

14 Views of dealers

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Introduction

14.1. In this chapter we set out the views of dealers in reference white goods, grouped in the categories described in Chapter 9. Some dealers mentioned in other chapters provided factual information without commenting on the issues in the inquiries.

National multiple retailers

Dixons Group plc

14.2. Dixons is the largest retailer of white goods in the UK. Its subsidiary, DSG, markets white (and brown) goods through 191 superstores and 195 high street stores trading as Currys.¹ It has a limited mail order operation under the name Dixons Direct.

14.3. Dixons has other UK retail outlets not involving white goods. DSG markets brown goods through its chain of 353 high street stores trading as Dixons. It has specialized outlets for computers (PC World) and personal telecommunications (The Link), and it has a property business in Belgium, Germany and France. In support of the Dixons and Currys businesses it has a product servicing company (Mastercare), a component stockist (Partmaster), and a company in the Isle of Man for reinsuring extended warranties.

The UK market

14.4. Dixons said that its position as the leading retailer of white goods in the UK market should be seen in the context of intense competition between suppliers of each of those goods. These suppliers offered a wide variety of products in all categories and at all price points. They were introducing a stream of new products and technical innovations, such that model lives, particularly in brown goods, could be as short as a single year. The balance of competitive advantage of suppliers constantly shifted.

14.5. At the retail level there was also vigorous competition. Dixons said that as a multiple retailer it had direct competition from Comet, whose market share was about 11 per cent, and in washing machines and CFS equipment approached its own. Comet's parent company (Kingfisher) was larger than Dixons. The multiples had only some 35 per cent of the market for electrical goods overall, and faced effective competition from mail order, department stores, independent retailers and RECs. In some areas of the UK such as Scotland and northern England competitors had local market shares comparable with its own.

14.6. Dixons said that the convergence of prices, the low margins reported by retailers in the electrical goods market, and the recent closure of some of these retailers, in its view counted as evidence of intense competition at the retail level. It said that UK prices were the lowest in Europe, and showed us data in support of that claim. Dixons' own net margins were probably the highest in the electrical goods sector, but at 5.9 per cent in 1994/95 these margins were still below those achieved by other successful retailers.

¹Figures are for 1995.

Dixons attributed its success in remaining profitable in this highly competitive sector to its skill in selecting products, the rapidity of its stock turn and its success in eliminating obsolete stock.

14.7. Dixons' profitable and competitive position was not a result of anti-competitive practices on anyone's part, nor an automatic result of its size. Its advantages could be replicated by any equally well-managed rival. These included:

- (a) concentration on core markets: electrical goods;
- (b) store portfolio: careful choice of sites and the move of Currys to out-of-town superstores;
- (c) the ambience of its stores: accessible and customer-friendly;
- (d) the range and value of products stocked;
- (e) pre- and post-sales service; and
- (f) staff expertise and training.

Dixons was able to bring customers the latest technology, and hence much of its growth was at present in innovations outside the reference area. Capital investment in 1995/96 had been nearly £100 million, and it had created over 2,200 additional jobs.

14.8. Dixons was by no means in a risk-free environment. It had a substantial investment in stocks and it was committed to accept goods ordered long in advance. Price cuts were often needed to maintain sales, and only about 20 per cent of price cuts were financed by suppliers.

14.9. It tried to differentiate itself by selecting product ranges which were not identical with those offered by competitors. It had to stock the brands most in demand, but there were more brands and models than could conceivably be stocked in all stores. Non-core products needed to complete the range offered for sale, and own-brand products, were also an integral part of Dixons' range planning. In every case Dixons would have a price and volume target.

Prices

14.10. Dixons described to us its procedures for obtaining supplies and setting prices. With its `core suppliers' it would discuss the characteristics of new models, the prices at which they might sell, and the likely sales volume at those prices. If it agreed to include a model in its range it would typically agree a marketing plan, including advertising, anticipated prices and non-price promotions. The trade price to Dixons would be negotiated as part of the same dialogue. Dixons did not receive preferential discounts as a separate transaction, but if sales exceeded expectations it would endeavour to have that taken into account in the following year's negotiations. It benefited from normal prompt settlement discounts.

14.11. The outcome was a commitment to volume rather than price, agreed long in advance of deliveries. If the product sold well, Dixons might seek to get more supplies. There could be little question of raising the price, and if a price was reduced for any reason it was rarely possible to restore it without a model change.

14.12. Dixons' initial selling price might or might not be that discussed with the supplier. In neither case did it have any explicit relation to the RRP that the supplier might choose to quote to other retailers or to the public, though it often coincided with it. The concept of RRP was by no means confined to white goods. It was useful both to small retailers and to the public to define a product's position in the market, since the value of the features offered might not be immediately apparent.

14.13. Dixons insisted that products once on sale found their price level by retailers' reactions to each other's prices and to consumer demand at those prices. The retailers monitored each other's advertisements and price tickets, and a price advantage was unlikely to last more than a day. Sometimes the level of price

competition would be different in the various regional markets. If a local retailer advertised a discounted price it might be matched only in the local Dixons store.

14.14. This convergence was intensified by the practice of most retailers of offering 'price promises' under which any lower price would be matched at the store manager's discretion. Dixons showed us examples of its advertisements including such an offer. The manager also had discretion to accept a reduced price if this seemed the only way to make a sale. Dixons also offered price reductions on used or shop-soiled goods. The cost of all these concessions (including also discounts to staff) amounted to some 2 per cent of Dixons' turnover. Dixons did not feel obliged to publicize these practices (other than the price promise) or to match concessions on a particular transaction by lowering prices generally. Dixons expected to make some 200 adjustments to its prices each week over its range as a whole. These would be discussed with suppliers with a view to obtaining similar flexibility in trade prices.

14.15. Prices set by different retailers were often likely to be at identical 'charm' pricing points such as £199.99. This looked lower than £200, a case where 'emotion transcended intellect'. Accordingly, Dixons and other retailers might seek to add value for the customer by non-price benefits such as service, exchange policies for unsuitable goods, and credit policy. Interest-free credit, in particular, had been forced on the market by the RECs with their exceptionally strong balance sheets, but it was too expensive for Dixons to offer except in promotional campaigns. It was also possible to offer packages such as added consumables or price reductions for twin purchases.

14.16. Customers tended to seek the lowest price, perhaps visiting four stores, even for distress purchases. They could get excellent information from advertisements. But retailers, quite properly, sought to compete by offering product ranges different from those sold by competitors. It was unrealistic to expect any one retailer to stock each supplier's full range. Own-brand products offered by the various retail chains tended not to be strongly differentiated from each other. Dixons said that gross margins on own-brand products were generally lower than on branded products. Similarly, gross margins on branded products that were exclusive to Dixons were lower than on non-exclusive brands. This showed that retailers could not earn any respite from competition by avoiding direct inter-store comparisons.

14.17. Dixons was clear that retailer gross and net margins were already highly competitive, and there was no realistic scope for driving the prices of white goods down further. Consumers had a wonderful deal already.

Extended warranties

14.18. Dixons said that extended warranties provided good value to the risk-averse consumer. (Dixons added that in its view extended warranties were not within our terms of reference.)

Terms and conditions

14.19. We asked Dixons to comment on complaints by suppliers that certain of its purchasing terms and conditions, and in particular clauses 1 and 13, were inappropriately demanding. Dixons said that these provisions were envisaged as being of use only as a last recourse in the unlikely event of a breakdown of relationships. They had no bearing on day-to-day trading. This applied particularly to clause 1, requiring financial compensation if a supplier's RRP was reduced within 90 days of delivery. (Dixons agreed that this could imply compensation in respect of goods already sold.) Dixons said that it used the expression RRP in this context because a reference to the trade price might introduce unnecessary complications. A supplier would only reduce an RRP if the market price of the product had fallen. Similarly, clause 13 provided a right to renegotiate a supplier's prices and delivery dates or to cancel orders if the supplier allowed 'disorderly market forces' to prevail to the detriment of Dixons' profitability or sales rate. Dixons told us that these two clauses had never been invoked, and it had never secured a supplier's explicit agreement to them. Dixons told us that later, in the course of a review of its terms and conditions (which had been drafted some 15 years ago), clauses 1 and 13 had been removed with effect from 28 June 1996.

Warehouse clubs

14.20. We asked Dixons to comment on a speech to suppliers made in 1993 by its Chairman on the implications of distribution through warehouse clubs. We discuss the matter more fully in paragraphs 12.95 to 12.101. Dixons told us that comments by the then DGFT had been misquoted in the press and that the OFT, with which Dixons had been in correspondence at the time, had not raised with Dixons the possibility of an infringement of the RPA. Later on in the inquiries, Dixons told us that refusal of supply to warehouse clubs had so far had no effect on the market. Dixons regarded them as legitimate competitors, but deplored the fact that they could behave as 'free riders': consumers could have a demonstration of the product they wanted at a store such as Dixons which offered a high level of pre-sales advice and after-sales care with a view to buying it at a lower price from a warehouse club or discount store providing neither.

The monopoly situations

14.21. With regard to the first of the complex monopoly situations which we provisionally identified, Dixons maintained that it was not part of any group conducting its affairs in the manner stated. It went on to say that the MMC had not shown it to be a person in whose favour the first complex monopoly situations existed. The MMC had also failed to show that Dixons was a person in whose favour the second complex monopoly situations existed. The MMC had no meaningful evidence to justify their findings. Any recommendations as to action to be taken by retailers, including specifically Dixons, would be without legal foundation and against the spirit and purpose of the terms of reference of the inquiries.

14.22. Dixons said that it did not engage in the matters specified in the terms of reference for the purposes of section 49(2)(c) and (3) of the Act, since these were steps necessarily taken only by suppliers and not retailers. This took it outside the MMC's public interest jurisdiction.

14.23. For the first of the matters specified in the terms of reference, the recommendation or suggestion by suppliers of prices at which dealers resell the reference goods, Dixons and other dealers were not capable of being part of the supplying group, since they sold only by retail. This was in contrast to the MMC and Court of Appeal findings about Visa International in the credit cards case, where the commercial reality of the situation was that each party played an interlocking part in the business. If Dixons was not a member of the group, the finding as expressed by the MMC that the situation acted in its favour fell away.

14.24. Dixons did not adhere to suppliers' RRP's. It did not use any such terminology on any price lists or tickets. It said that expected retail prices formed part of Dixons' initial discussions with suppliers when reaching a decision on whether to carry a supplier's product. Such a discussion was unavoidable and was central both to the purchase price to be paid by Dixons and to the volume and margin sought by Dixons on reselling the relevant product. Dixons' prices were the result of its own expertise and experience in retailing. It said that it was not bound to the expected retail prices discussed in negotiations with suppliers, and it frequently priced below these levels. RRP's adopted by suppliers might or might not coincide with prices discussed with suppliers or with prices that were in the event adopted by Dixons. The discussions between Dixons and suppliers might have a bearing on RRP's selected by suppliers, but the discussions with Dixons could not be said to prevent, restrict or distort competition.

14.25. The MMC had found, provisionally, that the group of persons who were members of the second complex monopoly consisted only of suppliers who selected retailers to sell their reference white goods and thus it was not suggested by the MMC that Dixons was a member of the relevant group for the purposes of section 6(1)(c) of the Act. Dixons contended that the reference had been expressly made under section 49(2) of the Act without reference to section 48(c) and (d) and did not require the MMC to identify the members of the group separately from those persons in whose favour the monopoly situation existed; and in the credit cards inquiry it had been assumed that they and the 'monopolists' had a common identity. In the contact lens solutions inquiry the MMC had identified a wider range of persons in whose favour the monopoly operated, but the circumstances had no relevance to Dixons. In the absence of a common identity, and hence in the absence of any suggestion that Dixons conducted its affairs so as to prevent, restrict or distort competition, Dixons submitted that we had erred in holding that Dixons was a person in whose favour the second complex monopoly situation existed. It had not been identified as a member of the group for the purpose of establishing the second complex monopoly situation and no detailed reasoning and

evidence had been submitted in support of our provisional conclusion that it was a person who benefited from the second complex monopoly. Dixons submitted that no such evidence existed.

14.26. In response we said that our provisional conclusion had been derived from our assessment of the totality of the evidence and our judgment that an obvious effect of suppliers use of selective distribution would be to reduce competitive pressure on those dealers who had been so selected by suppliers. Dixons said that it regarded this as wholly untenable and unsupported by any evidence of which it was aware. In order to respond, Dixons said that it needed to see the evidence on which our judgment had been based. As examples of the matters which Dixons thought should have been put to it Dixons asked what evidence existed as to whether the number of retailers not selected by suppliers was sufficient to have the effect contended; whether the situation varied as between suppliers or products or type of products; and whether the pressure on retailers selected to receive supply was reduced.

14.27. Dixons said that the criteria for selecting retailers (set out in paragraph 7(a) to (c) of the issues letter-see Appendix 6.1, Annex A) were qualitative only. In Dixons' view any supplier who used these criteria with objective justification could not be held to be preventing, restricting or distorting competition. Dixons went on to say that our identification of these criteria as grounds on which to base our findings did not justify the conclusion that the second complex monopoly existed. Such criteria were to be found in selective distribution systems throughout the EU and had been accepted by the European Commission.

14.28. Dixons had not experienced the imposition of requirements by suppliers (as set out in paragraph 7(d) and (e) of the issues letter-see Appendix 6.1, Annex A), and its competitive behaviour was not influenced by them. From time to time it engaged in joint promotional activities with its suppliers, but as a retailer, it never had occasion to supply other dealers, authorized or unauthorized. It said that the findings of the MMC's survey of small retailers confirmed its own experience.

14.29. In response to a suggestion from us that it had a dominant position as a retailer, Dixons made the following points. First, its market share at 24 per cent in brown goods and 17 per cent in white goods was well below any thresholds normally associated with dominance. Second, the evidence on retail price flexibility and the responsiveness of demand to price changes indicated that Dixons was not free to act independently of competitors. Third, in any event its market position was not legally relevant to the inquiries in the context of the terms of the references.

Public interest issues

14.30. Dixons had the following comments on the specific public interest issues:

- (a) It did not set its prices by reference to RRP. Any supplier that sought to impose too high a price would be frustrated by the consumer who would not buy and the retailer who would not stock.
- (b) Dixons did not believe that the setting of RRP led to greater convergence of prices than would otherwise be the case. The infrequency with which white goods were purchased and the high ticket prices led customers to seek the lowest price. There was a high degree of transparency in pricing, and many retailers offered price promises. It was relevant that the MMC had found it hard to establish the actual values of RRP as opposed to current selling prices. Retail prices often converged at points away from the RRP.
- (c) At the retail level, the setting of RRP did not seem to restrain inter-brand competition (between suppliers) or intra-brand competition (between retailers). For all reference white goods there was a diversity of suppliers, whose market shares were not static. Dixons stocked more than 369 of these from some 17 suppliers. Retailers competed fiercely and their margins were recognized to be low. This would not be the case if RRP provided relief.
- (d) RRP did not help to deflect competition from price to other performance attributes. However, the widespread existence of price promises made it necessary for retailers to find additional competitive advantages to attract business. These could take the form of interest-free credit, promotional gifts, wider stock ranges or better pre- and after-sales service options.

- (e) Dixons was not aware of any pressure exerted by retailers on suppliers for them to refuse supply to price-cutters or to offer monetary compensation when RRP's were undercut. We had put three cases of complaints from small retailers about the former practice to Dixons for its comments. Dixons said that the particulars given were too unspecific to allow it to identify the alleged incidents, and considered them unlikely in any event, but thought it was possible that Dixons' high profile led to its name (or, in the case of the complaints quoted, Currys) being used for leverage in discussions between suppliers and retailers. Dixons did on occasions make decisions on the stocking of certain brands, but these were commercial rather than retaliatory. It sometimes did not stock a brand which was a competitor's flagship line. Margin maintenance was sometimes obtained from suppliers, but this was most often needed in the context of price reductions on a slow-moving product. Any supplier conceding excessively generous retail margins would either lose sales by forcing up the retail price or else damage itself in competition with other suppliers. Suppliers might also participate in the costs of short-term promotions.
- (f) The dialogue between Dixons and a supplier might influence that supplier's choice of RRP, but this would be most likely to arise from Dixons' view of how many units could be sold at a given price. A retailer might want a product tailored to a particular price point. The RRP was set before a product launch, and often had to be amended (invariably downwards) in the light of its sales performance.
- (g) Dixons never referred to RRP's on its price tickets, so its customers could not be influenced by this practice.
- (h) Dixons had no reason to suppose that trade prices, retail prices or profits were higher than they would otherwise be as a result of any other practices described by the MMC. Suppliers were competing to innovate in their products and retailers were competing to innovate by way of store formats, sizes and locations. Dixons was in the forefront of promoting new products and new retail formulae. It had won awards on the strength of this.
- (i) Dixons did not apply pressure on suppliers to limit the number of other retailers supplied. The MMC had identified no complaints about Dixons in this respect.
- (j) Some suppliers were known to apply qualitative criteria in selecting retailers in order to secure a certain level of presentation, service and support. It was possible that these provisions imposed a cost on retailers which could be recovered only by higher margins. But this reflected a trade-off which contributed to diversity and competition with brands which had no such requirements.
- (k) Given the competitive state of the market and the transparency of information within it, no supplier could afford to offer improper incentives to retailers or their staff. There was a huge range of promotions and promotional schemes initiated by individual suppliers, but these were subject to the disciplines of the market. They might include SPIVS offered to staff, but Dixons did not allow its own staff to receive rewards directly from suppliers.
- (l) Dixons was not aware of anti-competitive practices in the market for reference white goods. It could not comment, therefore, on any benefits these practices might have.

