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CABINET

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## MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

## FUTURE OF THE PRICE COMMISSION

Memorandum by the Secretary of State for Trade

In my minute of 7 May to the Prime Minister, copied to Cabinet colleagues, I set out the general line of my thinking on the future of the Price Commission. I now review the options in rather more detail.

BACKGROUND

2. Throughout our period in Opposition - and in successive debates in Parliament - we have expressed our opposition to the Price Commission and its activities. In our manifesto, we said:- "This Government's price controls have done nothing to prevent inflation, as is proved by the doubling of prices since they came to power. All the controls have achieved is a loss of jobs and a reduction in consumer choice". Subsequently we said:- "In order to ensure effective competition and fair pricing policies, we will review the working of the Monopolies Commission, the Office of Fair Trading and the Price Commission, with the legislation which governs their activities". Although these remarks were cautious a widespread expectation exists that we will take early action to curb the activities of the Price Commission - and in some quarters, we are expected to abolish it altogether.

3. In this area our economic objectives are to reduce the scale of Government intervention in industry, encourage profits and investment, and strengthen competition policy. This latter field is a very complex area and early legislation is hardly possible, even if it is desirable, in the First Session. However, any urgent action which we take towards the Price Commission should ideally be presented as a first step towards achieving our manifesto objective of a more "effective competition policy" (as expressed in paragraph 2 above).

4. There are particular reasons why I am anxious to make an early announcement of our plans. I believe that we will soon come under pressure in the press; there are a series of Price Commission enquiries requiring Ministerial decision in the pipeline (see appendix 1); Mr Charles Williams, who has so far refrained from public comment is already pressing me for an immediate indication of our intentions; and on Thursday the CBI hold their Council following which they are likely to publish a paper urging abolition of the Price Commission - and this could provoke a response from the TUC. I think we should avoid any appearance of responding directly to pressures from the CBI, but should come out with a clear and constructive statement indicating our first legislative steps towards meeting our expressed objectives. Furthermore, I believe it is important that any action which we take completes all its Parliamentary stages before the Summer Recess, otherwise it will be in the forefront of controversy during the autumn pay round. I suggest that the Prime Minister might make a short statement about our intentions in the Debate on the Queen's Speech this coming Tuesday.

## OPTIONS

5. The main options are as follows:

- (a) Abolition of the Price Commission, while taking temporarily, until our wider review of the workings of the Office of Fair Trading and Monopolies and Mergers Commission is complete, a power for the Secretary of State to refer price issues of major public concern to ad hoc boards appointed for this purpose. We would also take the power to roll back prices after an adverse report: but I envisage that this power would only be used very exceptionally. I think we need it, however, to reassure the unions and other critics that we have not abandoned all control over prices. A Bill of a few clauses only would be required.
- (b) Abolition of the Price Commission coupled with new powers for the Director General of Fair Trading (DGFT) to enable him to investigate price issues of major concern (including nationalised industry prices) and to produce a report. This could be undertaken on his own initiative or at the discretion of the Secretary of State. No powers to freeze or control prices in any way would follow directly from such a report. But, if the investigation revealed that a monopoly was exploiting its position or that competition was restricted in any way, the DGFT could make a reference to the Monopolies and Mergers Commission (MMC) for a thorough yet speedy enquiry. Such a reference would be made either under existing powers relating to monopoly conditions or under new powers based on the proposal in the Green Paper on "Restrictive Trade Practices Policy" (Cmd 7512) for dealing with anti-competitive practices. This would empower the DGFT to investigate practices by a firm or firms which restrict competition and to refer them to the MMC for examination even in the absence of statutory monopoly conditions: if the MMC reported adversely, the Secretary of State could order firms to discontinue a specified practice. Thus, following a reference of either kind the Secretary of State could deal with restrictions of competition causing excessive prices or use existing powers to regulate the prices. The MMC would need to be strengthened by administrative means to ensure that it could operate effectively, but this could be achieved relatively swiftly.
- A short Bill, but slightly longer than in (a) would be required.
- (c) The retention of the Price Commission but the substitution, for the Commission's present power to freeze prices during an investigation, of a power for the Secretary of State to roll back prices in the light of an adverse Commission report. At the same time there would be regulations guaranteeing a minimum level of profitability to companies even when the roll-back power were used. The abolition of the power to freeze prices would remove one of industry's biggest grievances against the Commission. Again, a Bill of a few clauses only would be required.

