

APPENDIX 2.2
(referred to in paragraph 2.24)

List of issues for discussion with major record companies

- (a) Do the practices listed at paragraph 3 of the covering letter result in higher prices for recorded music in the UK than would otherwise be the case?
- (b) What is the extent of the price differences between the UK and other countries? What is the explanation for these differences?
- (c) Is the underlying profitability of the major record companies excessive in relation to sales and capital employed?
- (d) Is the profitability of the companies effectively understated as a result of the present accounting treatment of the value of their investment in A&R and copyright material?
- (e) Are the companies choosing the formats on which they release recordings in a way which is designed to increase their profits rather than meet the requirements of consumers, thus reducing consumer choice?
- (f) Is the monopoly situation being exploited by the relative prices charged for compact discs, music cassettes and vinyl records?
- (g) Do the terms of the companies' contracts with artists amount to an exploitation of a monopoly situation?
- (h) Is competition among the major record companies, and between them and independent companies (including BBC Audio International Ltd), adversely affected by the terms of the artists' contracts?
- (i) Are the companies exploiting a monopoly situation in not recognising any rights of producers as first holders of copyright in the sound recordings they produce?
- (j) Are the companies taking steps to maintain or exploit the monopoly situation by the way they control PPL so that:
 - (i) some independent record companies do not receive a fair share of PPL's income, and
 - (ii) no part of PPL's income is paid to producers?
- (k) Is the collective negotiation through Video Performance Ltd of licence fees for the broadcasting of music videos justified or does it constitute a step taken for the purpose of exploiting the monopoly situation?
- (l) Are the companies seeking to exploit the record charts in a way that restricts or distorts competition with independent record companies, eg by the inclusion in the 'independent chart' of records released by companies in which they have an interest or with which they have a business relationship?
- (m) Do the practices of spending large sums on promotion and marketing and supplying free copies to retailers constitute uncompetitive practices which have the effect of (i) restricting actual or potential competition from independent record companies and/or (ii) reducing the amount of the royalties paid to artists?
- (n) Is the MCPS/BPI import licensing scheme operated with a view to maintaining high prices for recorded music?
- (o) Are the independent record companies (represented by Umbrella) being excluded from the import licensing scheme in order to restrict their ability to compete in the UK?
- (p) To what extent do the right to control imports and the MCPS/BPI import licensing scheme contribute to:

- (i) the prevention or detection of piracy, and
 - (ii) the success of the recorded music industry in the UK?
- (q) Are the major record companies exercising effective control over the British Phonographic Industry Limited in a way that distorts competition with independent record companies?