

APPENDIX 1.1
(referred to in paragraph 1.1)

Conduct of the inquiry

1. On 9 November 1988 the OFT sent the MMC the following reference:

The Director General of Fair Trading, in exercise of his powers under sections 47(1), 49(1) and 50(1) of the Fair Trading Act 1973, hereby refers to the Monopolies and Mergers Commission the matter of the existence or the possible existence of a monopoly situation in relation to the supply in the United Kingdom of petrol by wholesale.

The Commission shall investigate and report on the questions whether a monopoly situation exists, and if so:

- (a) by virtue of which provisions of sections 6 to 8 of that Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of that monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate or may be expected to operate against the public interest.

The Commission shall report on this reference within a period of 12 months from the date hereof.

9 November 1988

(signed) GORDON BORRIE
Director General of Fair Trading

By direction of the Secretary of State for Trade and Industry, under section 55(2) of the Fair Trading Act 1973, the date of submission of our report was subsequently extended to 20 December 1989.

2. On 14 November 1988 the Chairman of the MMC, acting under section 4 of the Fair Trading Act 1973 and Part II of Schedule 3 thereto, directed that the functions of the MMC in relation to the reference should be discharged through a group consisting of six members of the MMC. He further appointed himself, being one of those members, to act as Chairman of the group. The composition of the group is indicated in the list of members which prefaces this report.

3. Notices inviting interested parties to submit evidence to us were placed in:

Daily Mail
Daily Mirror
The Daily Telegraph
The Guardian
The Independent
The Scotsman

Autocar & Motor
The Economist
Forecourt Trader
Petroleum Review
Service Station

4. Written and oral evidence was provided by petrol wholesalers and retailers; trade associations; Government departments; local authorities; other public bodies; oil trade journals; consumer associations; and individuals. We are grateful to them all.

5. During the course of our inquiry members and staff of the MMC visited the Esso refinery at Fawley, the Shell refinery at Stanlow, headquarters offices of Esso, Shell, BP, Texaco, Mobil and Conoco, and a variety of petrol retail outlets.

6. In May 1989, on the basis of the information made available to us in response to questionnaires, we informed certain petrol wholesalers (and, if they were subsidiaries, their ultimate parent companies) of our provisional conclusion that a complex monopoly situation, as defined in section 6(1)(c) and (2) of the Fair Trading Act 1973, existed in their favour in relation to the supply in the United Kingdom of petrol by wholesale. In the light of further information we revised the list of wholesalers (or ultimate parent companies) in whose favour the complex monopoly exists, and this revised list is at Appendix 8.1. All of these companies were advised of the issues which we might have to consider when assessing the effect of the monopoly situation on the public interest, and invited to let us have their views on them. Subsequently we sought the views of all these wholesalers on possible remedies and their likely effect on the petrol industry.

7. We held 12 hearings with major oil companies: two each with representatives of BP, Conoco, Esso, Mobil, Shell and Texaco. We also held two hearings each with Petrofina, Kuwait and Gulf and one each with Amoco and Total. One non-refining wholesaler, Burmah, also gave oral evidence. Two relevant Government departments, eight individuals, three publishing companies, one independent wholesaler and one hypermarket, Tesco, also attended hearings. The Petrol Retailers' Association (PRA) attended two separate hearings and The Association of Esso Retailers (AER) also gave oral evidence at a hearing. All the major oil companies, the larger independent wholesalers, some major retailers, four Members of Parliament, one MEP and a number of individuals also provided written submissions to the Commission.

8. During our inquiry we were assisted by:

- Mr John B Booth, a consultant accountant;
- Mr John Sedgwick, a consultant valuer;
- Chem Systems International Ltd;
- Forecast Research International Ltd;
- Oil Price Assessments Ltd;
- PHH AllStar Ltd;
- Rapleys, Surveyors and Valuers; and
- Research Surveys of Great Britain Ltd.

9. Some of the evidence submitted to us during the course of our inquiry was of a commercially confidential nature and our report contains only such information as we consider necessary for a proper understanding of our conclusions.

10. We should like to thank all those who assisted in our inquiry, particularly the companies and organisations principally involved.