

APPENDIX 1.1

(referred to in paragraphs 1.1, 2.2, 2.30, 2.47, 3.12, 8.79, 8.99, 8.140, 8.179, 8.183, 8.308 and 8.368)

Terms of reference and conduct of the inquiry

1. On 17 March 1999 the DGFT sent the following reference to the Commission:

The Director General of Fair Trading in exercise of his powers under sections 47(1), 49(1) and 50(1) of the Fair Trading Act 1973 hereby refers to the Monopolies and Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply of new motor cars within the United Kingdom by manufacturers and importers of such motor cars.

The Commission shall investigate and report on the questions whether a monopoly situation exists and, if so:

- (a) by virtue of which of the provisions of sections 6 to 8 of the said Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or persons is attributable to the existence of that monopoly situation and, if so, what action or omission and in what way it is so attributable; and,
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate or may be expected to operate against the public interest.

For the purposes of this reference “motor car” means a passenger car intended for use on public roads and having three or more road wheels.

The Commission shall report upon this reference within a period of 9 months from the date hereof.

17 March 1999

(signed) JOHN S BRIDGEMAN
Director General of Fair Trading

2. On 10 December 1999 the Secretary of State for Trade and Industry announced that the reporting period for the inquiry had been extended to 31 January 2000.

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

whether a monopoly situation exists: paragraphs 2.33 and 2.46;

(a) paragraph 2.46;

(b) paragraph 2.46;

(c) paragraphs 2.310 and 2.318;

(d) paragraphs 2.277, 2.310, 2.318 and 2.356; and

(e) paragraphs 2.279, 2.309, 2.310, 2.318, 2.327, 2.339, 2.356, 2.364, 2.368 and 2.372.

4. On 1 April 1999 the MMC was dissolved and its functions were transferred to the Competition Commission by section 45 of the Competition Act 1998.

5. The composition of the Group of members responsible for this inquiry and report is indicated in the list of members in the preface.

6. Notices inviting interested parties to submit evidence were placed in *Autocar*, *Auto Express*, *Financial Times*, *Fleet News*, *Motor Market* and *Motor Trader*.

7. In addition, we sought evidence and views from car manufacturers and importers; car dealers and brokers; car finance, leasing, rental and hire companies; trade associations; government departments; academics and research organizations; the Trades Union Congress; the Confederation of British Industry; fleet customers; consumer organizations; and the motoring press. Evidence was received from a number of these and from private individuals. This evidence is summarized in the report, principally Chapters 8 and 9.

8. Two consumer surveys were carried out on our behalf, one by Ipsos (see paragraph 5.56) and one by RSGB (see paragraph 5.22).

9. During the course of the inquiry members and staff of the Commission visited the car manufacturing and other facilities of Ford at Dagenham and Dunton, and of Vauxhall at Luton. Visits were also made to the premises of two franchised car dealers.

10. We held two hearings each with BMW/Rover, Ford, Peugeot, Renault, Vauxhall and VW and one each with DaimlerChrysler and Toyota. The RMI and the SMMT each attended two hearings. Hearings were also held with the DETR, the DTI, the OFT, the Inland Revenue, CA, the AA, the BVRLA, BIMTA, each of three car dealers, Motability, a car leasing company, a car broker, the ICDP, each of two university researchers, a group of motoring journalists, a former car dealer and two members of the public.

11. On 25 June 1999, on the basis of the information we had gathered, we sent an Issues Letter to the 20 largest car manufacturers and importers in the UK (see Appendix 2.1) giving our provisional conclusions that a complex monopoly situation, as defined in section 6(1)(c) and 2 of the FTA, existed in their favour and stating the matters which had been identified by the Group for further consideration. These companies provided additional evidence in response to the Issues Letter and private hearings were subsequently held with the nine suppliers listed in paragraph 10 above. The contents of the Issues Letter were made public by way of a press release and the text of the letter was made available on the Commission's web site or by written request.

12. On 20 July 1999 we held an open hearing—the first ever such hearing held by the Commission. Among those invited to participate were the manufacturers and importers of new cars in the UK, leading dealer groups, trade associations, consumer bodies, trade unions, academic experts and officials of the European Commission. Members of the public, media representatives and Government officials were invited to attend as observers. The Commission selected for discussion the following topics which reflected the representations which it had received from interested parties and the general public:

- (a) competition in the UK car market;
- (b) price differences between the UK and other EC countries;
- (c) SED; and
- (d) the future for the UK car market.

The manufacturers and importers declined to attend but were represented by the SMMT. Each topic was debated following an initial presentation by one of the invited participants and subsequent ordered responses from one or more other parties. A verbatim transcript of the open hearing was made available to anybody on request.

13. On 5 October 1999 the Commission issued a press release accompanied by a Remedies Statement; a further press release containing two additional possible remedies was issued on 21 October

1999 (see Appendix 2.3). At that stage the Commission had not reached final conclusions on any aspect of its inquiry, but it wished to consult, with the car companies and other interested parties, on possible remedies for any matters which it might find to operate against the public interest. The Remedies Statement and Supplement were also made available on the Commission's web site or by written request. Responses to the consultation were discussed with the seven suppliers with which two hearings were held (paragraph 10 above) and with the SMMT and the RMI.

14. Some of the evidence obtained in the course of our inquiry was of a confidential nature and our report contains only such information as we consider necessary for a proper understanding of our conclusions.

15. We should like to thank all those who helped us in our inquiry.