6. If option (c) above, which involves the continuation of the Price Commission in some form, is adopted, there are two other steps which should be taken concurrently through administrative action. First, substantial reductions would be made in the staff of the Price Commission, about 70% of whom are employed on short term contracts. This would reduce directly the number of enquiries the Commission could take on. Second, the power to launch examinations of sectors of industry (as distinct from individual companies) lies with the Secretary of State rather than the Commission; I would reduce this activity probably to nil. The present Chairman of the Price Commission would leave at the end of July, when his appointment runs out: I am advised that primary legislation would be required to dismiss him sooner.

### CONCLUSION

7. It would be possible to clip the wings of the Price Commission if on wider political and economic grounds abolition were considered undesirable at the present time. However, industry expects us to abolish the Commission. This course has much to commend it and comes closest to meeting our expressed economic objectives, particularly as it is the first urgent step towards a more effective competition policy. In this respect I would recommend option 5(b); although it would involve a slightly longer Bill than options 5(a) or 5(c).

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#### USE OF THE VETO TO END ENQUIRIES STILL IN PROGRESS

1. The Prime Minister has asked (her Private Secretary's letter of 9 May) that this paper should review the case for terminating any of the enquiries currently in progress. I have the power to terminate at any time any investigation of an individual company or examination of a sector of industry which may be in progress; although my exercise of this power must reflect objectives set out in the Price Commission Act 1977 and I cannot simply decide to bring all current enquiries to an end, without considering the arguments in each case. A list of current cases and their dates of completion is annexed: the list also shows the proposed price increases which are the subject of study, and the extent to which the Price Commission have already, under their discretionary powers, allowed these increases to go through.

2. Of the investigations of individual companies, five are due for completion within the next fortnight, and there seems little point in using my power of veto at this stage. In these and some other cases the price increases proposed have already been allowed in whole or in part. In all cases it is entirely within my discretion whether or not to implement any recommendations which the Commission's reports may contain. I believe, however, that there is a case for terminating the investigations of RHM Bakeries Ltd and Allied Bakeries Ltd, both of which were announced on 26 April. Both companies are unprofitable; both have closed bakeries; and the bread industry generally has been subject to detailed Government scrutiny in recent years, including a Monopolies and Mergers Commission enquiry in 1974-77.



3. The investigations into the Area Electricity Boards and the British Gas Corporation raise major issues which would need separate consideration if termination were advocated.

4. The three current examinations of sectors of industry were all launched last year, and the provision of information by industry is largely complete. The examinations of car spares and estate agents have been controversial: if the Commission recommend price restrictions, the trade is likely to dispute them energetically. But at the same time issues of genuine consumer interest may be ventilated.

Company Name	Date	Value	Value
British and Foreign Telegraphs Limited	23 May	1.0	1.0
British Water Authority	23 May	13.0	13.0
Area Electricity Boards	14 June	5.0	(1)
British Gas Corporation	20 June	5.5	(1)
Shell Petroleum Limited	8 July	5.0	5.0
Imperial Chemical Industries Limited	3 August	12.0	12.0
British Overseas Airways Limited	12 August	12.0	12.0
Car Spares	20 May	-	(1)
Estate Agents	16 July	-	(1)
Car Spares	20 July	-	(1)

PRICE COMMISSION INVESTIGATIONS AND EXAMINATIONS IN PROGRESS

<u>Investigations</u>	<u>Date Report Due</u>	<u>% Increase Notified</u>	<u>% Interim Increase</u>
BP Oil Limited	16 May	6.902	6.902
Esso Petroleum Limited	16 May	10.9	10.9
Bass Limited	21 May	7.94 (wholesale prices)	5.5
		7.90 (managed house sales)	7.90
Whitbread and Company Limited	23 May	5.65 (wholesale prices)	5.65
		8.82 (managed house sales)	8.82
Welsh Water Authority	23 May	13.9	11.9
Area Electricity Boards	14 June	8.3	(a)
British Gas Corporation	30 June	8.5	(b)
Shell UK Oil Limited	8 July	6.0	6.0
RHM Bakeries Limited	3 August )	2p on large loaf;	1p on large loaf
Allied Bakeries Limited	10 August )	1p on small loaf	½p on small loaf
<u>Examinations</u>			
Car Spares	30 May	-	(c)
Children's Toys and Games	16 July	-	(c)
Estate Agents	30 July	-	(c)

- (a) an interim increase of 3.7% (the full increase notified) on charges to monthly billed customers - mainly industrial and commercial users
- (b) an interim increase of 8.5% in respect of industrial and commercial users only
- (c) examinations do not relate directly to price increases and there is no power to freeze prices