Views on our possible recommendations

14.31. In commenting on our possible recommendations, Dixons said that it had seen no evidence to show that the practices of the industry operated against the public interest, and none had been brought to its attention during the course of the inquiries. Some of the remedies themselves appeared anti-competitive and against the public interest; the inability of suppliers to take account of the retailers' knowledge of the market, or to share with them the task of production or marketing, could result in the introduction of fewer

products to the market. Compliance and enforcement would introduce costs ultimately to be borne by consumers, who would gain no countervailing benefit. Certain of the remedies relating to RRPs merely restated existing law.

14.32. Other comments by Dixons on specific remedies affecting RRPs were as follows:

- (a) If suppliers were unable to set RRPs, they would be unable to signal to customers the relative values of products; inter-brand competition would be impaired. Small independent retailers and consumers would be left guessing about a product's position in the market place. However, the effect on Dixons would be minimal, since it did not base its prices on RRPs. The remedy would not stop the practice of price-matching by the larger retailers.
- (b) Without discussions of retail prices between dealers and suppliers it would be harder for order volumes, promotional plans and trade prices to be set. The remedy would interfere with this process even though this might not be its main purpose.
- (c) It would be an unwarranted restriction on competition, and only enforceable with costly bureaucratic intervention, if suppliers had to pay for retailers' advertisements regardless of whether or not they were consistent with the brand strategy.
- (d) A limitation on freedom to provide margin support would be profoundly anti-competitive and lead to higher retail prices. If suppliers and retailers could not share the burden of risk by this means, retailers would stock lower volumes, and suppliers might lose economies of scale.
- (e) If suppliers were prohibited from providing point-of-sale material showing prices, small retailers would face higher costs, to the detriment of the consumer. This remedy would not affect Dixons, since it provided its own point-of-sale material.
- (f) Requiring compliance arrangements to be reported to the OFT would impose a pointless bureaucratic burden on suppliers.
- (g) Dixons had already deleted from its terms and conditions the clause questioned by the MMC. There was therefore no effect calling for a remedy. An undertaking which prevented Dixons from introducing new clauses designed to meet future market changes would be discriminatory, unwarranted and anti-competitive.

14.33. Dixons said that the remedies relating to refusal to supply affected suppliers rather than itself. It thought the industry was too diverse for a rigid approach. More specifically:

- (a) Suppliers' criteria for selecting retailers could validly be subjective and subject to change, so that stating them explicitly would not make appraisal by an outside arbiter any easier.
- (b) Dixons considered that all selective schemes were bound to be discriminatory in the sense that any retailer not satisfying the criteria of a particular scheme would be excluded from it. Dixons itself could fail to meet criteria in some cases.
- (c) An independent appeals mechanism against refusal to supply would impose significant costs ultimately to be met by consumers. A system fair to all interested parties would be costly and hard to establish.
- (d) It was not clear to Dixons why suppliers, having set selective distribution criteria, should have to allow a derogation from these criteria limited to warehouse clubs.

Comet Group plc

14.34. Comet is the second largest multiple retailer of white goods in the UK and the only fully national chain other than Dixons (though it now has no outlets in Northern Ireland). As at 1996, Comet had 223 stores, mainly in out-of-town locations. Comet is wholly owned by Kingfisher. Kingfisher also owns a DIY chain, B&Q, which retails some fitted kitchens incorporating white goods and whose evidence appears in

paragraph 14.308. Among Kingfisher's other subsidiaries are the Woolworths and Superdrug stores, and retail interests in France, Belgium and Germany. Of these, Darty is an electrical retail chain in France with over twice the turnover of Comet. Kingfisher has a UK consumer credit subsidiary and an offshore captive insurance company which reinsures extended warranties.

The market environment

14.35. Comet told us that over the last five years electrical goods had become more complex and more varied. Retailers therefore needed better trained sales staff and more comprehensive after-sales services. This trend was particularly important for brown goods, but it was also present in the markets for white goods. There was fierce retail price competition, and the inability of retailers to raise prices or prevent the decline of margins had led them to seek volume and other efficiencies by developing large out-of-town units. By this means they could offer larger ranges of products and better service with a lower average cost of sales. This trend had been at the expense of smaller town centre locations. Several large retailers had been obliged to withdraw from the market as a result of price competition and pressure on retail margins.

14.36. Comet pointed out that although it might be one-fifth to one-quarter the size of the world's largest electrical retailer (probably Circuit City), it was many times smaller than the major manufacturers, who were thus in a position to control the margin structure of the industry. Most white goods were made by a small number of global manufacturers, of which there were five holding 70 per cent of the world market for washing machines, dishwashers, tumble driers and CFS products. Although white goods were under less price pressure than brown goods, because the market was largely replacement-driven, margins for most retailers were being squeezed.

14.37. Comet itself was no longer loss-making, having recovered from certain recent setbacks. These had arisen partly from difficulties in introducing new information systems and partly from extending the up-market end of its product range. Comet aimed to supply as wide a selection of products as possible, perhaps 25 per cent of the total available from all manufacturers, and in most cases wider than any competitor. Only in a very few instances (such as AEG) where there were many comparable alternatives did it deliberately not stock a major brand name. Its stocking decisions for particular models were made centrally. They were influenced by the sales potential and product availability, but also took into account the contribution from the manufacturer by way of margin support, advertising and other promotional activities. Comet said that it would feel uneasy at becoming too dependent on any one supplier and would seek to widen its selection if this were to occur. It expected a supplier which might consider itself over-dependent on Comet to act similarly. There were certain suppliers to whose brands it chose to give particular exposure in the knowledge that they were not sold or not strongly promoted by Dixons, and vice versa. Own-brands were important to Comet, and their proportion of total sales had been growing.

14.38. Comet distinguished between brands which were technology leaders and others which were able to offer a given technology at a lower cost than their competitors. Comet agreed with our suggestion that some customers were loyal to an individual brand. As for loyalty to retailers, there was now more shopping around, but many customers would give the benefit of the doubt to a store where they had been well served before, provided always that it was price-competitive. Comet encouraged the work of specialist testing magazines, but commented that the views of such magazines on performance tended to be more relevant than their views on price. Because of the time-lag in publication, prices might have moved significantly.

14.39. Verdict, the retailing research organization, in a recent report on the domestic electrical goods sector, had supposed that Comet was attempting to align itself more closely with Darty, its French associate, for which (it was suggested) service was a more important competitive factor than price. This was not Comet's immediate intention. There were considerable differences in the product specifications and the level of service required in the two markets. In particular, French customers were less price-conscious than those in Great Britain, where prices were the lowest in Europe. Comet did not consider that consumers in Great Britain would buy products at a higher price from one retailer when they were available more cheaply from another.

Prices

14.40. Comet explained to us the procedure for the selection, pricing and stocking of its model ranges. Initially, suppliers would discuss new and updated models with leading retailers to ascertain the likely market positioning and demand for each model and hence to set a trade price based on the retailer's expected margin requirement. Comet would separately hold annual or periodic reviews with suppliers to negotiate or renegotiate order quantities and buying terms. On the basis that the trade price was approximately 25 per cent below the supplier's suggested selling price, Comet would expect an additional volume discount of perhaps [*] per cent. Comet would subsequently hold quarterly or six-monthly reviews with major suppliers to compare sales with targets and possibly to renegotiate levels of margin maintenance. It might review the performance of individual products with suppliers from month to month. Comet liked to negotiate a single package, but some suppliers preferred to offer some of the discount retrospectively.

14.41. Comet said that it set its prices in relation to the trade prices at which it bought the products. It agreed with our proposition that suppliers were likely to position a product on the basis of their discussions with retailers and that suppliers could expect that these prices would be followed. It said that suppliers knew the margins and discount structures of the various distribution channels and did not expect a retailer to be able to afford to sell for less. When a supplier wanted to overprice certain products, retailers always had the option of stocking fewer or none of them. Comet further agreed with us, accordingly, that the RRP published by suppliers would in many cases correspond to prices quoted by retailers, but in any event the retail price would settle at the lowest price available.

14.42. Competition in the electrical goods industry was such that any retailer that moved its prices down would be matched by its competitors within 48 hours, and perhaps in 24. At best, the temporary price advantage would bring forward sales that otherwise would be made over a longer period. There were no circumstances in which demand for a product would allow a price, once established, to be raised.

14.43. Own-brands gave slightly more flexibility in pricing. For retailers with the resources of Comet or Dixons, own-brand products did not necessarily need to be at entry level in specification and price. Comet's own-brand frost-free refrigerator had been the first of its kind, and it now held nearly one-fifth of the market.

14.44. Retailers were in practice compelled to match individual prices offered by competitors, and Comet's advertised 'price pledge' included a further allowance of 10 per cent of the difference between the Comet price and the competing lower price. Comet and other retailers sometimes offered discount vouchers in their advertisements, and sometimes found themselves obliged to redeem each other's vouchers as part of the price-matching process. Store managers had discretion to drop prices by up to [*] per cent, and probably used this freedom to offer discounts to secure sales. These concessions, together with staff discounts,¹ reductions on damaged or returned goods, and other discounts amounted to some 6 per cent of Comet's turnover. On an experimental basis, Comet had given greater autonomy to its stores in South Wales, where price tickets, unlike those in the rest of the UK, could be printed locally. Prices there tended to vary from advertised prices over 5 to 8 per cent of the product range. Welsh prices were not advertised, partly to avoid any confrontation with suppliers which might attempt to argue that Comet could operate on lower margins.

14.45. Where prices generally had moved downward, either through competition (arising from retailer competition or new product introductions) or in order to dispose of stocks, Comet would seek to negotiate margin maintenance or margin support from suppliers. Their help was usually looked for in other forms of promotion such as advertising campaigns and interest-free credit. This was a matter of negotiation; retailers and suppliers both knew that they had to sustain a long-term relationship.

Warehouse clubs

14.46. Comet was monitoring the activities of businesses such as PriceCostco. In neighbouring stores it matched the prices of the relatively few products it stocked in common with PriceCostco. It maintained

*Figures omitted. See note on page iv.

¹Discount cards were held by over 70,000 employees and pensioners of the Kingfisher Group.

strongly that it was not in the public interest for expensive and technically complex goods to be offered for sale in narrow ranges with only limited advice and service. It noted that the European Commission had taken a similar view in accepting Sony's selective distribution policy for its brown goods.

Extended warranties

14.47. Comet said that margins were higher on extended warranties than on the products to which they related, partly because any discount offered on a package of product and warranty would be charged to the product and not the warranty. Customers would not buy warranties if they were not seen as offering value. The relativities between premiums and claim costs were established by the insurers on an industry-wide basis.

The monopoly situations

14.48. In the complex monopoly situations identified by the MMC, Comet said that it 'does not consider that it could be included in a group containing the suppliers from which it purchased its products and with which it has to negotiate its buying prices and terms of trade'. To include retailers in such a group would be wrong at law, under the terms of section 6(1)(c) of the Act. It would also constitute a misunderstanding of the commercial relationship between retailers and suppliers. In previous cases where the MMC had adopted a wide definition of a complex monopoly group (such as greyhound racing, credit card services and electrical contracting services),¹ all those identified as complex monopolists were 'either actual suppliers of the reference goods or other parties at the same level of the market who contribute to such supply'. In contrast, Comet's own purchases were the outcome of intense arm's length commercial negotiations with suppliers.

14.49. Comet made the distinction between section 6(1)(c) which provided for the identification of a complex monopoly group consisting either of suppliers *or* of purchasers (Comet's emphasis) and section 6(2) which was explanatory and enabled the effects of a group's activities to be identified. In addition, in this case each reference 'was specific in applying to the supply in the UK, otherwise than by retail sale or hire of the reference goods'. Retailers such as Comet were clearly not involved in wholesale supply and were therefore evidently intended to be outside the terms of the references.

14.50. Comet also rejected the argument that, as a purchaser from a complex monopoly group of suppliers, it could be expected to benefit from that complex monopoly. The suggestion that retailers derived any benefit from purchasing from a small group of powerful suppliers was completely unfounded, given the extent of price-driven competition at the retail level. The inclusion of retailers in a complex monopoly of suppliers would be beyond the MMC's terms of reference and outside their jurisdiction. Comet noted that in previous cases involving the recommendation of retail prices (such as fine fragrances), there had been no suggestion (nor any finding) that retailers formed part of the complex monopoly comprising those that made the recommendations. Indeed, no previous MMC report, to Comet's knowledge, had included in a complex monopoly group both suppliers and persons being supplied.

Public interest issues

14.51. Comet had the following observations on the specific public interest issues which we put to it in the issues letter:

- (a) The RRP's adopted by suppliers did not of themselves influence Comet's advertised, displayed or transaction prices for particular products, though many such prices commonly coincided with RRP's. A manufacturer's view of the likely retail price positioning of a product mainly influenced Comet's negotiating position in establishing a trade price. Retail prices were driven by the amount that customers were willing to pay. Comet did not believe the absence of RRP's would have an appreciable effect on its shelf prices.

¹See first footnote to paragraph 2.224.

- (b) It was not the deployment of RRPs that limited variations in retail prices. Because of the competitive and price-sensitive nature of the retail market, variations could only be downwards. The main constraint on reductions in a retailer's prices was the need to protect margins.
- (c) Intra-brand competition between retailers was very strong. The tendency for prices to be uniform arose not from RRPs but from the monitoring by retailers of each other. Similarly, inter-brand competition between suppliers was fierce, and Comet could not see why they would wish to use RRPs to restrict this competition.
- (d) Comet said that prices had found a uniform low level as a result of price competition rather than the RRP. Retailers were accordingly trying to gain sales volume by non-price competition in such areas as wider product choice, better trained staff, and more extensive after-sales service.
- (e) When a competing retailer cut prices or consistently advertised prices below the RRP, Comet's discussions with its suppliers were likely to cover additional margin support rather than the practices of the other retailer.
- (f) Comet discussed the price positioning of new products with suppliers, but this was with a view to establishing their relationship with other products or those of other suppliers. Comet's interest was in the trade price rather than in the eventual RRP, but it had relatively little leverage over the discount from RRP by which the trade price was determined.
- (g) Comet's price tickets never referred to any prices set by manufacturers, whether these were RRPs or current suggested selling prices.
- (h) None of the practices listed by us in our issues letters had any effect on prices, retail innovation or product supply.
- (i) Comet considered that selective distribution (on lines which it understood to be approved for Sony by the European Commission) was eminently justifiable, but it had never asked suppliers not to sell to other retailers or to place any other retailer at a disadvantage.
- (j) Comet staff were at times given incentives to sell branded products, but this did not harm the interests of consumers. Customers usually came into the store intending to choose between products in a narrow price range. Comet did not condone attempts to sell a product that did not fit the customer's requirements.
- (k) Because electrical goods represented a high proportion of an average family's disposable income and were often complex products, Comet thought the services it offered without any increase in price were very much in the public interest.

Views on our possible recommendations

14.52. On our possible recommendations relating to prices, Comet had the following comments:

- (a) Comet did not think the abolition of suppliers' freedom to recommend retail prices would have any practical effect. Retail prices were driven by retail competition; Comet did not publish or follow RRPs. The overriding concern to retailers was not the level of RRP but the protection of their margins.
- (b) Comet saw no reason to prohibit suppliers from compelling or influencing retailers to sell at a certain price, since in practice they did not do so. The effect of the remedy could be to impede negotiations between suppliers and retailers over the cost of goods to retailers and the volumes to be ordered by them. It would be hard to enforce the remedy without such interference, restricting retailers' ability to respond to competition and to stock broad ranges at competitive prices.
- (c) Comet did not believe that retailers sought to persuade suppliers to set and enforce RRPs. Suppliers had the ability to influence prices as a result of their influence over retailers' margins. Comet was

unclear as to what activity the remedy addressed. If it related strictly to RRPs, it would leave transaction prices untouched, but it would limit the ability of suppliers to position their products in the market and of retailers to stock complete but non-overlapping ranges.

