of the Environment for Northern Ireland has been the planning authority for the whole of Northern Ireland. Section 19 of the Caravans Act (Northern Ireland), 1963 requires that, before granting planning permission for the use of land as a caravan site, the planning authority shall consult the authority having power to issue a site licence for that land.

Conditions attached to site licences

2.5. Section 5 of the Act provides that a site licence issued by a local authority:

may be so issued subject to such conditions as the authority may think it necessary or desirable to impose on the occupier of the land in the interests of persons dwelling thereon in caravans, or of any other class of persons, or of the public at large.

Section 5 sets out, without prejudice to the above general power of the local authorities, particular conditions which may be attached to site licences. These include, in summary, conditions:

- (a) for restricting the occasions on which caravans are stationed on land for the purposes of human habitation;
- (b) for restricting the total number of caravans on the land;
- (c) for controlling the types of caravan on the land, subject to an express provision that such control shall not be by reference to the materials used in the construction of the caravan;
- (d) for regulating both the positions in which caravans are stationed, and the placing or erection of other structures on the land;
- (e) for preserving or enhancing the amenity of the land;
- (f) for securing that proper measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained;
- (g) for securing the provision and proper maintenance of adequate sanitary facilities; and
- (h) corresponding to any condition subject to which planning permission has been granted for the use of the land as a caravan site.

2.6. The Act further provides that a site licence shall contain an express condition that, at all times when caravans are stationed on the land for the purposes of human habitation, a copy of the licence shall be displayed on the land in some conspicuous position. The only exemption from this requirement is in the case of a licence issued subject to a condition restricting to three or less the total number of caravans which may be stationed on the land at any one time.

Exemptions from the licensing provisions

2.7. The Schedule to the Act specifies the circumstances in which a site licence shall not be required for the use of land as a caravan site. Exemptions include:

- (a) land occupied by a local authority;
- (b) use within the curtilage of a dwelling house;
- (c) use in certain circumstances, for not more than two nights, by a person travelling with a caravan;
- (d) sites occupied and supervised by, or approved by, an organisation which holds a certificate of exemption;
- (e) use, in certain circumstances, for the accommodation of agricultural or forestry workers during a particular season; and
- (f) use, in certain circumstances, for the accommodation of persons on (adjoining) building and engineering sites.

2.8. Although unlicensed sites, whether or not they are exempt from the licensing requirements, are outside the scope of our inquiry (see paragraph 2.2), we have taken the view that this did not preclude us from taking such sites into consideration in so far as they might affect the competitive situation in relation to licensed sites, which we discuss in Chapter 3. We found that the only commercially-operated unlicensed sites of any significance were those operated by the local authorities. We therefore sought and received information about the municipal caravan sites from the local authorities concerned.

Caravans

2.9. For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the term 'caravan' is defined, in section 29(1) of that Act, as:

any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
- (b) any tent.

2.10. There are four main categories of caravan on the market, all of which come within the scope of the definition in paragraph 2.9:

- (a) *Permanent residential caravans*—permanently sited caravans (commonly referred to as 'mobile homes') which are the main, or only, residence of the occupier. Purpose-built mobile homes are usually of more robust structure than other types of caravan and have better insulation, heating and water storage systems. The widely-used term 'mobile home' is a misnomer, as the home is not normally moved after it has been installed on a site.

- (b) *Holiday caravans*—semi-static caravans which are permanently or semi-permanently sited on a holiday caravan site (see paragraph 2.11). Purpose-built holiday caravans tend to be smaller and less robust than purpose-built permanent residential caravans, but are too large to be towed by car and require a transporter to move them from one site to another.
- (c) *Touring caravans*—caravans which are towed by car, stopping usually at short-stay sites.
- (d) *Motorised caravans*—the caravan is not towed but is integral with the vehicle.

In the case of older models there may be little obvious structural difference between permanent residential caravans and holiday caravans. Moreover, the use to which a caravan is put is not necessarily that for which it was designed. For example, caravans which were designed as holiday caravans may be used as permanent residential caravans, while those which were designed for the touring caravan market may be permanently sited on holiday caravan sites or, indeed, may be used as permanent residences.

Static holiday caravans and holiday caravan sites

2.11. The terms of our reference require us to exclude from our inquiry arrangements relating to touring caravans and to any caravan occupied by a person as his only or main residence. In so doing we have distinguished between the different categories of caravan on the basis of use rather than structure. Since the reference further limits the scope of our inquiry to licensed caravan sites, we have also excluded arrangements relating to caravans whose use renders the land on which they are sited exempt from the site licensing provisions of the Caravans Act (Northern Ireland) 1963. Such caravans include those used for the seasonal accommodation of agricultural or forestry workers and those used as temporary site offices, or house extensions (see paragraph 2.7). In our report we have used the term 'static holiday caravan' to mean those caravans which fall within the scope of our inquiry; that is, those caravans which are permanently or semi-permanently sited on a holiday caravan site or, in the case of caravans offered for sale by a manufacturer or dealer, those which are intended for such use. Except where the context indicates otherwise, the terms 'holiday caravan site' and 'caravan park' are both used in our report to mean those sites which, unless they are controlled by a local authority:

- (a) require a licence issued in accordance with the provisions of section 3 of the Act;
- (b) have a seasonal licence, ie one which permits caravans on the site to be occupied only between certain dates in any year; and
- (c) are not licensed only for short-stay touring caravans.

