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CST Economic
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SIR D WASS
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Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

MR MONCK
MR ST CLAIR
MR NORTON

27th June, 1979

MR WICKS
MR RIDLEY

Dear Andrew,

Rise

COMPETITION BILL : NATIONALISED INDUSTRIES

The Chancellor has asked me to write to you in his absence in Tokyo to seek the formal policy approval of your Secretary of State, as Chairman of E(EA), for the treatment of nationalised industries in the Competition Bill. As you know, this was discussed at a meeting with your Secretary of State, the Secretary of State for Trade, and other Ministers at No.11 Downing Street on 25th June. This letter sets out what was agreed.

Ministers agreed that the Bill will contain a new provision for Ministers to refer to the Monopolies and Mergers Commission (MMC) any question relating to the abuse of monopoly position (including specifically questions of costs, efficiency, and service to the consumer, but excluding cash limits and financial targets) by nationalised industries and analogous bodies. The MMC will be required to report on the question put to them within six months (which may be extended if necessary), and the order-making powers of the Fair Trading Act will be available, with the exception of the power to regulate prices. The Fair Trading Act order-making powers are not likely to be directly relevant to questions of efficiency (though they may well be for other abuses of monopoly positions) and in such cases we shall have to rely on pressure following publication of an adverse report. There would be no provision for standing references.

Andrew Duguid, Esq.,
Private Secretary to Secretary of State
for Industry.



Although powers on these lines are not very different from those currently available under the Fair Trading Act (the Fair Trading Act powers have never been used) they are somewhat more appropriate, since they will allow questions of efficiency to be tackled directly rather than indirectly. More important, Ministers felt that they would carry greater political credibility because they are new, but they agreed, particularly in the light on the non-use of comparable Fair Trading Act powers, that Mr. Nott should be able to announce during the Second Reading Debate on the Bill in mid-July two or three candidates for immediate reference. But it was also agreed that these new powers must not bar Ministers from taking other steps to deal with the nationalised monopolies; where dismantling the monopoly was possible, this would often be the preferred course.

Steps are being taken separately through Sir Lawrence Airey's Nationalised Industry Policy Group to identify candidates for early reference. In future, Ministers might invite suggestions from a variety of other sources as well, eg the DGFT, though these would not be made public. It was suggested that the NCC might also be consulted informally. The NIP group would however continue to act as a sieve.

Ministers decided that the Nationalised Industries' Chairmen's Group would be consulted about the proposed legislation, but would have no role in selecting or monitoring references under these new powers; indeed, it was felt that they would not in any case want one.

At the meeting, the Secretary of State for Energy argued for deferring legislation, with a view to building on the role of the Comptroller and Auditor General and the Exchequer and Audit Department. But the meeting agreed on the above proposals.

I am copying this letter to the Private Secretaries to the Secretaries of State for Trade and Energy, and to the Chief Secretary, the Minister of Transport, and the Parliamentary Under Secretary of State at the Scottish Office, who were present at the meeting, and to the Private Secretaries to other members of E(EA). Further copies go to officials who were present at the meeting, ie Durie at the Department of Trade; Dempster, Department of Transport; Jones, Department of Energy; and Williams in your Department. I should be grateful for confirmation by close of play on 29 June that Sir Keith and other members of E(EA) are content.

Jas
MA

(M.A. HALL)



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