- (d) A prohibition on suppliers reducing discounts to dealers who set unacceptably low prices would be hard to enforce. The remedy would not prevent retailers from negotiating increased discounts as a response to competitive pressures.
- (e) A prohibition on suppliers refusing advertising support to retailers who advertised cut prices would be equally difficult to enforce. Advertising support was usually negotiated in advance, and suppliers could reduce margins by various means. It would be hard to prove that the retailer was being penalized for its advertised prices.
- (f) If suppliers could not provide additional margin support when a retailer cut prices in response to a competitor, price competition would be reduced at retail level. Fewer outlets would be able to offer the product in question at the lowest price. The customer would suffer; in the long term the market power of the retail market leader would be enhanced, leading to a contraction of the retail market and higher prices to consumers.
- (g) Major retailers would be unaffected if suppliers could not include prices on point-of-sale material. Comet had no objection to this proposed remedy.
- (h) Comet would have no objection to a requirement for suppliers to include in their terms and conditions a statement on dealers' pricing freedom. Comet commented that retailers needed the ability to ensure that they had margins to permit them to exercise that freedom.
- (i) Comet would have no objection to a requirement for suppliers to submit statements of their compliance arrangements to the OFT, as long as the provisions in question did not inhibit the negotiation of margin support.

14.53. Comet went on to comment on our possible recommendations relating to refusal to supply:

- (a) Comet had no objection to the publication by suppliers of their criteria for selection of retailers.
- (b) Whilst agreeing that such criteria should be non-discriminatory Comet insisted that the remedy should allow a supplier to refuse supply to retailers not meeting objective standards of range, format, staff training and after-sales service. The European Commission had approved such criteria for Sony. If such criteria were not allowed, prices would fall in the short term but there would be a decline in retailing standards to the consumer, followed by a contraction in the number of viable retailers. The ultimate result would be higher prices for poorer service.
- (c) Written statements of reasons for refusal would be acceptable to Comet as long as the criteria mentioned above (ie objective standards of range, format, staff training and after-sales service) were permitted.
- (d) An appeals mechanism, provided it followed the principle of non-discriminatory selective distribution mentioned in (b) above, would be acceptable to Comet. This left open the question of who should sit on an appellate body and who should bear the cost.
- (e) The requirement that warehouse clubs be supplied would be acceptable to Comet only if all retailers (including the clubs) could be required to meet the criteria mentioned in (b) above. Otherwise price competition would force all retailers to cut costs (to enable them to match or undercut their competitors' prices) by reducing their product ranges and levels of service. This would not be in the consumer's interests.

The RECs

Scottish Power plc

14.54. ScottishPower is the retailing division of Scottish Power plc, the privatized regional electricity company, formerly known as SSEB, serving southern Scotland. It has 75 shops and 17 superstores trading as ScottishPower in Scotland and 44 superstores trading as Electricity Plus in England and Wales. It also has 15 shops and 3 superstores in Scotland together with 2 superstores in England trading as Sound and Vision which sell brown goods only.

The UK market

14.55. ScottishPower told us that the main trend in electrical retailing over the last five years had been the switch to out-of-town retail parks. The concentration of several retailers in these was an attraction to customers, who could make their comparisons on a single site. This market was not yet over-shopped.

14.56. ScottishPower's own expansion in this direction had been quicker than that of some other RECs. It had been able to acquire retail outlets in Scotland from Thorn-EMI in 1993 consisting of Atlantis superstores and Rumbelows' high street shops; the latter now sold only brown goods. It had also acquired superstores from the receiver of the Clydesdale chain and (in northern England) from another REC, Manweb. It had opened new stores elsewhere in England and Wales.

14.57. ScottishPower commented that margins were under pressure, partly because retailers were finding it necessary to offer more interest-free credit. It was mainly its growth in size that kept ScottishPower's earnings up. Its policy was to stick to well-known brands whose reliability was proven. The Electra brand was convenient when ScottishPower wanted to offer a unique product, though it now sometimes found itself sited alongside another REC offering the same item. It did not aim at entry-point pricing. It did not stock brands which seemed to add no sales potential to its existing range, but it took care not to become too dependent on any one supplier. This was partly because other suppliers were jealously watching their own market shares.

14.58. ScottishPower said that while some 60 per cent of its business was at present in white goods rather than brown, the proportion was falling.

Prices

14.59. ScottishPower told us that it was in regular contact with all its suppliers. It discussed new models in terms of launch timing rather than price. The way it approached its price and range negotiations with suppliers was to begin with the specifications of models it wanted at particular selling price points. It would then negotiate the price at which it could purchase the goods, and the selling price would be determined by the margin ScottishPower decided to add. The margins achieved were of the order of [*] to [*] per cent, with the possibility of receiving retrospective volume discounts in the range [*] to [*] per cent on the total business done with a particular supplier. For white goods the supplier normally carried the cost of post-sales servicing. For brown goods the supplier in most cases remunerated ScottishPower for covering the first year warranty expenses. This paid for product failures but not the cost of customer education and support.

14.60. ScottishPower insisted that the RRP as such had no bearing on the setting of its prices. On occasions, however, it quoted the RRP on ticket prices to indicate that its own prices were lower. Its selling prices were influenced also by the prices set by competitors. It monitored these daily. ScottishPower accepted our suggestion that these prices would never be above the supplier's RRP and that in practice the result would be for some of its prices to coincide with the RRP. Whether this was so or not, competitive pressures were likely to cause prices to be closely bunched together.

14.61. ScottishPower said that it offered a price promise, but only for an identical model available for sale that was not the subject of a special promotion. This cost it between 1 and 1.5 per cent of sales value.

*Figures omitted. See note on page iv.

If a competitor seemed to be offering absurdly low prices for a model, ScottishPower would remove its own from sale. Additionally, managers had authority to reduce prices by up to 10 per cent to secure a sale. In this practice and in planned promotions its target was to maximize profit in cash terms rather than to maximize the return on sales. Price cuts on some models increased sales, but on items at the top of the range they might not bring in any significant new business.

14.62. ScottishPower at times looked to suppliers for a promotional partnership, but it financed 90 per cent of its own advertising. It did not expect margin support from suppliers to enable it to match price cuts by competitors, but it would very occasionally seek assistance to finance price reductions when a particular model failed to sell.

14.63. ScottishPower offered interest-free credit, and it would expect to lose a great deal of business without it. Sales were paid for approximately 10 per cent by cash, 15 per cent by credit card, 35 per cent by interest-bearing credit and 40 per cent by interest-free credit (including 'buy now, pay later'). The interest-bearing credit had an important part to play, since it was available over longer periods than interest-free and hence the monthly payments for a given purchase might be smaller. A debt could be rolled over from one to the other. Some credit was now arranged through Lombard Tricity Finance. The remainder was financed in-house, but the cost was charged to the retail division. Extended warranties were insured through Lombard Tricity Finance.

14.64. ScottishPower said that small retailers sometimes alleged that its prices were financed by a subsidy from its parent. But for its part it believed small retailers had more freedom and flexibility than met the eye. They knew their customers and offered just as large discounts when they wished to do so.

Warehouse clubs

14.65. ScottishPower said that its experience of competition from warehouse clubs, and in particular PriceCostco, was so far very limited. It felt that the lack of customer service would prevent warehouse clubs from making significant inroads into its markets. At present, ScottishPower was prepared to deliver and install (for a modest charge, sometimes discounted), to remove old equipment, and to provide 12 months' after-sales service. It was conceivable that established retailers would have to protect their market share by also offering a minimal service option at a reduced price.

Public interest issues

14.66. ScottishPower said that no supplier had refused to supply it, and no supplier had attempted to apply conditions to its stocking decisions. No supplier had reacted in any way to the prices advertised by ScottishPower. It had advertised prices below RRP but not above.

14.67. ScottishPower considered the electrical goods sector extremely competitive.

NORWEB plc

Company background

14.68. Until November 1996, NORWEB Retail (NORWEB) was the retailing division of NORWEB plc, the privatized regional electricity distribution company serving the north-west of England. NORWEB plc was acquired in November 1995 by North West Water plc, to form a group now operating under the name United Utilities plc. In November 1996 NORWEB was acquired by Kingfisher plc for integration into its Comet business. In September 1996 it had 63 high street shops, 72 superstores and 2 temporary clearance stores. Most of these were located in the original NORWEB area and in Yorkshire and the Midlands. In June 1995 it had also expanded into Wales and the south-west of England by acquiring retail outlets of the regional electricity companies in those areas.

The UK market

14.69. NORWEB said that high street stores were faced with high rents, restricted parking and too little space to display larger products. Retailers who had not foreseen the trend to superstores (including Rumbelows and many RECs) had been unable to survive. There was still a place in the market for high street retailers catering for people without cars. The growth in superstores and improvements in supply chain management had led to better product availability in the market. Since there was often more than one electrical retailer on superstore sites, the market had become more competitive. The customer had a wide range of places to shop.

14.70. The RECs competed with the major multiple retailers more on service and customer loyalty than on price. NORWEB saw itself as a more profitable retailer than most of the other RECs, some of which had already withdrawn from the market. NORWEB's strategy was to maintain its market position in the white goods that were traditional stock for the RECs, and to move further into brown goods; they were not more profitable than white, but they added volume. Apart from the Electra brand, which was exclusive to RECs, NORWEB tended not to stock secondary brands. Electra brand products themselves had a good reputation and were no longer at entry level in the market. Models and quantities to be stocked were chosen centrally, but local managers had some say in the rate at which they were placed on sale.

Prices

14.71. NORWEB said that many suppliers would suggest a selling price, which NORWEB might or might not consider viable. Other retailers would be negotiating in parallel, not necessarily with identical opinions. It was the trade price, and hence the margin, that was the ultimate determinant of the decision to deal. Margins were of the order of [*] per cent. This included advertising and promotional support, and NORWEB's acceptance of warranty expenses. Subsequent discounts based on sales targets might amount to [*] per cent.

14.72. NORWEB promoted products at the RRP in the majority of cases, but a large number of items were not sold at that price if they were being discounted elsewhere. NORWEB did not take the lead in bringing prices down; it was not a viable option to do so. NORWEB would gladly follow price rises on the part of larger competitors, but the opportunity very rarely arose. There had been some erosion of retailer adherence to RRP's; margins were not increasing but costs were. NORWEB felt that price competition flowed largely from the manufacturers, since margins were too low to give retailers much leeway. Margins were usually better on premium brands, but lower-priced products were worth stocking if they brought in extra volume.

14.73. If a product failed to sell and NORWEB reduced the price, suppliers might or might not offer margin support. They sometimes adopted different policies for different models. No supplier had remonstrated when NORWEB cut prices to get rid of excess stock.

14.74. NORWEB's store managers had profit targets within which they could negotiate individual concessions. In particular, NORWEB offered a price guarantee, matching a lower price elsewhere on a like-for-like product. Some 10 per cent of transactions involved a negotiated discount of some kind or another.

14.75. NORWEB found that its credit terms were attractive to its targeted customers. Some 55 per cent by value of its sales were paid for by interest-free credit or on deferred payment terms, with 25 per cent for cash and 20 per cent by interest-bearing credit. (These figures were not adjusted for deposits, which were usually 20 per cent.) The credit was financed internally. NORWEB offered various gift incentives, but it had given up free delivery, finding it too expensive.

Warehouse clubs

*Figures omitted. See note on page iv.

14.76. In NORWEB's view, warehouse clubs were likely to use electrical goods as loss leaders to attract new members. The clubs would cater for a niche market in electrical goods, but their customers would not be adequately supported in product choice or after-sales service. Existing superstores would attract the vast majority of consumers. NORWEB said that it probably had less strong views on this subject than did retailers that were more price-driven.

Public interest issues

14.77. NORWEB did not consider that retail prices recommended by suppliers had a proportionate and inevitable effect on retail transaction prices. Retailers' main concern was the trade price. RRPs provided an effective ceiling on transaction prices. On the other hand, margins were too tight to allow much downward flexibility. Suppliers' negotiations with retailers had some influence on retail prices, but there was no dictation and no collusion. Products were often closely comparable, so competition between brands would make a supplier reluctant to increase its RRPs under pressure from retailers. Even when NORWEB advertised RRPs, those achieved were often lower on account of local competitive pressures or tactical initiatives.

14.78. NORWEB thought it reasonable for a supplier to maintain a check on how its goods were advertised or promoted, particularly when the supplier had made an exceptional contribution to the cost or when it wanted to preserve a special image for the product.

14.79. NORWEB knew of no occasion when it had been restrained from selling on to an unauthorized dealer.

14.80. NORWEB had at times contacted suppliers when competitors charged prices below RRP, but this was to ask for margin support or to cut back on deliveries. Most suppliers were too large to be open to pressure from NORWEB.

Views on our possible recommendations

14.81. NORWEB thought that to prohibit suppliers from setting RRPs would be a negative measure which would not benefit the consumer. RRPs were a ceiling, and without them prices might rise, especially as retailing became more concentrated. They were also a bench-mark, and their loss would introduce confusion, inconsistency, and potentially extra costs to be met by consumers.

14.82. NORWEB agreed that neither suppliers nor retailers should attempt to enforce price levels. NORWEB itself had never tried to influence the prices charged by other retailers. However, it considered additional margin support offered by suppliers to be a positive force to bring prices down, and its prohibition would be against the interests of consumers.

14.83. NORWEB did not normally use suppliers' point-of-sale material, but it was less useful if it did not show prices. They could always be amended. NORWEB saw no need for our other remedies relating to prices since industry practices did not jeopardize normal and healthy competition. The liability of suppliers if their staff broke the law was clear enough without the submission of compliance statements to the OFT.

14.84. In the context of refusal to supply, NORWEB thought that suppliers should be free to trade with whom they wished just as retailers were. Given that it would be against a supplier's interests to refuse good business, the market currently delivered a choice of outlets and increasingly favourable prices and service levels for consumers.

Powerhouse Retail Limited

14.85. Powerhouse was formed in April 1992 when two regional electricity companies, Southern and Eastern, merged their high street retail businesses. In March 1993 Midlands Electricity joined the consortium. The three shareholders sold out to Hanson plc in late 1995, which in turn sold the business to

its management in June 1996. As at 1 August 1996 it had 91 high street stores and 30 small superstores. Of these, 89 sold brown and white goods but two sold white goods only.

The UK market

14.86. Powerhouse told us that it was following the trend towards out-of-town retailing of the larger domestic appliances. With its remaining high street stores and the disappearance of competitors, it might be able to catch some niche town centre business. It was making an effort to cater for more affluent consumers, its past customer base having been those who came in to pay electricity bills in person. It no longer aimed specifically to buy British. Its ordering and stocking were controlled centrally. It served mainly the areas of its original parent companies.

14.87. The electrical goods market as a whole was unusual in that most retailers, often close to each other, stocked similar brands and products. Customers could therefore visit a number of outlets and compare prices and offers on an identical item.

Prices

14.88. The RRP was the price at which Powerhouse expected to sell. Its negotiations with major suppliers, which took place at various times through the year, were based on an expectation of a trade price allowing a substantial margin off the RRP. There also tended to be small retrospective discounts depending on performance. Some suppliers gave a further allowance when Powerhouse took over responsibility for first-year servicing under guarantee. The price and margin calculations would take account of the fact that during sale periods prices would be lowered. There had been very occasional circumstances when goods had been disposed of above the RRP, and Powerhouse regretted that it could not do so more often. Special purchases and own-brand goods were bought at fixed prices for fixed quantities.

14.89. If competition from other major retailers or manufacturers brought a selling price down, Powerhouse would usually expect the supplier to provide a credit maintaining the margin at the new price. This situation could arise when a very similar model from another supplier was discounted. The suppliers needed to sell their goods, so there was normally a productive partnership between retailer and supplier rather than an adversarial relationship.

14.90. Powerhouse had a price promise policy, and store managers were free to offer special prices on imperfect goods. They had a budget for concessions of 2 per cent of sales in any one week. Perhaps 15 per cent of items purchased were sold at a discount. Powerhouse offered interest-free credit, 'buy now, pay later' terms, and other promotional benefits depending on the practices of competitors.

Public interest issues

14.91. Circumstances did not allow Powerhouse to cut prices as freely as some competitors. It considered the widespread use of RRPs set by suppliers to be the only effective way of avoiding a catastrophic downward price spiral. Recent retailing trends had given customers a widening range of products and brands at prices falling in real terms. Their expectations were growing in respect of choice, advice and after-sales service. Powerhouse considered the widespread use of RRPs set by suppliers to be the only effective way of avoiding a downward price spiral.

14.92. Powerhouse was ready to negotiate reduced cost prices with suppliers in order to be able to compete with retailers who seemed to be making unwarranted price cuts. Powerhouse had never suggested that these retailers should be refused supply.

14.93. Powerhouse considered the structure under which terms and discounts were negotiated with suppliers to be fair and reasonable. It did not believe that the terms as negotiated were anti-competitive in any respect. No supplier was inhibiting, restricting or undermining the effectiveness of retail competition.

Powerstore (Trading) Limited

14.94. Powerstore (in administration) was established in 1993 following a management buy-out of a selection of retail outlets formerly operated by the London Electricity Board. These included concessions in 45 branches of Debenhams. After ten months Debenhams ended the concessions, leaving Powerstore with eight shops and ten superstores. In May 1995 the shareholders acquired 48 shops and 23 superstores (together with the trading name and headquarters) from Homepower, the retailing joint venture of Yorkshire Electricity plc and East Midlands Electricity plc. After a difficult year of trading the business went into administration in April 1996. Powerstore and Homepower were nominally distinct but under common management; the Administrator was appointed for the two of them individually. A parent company with other subsidiaries, Powerstore Holdings Limited, remained intact.

