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From the Secretary of State

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
SW1

16 August 1979

Dear Geoffrey.

STOCK EXCHANGE

Thank you for your letter of 31 July agreeing that the reference of the Stock Exchange to the Restrictive Practices Court should go ahead provided that we used the Competition Bill to make the Court proceedings rather more flexible by giving the Court express powers to delay giving effect to its decision so that, in the event of an adverse finding, the Stock Exchange would not necessarily have to abandon parts of its agreement overnight and could be given the opportunity to formulate alternative arrangements and to have them considered by the Court. You also suggested that if the Court were to take an extremely narrow view of the considerations which it can take into account, the question of exemption should be re-examined. I accept both points.

The first is the more complicated and it will take a little time to work out the precise details (though this need not delay the announcement of our decision). My officials have held preliminary discussions with those in the Lord Chancellor's Department and in the Office of Fair Trading. They suggest that something on the following lines would be feasible:



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- a) on the application of the respondents, the Court would, if it judged it appropriate, be able to defer rendering void for a specified period any restrictions which it found to be against the public interest (at present under section 2(1) of the Restrictive Trade Practices Act the two occur simultaneously);
- b) the parties to the agreement would then be enabled to discuss any amendments to their agreement with the Director General taking account of any comments the Court had made, and to revise their agreement accordingly;
- c) the revised agreement would then be re-submitted to the Court within the required period;
- d) assuming that the new restrictions were not open to the same objections as those found to be against the public interest, the Court would then either:
 - i) find that the revised restrictions were not against the public interest; or
 - ii) make an order against the original restrictions, but permit the revised agreement to operate provisionally until any new restriction, in turn, could be fully examined in the usual way following registration.

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A number of details still have to be worked out (including the time within which the respondents may make an application for approval of their revised agreement). Although it may not often be used, I see a provision of this sort as having some wider benefit in giving the restrictive trade practices legislation more flexibility to deal with self-regulatory bodies such as the Stock Exchange, and in announcing our decision I would propose to refer specifically to this wider aspect.

I would propose that we should tell the Stock Exchange of our decision (and announce it) as soon as possible, making it clear that we intend introducing this added flexibility to the Court's procedure.

I would be grateful if you and colleagues to whom I am copying this letter would let me know if you agree.

I am copying this letter to the Prime Minister, to the Members of E Committee, to the Lord Chancellor (together with a copy of yours of 31 July) and to Sir John Hunt.

*Yours ever
John*

JOHN NOTT

16 AUG 1979

