

Supermarkets

A report on the supply of groceries from
multiple stores in the United Kingdom

Volume 3: Appendices



COMPETITION COMMISSION

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from multiple stores in the United
Kingdom

Volume 3: Appendices

**Presented to Parliament by the Secretary of State
for Trade and Industry by Command of Her Majesty
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Note by the Department of Trade and Industry

In accordance with section 83(3) and (3A) of the Fair Trading Act 1973, the Secretary of State has excluded from the copies of the report, as laid before Parliament and as published, certain matters, publication of which appears to the Secretary of State to be against the public interest, or which he considers would not be in the public interest to disclose and which, in his opinion, would seriously and prejudicially affect certain interests.

The omissions are indicated by a note in the text or, where space does not permit, by the symbol ✂.

APPENDIX 1.1
(referred to in paragraphs 1.1, 2.1, 2.65, 3.3 and 15.1)

Terms of reference and conduct of the inquiry

1. On 8 April 1999 the DGFT sent the following reference to the CC:

The Director General of Fair Trading in exercise of his powers under sections 10(3) and (4), 47(1), 49(1) and 50(1) of the Fair Trading Act 1973 hereby refers to the Competition Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply in Great Britain of groceries from stores:

(a) in each of which:

- (i) the space devoted to the retail sale of groceries exceeds 600 square metres, and
- (ii) the space devoted to the retail sale of food and non-alcoholic drinks exceeds 300 square metres, and

(b) which are controlled by a person who controls ten or more such stores as are described in subparagraph (a) above.

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:

“control” shall be construed in accordance with section 65(3) of the Fair Trading Act 1973;

“food” excludes food sold for consumption in the store; and

“groceries”:

includes food, drinks (alcoholic and non-alcoholic), cleaning products, toiletries and household goods; but

excludes petrol, clothing, DIY products and financial services.

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

8 April 1999

(signed) JOHN S BRIDGEMAN
Director General of Fair Trading

2. On 16 April 1999 the DGFT made the following variation to the reference:

Whereas on 8 April 1999 the Director General of Fair Trading, in exercise of his powers under sections 10(3) and (4), 47(1), 49(1) and 50(1) of the Fair Trading Act 1973, referred to the Competition Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply in Great Britain of groceries from stores:

(a) in each of which:

(i) the space devoted to the retail sale of groceries exceeds 600 square metres, and

(ii) the space devoted to the retail sale of food exceeds 300 square metres, and

(b) which are controlled by a person who controls ten or more such stores as are described in subparagraph (a) above.

Now therefore the Director General, in exercise of his power under section 52(1) of the Act, hereby varies the reference by substituting for the expression "Great Britain" the expression "the United Kingdom".

16 April 1999

(signed) JOHN S BRIDGEMAN
Director General of Fair Trading

3. On 21 February 2000 the Secretary of State for Trade and Industry announced that the reporting period for the inquiry had been extended to 31 July 2000.

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

whether a monopoly situation exists: paragraphs 2.433 and 2.539;

question (a): paragraphs 2.433 and 2.539;

question (b): paragraphs 2.433 and 2.539;

question (c): paragraphs 2.434 and 2.540;

question (d): paragraphs 2.434 and 2.540; and

question (e): paragraphs 2.435, 2.436, 2.548 and 2.550.

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: *The Times*, *The Daily Mirror*, *The Daily Mail*, *The Grocer*, *Supermarketing* and *Retail Grocer* (in Northern Ireland).

7. In addition, we sought evidence and views from multiple grocery retailers; consumer bodies; wholesalers; farmers' co-operatives; trade associations and other organizations; government departments; retailers; producers; suppliers; the Trades Union Congress; the Confederation of British Industry; and local authorities. We received over 850 written submissions from these parties and from private individuals. We also received responses to questionnaires we sent to multiple grocery retailers, local authorities, and suppliers. We commissioned Opinion Research Corporation International to conduct a consumer survey and engaged Drivers Jonas as consultants to provide information on land and planning issues.

8. During the course of the inquiry CC members and staff visited the headquarters of, and in some cases stores belonging to, Asda, Morrison, Safeway, Sainsbury, Somerfield, Tesco and Waitrose. Visits were also made to stores of Aldi, CWS, Kwik Save and M&S.

9. We held four hearings with Safeway, three hearings each with Asda and Tesco, and two hearings each with Morrison and Sainsbury. These hearings included clarification hearings as well as discussion

of issues and remedies. We also held hearings in Northern Ireland with CWS, Sainsbury and Tesco. Hearings held with other interested parties are listed in the annex. The DETR and the OFT attended two hearings each and the Department of the Environment, Northern Ireland, and the Ministry of Agriculture, Fisheries and Food also attended one each. Some of the hearings were held in Northern Ireland and one was held in Birmingham.

10. On 31 January 2000 the CC sent an Issues Letter to the 24 main parties setting out its provisional finding that two complex monopoly situations existed, and stating the issues which had been identified by the Group for further consideration (see Appendix 2.1). The parties provided additional evidence in response to the Issues Letter. An Issues Statement (see Appendix 2.2), summarizing the main points raised with the parties and indicating the CC's then current priorities in the inquiry, was made public by way of a press release. It was also made available on the CC's web site and by written request. Responses to the Issues Statement were received from some third parties.

11. On 21 February 2000 the CC sent a Remedies Letter to the 24 main parties. At that stage the CC had not reached final conclusions on any aspect of its inquiry, but it wished to consult the main parties on possible remedies in respect of any matters which it might find operated against the public interest. The main parties provided additional evidence in response to the Remedies Letter. A Remedies Statement (see Appendix 2.3) was made public by way of a press release. It was also made available on the CC's web site and by written request. Responses to the Remedies Statement were received from some third parties.

12. 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.

13. We should like to thank all those who helped us in our inquiry and particularly the companies principally involved.

Third parties which attended hearings

Antrim Borough Council
Association of Convenience Stores
Birmingham City Council
British Independent Fruit Growers' Association
British Printing Industries Federation
British Retail Consortium
Consumers' Association
Lady Caroline Cranbrook
Mr Frank Davidson
Dr Paul Dobson
East Riding of Yorkshire Council
Mr Andrew Fowler
General Consumer Council for Northern Ireland council network
General Consumer Council for Northern Ireland
Green's of Haddington
Hampshire County Council
Dr Mark Harvey
J & J Hasletts Ltd
John Henderson Ltd
Dr Stuart Howe
Institute of Grocery Distribution
National Association of Master Bakers
National Farmers' Union of England and Wales
Nestlé UK Ltd
Northern Ireland Agricultural Producers' Association
Northern Ireland Bakery Council
Northern Ireland Food and Drink Association Ltd
Northern Ireland Meat Exporters' Association
Omagh District Council
Procter & Gamble UK
Scottish Association of Master Bakers
Scottish Consumer Council
Scottish Grocers Federation
Mr Marc de Speville
Mr John von Spreckelsen
Ulster Farmers' Union
Unigate (UK) Ltd
Three other large suppliers
A consultant