14.95. We took oral evidence from members of the Powerstore management both before (paragraphs 14.3 to 14.9) and after (see paragraphs 14.10 to 14.12) the failure. We also held a hearing with the Administrator (a partner of Arthur Andersen & Co).

The market

14.96. Powerstore told us before the failure that it had attempted to run the business with the minimum possible overheads. It had stocked representative selections of each brand, with minimal back-up. Customers had been offered the full range of white goods and most brown goods by direct next-day home delivery from suppliers, ordered electronically from terminals in each store. There was a small delivery charge. About one-quarter of sales were made in this way, which was particularly helpful in making the best use of high street stores.

14.97. In legal terms Powerstore still acted as retailer, taking title to the goods and handling billing. The suppliers benefited from immediate data on market demand. This system suited Powerstore because manufacturers were continually shortening the lives of each product variant (even for white goods this could be as little as four months), and in this way stock levels of obsolete products were kept to a minimum. When old stock had to be sold off at reduced prices suppliers had been approached for margin support, but Powerstore at times had had to accept compensation in other forms, such as extended credit on new orders.

14.98. Powerstore managers had been free to order stocks that best suited the demand profiles of their local areas. This allowed their stores to have some of the characteristics of a large independent retailer. The success of this approach depended on close control of performance through EPOS data. Promotions were often advertised by leaflets, put through letterboxes. One of the advantages enjoyed by the large multiples was their ability to use the national press for advertising.

14.99. Powerstore told us that it and Homepower (which had traded under separate names) had lost the right to stock Electra brand products on becoming independent of their parent regional electricity companies, but they had had to undertake to maintain their capacity to service and provide spares for those they had sold. They had been able to get hold of some identical products under the manufacturer's brand to sell at a lower price.

Prices

14.100. Powerstore normally heard of new products from suppliers and negotiated margins somewhat later than the major multiples. Its margins, allowing for discounts which it in practice conceded to customers, were of the order of [*] per cent (a basic [*] per cent and [*] per cent for volume together with a small advertising and promotion allowance). It would always aim to sell for the highest possible price, which in practice meant the RRP, but local competition often made this impossible. It sold entry-level televisions at some 5 to 10 per cent below the mail order price. Powerstore offered a price promise, but this did not extend to prices quoted by warehouse clubs.

14.101. If a brand or model was being sold too cheaply elsewhere, a possible response was to delist it. During 1994 Powerstore delisted Hotpoint because an entry level machine was given a reduced RRP and

*Figures omitted. See note on page iv.

hence a [*] per cent gross margin. Hotpoint's reaction had been that the sales staff should be able to sell a dearer model to customers attracted to the shop by the low price. After the Hotpoint promotion ended, normal trade was resumed. Powerstore would stop reordering a brand if another retailer seemed to be charging too little for its products. The assumption then was more likely to be that the competitor had been offered a special deal.

14.102. Powerstore said that it thought some suppliers took steps to ensure that a certain proportion of their business went through the independent channel, but this would be by margin support rather than by attempts to influence the selling prices of the multiple retailers.

14.103. The former Powerstore management told us that the loss of the lease on the former Homepower head office and warehouse in September 1995 had triggered the collapse. Powerstore, which had already moved in and absorbed Homepower, had to seek new accommodation at four weeks' notice. A warehouse could not be found in the time available, so distribution had to be entrusted to a contractor. This was at a time when the integration of the Powerstore and Homepower information systems was about to be put in hand. The systems were thus not in place for the peak January sales period, and the account settlements and audit for Powerstore's financial year-end of December 1995 were in disarray. Certain display stocks, provided as a concession on 180 days' credit, were inadvertently paid for as if they had been on normal monthly terms. Staff morale was low. The management had probably devoted too much attention to marketing rather than organization. The company had finally sought the protection of the court and the appointment of an Administrator at the end of March 1996.

14.104. The former management stated that suppliers could and did control retail prices. Manufacturers could balance demand across the various national markets, and the transfer prices to their national subsidiaries was where the profit was mainly taken. The UK subsidiaries might negotiate margins varying from [*] to [*] per cent, but they were anxious not to make further concessions on margins. They therefore had to enforce RRP's as best they could, and they were often ready to counter excessive price-cutting by withholding supply. Suppliers would not pay advertising and promotion allowances to retailers whose advertised prices they disapproved of.

14.105. The major multiples, for their part, would generate invoices for margin support, which some suppliers would settle with a credit note. Suppliers could sometimes be cajoled into other forms of discount such as long-term credit for display stocks. They had little leverage over consumer promotions such as interest-free credit. On one occasion the retailers had themselves arranged for a supplier to broker a truce when such offers had got out of hand.

14.106. The Administrator told us that his task was to recover as much as possible of the amounts owed to all creditors, either by disposing of assets or by maintaining some or all of the business as a going concern and then selling that. The court had granted the petition for an administration order and dismissed a parallel one by a supplier for a compulsory liquidation of the two companies. Compulsory liquidation would have required the immediate cessation of trading and the immediate dismissal of all staff, and landlords would have been able to occupy leased buildings straight away.

14.107. The Administrator said that it was not for him to trace the reasons for the failure of Powerstore, but he had noted its rapid expansion and the marketing bias of its management. It had been unable to sell enough product at high enough margins to cover its costs. He told us that he had not been able to go on trading viably. The remaining stock had been purchased by a company set up by some of the previous management, which was selling it off in some of the former outlets over a strictly limited period.

SEEBOARD plc

14.108. SEEBOARD Retail (SEEBOARD) is the retailing division of SEEBOARD plc, the regional electricity distribution company serving the south-east of England. Since the beginning of 1996 its ultimate parent company has been Central South Western Corporation, a US electricity supplier. SEEBOARD has 33 high street stores and 15 superstores. These are all in the area in which it supplies electricity.

The market for electrical goods

14.109. SEEBOARD said that the large number of domestic electrical goods suppliers, and the trend towards out-of-town retailing with several retailers on the same site, offered customers a wide range of choice and freedom to make comparisons. Consumers had higher expectations of quality and service than in some other sectors such as clothing. Demand for white goods suffered from the continued low level of activity in the housing market.

14.110. Even with some recent withdrawals, SEEBOARD saw the domestic electrical goods sector as over-shopped. High street retailing was likely to be left in the hands of independents. These might find competitive pressure less strong as the multiples moved out. SEEBOARD had not seen any impact from the advent of warehouse clubs. Customers either did not know of them or else felt concern about the likely lack of warranty protection and after-sales service.

14.111. SEEBOARD saw its market position as based on its own brand-name strength, supported by the use of the Electra brand. Competitors seemed to rely more on price and on customer loyalty to supplier brands, though this was diminishing. SEEBOARD aimed to provide a wide range of choice and particular emphasis on service. It offered sound advice, free next-day delivery (though installation and the removal of old appliances might incur a small charge) and a 14-day satisfaction guarantee. It also offered generous credit terms.

Prices

14.112. SEEBOARD told us that it met suppliers annually to discuss the sales performance of existing products and the prospects for new ones. These discussions would also cover sales forecasts and buying terms, including promotional support. There were also month by month contacts to consider recent developments. Rebates and allowances were calculated from SEEBOARD's buying price and not from the RRP. It normally bought out suppliers' warranties. Superseded stock was sold off at reduced prices, often with margin maintenance from the supplier. During seasonal sales, white goods suppliers did not normally give compensation for the loss of margin on their products, unless the response was such that extra supplies were needed. Suppliers did not provide help to meet prices discounted by competitors. For goods covered by the references, SEEBOARD did not deal with wholesalers or other intermediaries and it did not knowingly supply other retailers.

14.113. SEEBOARD said that it aimed to maximize the prices achieved on all goods in its stores. This policy led it in most cases to charge the RRP advised by the supplier. It reviewed prices monthly. It had not advertised prices either above or below RRP in the year to 30 June 1995 except for sale goods. However, it had a 'lowest price promise' for goods that were strictly comparable to its own and available at published prices in original boxes from a local competitor's stock. It did not negotiate discounts with customers on new stock, but end-of-line and damaged products might be reduced in price and advertised by direct mail. Its budget for discounts of all kinds was 1 per cent of sales value. SEEBOARD did not offer promotional gifts or trade-in allowances.

14.114. SEEBOARD told us that during most of the year it offered internally-financed credit on all goods sold for more than £149.00. It had introduced special credit packages for particular promotions. Its customers paid for about 33 per cent of purchases by cash or cheque, 20 per cent by credit card, 37 per cent by interest-free credit or on 'buy now, pay later' terms, and 10 per cent by interest-bearing credit (fixed term and revolving). The cost of offering 'buy now, pay later' terms was sometimes reduced when customers eventually rolled their debts forward by taking interest-bearing credit, but SEEBOARD thought retailers should try to be more selective over the availability of free credit. Suppliers did not provide direct funding for credit, but in some cases its cost was taken into account by them in negotiating retailers' buying prices and promotional allowances.

14.115. SEEBOARD insured extended warranties with London & Edinburgh Insurance Company Limited (London & Edinburgh), drawing its commission at the time of sale.

Public interest issues

14.116. SEEBOARD said that it did not see the structure of purchase price terms as discriminating in favour of any particular group or class of retailers. This structure was not unfairly beneficial to the supplier or anti-competitive in any respect. SEEBOARD had never been refused supplies, though deliveries had been delayed by production difficulties. No supplier had suggested that continued supply depended on adherence to RRP's.

14.117. SEEBOARD was not a party to any formal dealer agreements. None of its retailing practices, and in particular its advertising, were influenced or restricted in any way by suppliers. It had never complained to a supplier about the pricing or behaviour of a competitor.

14.118. SEEBOARD saw the electrical goods market as highly competitive. Accordingly, it did not believe that any of our possible remedies were necessary.

Northern Electric Retail Limited

14.119. Northern Electric is a subsidiary of Northern Electric plc, the privatized regional electricity company serving the north-east of England. It has 39 town centre stores and 11 superstores, all selling both brown and white goods. Most are in its own electricity supply area, but four superstores are in Yorkshire.

The market for domestic electrical goods

14.120. Northern Electric considered the main feature of the market to be intense price competition. Prices had fallen to the lowest levels at which it was economic for retailers to remain in business: the sector was over-supplied. The move to out-of-town sites had increased sales and reduced costs, but this had not allowed any headroom in margins. Suppliers added novel features to their products but they could not prevent prices falling in real terms. Only a few brands at the top of the market retained enough consumer loyalty to allow a premium to be charged. Quality and reliability did not enter into consumers' decisions, as they now expected all products to last and to be reliable. Reliability was important to the retailer, however, because of the cost of claims under warranty.

14.121. Northern Electric said that it had no comment on warehouse clubs, since they had not yet arrived in the North-East.

Pricing

14.122. Northern Electric said that it selected models and negotiated terms with suppliers annually. It expected to be quoted a trade price and to negotiate volume discounts, retrospective discounts based on turnover, advertising and promotion allowances, and margin maintenance where needed. Warranties for some white goods were bought out from suppliers. Northern Electric considered the terms it obtained fair and reasonable.

14.123. Northern Electric settled the eventual selling price, both for normal stock and for seasonal sale periods, without reference to suppliers. Their only involvement was over the incidence of joint promotions. Northern Electric tried to adhere to RRP's, but often found it necessary to allow price promise concessions and other discounts. It regularly offered 5 per cent discounts across its whole range by mail shot, and it had now made this privilege more widely available by issuing a discount card. The total value of concessions was about 1.1 per cent of sales.

14.124. Northern Electric bought no reference white goods from wholesalers.

14.125. Northern Electric said that its customers paid for 25 per cent of their purchases by cash, cheque and credit card; 65 per cent by interest-free credit or using 'buy now, pay later' terms; and 10 per cent by interest-bearing credit. Credit was financed in-house. Extended warranties were insured with Cornhill Insurance Public Limited Company (Cornhill).

Public interest issues

14.126. Northern Electric said that the market was too competitive for there to be collusion between retailers and suppliers. RRPs were a convenience, but they allowed flexibility for competitive prices to be offered to customers. Northern Electric did not collaborate with suppliers in fixing prices and it had never been refused supplies. It did not consider that it took part in practices which the MMC had identified as anti-competitive.

14.127. Northern Electric had no written contracts with its suppliers. They had never interfered with Northern Electric's advertising.

Views on our possible recommendations

14.128. Northern Electric saw no reason for us to propose that suppliers should not set RRPs. They were useful for positioning products within a range. The problem, if there was one, lay in suppliers' attempts to make retailers adhere to them. It would be anomalous to have RRPs for some products such as cookers and not for reference goods.

14.129. Northern Electric did not wish to lose the possibility of negotiating margin support when a product did not sell well. Also, it found suppliers' point-of-sale material which showed RRPs convenient and a saving in cost. Retailers could choose when to use it.

Scottish Hydro-Electric

14.130. SHE is the retail division of Scottish Hydro-Electric plc. It has 55 high street stores and serves the whole of the northern part of Scotland.

The local market

14.131. SHE said that its trading area covered 25 per cent of the UK but only 5 per cent of the population. Its aim was to be a market leader in this area for electrical and gas appliances, by providing high-quality brand name products at a fair price and with a high level of personal service.

14.132. In the recent past there had been a fall in the number of people moving house and a downturn in consumer confidence. Intense competition among suppliers had kept prices down; retailers had to find more volume to maintain their position. The quality and reliability of products had improved. SHE's customers were looking more to primary brands, perhaps led by advertising, but they were not so loyal to retailers, except perhaps in remote areas. In spite of recent closures, the retail sector was still over-supplied. Near the larger towns SHE's main competitors were the superstores. These did not benefit consumers too far away to reach them, who therefore looked to independent retailers or to mail order.

14.133. SHE received all its supplies into its Perth warehouse. It never bought from wholesalers. It took products under the Electra label in order to have a recognizable house brand at a quality and price point that satisfied its customers.

Prices

14.134. SHE met suppliers regularly to see new products and to review the ranges it stocked. It normally negotiated buying terms with suppliers annually for the following year. In most cases these were expressed as a margin on the RRP. The margins included allowances for servicing in remote areas on behalf of suppliers.

14.135. SHE said that it did not set out to sell at the RRP. It based its prices, which were centrally set, on the margin required. It did, however, hope to offer remote customers superstore prices, as well as local service and support. It monitored competitors and offered a price promise, as long as the products were genuinely the same product and the competitor was local. The average amount conceded was £10 to £20. Customers compared prices avidly. In an average week some 3 per cent of transactions involved discounts negotiated with customers. Store managers had a budget of 2 per cent of sales to meet the cost.

14.136. About 49 per cent of SHE's sales were paid for by cash or credit card, 38 per cent by interest-free credit and 13 per cent by interest-bearing credit. In April 1996 it had switched from internal to external finance for credit.

Public interest issues

14.137. SHE saw RRPs as guidelines rather than firm prices. Prices were drifting lower. No supplier had applied pressure on SHE to adhere to RRPs. It had never been refused supply. Suppliers were competing too fiercely to engage in practices which limited retailer competition.

NIE Retail Limited

14.138. NIE Retail Limited (NIER) is the retailing subsidiary of NIE, a privatized electricity distributor. It has 34 high street shops trading as ShopElectric, all in Northern Ireland.

The market

14.139. NIE said that the return on assets of the domestic electrical goods retail sector was generally regarded as inadequate. Customers were keeping their appliances longer before replacing them, and they tended to wait for promotional credit offers before buying. Products themselves were either falling in price or remaining at the same price level with extra features.

14.140. NIE said that it was faced with vigorous price competition from both independent retailers and Dixons. The latter's Currys superstores in particular were eroding its market share. Comet, however, had recently withdrawn from the province. Local market shares were hard to estimate in the absence of published statistics for Northern Ireland.

14.141. NIE shop managers were free to select their own stock from the brands for which it had supplier agreements. Where quantities were small, wholesalers were sometimes used. NIE had recently begun to take products under the Electra brand.

Prices

14.142. NIE said that it expected to sell at RRPs except during sale or promotional periods. It offered a price promise in respect of identical models advertised in the Northern Ireland media, and shop managers had discretion to make price reductions to clinch a sale. Such concessions accounted for some 2 per cent of turnover. NIE did not seek margin support (except in certain circumstances from CDA). If it bought goods specifically for a sale, however, it would expect a special buying-in price. In the case of CDA (CFS products only) it bought out the supplier warranties.

14.143. Credit was financed within NIE without recourse to the parent company. In July 1996 44 per cent of customers paid by cash or credit card, 4 per cent by interest-free credit, 25 per cent on 'buy now, pay later' terms and 41 per cent by interest-bearing credit. Some 30 per cent of 'buy now, pay later' customers rolled the transaction over into interest-bearing credit. During promotional periods the duration of interest-free credit might be extended from six months to as much as 18 months, and its volume might rise to 25 per cent. NIE insured extended warranties with London & Edinburgh Insurance.

