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PRIME MINISTER

To note that H Committee agreed yesterday on the need for primary legislation to exempt from the Restrictive Trade Practices Act the current agreement between the Building Societies' Association and the National House Building Council

NHBC have done a good job in improving the standards of new homes, but depend for their effectiveness on a requirement by Building Societies that new houses accepted for mortgages should be covered by an NHBC guarantee. The Director General of Fair Trading has decided that the NHBC/BSA agreement significantly restricts competition. Although this restriction is more technical than real, he would in the absence of legislation have to refer it to the Restrictive Trade Practices Court.

An announcement of the legislation is to be delayed until after the Stock Exchange Bill has received Royal Assent.

DWB

22 December, 1983.

File

MR TURNBULL16 December 1983

BUILDING SOCIETIES ASSOCIATION (BSA) RECOMMENDATION OF LENDING
FOR NEW HOUSES: EXEMPTION FROM THE RESTRICTIVE TRADE PRACTICES
ACT 1976

The BSA recommends to its member societies that all new houses taken into mortgage should be constructed by a housebuilder registered with the National House Building Council (NHBC). This appears to be a thoroughly splendid body which sets housebuilding standards and assures compliance with them; its certificates of completion on the basis of warranties; it provides insurance against defaults through bankruptcy of the builder. If new houses were not inspected by the NHBC, the Government would probably have to set up some statutory machinery of its own. There is not likely to be any serious contender as an approvals body, yet, for technical reasons, the Director General of the Office of Fair Trading judges that he would have to refer the BSA recommendation to the Restrictive Practices Court. The BSA are adamant that they will not extend their recommendation to other, similar bodies, and would rather drop the recommendation altogether. Mr Jenkin is unwilling to see this and wants an exemption from the RTP legislation. Mr Tebbit is content with this but he is not willing to be responsible for it, mainly for presentational reasons. If he, rather than Mr Jenkin took on the responsibility of limiting the DG's powers it would appear as a setback for competition policy, particularly as the exemption of the Stock Exchange has already given this impression.

The proposed solution - an exemption under the Housing Defects Bill, which provides a convenient vehicle, seems to be the most sensible outcome. It would establish the position of a valued approvals body outside Government, while minimising any damage to competition policy. An alternative course of action would be to call the BSA's bluff in the hope that they will extend their recommendation to other (hypothetical) bodies possessing the required credentials. The BSA has some interest itself in the condition of the housing stock, as securities against mortgages. However, the BSA did make its recommendation at the request of Government Housing surveys which probably suffice for their purposes. I would not recommend this alternative.

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I see no need for the Prime Minister to intervene in this discussion.

NICHOLAS OWEN
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