



CONFIDENTIAL

*h.a.*  
*Smith* *Prime Minister* *(2)*  
*Smith*

MR ALEXANDER

cc Sir R Armstrong

## COMMISSION'S POWERS OF ENTRY UNDER REGULATION 17/62

1. The Attorney General wrote to the Foreign and Commonwealth Secretary on 5 December explaining the difficulties raised by the Commission's recent decision to delegate to a single Commissioner the power contained in Article 11(3) of Regulation 17/62 to make Decisions requiring a company to submit to investigations by Commission officials.
2. On 7 December the United Kingdom Permanent Representative to the European Communities made representations to the Commissioner for Competition, M Vouel, expressing doubts as to whether such decisions were validly taken. He asked that the forthcoming visits to certain companies based in the United Kingdom be delayed to enable the Commission as a whole to decide whether to make decisions. In reply M Vouel said that the Commission's lawyers had carefully examined the habilitation and were confident of its validity: only a minor change in procedure was involved. The granting of this habilitation was fully in line with other habitations covering a wide range of subjects. He could not accept our doubts as to the legal basis.
3. The first of the four planned visits by the Commission took place on the morning of Tuesday, 9 December. An Office of Fair Trading official accompanying the Commission officials gave the company concerned a letter which recorded the legal doubts which HMG had expressed to the Commission but pointed out that, unless successfully challenged in the European Court, the decision had to be treated as valid. The company decided to allow the Commission officials to make their investigations without prejudice to the company challenging their rights later.
4. The next visit to another and larger company is planned for Tuesday, 16 December.

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M D M FRANKLIN  
CABINET OFFICE SW1  
10 December 1980

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jfh

*Home Affairs*

MR FRANKLIN

Commission's Powers of Entry Under  
Regulation 17/62

The Prime Minister has seen and taken note of your minute to me of 10 December on this subject.

I am sending a copy of this minute to David Wright.

M O'D B Alexander

11 December 1980

*CS*