

**Report by the Monopolies Commission on the Supply of Petrol to Retailers
in the United Kingdom, 1965**

1. In September 1960 the Board of Trade referred the supply of petrol to retailers in the United Kingdom to the Monopolies Commission. This reference was made under the Monopolies and Restrictive Practices Acts 1948 and 1953, as amended by the Restrictive Trade Practices Act 1956.

2. The Board of Trade thought that monopoly conditions to which the Act applied prevailed in respect of the supply of petrol. The Commission were required, therefore, to inquire whether such monopoly conditions in fact prevailed in the supply of petrol to retailers and if so to consider:

whether and to what extent the following things are done by the parties concerned as a result of, or for the purpose of preserving, those conditions, that is to say:

- (a) agreements or arrangements are made under which restrictions are accepted by persons, other than the suppliers themselves, carrying on the business of selling petrol to the general public by retail in respect of the supply or acquisition of petrol or of any other goods or substances or in respect of the acquisition or disposal of any interest therein;
- (b) supplies of petrol are withheld from persons carrying on the business of selling petrol to the general public by retail;
- (c) premises are acquired or used or permitted to be used for the purpose of there being carried on thereon the business of selling petrol to the general public by retail.

3. The Commission reported in May 1965. They concluded that conditions to which the Act applied prevailed (ie a monopoly situation existed) because more than one-third, ie the quantitative criterion that then prevailed, of all petrol supplied within the terms of the reference came from suppliers who restricted competition by each recommending to retailing customers the prices at which his petrol should be sold to the general public.

4. Of the things described in paragraph 2(a) to (c) above the Commission decided that:

- (a) Exclusive supply agreements (including loan and tenancy agreements as well as 'the more ordinary' type of petrol retailer agreement) were made to preserve the conditions in which petrol was supplied by the persons restricting competition; that parallel agreements covering exclusive supply of other products, eg lubricants, were not entered into to preserve the conditions but were a result of them; and that agreements for the supply of petrol equipment (such as tanks and pumps) to retailers on favourable hire purchase or loan terms were also made for the purpose of preserving the conditions.
- (b) Supplies of petrol to retailers were withheld where:
 - (i) the retailer was known to have an exclusive commitment to another supplier, which the Commission regarded as dealt with under (a) above;
 - (ii) the supplier had granted some form of exclusive territorial franchise to another retailer, which the Commission thought was not an essential or characteristic feature of agreements;
 - (iii) the supplier considered himself adequately represented already, which the Commission thought rare; and
 - (iv) normal considerations of commercial prudences pointed to it.

None of these were seen as things done as a result, or for the purpose, of preserving the conditions.

- (c) The acquisition or use of retail outlets (by oil companies) raised the same issues as (a) and, therefore, was a thing done to preserve the conditions.

5. Before considering whether the things done operated against the public interest the Commission gave their view of the public interest:

The principal question we have to answer is whether these practices are in any way detrimental to cheap, efficient and convenient distribution of petrol or of the other goods involved. If a system of distribution is to be efficient it must, of course, provide opportunities for the distributors themselves to earn a satisfactory return for their services, and to this extent the public interest includes the interests of the petrol suppliers and retailers and, so far as they may be affected, of the independent suppliers of other goods, such as lubricants. The overriding interest, however, is that of the general public. Some but not all of the general public have a direct interest as buyers of petrol from retailers, but over and above this consideration it is in the interest of the general public that in the distribution of these goods the national resources shall be used as economically as possible and with the maximum regard for such factors as amenity, road safety and the avoidance of road congestion.

6. The Commission concluded that the solus system:

had led to some reduction in suppliers' costs which has exerted a downward pressure on prices, has had some beneficial effect in producing improvements in petrol stations, does not restrict the motorist's choice of petrol and does not, in practice, lead to the setting up of excessive numbers of petrol stations. It follows from this that we think it perfectly possible to have a system of solus trading in petrol which does not operate against the public interest.

They did, however, find a number of features of the agreements to be against the public interest, including long-term agreements, interference in retailers' trade in non-petrol goods, loans to obtain control of sites to prevent cut-price petrol sales, agreements on lubricants which force out competitive suppliers, and insufficient security for tenants.

7. The Commission considered that the extension of oil company ownership of petrol stations could lead to excessive rigidity and to the effective control by the companies of the retailing of petrol and other goods normally sold at petrol stations. The Commission recommended that oil companies be barred from further acquisitions of petrol stations in periods when their deliveries to stations they owned themselves exceeded 15 per cent of their total deliveries and that tenancies and licences (other than trial agreements) should run for at least three years, subject to a minimum gallonage being realised. The Commission concluded:

we have accepted that solus arrangements can be of some advantage to the consumer and the general public. We think, however, that the power and resources of the petrol suppliers are such that, if left entirely free to pursue their own chosen policies, they will be likely to gain an increasing degree of control over the retail trade; all the more so, since they are operating in a market where their customers' freedom of action is in any case restricted by the special problems involved in storing and dispensing petrol as well as by planning legislation and traffic conditions generally. The history of petrol supply in this country shows that since the invention of the motor car the major suppliers have consistently (except when matters were taken out of their hands in time of war) sought by one means or another to minimise price competition. In our view it would not be in the consumer's interest that new suppliers some of whom might be prepared to sell at lower prices than the established suppliers should be impeded from entering the market, or that the competitive incentive to save costs and keep prices down should be weakened by most retail outlets being secured for long terms to one or another petrol supplier. Nor would it be in the consumer's interest if the suppliers were to control for their own advantage those activities of petrol stations which are not concerned with the suppliers' own products.

8. Accordingly the Commission recommended that:
- (a) the term of any solus agreement for petrol should not exceed five years, except where linked to a loan, in which case the term of the solus agreement could be the same as that of the loan provided the retailer had an option to repay the loan in full at any time after five years, and in so doing also terminating the solus tie;
 - (b) equipment financing and loan agreements should not impose any restrictions on the use of the equipment by the retailer once he had paid the appropriate amount for it;
 - (c) while petrol suppliers could invite their solus petrol retailers to stock their lubricants, kerosene or antifreeze products, those retailers should not be required to stock them, or be restricted as to other lubricants, etc, they might wish to stock or to advertise;
 - (d) petrol suppliers should obtain no commission on the sale by their solus petrol retailers of tyres, batteries, accessories or other non-petroleum goods, nor require those retailers to accept any restrictions in relation to those goods;
 - (e) a supplier's loan agreement with a retailer may provide for the supplier to purchase the retail premises if the retailer wishes to dispose of them while the loan is outstanding, but not otherwise;
 - (f) no petrol supplier whose deliveries to stations owned by him exceeded 15 per cent of his total petrol deliveries in the same year should acquire further stations while that excess continued, except where his total deliveries were less than 10 million gallons;
 - (g) petrol suppliers should not let or license their petrol stations for periods of less than three years, except for trial periods of one year for new tenants and for termination if a specified minimum petrol sales volume was not reached within a specified time and maintained; and
 - (h) all existing agreements should conform with these recommendations when given effect.
9. The Undertakings that gave effect to these recommendations are set out in Appendix 2.2.