The terms 'site operator' and 'park operator' mean the licence-holder of a holiday caravan site or the agent who is responsible for managing the site on behalf of the licence-holder or, in the case of municipal sites, the local authority which runs the site.

'Making arrangements'

2.12. We have taken the service of 'making arrangements for a person to put or keep on land in Northern Ireland a caravan . . .' to comprise:

- (a) everything done by the licence-holder of a holiday caravan site, or his agent, to provide pitches for static holiday caravans and to provide services and facilities, both for the site as a whole and for individual pitches (see paragraph 3.29); and
- (b) the offer of a licence to occupy a pitch on the site, including the terms and conditions attached to such an offer.

2.13 We found that caravan owners generally had no formal lease or written agreement granting security of tenure of a caravan pitch. Almost without exception, licences to occupy a pitch on a holiday caravan site took the form of a permission (which might be either written or unwritten) to occupy a pitch for a holiday season; ie between certain dates in a particular year. The dates specified were usually for the period from the beginning of April to the end of October or such other dates as were specified on the site licence granted by the appropriate local authority. The permission or licence to occupy the pitch was renewable annually, and was granted subject to payment of the annual pitch fee by the static holiday caravan owner and to his compliance with any rules of the site ('park rules'). In practice, static holiday caravan owners were not required to remove their caravans from the site at the end of the season if they intended to renew their licence the following season. Most site operators we spoke to told us that licences were renewed without difficulty provided caravan owners complied with the park rules. Some added that they would be prepared to enter into a formal agreement which would give a caravan owner security of tenure for a period of several years, subject to payment of the annual pitch fee and to compliance with the park rules.

Events leading to the reference

2.14. Following complaints from static holiday caravan owners and their MPs about various aspects of the operation of holiday caravan sites, the Department of Prices and Consumer Protection (and, subsequently, the Department of Trade) sought to negotiate with the National Federation of Site Operators Limited (NFSO) and the National Caravan Council Limited (NCC) a voluntary Code of Practice regulating holiday caravan sites for the whole of the United Kingdom. Following a meeting in June 1979 between the then Minister for Consumer Affairs and representatives of the NFSO and the NCC, the Department of Trade circulated to interested parties a draft Code drawn up by the NFSO and NCC, which took account of the Department's views. Those invited to contribute included the National Caravan Owners' Association, the Northern Ireland Caravan Owners' Association, the Northern Ireland Consumer Council, other consumer and caravan owner bodies, local authority associations and other interested parties.

2.15 As we have noted in paragraph 2.1, section 23 of the Competition Act 1980 extended the definition of 'the supply of services' contained in section 137(3) of the Fair Trading Act 1973 to include:

the making of arrangements for a person to put or keep on land a caravan . . . other than arrangements by virtue of which the person may occupy the caravan as his only or main residence.

As a result of this amendment to the Fair Trading Act, trading practices in the supply of holiday caravan pitches came within the Director General's oversight of commercial practices which affected consumers. The Director General then assumed responsibility for continuing the negotiations initiated by the Department of Trade, with a view to establishing an effective Code of Practice for the selling, buying and siting of holiday caravans.¹

2.16. Negotiations between the Office of Fair Trading and representatives of the NCC and NFSO were not brought to a successful conclusion. The proposals put forward by the NCC and NFSO did not, in the Director General's view, constitute a Code of Practice which would strike a fair balance between the interests of caravan owners and site operators and provide remedies for some of the complaints made by caravan owners about the practices of site operators. Accordingly the Director General made this reference to us on 9 June 1981 and suspended his discussions about both Codes of Practice² pending the completion of our inquiry or a new initiative on the part of the NCC and NFSO, particularly in regard to the tying-in of the provision of pitches with the sale of caravans. The reference was limited to Northern Ireland partly because particular disquiet had been expressed to the Office of Fair Trading about the practices of site operators there, and partly because it was regarded as easier to focus on those practices in this clearly definable market than in the United Kingdom as a whole.

Practices giving rise to complaints

2.17 Complaints from caravan owners fall into two main categories: those relating to poor service and facilities and arbitrary conduct of site operators towards occupants of pitches, and those relating to the adoption by certain site operators of one or more of the following practices:

- (a) reserving vacant pitches on a holiday caravan site preferentially for customers who are prepared to purchase their static holiday caravans from or through the site operator;
- (b) requiring that a caravan owner occupying a pitch on a site and wishing to replace his static holiday caravan should purchase the replacement model from or through the site operator; and
- (c) requiring that a caravan owner occupying a pitch on a site and wishing to sell his static holiday caravan should either sell it to (or through) the site operator or remove it from the site.

¹ The Director General was already engaged in discussions with the NCC and NFSO in connection with a Code of Practice for the letting of holiday caravans (see paragraph 3.6).

² The most recent draft Code of Practice for selling, buying and siting of holiday caravans, which was put forward by the NCC and NFSO for consideration by the Office of Fair Trading, is at Appendix 2. The draft Code dealing with the letting of holiday caravans has not been included since, under the terms of our reference (see paragraph 2.1), the business of letting caravans is outside the scope of our inquiry.

In our report we have referred to the adoption of one or more of the above practices as the 'linking' of the availability of pitches to the sale of caravans.

2.18. A number of witnesses have stressed the particular importance of static holiday caravans in Northern Ireland where, because of its small geographical area, travelling times are relatively short. The main centres of population are within easy reach of the coast—where nearly all the holiday caravan sites are to be found (see Chapter 3)—and this enables families to use their caravans regularly, as second homes, throughout the summer season. We have borne these factors in mind during the course of our inquiry.