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PRIME MINISTER

6 March 1985

CONVEYANCING BY EMPLOYED SOLICITORS

The Lord President has reported that H Committee was not entirely convinced that the consumer would be "entirely protected" under the basic conveyancing service which is envisaged that employed solicitors will provide. The Committee was worried that a large number of house purchasers might succumb to the attractions of one-stop shopping at a bank or building society, regardless of any warnings about conflict of interest.

How serious are the "conflicts of interest"?

Obscure "conflicts of interest" are discovered whenever the time for a decision on this subject approaches. The latest example is that a building society might impose restrictive covenants, against the purchasers' interests, in order to preserve property values in an area in which the society was already involved. It is difficult to avoid the suspicion that we are witnessing "solicitor protection" masquerading as consumer protection.

We should not exaggerate the extent to which present arrangements protect the consumer. Anyone with experience of housebuying knows that many independent solicitors know little about mortgage terms and conditions - certainly not enough to contest them. And far from being independent, solicitors have

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a cosy relationship with building societies, because they are more than happy to act for both purchaser and building society once contracts have been exchanged.

The way to encourage independent solicitors to develop their skills is to relax the conveyancing monopoly. The more enterprising independent solicitors are already anticipating greater competition from employed solicitors and are taking advantage of the Law Society's permission to advertise (see attached).

How much consumer protection do we need?

It should not be our concern to entirely protect consumers. Unless we are to operate a Nanny State, consumers must take some responsibility for their decisions.

The Lord President rightly emphasises that we have to reach a judgement about the benefits of competition as against the possible sacrifice of consumer protection. The judgement of the consumers' champion - the Consumers Association - is very clear:

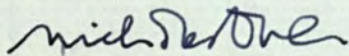
"We think this proposal is fine provided that the consumer is free to choose whichever conveyancing service suits him." (Which?, February 1985)

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Conclusions

In the Cabinet discussion tomorrow, we recommend that you:

1. Go for the basic conveyancing service by employed solicitors, subject to the conditions suggested by officials, namely: the limitations of the service are made clear; its costs are separately identified; the service is not tied to the mortgage. We cannot afford to lose this initiative if our competition policy is to mean anything, publicly and within Whitehall.
2. Reject the wrecking amendment suggested by the Lord Chancellor, that employed solicitors should only be allowed to act for the borrower on the conveyance or transfer itself, and not on the work leading up to it. This would torpedo the proposal.


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