

Prime Minister (2)

These summaries the papers being taken at E(CP)  
The Chancellors and/or SS/TE are likely to minute  
you afterwards on its conclusions, and invite  
you to make competition the major theme of one of your  
speeches. - see para 6 of E(CP) (81) 3.

BK/BIF when  
all OK with Tebbit  
reports on a case  
of E(CP)

PRIME MINISTER

5 February 1985

AT 1/2

AT  
4/2

COMPETITION POLICY - E(CP) MEETING, 7 FEBRUARY 1985

Competition and Private Actions

Should private individuals be allowed a right of action  
in the Courts against those who adopt anti-competitive  
practices? It is private individuals, rather than Ministers  
and officials, who are damaged by anti-competitive practices.  
The threat of action would deter such practices better than  
the toothless watchdogs of the State. Competition policy  
could be partially privatised, made more effective, and  
cheaper to administer.

as in  
the US?

Norman Tebbit's paper explains the difficulties. It  
would be difficult to graft a right of action onto a system  
which does not prohibit anti-competitive practices. In our  
system, we proceed on a case-by-case basis, weighing the  
damage arising from anti-competitive arrangements against  
other, largely political factors in pursuit of "the public  
interest".

Our present policy is a broken-backed, bureaucratic  
affair, reflecting an ambivalent attitude to competition. We  
ought now to consider a stronger commitment because:

1. Our commercial life is becoming accustomed to rulings  
based on Articles 85 and 86 of the Treaty of Rome, which

CONFIDENTIAL

prohibit anti-competitive practices which inhibit Community trade. We believe in opening up the internal market of the EEC and have (eventually) accepted Community rulings against our own anti-competitive practices, eg imports of UHT milk, relaxation of the brewers' tie.

2. Can we hope to achieve the economic vitality of the US economy which we need in order to secure the growth rate which alone will re-employ the 3 million unemployed, unless we loosen up our rigid economy? The OFT is doing a good job but it is swamped by formal procedures and inhibited by rulings of the RTP Court.

Consider the cement industry, for example. In 1961 the RTP Court judged that price fixing agreements in the industry operated "in the public interest". Yet between 1960 and 1982 cement prices rose by 60% relative to the price of other manufactured goods (corresponding figure for Germany: 6%). Even though our cement prices have been higher than on the continent, imports make little headway, because the cement manufacturers refuse to supply anyone who uses any imported cement. The OFT will have difficulty in re-opening such a case because it would have to show that circumstances have changed materially.

We recommend that you encourage Norman Tebbit to take a radical look at our competition policy.

Competition Policy: Presentation

Norman Tebbit proposes a series of speeches to explain, and take credit for, the various initiatives in the competition field. There are some real and substantial achievements which affect broad areas of national life, eg the removal of financial controls, the liberalisation of telecoms and the introduction of parental choice over schooling, informed by the examination results for each school. But these achievements are now familiar. Our problem on presentation is that a number of initiatives promise much, but still have to be delivered, eg shop hours, opening up the monopoly on conveyancing, liberalising the bus industry, reducing car price differentials.

Important sectors, such as the nationalised energy monopolies, are still untouched by competition. The rented housing sector is still choked by the Rent Act.

We believe that the benefits of competition will be substantial and visible. For example, the liberalised bus experiment in Hereford and Worcester has reduced fares by 25% on average and increased bus mileage, according to the County's Planning and Transportation Committee. Professor Farrand predicts that costs of conveyancing will fall by 25-30% once the monopoly is extended.

We recommend that you find an opportunity to indicate to Norman Tebbit that you will be prepared to include a

competition theme in a speech, provided that Departments can contribute convincing material of wide appeal on the recent achievements of the policy.

### Competition in the Professions

The DTI and OFT are making gradual headway in their efforts to introduce competition into the professions, relying almost entirely on the professions' voluntary acceptance of MMC and OFT findings and recommendations.

Unfortunately, these valiant efforts have not, so far, greatly changed the professions' behaviour. Advertising is being accepted, but on such restrictive terms ("so as not to bring the professions into disrepute") that it adds no competitive bite. In those cases where mandatory fee scales have been abandoned - by architects, surveyors and engineers - they have been replaced by "recommended" scales. These have had virtually the same effect because if an architect cannot advertise that his fees are below the recommended scale, there is little incentive for him to undercut the recommended scale.

Norman Tebbit's priorities, we believe, are the right ones, particularly:

1. The invitation to the DG of Fair Trading to consider advertising restrictions and recommended fees. We would like to see a general right to advertise, subject only to

the rules of the Advertising Standards Authority. This would undermine the recommended fee structure.

2. The invitation to Norman Fowler to report on introducing competition into medical and paramedical professions. This fits in closely with our own ideas on improving the General Practitioner Service, by making more information available to the public about GP's services and by easing entry restrictions.

*N. Owen*  
PP NICHOLAS OWEN