

Summary of the Monopolies Commission's 1966 report on *Films*

1. The following is a summary of the Monopolies Commission's report *Films: A Report on the Supply of Films for Exhibition in Cinemas* (HC 206, October 1966) made under the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 (the 1948 Act); and of action taken in response. References below in parentheses are to paragraph numbers in that report.

Conclusions as to the conditions defined in the 1948 Act

2. More than one-third by value (as measured by the licence fees paid by exhibitors to distributors) of the films supplied to exhibitors in Great Britain were supplied to The Rank Organisation Ltd (Rank) companies. (178)

3. More than one-third by value (as measured by the licence fees paid by exhibitors to distributors) of the films supplied to exhibitors in Great Britain were supplied for exhibition in cinemas controlled by Associated British Picture Corporation Ltd (ABPC) and by Rank. ABPC and Rank so conducted their respective affairs as to restrict competition in connection with the supply of films in that for circuit deals each made a practice of booking films mainly from certain distributors, and in general did not deal with distributors who supplied the other. (180)

4. More than one-third by value (as measured by the licence fees paid by exhibitors to distributors) of the films supplied to exhibitors in Great Britain were supplied to exhibitors who so conducted their respective affairs as to restrict competition in connection with the supply of films in that by the operation of time and distance bars they restricted the freedom of distributors to offer films to other exhibitors. (182)

5. More than one-third by value (as measured by the licence fees paid by exhibitors to distributors) of the films supplied to exhibitors in Great Britain were supplied by persons who so conducted their respective affairs as to restrict competition in connection with the supply of films in that each sometimes made the supply of a particular film conditional upon the acceptance of other films. (187)

6. More than one-third by value (as measured by the licence fees paid by exhibitors to distributors) of the films supplied to exhibitors in Great Britain were supplied by members of the Kinematograph Renters' Society (the Society) who so conducted their respective affairs as to restrict competition in that, by agreement, they:

- (a) prevented exhibitors booking films on behalf of other exhibitors; and
- (b) limited the extent to which exhibitors used their premises for purposes other than the exhibition of films. (194)

Conclusions on the public interest

7. Restrictions were operated by a large number of those engaged in the industry. In assessing the effect on the public interest, it was necessary to take into account not only the consequences which could be identified as resulting from each separate limitation of competition, but also the total effect of all the limitations. Thus the Monopolies Commission were not solely concerned with a straightforward monopoly situation, notwithstanding that Rank had a sufficient share of the supply of films to exhibitors to qualify as a monopoly under the 1948 Act. Nevertheless, although the anti-competitive practices of other parties could not be overlooked, the outstanding feature of the film industry's structure was the fact that it was effectively dominated by two companies, ABPC and Rank, and this fact inevitably played a large part in the consideration of the public interest. (195)

8. ABPC and Rank conducted their affairs so as to restrict competition, both because they did not compete with each other in obtaining films from distributors, and because by the exercise of bars they limited the freedom

of other exhibitors to compete with them. Their dominance was reflected in the pattern of film distribution with only two regular channels of release, the ABPC release and the Rank release. Substantially all feature films which achieved public exhibition were distributed in the pattern set by one or other of these releases. This meant that they were shown not only in most of the cinemas of the circuit in question, but also in an even larger number of independently-owned cinemas which habitually followed the major circuits. In this situation, which was peculiar to Great Britain, a booking on one or other of the main circuits was essential to the financial success of any feature film produced in Great Britain. Without such a booking a film had little chance of reaching the public at large. The importance of a circuit booking thus put ABPC and Rank in a position to determine very largely which films should be given public exhibition, and hence what films should be made, since those who put up money for film production took account of what they believed to be the circuits' booking policies in their assessment of a proposed film's chances of success. (196)

Summary of conclusions and recommendations and action taken in response

9. The introduction of a larger measure of competition into film exhibition would be advantageous both to the industry and the public. Competition was deficient partly because of the various practices customary in the industry, but mainly because of the structure of the industry which resulted from the dominant position of the two main exhibition circuits. To give the industry a new and competitive structure would mean breaking up the circuits, but that would be a drastic step the results of which would be uncertain. Instead the Commission recommended a series of less drastic remedies which were intended to eliminate practices which restricted competition. Although each remedy individually could not be expected to have far-reaching consequences, provided they were all carried out, their combined effect should be to permit the development of greater and more effective competition. (261)

10. The conditions to which the 1948 Act applied prevailed as respects the supply in Great Britain of films to exhibitors for exhibition in cinemas by virtue of Rank's share of the supply of films (178); the lack of competition between ABPC and Rank for films (180); the practice of barring (182); the practice of making the hire of one film conditional upon the hire of another (187); and two practices of the Society (194). All the conditions operated and might be expected to operate against the public interest. (230, 232, 234 and 238)

11. The preference which Rank gave to its own documentary films in cinemas which took more than one-third by value of the total supply of films was a thing done as a result of its monopoly position which operated and might be expected to operate against the public interest. (215)

12. By way of remedies the Commission made a number of recommendations which the Board of Trade discussed with the relevant sectors of the industry. The discussions resulted, in May 1967, in a joint agreement for the implementation of the recommendations, known as the Statement of Intent. The Commission's recommendations, and the action taken in response to them, may be summarized as follows:

- (a) ABPC and Rank should undertake to extend the practice of giving trial runs to films whose appeal to the public was in doubt and giving limited or partial circuit bookings to films of limited appeal. *The undertakings were given.*
- (b) Machinery should be set up to deal with disputes over the allocation of product; and exhibitors should have the right to bid for films in competition. *A Trade Disputes Committee was established to deal with complaints about the allocation of product, and an Appeals Tribunal with an independent chairman was also set up. The industry did not consider the introduction of competitive bidding was necessary and wished for consideration of its introduction to be deferred until after a review of the new disputes machinery in 1969. No further action was taken by the Board of Trade.*
- (c) Rank should discontinue its practice of giving preferential bookings to its own documentaries and short films. *An undertaking on these lines was given.*
- (d) The Board of Trade should keep under review the arrangements for settling disputes over time and distance bars. *The recommendation was accepted.*
- (e) No cinema (other than a West End cinema) should operate a bar on a film for longer than a four-week run. It should be left to the distributor to decide whether or not to let another cinema in the same town

have a film while a long extended run was in progress. *This recommendation was accepted with the reservation that it would not affect the right of a distributor to decide upon the availability of films in the light of its assessment of the commercial advantages.*

- (f) Distributors should not make the hire of any film conditional upon the acceptance of others. *All interested parties accepted the recommendation on the understanding that it would not prohibit transactions between willing purchasers and sellers.*
- (g) The Society should cease its actions restricting co-operative bookings and limiting the use to which exhibitors put their premises. *These recommendations were accepted.*