

**Report by the MMC on the Supply of Petrol in the United Kingdom
by Wholesale, 1979**

1. In February 1976 the Director General of Fair Trading referred the supply of petrol in the United Kingdom by wholesale to the MMC. This reference was made under the Fair Trading Act 1973 (which, *inter alia*, introduced the concept of a complex monopoly).

2. The MMC were required to investigate whether a complex monopoly existed in the supply of petrol by wholesale and to limit consideration to three practices:

- (i) discriminating between retailers in relation to the price at which, or the terms on which petrol is offered or supplied to them;
- (ii) promoting schemes involving the selling or giving of other goods or the giving of trading stamps to persons buying petrol by retail or the giving to such persons of opportunities to enter competitions;
- (iii) securing exclusive retail outlets by acquiring proprietary interests in petrol filling stations (or establishing such stations on land in which a proprietary interest has been acquired) and doing one or, at different times, both of the following things at any station in which such an interest has been acquired or which has been so established, namely:
 - (a) selling petrol directly by retail; or
 - (b) permitting another person to sell petrol there by retail for limited periods as a tenant or licensee subject to restrictions as to the petrol to be acquired or sold by him.

3. The MMC reported in July 1978 and the report was published in January 1979. Taking the practices in turn, they concluded that:

- (a) Scheduled prices and zoning differentials were only a starting point for negotiation and did not prevent, restrict or distort competition. On normal rebates the MMC noted that different terms were granted by wholesalers to different retailers: the agreement reached was a package deal related to expected sales. The MMC said:

Discrimination is exercised. It could be argued that such discrimination distorts competition between retailers, notably as differences in overall terms may have important effects on retailers' margins. It appears to us, however, that it is an inevitable consequence of the settlement of terms by individual negotiation that differences in competitive situations, in the value of particular outlets to particular suppliers, in the preferences of retailers for particular suppliers and in the negotiating strength and ability of the parties should be reflected in differences between the agreements reached. We do not regard these differences, as they emerged in the course of our inquiry, as distortions of competition.

The MMC concluded that SPS restricted and distorted competition, but that it did not operate against the public interest and might not be expected to do so. However, the MMC considered that the discrimination inherent in SPS was a practice contributing to the complex monopoly.

- (b) Promotion schemes did not restrict or distort competition (because there was increasing concentration on price competition, and no evidence of unreasonable pressure on retailers to take part in schemes).

- (c) Company ownership did not restrict competition because the business of the outlet could not be transferred to another wholesaler. The MMC found no specific evidence that managed outlets were used aggressively or unfairly in local competition, and they did not find that the then level of ownership (30.2 per cent of all outlets) and volume (50.1 per cent of gallonage) operated against the public interest. However, the MMC were concerned that:

at some level of company ownership and seller concentration in a particular retail market, competition both between wholesalers and between retailers might be weak and independent retail outlets might be unable to exercise a restraining influence on retail prices in that market. We have not been able, in the course of our inquiry, to determine the critical levels of company ownership and seller concentration, and believe that these might differ from one retail market to another and in different conditions of supply and demand.

The MMC concluded that company ownership of exclusive retail outlets was the other practice contributing to the complex monopoly.

4. The MMC found that this complex monopoly situation existed in favour of 15 named companies and 'all other wholesalers who operated one or both of the practices contributing to the situation'. The MMC found that the complex monopoly situation did not operate, and was not expected to operate, against the public interest.

5. The MMC suggested, however, that the DGFT:

... should keep under review ... the extent to which wholesalers own retail outlets and distribute their petrol through such outlets, to enable him to judge, both in particular localities and over the country as a whole, whether a significant increase in company ownership has taken place, whether the level of seller concentration has significantly increased and whether any ... adverse effects ... may be expected to occur.

The 'adverse effects' the MMC had in mind were that:

- (a) If wholesaler-owned retail outlets were to provide a very high proportion of sales in any major retail market there would be little or no opportunity for new wholesalers to enter except by creating new outlets but for which planning permission might well be refused; this effect would be exacerbated if existing wholesalers were to merge, or to concentrate their interests in particular areas by exchanging outlets; the outcome could be a reduction in both wholesale and retail price competition.
- (b) In particular retail markets where wholesaler ownership of retail sites was already high, it could reach a level where competition between both wholesalers and retailers might become weak and independent retailers would be unable to exercise a restraining influence on retail prices; the critical level of ownership, and of seller concentration, might differ from one retail market to another.

6. In making their recommendation for a continuing review the MMC proposed that the DGFT should obtain information from wholesalers which both own retail outlets and require that only petrol supplied by them should be sold at those outlets. The information needed would include an annual return by each wholesaler showing the number of outlets it owned, the proportion of those outlets to all outlets supplied by it, the gallonage supplied to the outlets it owned, and its proportion to the total gallonage supplied by it to all outlets, both over the whole field of its operations and in selected localities. The MMC envisaged that this information would assist the DGFT in considering whether a significant increase of company ownership or seller concentration was taking place, or that the adverse effects referred to in paragraph 5 above were occurring, and in determining whether a further reference to the MMC had become desirable. DGFT acted on this recommendation and in each year subsequently, up to 1988, (except where otherwise indicated) monitored the wholesalers listed in Appendix 2.4.