14.144. NIE had the impression that prices were lower in the Republic of Ireland, but it could not say whether or not this implied narrower retail margins.

Public interest issues

14.145. NIE said that it had no written evidence that suppliers were undermining the effectiveness of retail competition, but it was aware of the allegations that had led to the inquiries. Its dealer agreements did not influence any of its trading practices or impose unfair conditions. It had not been refused supply, and it did not believe that suppliers would react adversely if it sold at prices other than the RRP. It had received telephone calls from various suppliers when it launched a major price discounting promotion in August 1994. They had said that independent retailers in Northern Ireland were disturbed at the price cuts and were threatening to close their accounts with them. The promotion had continued as planned. NIE, for its part, had on occasions complained to suppliers about the pricing practices of its competitors, without result.

Regional multiple retailers

KF Group plc

14.146. KF Group plc, trading as Tempo through its subsidiary Tempo Ltd (Tempo), has 26 outlets in the Home Counties, of which 17 are superstores. One of the town centre stores sells brown goods only. Tempo said that it stocked mainly the brands with a high turnover, to maximize margins. It tried to observe RRPs, but this was not on account of pressure from suppliers. Its prices were more often related to those charged by competitors. Low-priced own-brands (such as those of Dixons and Comet) also affected the prices which other suppliers could set. A further constraint was the perception by the public of 'natural price points'. RRPs were clustered around these, and a retailer reducing a price had to move to another one to gain extra sales.

14.147. Tempo found that white goods suppliers would not always offer margin maintenance when they reduced RRPs. Tempo was sometimes able to get margin maintenance when it was clearing old stock. The terms it was able to negotiate with suppliers were usually fair. At times a competitor was able to sell at a price that would give Tempo an unacceptably low margin, in which case it would delist the product.

14.148. Suppliers did not object when Tempo sold or advertised below RRP. It had sold above the RRP when offering a television with free extended warranty.

14.149. Tempo offered interest-free credit or 'buy now, pay later' terms on all products priced over £199. It sold extended warranties, insured through Pinnacle Insurance PLC and reinsured through its own KF Insurance Services Ltd. Tempo offered a price-match policy, but its staff were not allowed to negotiate any other kind of individual discount to secure a sale.

14.150. Tempo expressed concern about our possible recommendation on margin support. If a competitor was selling a product at a negligible margin, a dealer should not be prevented from obtaining margin support. There were various ways it could bargain for this, for example by promising the supplier additional orders or prominent displays. It would be hard to determine when margin support was in breach of the remedy.

14.151. As for warehouse clubs, if suppliers were allowed to use published criteria for the selection of dealers, it seemed reasonable to Tempo that warehouse clubs should have to meet these in order to be supplied.

Miller Bros (Doncaster) Limited

14.152. Miller Bros is a family-controlled company which in March 1996 operated 16 fairly large superstores and one high street shop. They are mainly in the north of England. It retails a full range of large and small domestic electrical goods but not computers.

The market

14.153. Miller Bros said that it had been experiencing rising costs and falling prices. It attributed increased competition from the RECs to their ability to cross-subsidize. It maintained its own competitive position by price-matching and by stocking a more extensive product range which was different from that of other local retailers. It tried to stock most of the suitable products from the major suppliers. These included up-market brands such as Miele. It bought from wholesalers only to satisfy customers with special requirements. It had no own-label brands. Miller Bros emphasized staff training so that high-value products could be effectively presented, including built-in white goods; staff were encouraged to 'sell up' by explaining the merits of dearer products. Another market it served was insurance replacement, the provision to policyholders of substitute products after losses from theft or accidental damage. Margins for this were lower than for normal retail trade.

14.154. Miller Bros' newly-established warehouse enabled it to supply white goods from stock more quickly than competitors ordering direct from manufacturers. It was also able to handle surplus stock which suppliers wished to dispose of at short notice. The warehouse was also important for brown goods, but customers had to be supplied from the store, as they expected to be able to carry their purchases away.

Pricing

14.155. Miller Bros considered that the margins it received from suppliers were fair. In particular, it benefited from volume discounts as the business grew. These were often retrospective; it had the impression that by this means suppliers' UK subsidiaries gained more flexibility over the terms for particular products or ranges than their overseas parent companies intended. It relied on the manufacturers for normal warranty service.

14.156. The suppliers' guide prices were a starting point for pricing, but Miller Bros would also match competitors. These guide prices would prevail for new products, and also for the more expensive white goods where customers were not so price-sensitive, though Miller Bros' price tickets never referred to them as RRP's. Competitors' prices would be matched at the store manager's discretion, though ticket prices would not necessarily be amended. Managers could also negotiate prices with individual customers to secure a sale. These concessions cost 2 to 2.2 per cent of sales. When a competitor offered a product particularly cheaply, Miller Bros would assume that it had done a deal with the supplier. It might then approach the supplier in hope of the same treatment. If no help was forthcoming, Miller Bros might temporarily give up stocking the product. When suppliers organized price promotions, Miller Bros would expect margin maintenance. It was prepared to match prices quoted by PriceCostco members, but not many of its customers had PriceCostco cards.

14.157. Miller Bros did not offer interest-free credit except as part of a supplier promotion. Its normal interest-bearing credit arranged through Lombard North Central PLC generated commission income, as did extended warranties. It hoped to sell extended warranties on many products, but the price for the product was not treated as part of a package with the warranty.

Issues in the inquiries

14.158. Miller Bros said that it saw the market as competitive. Suppliers did not inhibit retail competition. Competitors might complain about some of Miller Bros' prices, but no action followed. The few products sold without RRP's did not appear to have a wider dispersion of prices than the remainder since retailers monitored each other so closely.

14.159. Miller Bros saw no objection to SPIVS as long as all the products they covered were of high quality. It tried to confine them to the more expensive items. If they were banned, suppliers would turn to alternative methods of promotion.

Bennetts (Retail) Ltd

14.160. Bennetts (Retail) Ltd (Bennetts) is a subsidiary of Berrys Group Limited. It retails white and brown goods through three superstores and four conventional shops, mostly in East Anglia. It also has two shops in the London area, one selling brown goods and the other white.

14.161. Bennetts said that it was experiencing increased competition as national retailers opened more superstores, and the RECs also were growing. Many of the reference goods were over-supplied, so their unit prices were falling. Retailers had to increase volume to achieve the same income.

14.162. Bennetts stocked a wide range of reference goods; it had no difficulty in obtaining supply. It met its primary suppliers about once a month and the minor ones every six to eight weeks. Prices would normally be covered in the discussions. Bennetts' main price negotiations took place early in each year. The basis was an agreed margin from SRP. It was aware that other retailers had different terms, depending on their purchasing power. Bennetts set out to sell at RRP, or else the supplier's promotional price, and in the latter case it would expect margin maintenance. To sell for less would produce unacceptably low returns. Bennetts' costs were relatively high, because of the need to match larger competitors' activity in areas such as advertising, interest-free credit, delivery and service. It thought most retailers sold at RRP. During sale periods it reduced the prices of its entire stock. If these coincided with supplier promotions, it would expect margin maintenance.

14.163. Bennetts said that most suppliers in effect asked it to sell at RRP or their promotional prices, but since 1994 there had been no suggestion that trading relationships would suffer if it sold for less. It did not consider that any of its suppliers was able to exert significant influence over its trading practices, and it considered the conditions under which it dealt with suppliers to be fair.

14.164. Bennetts had in the past complained to suppliers about particularly deep price cuts made by other retailers, but it did not expect margin support. It had never suggested that a competitor be refused supply.

14.165. Bennetts had a price-matching policy of beating local advertisements or written quotations by 99p for genuine comparisons. Some 10 to 15 per cent of customers asked for discretionary discounts, but store managers had no budget to permit this. They were authorized to price match and to reduce prices on old or damaged stock.

14.166. Interest-bearing credit (externally financed) was available but taken up very sparingly. Bennetts offered deferred payment terms for reference white goods priced at more than £199. It also offered extended warranties, externally insured. Gross receipts from them amounted to 6 per cent of turnover.

James H Donald (Darvel) Ltd

14.167. James H Donald (Darvel) Ltd, trading as J H Donald (Donald), has seven high street stores in south-west Scotland selling and renting domestic electrical goods. It told us that there were several brands it did not stock because their ranges matched those it already carried or because the margins were too low. It bought most white goods through CIH. It considered its arrangements with suppliers fair and reasonable. However, cost prices and selling prices were falling, especially for brown goods. Consumers were increasingly driven by price rather than supplier loyalty. The industry was price-point-oriented, which did not make for good margins.

14.168. Sites on retail parks were probably cheaper to run than its own high street locations, but it could not gain access to them on acceptable financial terms. Of its competitors, it had the impression that ScottishPower was buying market share, having acquired outlets from Rumbelows and Clydesdale. Price

competition was fiercer than when these were still trading. The local warehouse club had opened too recently for Donald to comment on its impact.

14.169. Donald's prices were often at RRP levels, but its managers were able to match prices or negotiate discounts of up to 5 per cent. Competitors sometimes offered concessions such as interest-free credit which Donald had to match, instead of reducing prices. About 25 per cent of Donald's retail business was interest-free. New customers might be asked for a 10 per cent deposit, but existing ones might be allowed 100 per cent credit. Donald was able to be profitable only through its earnings from rentals, interest-bearing credit, extended warranties, fitted kitchens and property.

14.170. Donald agreed with our possible recommendations with certain exceptions. It thought the RRP provided a starting point for the public with no adverse effect. Without it, prices might be higher. With only a trade price to work on, some retailers might have difficulty in setting prices, which would damage their ability to compete with the national multiples.

14.171. It did not believe that suppliers' advertising material showing prices was against the public interest. It helped the small retailer who could not afford to produce such material, and prohibiting it would help the large companies to control the market price.

14.172. Donald did not believe suppliers should be prevented from using selection criteria which discriminated against certain retailers, if that was what the MMC had in mind. It believed warehouse clubs should meet normal criteria if they were to be supplied.

Kenneth Gardner Ltd

14.173. Kenneth Gardner Ltd (Gardner) has nine high street stores in the Morecambe Bay area of north-west England. Of these, five sell brown and white reference goods, one white goods only, one brown goods only, one specializes in rental and one sells accessories.

14.174. Gardner told us that it purchased a considerable amount of its stock through CIH. Two super-stores had recently opened in its area, which had had a devastating effect on its town centre branches. Its profit margins had been reduced by a further 5 per cent and its turnover had been badly hit. It found that cash margins on goods selling for less than about £200 did not cover the cost of the support needed by non-technical customers. It was also impossible to recover from customers the true cost of repairing faulty goods no longer covered by guarantee. Gardner thought some consumers found it difficult to shop around or to make comparisons when goods came with different packages of price, credit, warranty and delivery.

14.175. Gardner believed RRP pricing had been superseded by national multiple retailer pricing, and that these now dictated the going price in the market. They were almost in a monopoly position.

Apollo 2000 Limited

14.176. Apollo 2000 Limited (Apollo) has 11 branches in various parts of the UK selling white and brown goods. It said that it adhered to RRPs where possible for its ticketing, but was ready to negotiate reductions, usually on a price-beating basis. Its advertising did not normally feature products or prices. It had had no supply problems except in the case of genuine shortages. Suppliers did not pay regard to Apollo's transaction prices.

Yates & Greenhough

14.177. Yates & Greenhough (Y&G) is a partnership with five stores. It told us that from September 1994 it had added white goods to its brown goods ranges. Four of the stores were rural and had lower costs but also lower sales than its town centre store. This faced increasing competition, especially from out-of-town sheds. Consumers would not travel between town centres and retail parks to make comparisons. Y&G had not had supply problems. It set its ticket prices at RRPs and used suppliers' point-of-sale labels showing RRPs or current promotions.

Blackburn & Swallow Limited

14.178. Blackburn & Swallow Limited has seven small stores in Yorkshire, selling reference white and brown goods. It said that it was sensitive to competition from superstores and particularly from the RECs with their privileged financial position. Car boot sales also competed. All these could afford to sell below RRP, but independent dealers could not. High street rents were a particular problem.

Department stores

Allders Department Stores Limited

14.179. Allders operates 22 department stores throughout England. Twelve of them are in town centres and the remainder, trading as Allders At Home, on retail park sites. Its parent company, Allders plc, sold its duty-free business, Allders International, in July 1996 and in September 1996 it acquired eight further department stores from Owen Owen plc.

The market

14.180. Allders said that reference white goods and the brown goods which were also subject to references accounted for 16 to 17 per cent of its turnover (excluding in-store concessionaires). Domestic electrical goods were a core business, in spite of having the lowest margins of any of its merchandise, because they attracted customers to the stores. They also had a reasonably fast turnover of stock, and they did not have to occupy the most prominent areas of the store. Some customers preferred department stores to specialized electrical retailers because they were exposed to less sales pressure and could trust the deal they were getting. However, this loyalty was fading as consumers became more price-sensitive, and as the cost of attracting them increased. Allders stores in town centres suffered from the closure of neighbouring electrical stores, as consumers went to retail parks to make comparisons and did not return.

14.181. Brand names had become more important as consumers in a period of recession sought peace of mind. Department store customers expected to find the leading brands, and Allders tried to stock as wide a range as possible. It steered clear of third-level brands and had no own-label products.

14.182. Competition in the market had toughened since 1993. Suppliers had set RRP which restricted the margin available to retailers, and retailers had therefore adhered more closely to these RRP. As product prices had fallen, volume had increased faster than turnover. Quality and reliability had improved but repair costs on high-technology products had risen sharply. If margins fell further, more retailers would be forced out, starting with independents but including department stores, leaving a few multiples in control of the market.

Pricing

14.183. Allders said that it negotiated buying prices on standard terms, taking up discounts such as volume rebates and promotional support when available. Numerous suppliers worked from trade prices rather than RRP with a trade discount. Allders' buyers had a margin target, and would not hesitate to refuse a product if this was not met. They were unlikely to take any one supplier's full range. The buyers were also ready to take special purchase offers. Allders would meet suppliers regularly, in some cases monthly, to discuss marketing and support, covering also the relative performance of different models and brands. At times, brand comparisons enabled Allders to negotiate better terms.

14.184. Allders bought from wholesalers only for small quantities or to meet urgent requirements, accepting a slightly lower margin. Sometimes it took clearance stock from them.

14.185. Disregarding prompt settlement and retrospective discounts, gross margins were in the area of [*] to [*] per cent. Margins for different brands fell within a narrow range above or below the averages just mentioned ([*] per cent for white goods). Margin was not the only consideration. Brands were supported by varying amounts of supplier advertising. More advertising attracted more customers, and Allders' stocking decisions reflected this.

14.186. Allders did not always sell at the RRP, though it often did so in order to achieve adequate margins. On rare occasions it had charged higher prices. Other categories of merchandise in Allders' stores had higher margins. For these, the relationship between RRP and selling price was often not close. There were many cases where the suppliers did not quote RRP's; Allders was accustomed to setting its own prices for such products.

14.187. Allders offered a price promise and, with only minor exceptions, a money-back guarantee. Price matching and reductions on damaged goods accounted for about 2 per cent of turnover. Departmental managers were discouraged from offering concessions to individual customers except for the price promise and for bulk purchases. They earned commission calculated from both turnover and profitability, so that if they allowed interest-free credit it would count against them. They were not inhibited from steering customers towards high-margin items. Other retailers were more ready to negotiate prices, especially in the north-east of England. Allders tried to maintain common prices in all its stores but it had to follow local discounting.

14.188. Allders offered interest-free credit sparingly (9 per cent of sales); interest-bearing credit was in principle available only through credit cards or the Allders charge card. Allders did not offer 'buy now, pay later' terms or trade-in deals. Extended warranties contributed 6.73 per cent to Allders' white goods profits.

14.189. Allders was prepared to lead prices down when a range was near the end of its market life. It could clear a supplier's surplus stock in fairly large quantities. As well as seasonal sales it held weekend events with a number of significant price and promotion concessions such as interest-free credit. In about 50 per cent of cases, suppliers would help to maintain margins. It was Allders' normal policy to reduce prices in sales by at least 5 per cent, with tickets showing the previous price.

Issues in the inquiries

14.190. Allders said that its suppliers had resisted complaints from other retailers about the prices of its clearance events, because the offers were of short duration. Allders itself was ready to complain to suppliers about competitors when they offered prices it could not profitably match, and in some cases it would seek margin support. It had no other experience of pressure from suppliers or other retailers.

14.191. Allders had closed its account with Indesit because of inadequate margins. It otherwise considered the terms on which it purchased fair and broadly related to suppliers' costs, in spite of some discrimination in favour of the highest-volume retailers and the highest-cost retailers. However, the low general level of margins led to the risk that the supply base to consumers would fall into a very few hands. For this reason, Allders did not consider preferential terms for independent retailers to be anti-competitive.

