

The reference and conduct of the inquiry

1. On 29 September 1993 the Director General of Fair Trading sent to 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 of films for exhibition in cinemas in the United Kingdom.

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 the said Act that monopoly situation is 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 those 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.

In this reference:

`cinema' means any premises used for the exhibition of films;

`exhibition' means exhibition to the public;

`film' means any record, however made, capable of being used as a means of showing a sequence of visual images as a moving picture.

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

29 September 1993

(signed) BRYAN CARSBURG
Director General of Fair Trading

2. The questions in the reference are answered in the following paragraphs of the report:

whether a monopoly situation exists: paragraphs 2.10 and 2.35;

(a) paragraphs 2.10 and 2.35;

(b) paragraph 2.40;

(c) paragraphs 2.128, 2.164, 2.173 and 2.180;

(d) paragraphs 2.141 and 2.151; and

(e) paragraphs 2.129, 2.141, 2.154, 2.164, 2.173 and 2.180.

3. The composition of the group of members responsible for the present investigation and report is indicated in the list of members which prefaces this report.

4. Notices inviting interested parties to submit evidence to the MMC were placed in the *Financial Times* and *Screen International*. In addition we sought information and views from film producers, distributors and exhibitors and their representative organizations, film studios, television companies and consumer bodies, the DNH, the BFI and the EC Commission. Evidence received from these parties is summarized in Chapters 6, 7, 8 and 9. We held 23 hearings and one video conference.

5. Having regard particularly to the number of parties involved in the inquiry, we decided that the most efficient and helpful method of conducting the inquiry would be to look to each party's written submission for a comprehensive statement of its position and to ask only such parties as we considered necessary to attend hearings. This approach was drawn to the attention of the parties; their comments were invited; and it was made clear that, if a party which had not been invited to a hearing nevertheless wished to make oral representations, an opportunity would be given. The approach was somewhat different from the procedure followed in the majority of monopoly inquiries. Having considered the circumstances of the inquiry in the light of our statutory duties (in particular, section 81 of the Act) and our duty to act fairly, we are satisfied that the procedure adopted was both sensible and correct.

6. Members and staff of the MMC visited a five-screen cinema, a multiplex cinema and an independent exhibitor in Coventry and a multiplex cinema in Warrington. Visits were also made to Warner Distributors' head office in London and UCI's in Manchester, to the Centre National de la Cinématographie (CNC) in Paris and to the EC Commission.

7. Some of the evidence received 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.

8. We thank all those who helped with our inquiry, particularly the companies principally involved.