Views on our possible recommendations

14.192. Allders said that it did not believe that suppliers should be prohibited from recommending, suggesting or otherwise indicating to dealers prices to be advertised, displayed or charged. When it purchased end-of-range stock to sell at lower prices, it could only indicate to customers the exceptional value of the offer by referring to the supplier's RRP and Allders would not wish to lose this method of attracting customers.

*Figures omitted. See note on page iv.

14.193. Allders did not wish to see a prohibition on margin support to allow a retailer to meet a competitor's prices. Without margin support for smaller retailers, the few large ones would be able to force them out of business and eventually to charge higher prices.

14.194. The arrival of warehouse clubs had not yet affected Allders, but it considered them deleterious because of the risk that its stores would become reference points for information and service, and the clubs would secure the sales. In that situation it would be generally unviable to retail domestic electrical goods. This would lead to less competition, and once again, ultimately higher prices. It therefore opposed our proposal that suppliers should be required to supply warehouse clubs.

House of Fraser (Stores) Limited

14.195. HoF operated (on 27 January 1996) 52 department stores, most of which stock reference white goods. Those that are not in high street locations are in shopping centres rather than superstore retail parks.

The market

14.196. HoF said that the huge growth in out-of-town shopping and the downward spiral of prices had forced it to drive for greater volume to maintain cash revenues. Its own out-of-town stores were its best performers. The closures of Rumbelows and some RECs had not given it extra business. In the long term, the decline of high streets would limit competition in the sector.

14.197. HoF's model choices were driven more by its customer profile than by the actions of competitors. It could not afford to stock too many minor brands. It had no own-label electrical products. Consumer loyalty to major brands was still strong, and suppliers were increasing their generic promotions. HoF had given up selling built-in appliances.

Pricing and distribution

14.198. HoF expected to negotiate its buying prices from a trade price list less any available variable discounts. For example, it received the discount offered by Hotpoint for 'Hotpoint Centres' [*Details omitted. See note on page iv.*]. Its buyers had margin targets, either for individual products or for a supplier's range. If these could not be met, the purchase would not be made. When setting selling prices, HoF used the RRP as an indicator, but its prices had to follow market dynamics. As a competitive retailer it was unlikely to be able to price above RRP. HoF looked for margin maintenance to support price promotions, but its sale periods did not always coincide with suppliers' own campaigns.

14.199. HoF's reference white goods were delivered direct to customers by the suppliers through an on-line ordering system, so it did not normally buy cheap end-of-line models to hold for stock. Its managers had no pricing discretion except over its price promise and the disposal of damaged goods. White goods were serviced by the suppliers.

14.200. HoF offered credit from its own charge card and various forms of interest-free credit, internally financed. It did not receive support for this from suppliers. Interest-bearing credit was externally financed. Extended warranties were insured by Cornhill. HoF's commission earnings were significant in the case of washing machines.

14.201. HoF said that prices were being lowered in real terms and product specifications were being improved, which made it desirable for suppliers to quote RRPs. Retailers did not necessarily adhere to them. Suppliers occasionally passed on complaints from other retailers about HoF's promotional prices, but no action was ever taken.

14.202. Warehouse clubs were not a major threat to HoF, given the service, range and credit that a department store could offer. Its main complaint was that they sometimes quoted prices excluding VAT.

John Lewis Partnership plc

14.203. JLP is the ultimate parent company of 23 department stores in England and Scotland trading either as John Lewis or under names with local connections. Of these, 22 sell white goods and 21 sell brown goods. JLP also operates a number of supermarkets trading as Waitrose. One of them sells a small range of white and brown goods, but we did not consider this of significance to our inquiries. In 1994/95 reference white goods made up 4.0 per cent of JLP's department store retail sales.

The market

14.204. JLP told us that domestic electrical goods were among its core businesses, given its policy of offering customers a full range of clothing, furnishings and household equipment under one roof. The shops which did not sell domestic electrical goods had space problems. JLP was surprised that goods in these product categories had been referred to the MMC since in its view the market for them was one of the most competitive of all the markets in which it was engaged. Its gross margins for domestic electrical goods generally (including non-reference products) were the lowest of any sector in which it traded; after allowing for the staff costs of the selling departments, only cameras showed lower margins.

14.205. JLP considered the retail sector over-supplied. All those involved were having to promote hard to secure their trade. Out-of-town superstores were attracting business from high streets by their greater range and convenience. Prices, however, had tended to converge at a uniform level of margin for the sector, particularly in areas of the market which were mature and replacement-driven. Customers were very price-aware and shopped around. JLP saw Dixons, and to a limited extent Comet, as its main competitors, being geographically widely spread. It was also conscious of RECs, smaller chains, and other department stores such as HoF and Alders.

14.206. JLP said that it had a clear view of its customer profile, and the ranges it stocked were geared to customers' needs rather than to the actions of its competitors. It did not at present find it possible to offer better value by commissioning own-brand reference goods for sale under its Jonelle label, though there was no objection of principle to doing so. It did not normally stock secondary brands, but its main concern was to have access to a full range of products which it could sustain in the event of unexpected peaks in demand and for this reason it took Crosslee tumble driers.

14.207. JLP said that some brand names were significant at the top end of the market, but at the lower end customers were probably less loyal, seeking value rather than a particular brand. However, they still wished to recognize the name on the label.

Prices

14.208. JLP said that it saw suppliers at perhaps monthly intervals to discuss matters of common concern such as stock availability, new models and promotional plans. Prices were not negotiated to a set formula. Most suppliers, though not all, usually expressed their terms as a discount off their trade price and not off RRP. Some suppliers of white goods, though not of brown, quoted from the outset an artificially inflated RRP and a lower SRP. The SRP was likely to be the normal high street level, and JLP's price would not be above this.

14.209. Promotions from time to time offered additional discounts. These often related to new products, or else they represented action by manufacturers to even out peaks and troughs in demand to match their production capacity. Other discounts might also apply, including promotion and advertising (minimal in the case of JLP, since it did not advertise individual brands or products), margin support, allowances for display models, etc.

14.210. JLP at times bought through wholesalers, accepting a diminished margin, in order not to disappoint customers when the suppliers themselves were temporarily out of stock.

14.211. Although it did not itself follow RRP's, JLP used them as a broad indicator or starting point in pricing. It had the impression that they reflected the market level of basic pricing fairly closely. There was likely to be convergence of pricing because it was difficult for suppliers to differentiate their products.

14.212. JLP said that its policy for all goods sold in its shops was to set prices at a level at which they were not likely to be undersold by any genuine competitor. JLP's slogan 'never knowingly undersold' meant that for reference goods RRP's could be taken into account, but JLP did not feel in any way bound to follow them. Where a national competitor was underselling, prices in all JLP's branches would be adjusted. No other retailer undertook to do this. Where a competitor to a particular local branch set lower prices, that branch would reduce its prices accordingly. Where an individual customer was offered a special price by a competitor, the price promise would be honoured for that customer, without necessarily altering the shelf price if the same price was not made available by the competitor to all. Staff had no local discretion to meet valid competitors' prices. No other forms of discount to customers were permitted. Where it appeared that a supplier was supporting a competitor's promotional price JLP might seek margin support to match it. Staff themselves received £2 for each external case of 'underselling' they reported.

14.213. If a competitor's price seemed unreasonably low, JLP said it would never suggest that the supplier should intervene to have the price raised. Nor would it cease to stock the product, however unprofitable the matching price, since the withdrawal of a popular item might lead customers to go elsewhere and undermine their confidence in JLP.

14.214. JLP welcomed active price competition and price promotions, but not brand-specific gifts or other non-price offers. It did not advertise offers on specific brands, so received no supplier support for them. Nor did it use suppliers' advertising material at point of sale and it did not allow its staff to receive SPIVS. It found these worrying from a customer's point of view. JLP rejected our suggestion that retrospective discounts from suppliers might influence its promotion of individual brands. Probably the only product-specific non-price promotion by JLP was in window displays. Choices here were geared to attracting the customer's attention to the range as a whole rather than to promoting sales of a particular product.

14.215. JLP said that its clearance sales in December/January and July included discontinued lines of its own stocks or those of manufacturers, and special purchases. Its own reduced goods usually showed previous prices, but those bought in did not.

14.216. JLP did not offer interest-free credit, though its account facilities, used for 48.4 per cent by value of all its department store sales, provided an element of deferred payment.

14.217. The competitive nature of the domestic electrical goods market had led JLP since 1992 to offer free extended warranties for two years on white goods. Warranties to extend cover from the two free years to five were available for sale. The commission income from these sales was far outweighed by the costs of the free cover offered on white and brown goods. Warranties were administered by a subsidiary of Cornhill. For first-year warranties white goods suppliers retained responsibility.

Warehouse clubs

14.218. JLP said that so far warehouse clubs had had little effect on the market. Only two of its stores had PriceCostco as a neighbour, and Cargo Club had withdrawn.

14.219. There was nothing wrong with the warehouse club concept in retailing generally. In the case of reference goods, however, it could become parasitical if customers got information from JLP and made their purchases at PriceCostco. The eventual result might be to force JLP to cut back on service in order to live with the ruling price level. It would have to go on stocking products sold by PriceCostco. Even if there were only a few models involved, they were likely to be popular ones. If one model in a range had to be sold at PriceCostco prices, JLP would have to adjust the prices of the remainder in order to preserve the value relationships.

14.220. If a major brand appeared in PriceCostco, JLP might suggest to the supplier that its image might suffer, since PriceCostco's wholesale environment could affect the way consumers judged the brand, but no other action would be taken.

Issues in the inquiries

14.221. JLP said that competition was intense and margins were low. This was a sector where customers were well served, with a wide choice of high-quality products at keen prices, and with the support of excellent service before and after the sale.

14.222. The convergence of prices noted by the press reflected the fact that the market was working efficiently, each retailer being forced to react quickly to any initiative taken by others. The level of 'undersales' (exercises of price promises) ran at 1.05 per cent of sales for white goods. This showed that prices were not static. The recent failures of certain multiple retailers and RECs had shown how difficult it was to remain successful.

14.223. JLP felt itself free to ignore RRPs. It believed that RRPs reflected the market rather than influencing prices. It did not consider that RRPs operated against the public interest but it would be content to see them disappear. One aspect was that without them retailers would no longer be able to offer spurious savings. RRPs had traditionally served the interests of small independent retailers, who were now of less significance than in the past.

14.224. With retailers fighting for market share, there was no scope for a supplier to try to set retail prices at a higher level than that which the market would otherwise settle on. The suggestion that manufacturers were in any way trying to influence retail prices was in its experience without substance.

14.225. Suppliers had on occasions questioned JLP's prices, but they usually recognized that JLP was reacting to other retailers' non-price promotions, and so it had never experienced any kind of threat. For its part, it did not have enough market power for a threat to delist a brand (were it to wish to do so) to influence a supplier. The balance of power, if anything, lay the other way.

14.226. As mentioned above, however, JLP did not consider that sales-related incentives to retailers or retail staff in respect of a single brand were in the interests of consumers.

14.227. Selective distribution was seen by JLP as desirable in order to meet the expectations that consumers had of domestic electrical goods. These complex products were major purchases which customers did not embark upon lightly. They looked for guidance in buying, home delivery (and, increasingly, installation) and after-sales care. For this, retailers needed a high level of commitment. If the guidance were given but the actual purchase was lost to another retailer, the commitment to service could not in the long run be sustained. Without selective distribution it might become uneconomical for anyone to provide the advice and service which customers undoubtedly sought.

14.228. The benefit to consumers of lower prices would be outweighed also by the fact that their choices would be less well informed. This would reduce the incentive for manufacturers to innovate, since improved features would be less clearly noted. Products for those with special needs could well be relegated to specialized and hence expensive outlets.

14.229. JLP thought that customers making substantial investments of this kind wanted to be reassured about their quality and reliability, in the hope of many years of trouble-free service. This made the reputation of a brand crucial to its success. JLP well understood why suppliers were anxious to ensure that this reputation was not compromised by the behaviour of particular retailers.

14.230. However, it recognized that the choice of which retailer to supply was a matter for the supplier. JLP accepted that it might both lose the right to stock a brand when it could not stock the full range or display it in the manner required, and also that it might have to face a competitor whose terms of trade were different from its own (as with PriceCostco).

Views on our possible recommendations

14.231. JLP said that in general our possible remedies would create no difficulties for it, but there were two exceptions:

- (a) A prohibition on the use of margin support to discourage retailers from selling below a particular price might handicap a retailer such as JLP unless it could be sure that it would be free to seek margin support for its normal price-matching policies.
- (b) JLP saw no reason why warehouse clubs should be treated separately and differently from other retailers, since their membership requirements were open enough for them effectively to operate as retailers. To give them such preference would be a gross interference in the operation of the market. If they met the same criteria as other retailers there would be no problem, but if they were exempted from the restrictions applied to other retailers, they would be able to undermine the levels of service and choice available across the whole sector, to the disadvantage of consumers.

Co-operative Wholesale Society Limited

14.232. The CWS supplies goods and services to retail co-operative societies and also itself operates retail outlets in a number of regions in the UK. It is owned by those co-operative societies and by individual members in its retail regions.

The market

14.233. The CWS said that it sold domestic electrical goods in 45 of its larger stores, of which four were outside town centres. Competition was intense, and the CWS thought there were too many retailers pursuing the business available. The move to out-of-town sites and the rise of the RECs had affected its business. It was thus important to the CWS to maintain the range and also the availability of items consumers were looking for.

14.234. Retailers could no longer rely on customer loyalty as consumers shopped around. More retailers were likely to withdraw from the market. If the dominant multiples increased their market share beyond a certain point, the CWS might have to review its stance as a retailer of electrical goods.

14.235. The CWS was not concerned about the advent of warehouse clubs. It thought customers would still go to retailers offering a complete service.

Pricing

14.236. The CWS buyers met suppliers on a monthly basis to discuss all aspects of business. It negotiated trading terms annually. The discounts for stock taken into its warehouse were sometimes marginally greater than for items delivered to stores. The CWS had a budgeted margin for items in stores of 25.5 per cent, but the actual amounts depended on national and local promotional allowances and other discounts. Secondary and tertiary brands were often bought at special negotiated prices rather than at a discount from RRP or a trade price list. The CWS would also negotiate margin maintenance when a supplier set promotional prices.

14.237. The CWS set prices centrally for its own retail outlets and followed RRP's where possible. Competitive pressures caused it to sell (and advertise) the majority of items below RRP's. Suppliers tended to express disappointment at this, but they had imposed no sanctions. Shortage of product only occurred when the supplier itself had problems.

14.238. The CWS operated a price promise. The need for this was increasing, because the sector had an excess of retail space. Store managers were not debarred from negotiating individual discounts or marking down damaged or surplus stock, but they had no budget for doing so. The CWS complained to suppliers when another retailer offered an item at an unrealistic price which threatened its margins. If

necessary it gave up stocking the product. It looked for margin maintenance when the supplier reduced the RRP but it did not expect margin support in other circumstances.

14.239. The CWS told us that it offered interest-bearing credit, funded by the Co-operative Bank and administered by Club 24 (a subsidiary of Next plc). Interest-free credit and 'buy now, pay later' terms were offered selectively, but competitive pressures were making them more common. In costing these, the CWS did not account for electrical goods separately from other non-foods. It sold extended warranties, which were insured with Cornhill. These were sometimes offered promotionally, either free or at reduced prices.

14.240. The CWS said that its manner of retailing, in terms of store ambience, pricing and advertising, was not influenced by suppliers or by their conditions of sale. Its trading relationships with its suppliers were good, but it could not say that it was satisfied with the terms under which it did business, since it was always trying to improve them.

Other multiple retailers

Savacentre Limited

14.241. Savacentre is a subsidiary of J Sainsbury plc with 12 superstores which include reference brown and white goods among their product mix. It told us of certain supply difficulties which are referred to in paragraphs 12.90 to 12.92, and its pricing had also aroused comment from suppliers. It said that it took note of RRPs but endeavoured to be competitive with the going market price. Comparisons were made less easy by the multiplicity of special offers. It did not offer a price promise.

Iceland Group plc

14.242. Iceland, through its subsidiary Iceland Frozen Foods plc, retails CFS products in about 330 outlets, of which about two-thirds are in town centres. It said that it aimed to be as cheap as or cheaper than its competitors, mainly by offering own-label or exclusive models. It had had no supply problems. For suppliers' brands it adhered to RRPs mainly in order to be able to sell at higher margins than was the case for its own brands. It had begun a limited price-matching scheme. It delivered new and removed old CFS products without charge. It bought out suppliers' warranties.

14.243. Iceland considered that the reference white goods market had been under pressure in recent years through recession, price competition, adverse publicity for extended warranties, aggressive competition in credit terms, and cost increases which could not be met by price increases. The lack of opportunities in the market was shown by the absence of new entrants.

Aldi Stores Limited

14.244. Aldi Stores Limited (Aldi) forms part of the Aldi world-wide group, which has its base in Germany. It has 173 discount supermarkets throughout Great Britain. It told us that it periodically sold substantial quantities of televisions, VCRs and hi-fi systems. It was interested in expanding into electrical white goods but had experienced supply difficulties. It said that it supported fully those of our proposed remedies that were relevant to it, including the prohibition of RRPs.

British Gas Energy Centres Limited

14.245. British Gas Energy Centres Limited (British Gas), which has 243 showrooms throughout Great Britain, said that it was increasing its involvement in domestic electrical goods, having become a multi-fuel business. It believed that suppliers should be able to provide RRP's as a reference point, whilst it was for retailers to establish their selling prices. It saw no reason for recommendations relating to advertising support or margin support, or for a prohibition of point-of-sale material from suppliers showing prices. It believed that a supplier should be free to refuse to deal with a retailer whose outlets and display opportunities it considered unsuitable.

Gas Flair Limited

14.246. Gas Flair Ltd (Gas Flair) is a retailer and wholesaler of domestic gas appliances, based on Hull, which also deals in electrical reference white goods. It changed ownership towards the end of our inquiries; the views expressed are those of the previous management. It told us of difficulties with suppliers over pricing, one case of which is described in Appendix 10.10.

14.247. Gas Flair said that suppliers were increasingly seeking to pursue 'orderly marketing' and were selecting suppliers on this basis. They had moved from pricing based on ex-works prices (cost plus) to the concept of price points, with structured margins for wholesalers and retailers which they could control. It thus considered that the setting of RRP's was against the public interest and prevented the general public from buying reference goods at the lowest possible prices. Accordingly, it agreed with all our possible remedies on prices and on withholding supply with one exception. This was our proposal that (in fact for reference brown goods only) suppliers should be prohibited from withholding supply on the grounds that the locality was already adequately supplied. This could force prices upwards to compensate for dilution of turnover.

Mail order companies

GUS Home Shopping Limited

14.248. GUS is a wholly-owned subsidiary of The Great Universal Stores PLC. It sells white and brown goods through mail order catalogues. Its mail order business, which it refers to as home shopping, had a UK turnover in 1994/95 of about £1.5 billion. About 2.7 per cent of this was reference white goods.

14.249. Its main catalogue businesses, trading as Great Universal and Kays, are based in Manchester and Worcester respectively. The buying is handled centrally in Manchester. GUS told us that the two catalogues carried the same ranges of reference goods at the same prices.

The mail order business

14.250. GUS explained that it issued its catalogues to any applicant who passed a creditworthiness test. Catalogue holders were appointed as agents to take orders from other customers, but in practice many of them bought only for themselves and their families. (Only 55 per cent of sales of all catalogue items were to third parties, and the proportion was falling.) The agent was responsible for receiving payments from outside customers and passing them on, but in the event of bad debts GUS would pursue the customer rather than the agent as long as the agent had kept proper records.

14.251. The goods were delivered direct to customers, who could return them within 14 days free of charge. Payments for reference goods could be made in 20 or 40 weekly instalments, interest-free. Longer-term interest-bearing credit was available for expensive items, and there were various forms of special interest-free credit offers, including 'buy now, pay later'. The agents received a 10 per cent commission on the catalogue price (both for their own purchases and those of outside customers), or 12.5 per cent if they took their commission in catalogue goods.

14.252. The 1,000 (plus) page catalogues, costing GUS about £3 each, were distributed twice a year and numbered 13 million in all. This was an expensive charge on the business. Amendments and special offers could not be easily communicated to holders, but supplements were occasionally mailed to the more active agents, and leaflets were enclosed with order documents.

14.253. GUS thought the main competition for mail order selling came from conventional retailers (and catalogue shopping, exemplified by Argos), but it believed about one-third of its agents also held a mail order competitor's catalogue, and the number was increasing. Customers might well examine goods in a branch of a multiple retailer and buy from the catalogue, in spite of the slightly higher price. This was because of the credit terms, the free delivery and the 14-day approval period. However, conventional retailers could often deliver more quickly. GUS was now offering a five-day delivery service for an extra charge on selected items.

14.254. GUS said that mail order was under pressure from the Sunday opening of retail stores, widening access to credit (both interest-free and interest-bearing), more carefully targeted credit offers by retailers, and the readiness of retailers to offer free installation. Profits from extended warranties were helping retailers to compete more vigorously.

14.255. GUS said that it aimed to offer the best-selling models such as might be listed by multiple retailers and competing mail order companies. It firmly rejected our suggestion that it might be deliberately selecting models exclusive to itself. Suppliers were not keen to supply exclusive models. GUS took exclusive models in certain situations, for example when featured as an offer on the back page of its catalogue. It used its own Murphy label for hi-fi systems supplied by various Far Eastern manufacturers.

14.256. GUS in principle took delivery to its own warehouses and managed its own distribution through a subsidiary company operating commercially at arm's length. Hotpoint delivered direct to customers. About 50 per cent of sales value was held as stock and 50 per cent delivered to order. White goods suppliers provided their own after-sales service.

14.257. GUS had to accept that about 8 per cent of white goods would be returned by customers, sometimes when they could not master the instructions. Some suppliers would accept such goods back for credit. Others would not, in which case they were refurbished and sold in GUS bargain shops.

Pricing and marketing

14.258. GUS said that its prices tended to lie between the high street level and 20 per cent above. It attributed its need to charge more to:

- (a) the agents' commission;
- (b) the 20 or 40 weeks' interest-free credit;
- (c) free delivery in the UK; and
- (d) free return of goods within 14 days.

14.259. GUS expected to base its buying decisions on suppliers' MORPs. For a wholly new product the supplier might discuss the mail order price level, but would always formulate a high street price before discussing mail order. If a MORP seemed too high, GUS would seek to renegotiate it; it was not unlikely that the outcome of such a negotiation would be reflected in other companies' mail order catalogues. GUS might similarly benefit from negotiations carried out by a competitor. It insisted that there was no collusion between mail order firms.

14.260. GUS adhered to MORPs when possible. They covered 70 to 80 per cent of sales. When it made reductions it referred to previous catalogue prices, as permitted by law. GUS was unable to say how it had come about that suppliers quoted separate MORPs rather than leaving mail order companies to set their prices by reference to RRP.

14.261. Mail order companies had traditionally expected substantial discounts for prompt settlement (within 28 days). GUS endeavoured to recover a contribution from suppliers towards the cost of including their products in its catalogues. Hotpoint and Tricity Bendix provided relatively modest sums.

14.262. GUS's catalogues were prepared long in advance and remained current for six months after issue, so it could not easily respond to high street price reductions on a particular item. It did not have a price promise. If it managed to implement a matching reduction, GUS would seek to have its gross margin maintained, but it did not always succeed. It had on occasions obtained margin support in order to match a price in a competing mail order catalogue.

14.263. GUS offered extended warranties, insured with Cornhill. They carried a high mark-up (including the commission payable to the agent), but there was no link between the pricing of a product in the catalogue and the expectation that it would attract an extended warranty.

14.264. GUS said that its pre-sales service took a different form from that of conventional retailers. Its catalogues contained detailed information, within the limits of space it could afford, and inquiry lines were available for telephone queries. Where the information could not be given by reference to the catalogue, answers could be obtained from elsewhere in the company or from the supplier. Customers who were not content with the products after delivery could return them.

Issues in the inquiries

14.265. GUS rejected any suggestion that suppliers and retailers of reference goods colluded to fix prices. Its own negotiations with suppliers were aimed wholly to drive prices down. The six-month life of a catalogue gave it less flexibility than high street retailers who could readily amend prices. The use of MORPs enabled GUS to make informed pricing offers to consumers for comparison with other retailers' prices.

14.266. In the view of GUS, MORPs increased inter-brand competition by making it easier to indicate to a supplier that its prices were too high.

14.267. GUS said that, if RRP and MORPs were abolished, there could be transitional problems, but mail order catalogue prices would still tend to converge. All mail order companies, having similar costs, would mark up their trade prices to the same extent.

14.268. GUS said that it was content with its current supplier base. They did not restrict or inhibit its freedom to purchase and retail their goods.

Littlewoods Home Shopping Group Limited

14.269. Littlewoods is ultimately owned by The Littlewoods Organisation Public Limited Company. It sells reference goods through a number of subsidiary companies, each issuing mail order catalogues targeted on overlapping sectors of the consumer market. In 1994 the mail order businesses had a combined retail turnover of £1,057 million. Of this, 3.0 per cent came from reference white goods.

The mail order market

14.270. As the second largest of five major players, one of Littlewoods' aims was to match the prices of its main rival, GUS. This was a guessing game since once in a catalogue, prices could not be changed for six months. With prices roughly equivalent, Littlewoods set out to compete on choice, catalogue presentation, credit terms and service. For reference goods (rather than the generality of its merchandise), it recognized the need for improvement in delivery, installation and after-sales service. Supply was ahead of demand, so there was pressure on prices.

14.271. Littlewoods sold the same range of reference goods (but not fashion goods) at identical prices in each of its six catalogues. It selected products from the more significant brands in the low to middle

price levels, at a range of selling prices reflecting the pattern of its customer demand. Models from different suppliers tended to be similar, so Littlewoods would take account of price, margin, product features, appearance, and the level of service it had experienced from the supplier in question. It had no own-label reference goods.

14.272. Negotiations were at six-month intervals for the successive catalogues-between November and January for the following autumn/winter catalogue and between May and July for the following summer. The process of selection was necessarily iterative.

Pricing

14.273. Littlewoods said that it bought at negotiated prices which were related to expected sales volumes. It did not expect prices to be expressed as a discount from some standard trade price. It also obtained retrospective discounts from rather more than half its suppliers. Most suppliers also contributed to catalogue costs at rates related to the exposure of their brands.

14.274. Littlewoods had the impression that multinational suppliers based their prices more on what each national market would bear than on their underlying costs. It was not conscious of discrimination in favour of any particular group of retailers.

14.275. Littlewoods' catalogue prices were normally above RRP, because of the free credit and delivery (and in some cases installation). Also, agents received a 10 per cent discount. Most suppliers suggested MORPs, and 90 per cent of reference goods were sold at these prices. 5 per cent were sold for more. The MORP was not quoted when goods were sold for less. Littlewoods occasionally offered price promotions for some white goods in response to campaigns by the retail chains.

14.276. Nearly all its sales of reference goods involved credit, internally financed. It usually offered the options of 20 weeks or 38 weeks interest-free. Interest-bearing credit was usually offered over 100 weeks and accounted for 7.7 per cent of sales for the catalogues as a whole. Selected customers were at times offered 'buy now, pay later' terms. Littlewoods expected sales from the catalogue as a whole during such a promotional period to increase by about 10 per cent. It discouraged gift and other non-price offers from reference goods suppliers, but they occasionally occurred.

14.277. Littlewoods relied on suppliers for white goods warranty claims. It offered extended warranties through its own insurance broking and underwriting subsidiaries.

The market for reference goods

14.278. Littlewoods had the impression that retailers adhered to RRP in most but not all cases. Since 1993 fierce competition was causing RRP to be abandoned more often. Prices had fallen in real terms, except for CFS products where legislation on CFCs had increased costs.

14.279. Product quality was probably static, but specifications of white goods had improved in such matters as environment friendliness, led by the larger groups. Littlewoods found brand identity important in its catalogues, but some high street retailers seemed to be successful with lesser-known brands. It noted that Hotpoint, while still successful, had become inconsistent in its pricing policy as it lost market share to pan-European brands. These were sold more cheaply in the UK than elsewhere.

14.280. Littlewoods expected high street retailing to go on declining in favour of out-of-town superstores because of cost differences and the advantages of parking space. Also, high street shops had been heavily dependent on rental, which was fading out. It saw warehouse clubs as competing for the more affluent consumers with specialist electrical retailers and department stores, but they were not yet significant.

Issues in the inquiries

14.281. Littlewoods said that it found certain of our proposals for remedies relating to white goods acceptable, that is to say:

- (a) a ban on action by suppliers to encourage dealers to sell at specified prices;
- (b) a ban on reductions in discounts on the part of a supplier when a dealer sells at prices the supplier considers too low; and
- (c) a ban on the making of advertising and promotion support by a supplier dependent on the dealer not advertising low prices;

14.282. Littlewoods accepted our possible remedies on refusal to supply, except that it did not agree that suppliers should be forbidden to apply criteria to select dealers which discriminated against particular dealers, or that suppliers should be forbidden to refuse supply on the grounds that a locality was already adequately supplied.

Empire Stores Group plc

14.283. Empire, based in Bradford (West Yorkshire), is the parent company of Empire Stores Limited which sells reference goods through its Empire mail order catalogue. Empire is a subsidiary of La Redoute SA of Roubaix, Northern France, which controls mail order businesses in several countries. La Redoute SA is in turn owned by Pinault-Printemps-Redoute SA. Empire said that it had about 6 per cent of the overall UK mail order business. Its 1994 turnover in reference white goods was £4.3 million. It sold surplus stock through four bargain shops.

14.284. Market research showed that Empire was at present the 'second choice' catalogue for holders of GUS or Littlewoods catalogues. It offered 20 or 40 weeks interest-free credit or 100 weeks interest-bearing. The value to customers of mail order credit was being eroded by matching offers from other retailers. It offered extended warranties through Domestic & General. Prices were quoted on application and sales were relatively small.

14.285. When negotiating with suppliers Empire looked for retrospective discounts and contributions to catalogue costs where appropriate. Prompt payment discounts were not normally offered. As it believed was the practice of its competitors, it asked suppliers for advice on the prices which they expected would be charged by high street retailers; thus mail order prices tended to have a great deal of commonality.

14.286. We asked Empire about its contract document for the purchase of non-clothing merchandise. This included 'queries' of which some asked, in respect of each product, whether it was exclusive to Empire, and if not, which mail order company was selling it and for what price. Empire explained the procedure for preparing its catalogue, of which 2 million were sent out. Its buyers would expect to price at 10 to 20 per cent above the level of the general retail trade. Empire and its competitors were finding it necessary to reduce this price gap in order to maintain their market position. With this situation in mind, together with experience of market trends and the performance of previous catalogues, its buyers would note the MORPs suggested by suppliers and thus the margin available to Empire.

14.287. With that background, Empire said that most of the queries were intended to ensure that it did not include any false trade descriptions in its catalogue. It could not afford to advertise a product as exclusive, only to find it in a competitor's catalogue. If it wished to say that its prices were lower than those of its competitors, it had to check with suppliers that this was in fact the case, as the long lead times involved in printing the catalogue precluded it from waiting until its competitors' prices had been published. It said that for three-quarters of its lines of reference goods, the suppliers did not reply to the questions it asked about prices or exclusivity, or else they answered them after its catalogue had gone to press. It argued that since its catalogue prices were not in practice set by reference to what suppliers told it about its competitors' prices, asking for this information was not anti-competitive behaviour. Nevertheless, as a 'gesture of goodwill', it told us that it would cease to ask suppliers about competitors' prices with effect from 30 September 1997.

14.288. Empire did not consider that we should recommend the abolition of RRP's. They enabled the retailer to inform customers of the range and quality of products offered, and to establish a market strategy to offer a broad range of products in accordance with its customers' characteristics.

14.289. Empire pointed out that the pricing data used in our inquiries were a snapshot taken in March 1995. This was a period when retailers were less likely than at other times to have been offering reductions in the market prices of the reference goods. For the reasons given above, Empire and the other mail order companies were committed to the prices and other statements in their catalogues while these were in circulation. Empire's decision on what prices to set had to take into account not only the prices normally expected to be charged in the retail market-place but also any sale reductions or other discounts which such competitors might offer during the life of the catalogue.

14.290. Empire commented that not all our possible remedies were relevant to mail order. It noted that there were already provisions in the RPA which curtailed the powers of suppliers to restrict the prices at which dealers resold goods.

Freemans PLC

14.291. Freemans is a subsidiary of Sears Home Shopping Limited, which is owned by Sears plc. It sells by mail order through catalogues entitled Freemans (distributed to agents) and One-to-One (distributed to individuals purchasing on their own account). It has three retail stores disposing of returned or damaged merchandise. Its 1994/95 turnover was £523 million.

14.292. Freemans told us that it aimed to offer reasonable ranges of best-selling major brands and also less established ones as entry models. It had no own-label reference goods.

14.293. It issued catalogues twice a year. Reference goods were normally paid for in interest-free instalments over 15 to 50 weeks, the term being adjusted to give a round weekly sum. Agents received a 10 per cent commission on sales. With no agents, the One-to-One catalogue had slightly different prices and terms. Payments could alternatively be made over two years with interest-bearing credit, internally financed. First-year warranties were handled by white goods manufacturers. Extended warranties were offered, insured by Domestic & General, but take-up was only about 10 per cent. Dissatisfied customers could return goods within 14 days, but only about 4 per cent did so for electrical white goods-markedly less than for other catalogue items.

14.294. Freemans negotiated with suppliers in sequence with its catalogue issues. It followed MORPs in about 93 per cent of cases. This was to keep the erosion of margins to a minimum while remaining competitive. It did not normally quote the MORP when advertising a lower price, but it would always show the previous catalogue price when including an item in a new catalogue at a reduction. Its catalogue prices varied between zero and 20 per cent above high street prices, with an average of 7 to 8 per cent. It did not offer a price promise.

14.295. Freemans expected to follow manufacturers' price reductions and to claim margin maintenance. It issued supplementary catalogues or leaflets from time to time. Freemans took some of its margin in the form of retrospective discounts from suppliers.

14.296. Freemans saw it as essential to have a suppliers' suggested price in order to have a bench-mark from which to begin negotiations. The eventual price was a matter for dealers. They had a better view of the market than suppliers.

14.297. It seemed inappropriate to Freemans to remove a supplier's discretion on whether or not to provide advertising support. A supplier should not be compelled to finance advertisements featuring prices with which it disagreed.

14.298. Freemans did not agree that suppliers should be prohibited from providing additional margin support to enable a dealer to match the prices of a competitor who charged prices that the supplier thought

too low. The result would be to deprive dealers of the ability to respond to the market and remain competitive.

14.299. Freemans thought that suppliers should not be deprived of all discretion in the allocation of supplies, but it was content to see the publication of selection criteria. An appeal system would be of dubious utility and uncertain legal basis. It said that the lawfulness or otherwise of the decision to supply was more appropriate.

Grattan plc

14.300. Grattan, based in Bradford (West Yorkshire), sells reference goods through four mail order catalogues. It is owned by Otto-Versand (GmbH & Co) of Hamburg, Germany, a leading mail order group. Its sales of reference white goods in 1994 were £6.0 million.

14.301. Grattan told us that its catalogues were issued every six months in competition with other mail order companies. It aimed to match them in coverage and price, but to differentiate itself in the detail. It negotiated with suppliers accordingly. Its policy was to limit the number of brands it took, choosing those with commercial appeal whose image matched its market position. It imported own-label CFS products from various manufacturers under the Hanseatic brand name.

14.302. Grattan said that its ticket prices tended to be above RRP's and were probably 10 to 15 per cent above actual high street prices. Its main competitors, the other mail order companies, priced similarly. Most suppliers quoted MORP's, and 90 per cent of its sales were at this level. None were above. Its buying decisions were based on the margin from the price it intended to sell for. It never referred to the MORP as such in its catalogues, though when it reduced prices it would quote former catalogue prices.

14.303. Grattan's prices were above those of conventional retailers because of its cost structure, and in particular interest-free credit, the 10 per cent agent's commission and free delivery. The weekly payment level, over 20, 40 or 50 weeks interest-free or 100 weeks interest-bearing, was more important than the ticket price as a comparator for its customers. Roughly 10 per cent of sales of reference goods were on interest-bearing credit. Grattan's business was under increasing pressure from the adoption of interest-free and 'buy now, pay later' credit terms by multiple retailers.

14.304. Grattan relied on suppliers for white goods servicing. It offered extended warranties insured with London & Edinburgh. Prices were quoted on application; take-up was small.

14.305. Grattan had one specific comment on our possible remedies. This was that its ability to compete would be impaired if suppliers were prevented from offering additional margin support to dealers who cut their prices in response to competitors charging prices below levels considered appropriate by the supplier.

Multiple fitted kitchen specialists

MFI Furniture Group plc

14.306. MFI said that its 184 branches aimed to sell competitively-priced appliances as components of new kitchens. It did not regard itself as being in the replacement market. It said that most of the reference white goods it sold were exclusive models for which no RRP's were set. It purchased 'net net' and did not require suppliers to provide warranty services.

Magnet Limited

14.307. Magnet Limited (Magnet), a subsidiary of Berisford plc, said that it sold appliances supplied by Whirlpool, Neff, Stoves and Smeg, for integration into fitted kitchens. It had 203 stores. It adhered to RRP's, on the advice of suppliers, except during sale periods, when appliances might be offered with

complete kitchens free or at a discount from RRP. It had at times maintained prices at the levels quoted in its catalogues when suppliers had raised RRP. Magnet believed that its competitors adhered to RRP except during sale periods.

B&Q plc

14.308. B&Q is a subsidiary of Kingfisher, which also owns Comet. It told us that appliance sales, through its 279 outlets, were almost always linked to sales of complete kitchens. It normally followed suppliers' RRP; if it considered these too high it did not stock the product. B&Q was not aware of pressure from suppliers to adhere to RRP. Built-in appliances were not generally subject to the price pressures of free-standing items. Where price reductions were offered, it was usually in the context of promotions for complete kitchens.

IKEA Ltd

14.309. IKEA, a subsidiary of IKEA AB of Sweden, said that it bought reference goods for its seven stores only from Zanussi. It sold them at RRP, and they were excluded from its price promise. Its relationship with Zanussi is referred to in paragraphs 10.46 and 10.47.

Warehouse clubs

Nurdin & Peacock plc

14.310. Nurdin & Peacock plc was acquired by Booker plc in November 1996. From March 1994 its subsidiary N&P, had operated a warehouse club trading as Cargo Club open to consumers on payment of a membership fee. The three Cargo Club warehouses were closed and sold in March 1995. Outlets trading as Trade & Business Warehouses, which added more non-food lines to N&P's traditional cash-and-carry operations, were established at the same time, open only to business customers, without fee. During 1996 there were 56 of these.

14.311. N&P explained that Cargo Club and the Trade & Business Warehouses, had experienced some difficulty in obtaining supplies of brown goods, though this had been less of a problem with white, as described in Chapter 12. However, the consequent publicity had to some extent aroused sympathy on the part of the public, and Cargo Club while trading had exceeded its membership targets. N&P insisted that the closure of Cargo Club had not been due to its trading position, which was approaching break-even, but to the value of the offer made for its sites.

14.312. N&P had bought reference goods from diverters to supplement direct supplies. 15 per cent of Cargo Club's sales had been in electrical goods of all kinds, which N&P regarded as an important sector, the Trade & Business Warehouses taking somewhat less. The same team of buyers served both. They had had difficulty in convincing suppliers that they wished to work on a 'net-net' basis, without retrospective discounts or advertising and promotion allowances.

14.313. N&P had been prepared to sell prestige products on low margins and earn rather more from high-volume low-cost tertiary brands. N&P thought it had perhaps aimed to obtain margins in its Cargo Clubs which were too high, being above those in its other outlets. In its special offer promotions mailed to trade customers every three weeks it had quoted RRP for electrical goods. Retailers had welcomed these as price guides for reselling.

14.314. N&P said that it had used independent contractors for servicing. It had a 30-day no-quibble refund or return policy, in addition to manufacturers' warranties. At times it had negotiated no return terms with suppliers, at a cost of perhaps 1 per cent of margin. Dissatisfied Cargo Club members were also allowed refunds of their membership fees.

14.315. N&P believed that retail prices of reference goods converged because all the retailers monitored each other. There was no collusion or cartel. Also, the suppliers tended to set RRPs which high street retailers were obliged to adopt if they were to get the margins they needed.

Makro Self Service Wholesalers Limited

14.316. Makro is a cash-and-carry operator selling food and non-food goods to its members. It told us that these had to have a business identity, but that it could not 'stop business representatives making purchases for personal use'.

14.317. Makro is 60 per cent owned by SHV Makro NV of Utrecht, Netherlands, and 40 per cent by Metro Holding AG, a Swiss-registered German retailing group. It has 27 stores throughout the UK. They are regarded as wholesale outlets for planning and local taxation purposes.

14.318. Makro said that it sold reference white goods occasionally, through opportunistic purchases, and it was pursuing a greater involvement.

14.319. Makro stated that those suppliers who were prepared to supply it tolerated its discounting practices. Makro did not negotiate buying prices by reference to a retail price, but the expected retail price was a factor in deciding whether or not to purchase. It aimed to price below retail market prices. Some suppliers had expressed concern when Makro sold at discounts to high street prices. It commented that some retailers were more interested in creating a perception of low prices than in offering them. It thought that RRPs did not have a great deal of consumer credibility. Makro monitored prices, but it took no interest in the prices charged by retailers who bought stock from it.

14.320. On promotional lines Makro could work to very low gross margins, but it did not use reference goods as loss leaders. It took advantage of its membership mailing list to make fortnightly special offers. This feature enhanced its buying power.

14.321. If another retailer were selling at a price below Makro's buying price, it would ask the supplier for an explanation. It would tolerate short-term promotions, but without an adequate explanation it might delist the product. On reference goods Makro did not expect margin support in every situation, but it had no difficulty in obtaining promotional allowances.

14.322. In the market for white goods, which Makro planned to re-enter, it said that margins were low but there were fewer supply problems for discounters than had been the case five or more years earlier.

14.323. Makro occasionally offered interest-free or low-interest credit, but only as a short-term promotion. Its customers preferred to have any concessions in the form of price. It had relaunched an extended warranty which it considered good value for money. It now offered 28-day no-quibble refund or replacement terms.

14.324. For after-sales service Makro contracted out to service organizations or insurance companies. Customers did not suffer from service problems with grey market goods; if necessary Makro would replace the item or refund the purchase price. Claims on its extended warranties were sometimes settled by replacement.

14.325. Makro thought that sales were enhanced rather than the reverse by a degree of orderliness in the market as a whole. This actually made it easier for suppliers to dispose of surplus stocks through outlets such as Makro. It thought that product availability and promotional support gave suppliers more influence over retailers than the setting of RRPs as such. Makro thought that selective distribution, and the maintenance of prices at artificially high levels, if it happened, would be against the public interest.

14.326. Makro would not like to see a free-for-all to the extent that seconds, refurbished products and counterfeits challenged established brands, and that the public had no safeguards in respect of product specifications, safety, or recourse against defaulting dealers.

PriceCostco Europe (UK) Limited

14.327. PriceCostco told us that it was a wholesale membership warehouse offering a limited range of products in each of a wide variety of categories. It expected electrical goods to provide 5 to 5.5 per cent of its turnover, but they were important to it and were displayed near the entrance of its stores. It operated from five sites and planned to open further outlets. Since its stores needed a floor space in excess of 100,000 square feet, suitable sites with planning consents were hard to obtain.

14.328. PriceCostco focused on trade customers, who were responsible for 65 to 70 per cent of its sales, though they might be buying for their personal requirements. Individuals who belonged to certain specific affinity groups (such as public servants) could join, but they had to recognize that its stock was trade-oriented.

14.329. PriceCostco said that it aimed to make a [*] per cent margin on reference goods and therefore sold them at about 20 per cent below RRP or cheaper. This was often equivalent to a supplier's trade price before discounts. Its gross margin was about [*] per cent and net margin [*] or [*] per cent. For this and other reasons, most suppliers of reference goods had refused to do business with PriceCostco. It was sometimes able to get the products it wanted through diverters. So far these had withstood pressure from suppliers to desist from selling to PriceCostco. The suppliers themselves were probably influenced by other retailers. Some suppliers offered to deal only on grossly discriminatory terms.

14.330. PriceCostco aimed to have some members of staff trained by suppliers to deal with queries, though it relied to a large extent on labelling. The suppliers with which it had established trading relationships had not complained about pre-sales service.

14.331. PriceCostco refunded money on unwanted or faulty merchandise. The cost amounted to about 0.2 per cent of sales, and about one-half of the goods would in turn be taken back by the supplier. There was a nominal time limit of 30 days for return of goods, [*Details omitted. See note on page iv.*] PriceCostco expected customers to make their own arrangements for delivery and after-sales service. White goods were covered by the normal suppliers' one-year warranty. PriceCostco preferred to stock primary or well-recognized brands; it had no exclusive or own-label lines. No credit was offered, and it refused credit cards because of the processing costs.

Rental companies

Thorn plc

14.332. Thorn, which demerged from Thorn-EMI plc in August 1996, is the parent company of the Radio Rentals Limited, Crazy George's, Easiview, and DER Direct operations. These rent or retail brown and white goods under various instalment payment formats. Thorn withdrew from conventional electrical retailing in March 1995 when it closed the Rumbelows chain. Thorn drew our attention to its mission statement:

Radio Rentals' mission is to become the first choice provider of easy access to durable household goods and associated services to customers who have access to credit but who are cash and/or credit constrained or do not wish to pay cash. This will be accomplished through flexible and tailored financing options, supported by unsurpassed customer care.

In 1995 Thorn had 632 outlets offering all four reference white goods.

14.333. Thorn said that for Radio Rentals Limited brand loyalty was important. There was overcapacity in conventional retailing. For Thorn, the timing of the launch of new products was not so significant, because of its extended contact with customers. Its range of stock was limited by the relatively small size of its outlets. RRP's were not relevant to it, either in negotiating buying prices or in price-setting for rentals. It had had no problems in obtaining the supplies of reference goods it required. It showed us its exhaustive

*Figures omitted. See note on page iv.

appraisal procedure for negotiations with suppliers, including a very comprehensive environmental questionnaire.

14.334. Thorn had no price-matching commitment. It did not negotiate discounts per individual customers except in the case of display models and damaged stock. It offered no subsidized or interest-free credit. Whirlpool, its main white goods supplier, had on occasion offered gifts with its rental products. All reference goods rented from Thorn were delivered and installed. Its own product-servicing capability was an essential part of the deal it offered.

Granada Group plc

14.335. Granada is the parent company of Granada Home Technology, which mainly rents televisions and VCRs, but which has recently entered the white goods market as well. It said that its retail sales were almost all on instalment credit, which largely detached it from concern with RRPs. It was prepared to match prices, but did not advertise the fact.

Small retailers

14.336. We received comments from 34 small retailers of white and brown goods and 26 of white goods only. There was a commonly expressed view that the outcome of our inquiries, with RRPs abolished and easy entry for discounters, would be reduced margins, more independent retailers driven out of business, and the grip of the major multiples increased. Service would be squeezed out and there would be nowhere to go but the superstores. One respondent thought that not only would their market power eliminate small retailers but that some suppliers might go as well. Hotpoint had been obliged to sacrifice quality to meet the prices demanded of it by the multiples. There was a widespread concern to maintain the availability and quality of pre- and post-sales service, and (in the case of built in kitchens) the availability of installation skills. Several retailers questioned the value for money of our inquiries and suggested that investigations of other retail sectors such as furniture and clothing where retail margins were high would bring more benefit to consumers. One retailer commented on the irrationality of remedies for reference goods which would not apply to other products.

Recommended retail prices

14.337. In commenting specifically on our possible remedies, many feared that the absence of RRPs would benefit those retailers trying to compete mainly on price to the detriment of those seeking to provide a better service to the customer. The consequence of this would be that many traditional retailers would go out of business, to the long-term disadvantage of consumers, who would find it harder to get advice and assistance and who would suffer inconvenience from losing their local high street store.

14.338. Only one retailer accepted the idea of prohibiting RRPs. This was on the grounds that the major multiples could not then suggest that whilst they were selling cheaply, the high street retailers were likely to be selling at RRPs. Otherwise, the objections, where explained, were based on the view that RRPs acted as a necessary bench-mark and as a barrier to over-charging. Many said that transaction prices were seldom at RRP. One retailer said that without RRPs multiples would have even more freedom to undercut. Another advocated a return to RPM.

14.339. A kitchen specialist thought the remedies would have no effect on its own business, but a home improvement centre said that it would give up stocking white electrical goods if our recommendations were implemented.

14.340. A few retailers expressed concern about the use of electrical goods as loss-leaders, and two commented that cheap bulk purchases by non-electrical multiples often turned out to be of products with design deficiencies; customers could be saved from the consequences of these by looking to specialist retailers. Another suggested that RRPs were helpful in indicating the value in use of a product, so that a

retailer who might have bought it on advantageous terms would not sell it for less than an inferior model which had cost him more.

14.341. None of those who commented on them objected to the group of remedies preventing suppliers from restraining retailers' freedom to set prices. Some expressed scepticism, however, about the value of inserting a clause on this topic in terms and conditions and of reporting on compliance to the OFT. The few who mentioned margin support said that it was essential. A further comment was that a retailer selling below cost placed his business in jeopardy, in which case it was legitimate for the supplier to seek to avoid the risk of a bad debt.

Selective distribution

14.342. Comments on selective distribution were fewer than on RRPs, and whilst many retailers mentioned the need for service, they often approved some or all of the remedies as drafted. There were some comments about the practicability of an appeals system. In particular, very few objected to the idea of written reasons for the refusal of supply, although some saw no need for the publication of criteria in advance. Many retailers feared that freedom of supply for warehouse clubs would increase price competition from these, though some assumed that the remedies were consistent with a requirement to provide full service and agreed with supplies to warehouse clubs only if they offered this. One pointed out that a right of supply for warehouse clubs alone made a nonsense of any general system of selective distribution. A retailer mentioned the unfairness of competition from warehouse clubs not paying retail-level business rates, and another their ability to quote ex-VAT prices. Several retailers objected to 'cowboy in-and-out' traders gaining supplies. Customers for white goods were going to be dependent on the product they bought for a number of years.