



Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY

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17 January 1986

CONFIDENTIAL

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

|| BY FAX 27/1
NRPN.

Nigel

**COMPETITION ACT 1980: SECTION 11 NATIONALISED INDUSTRY REFERENCES
TO THE MONOPOLIES AND MERGERS COMMISSION**

I am writing to report on the implementation of the 1985 Programme of references and to seek agreement to this year's Programme, with a view to making an announcement when Parliament reassembles.

2 I am particularly pleased to be able to report that for the first time we were able to achieve a full programme of six references in 1985. The reports on the North of Scotland Hydro-Electric Board and the British Airports Authority were published on 2 October and 10 December respectively. The MMC expect to complete their investigations into water supply in the Southern Water Authority's Area shortly. Two other investigations into the South of Scotland Electricity Board and the British Steel Corporation are well under way. Although we have had to postpone the planned inquiry into the Post Office's Counter Services we were able to substitute a reference dealing with Post Office procurement which was made on 31 December.

3 The MMC expect to be fully occupied in completing the 1985 Section 11 Programme, as well as their continuing responsibilities for mergers and monopolies references and their involvement in developing the competition aspects of privatisation proposals, until well into this year. Short of providing them with substantial extra resources I believe that we can realistically only expect them to take a maximum of four public sector references in 1986. However, I believe that it is important that we should avoid giving any impression that we are relaxing our efforts in the field of public sector scrutiny and I am, therefore, proposing that we nevertheless announce a full programme of six references in 1986. The text of the announcement of the 1986 Programme should,

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however, make it clear that we may not be able to take up all the options and that any not referred in 1986 will be carried over to 1987.

4 For 1986 I propose a programme including a water industry topic, and the British Waterways Board. The timing and terms of each reference can be agreed later. In the case of the water reference due account will need to be taken of progress towards privatisation. A re-reference of British Rail's London and South East Commuter Services timed to allow new managers to settle in will also be included. I should also like to include an electricity supply industry topic and I believe a re-reference of the CEGB, which the Prime Minister identified for further scrutiny, would be most appropriate. Again the timing and scope of that reference would need to take account of the follow-up on the Sizewell inquiry.

5 In addition I believe we should announce our intention to refer two further bodies which for practical purposes we should regard as reserves for 1986. These are British Shipbuilders, the only major industry not yet referred, and the Tote. British Shipbuilders are currently committed to the privatisation of the warship yards but should be ready for referral to the MMC in late 1986. The Tote represents one of the more fringe SII bodies which we should try to include from time to time so that the programmes cover a good span of public sector interests. I regard the inclusion of the Tote in the 1986 Programme as flexible and that any referral should be deferred if more worthy candidates come forward.

6 I believe that the Programme I have outlined maintains the commitment to SII demonstrated by our achievement in implementing the 1985 proposals. The topics identified cover a wide span of public sector interests including two major industries and one with a particular high public profile (BR's Commuter Services). I am also conscious that the National Audit Office's report on SII procedures is likely to be available soon. But I believe that, taken with your welcome initiative on follow-up earlier this year, the proposals I am now making for the 1986 Programme demonstrate the Government's determination to substantial and wide ranging external scrutiny of the efficiency of the public sector.

7 I hope that you and other members of E(NI) can agree to my proposals and to an early announcement by means of a written Parliamentary Question on the lines of the attached draft.

8 I am copying this letter to the Prime Minister, members of EN(I) and the Home Secretary and to Sir Robert Armstrong.

LEON BRITTAN

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DRAFT PARLIAMENTARY QUESTION

Q To ask the Secretary of State for Trade and Industry what progress has been made in implementing the rolling programme of references of nationalised industries to the Monopolies and Merger's Commission and if he will announce his proposals for the 1986 programme.

"During 1985 reports were published on the revenue collection systems of four area electricity boards, the British Railways Board: Property Activities, the North of Scotland Hydro-Electric Board and the British Airports Authority."

"The Commission are currently investigating the water supply services in the Southern Water Authority's area, the South of Scotland Electricity Board, the British Steel Corporation and the Post Office's procurement activities."

"I decided that in view of current proposals for modernizing the Post Office's Counters Service it would have been inappropriate to proceed with the Counters reference planned in 1985."

"I am particularly pleased to be able to report that in 1985 we were for the first time, able to achieve our maximum objective by making six references to the Commission. We are anxious that this commitment to a substantial rolling programme of efficiency audits of the public sector should continue, and as soon as the Commission complete their outstanding work on the 1985 references I propose to implement a further rigorous programme for 1986. The topics we propose to include in the programme will include a water industry topic, the British Waterways Board, and re-referrals of British Rail's London and South-East Commuter Services and the Central Electricity Generating Board. They will be followed by two further inquiries into the Horserace Totalisator Board (The Tote) and British Shipbuilders, either in late 1986 or as soon as possible in 1987.



ccfG



2 MARSHAM STREET

LONDON SW1P 3EB

01-212 3434

My ref: B/PSO/12518/86

Your ref:

20 March 1986

*Jim Paul**NBN*

COMPETITION ACT 1980: SECTION 11 NATIONALISED INDUSTRY REFERENCES
TO THE MONOPOLIES AND MERGERS COMMISSION

I refer to John MacGregor's letter to you of 26 February.

I can certainly accept the principle that, if it emerges that some water authorities will remain in the public sector for a lengthy period, those authorities should continue to be subject to investigation by the Monopolies and Mergers Commission under Section 11 until a year or two before flotation. However, at the present time it is not certain which authorities will be floated first, and which ones will remain in the public sector and for how long. A good deal more work will be necessary before a clearer picture is evident. I would not wish, at this stage, publicly to prejudge the order of flotation and I do not wish to suggest that any particular authority is likely to remain in the public sector for a considerable time, when we do not know whether that will be necessary.

I therefore remain very firmly of the view that there should be no reference of a water authority this year, for reasons stated in my letter of 7 February.

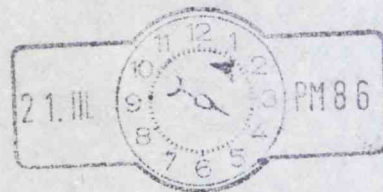
Copies of this letter go the Prime Minister, members of E(NI) and Sir Robert Armstrong.

Ken Baker
Armstrong

KENNETH BAKER

The Rt Hon Paul Channon MP

Nationalised Ind. Policy Part 10





Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Paul Channon MP
Secretary of State
Department of Trade and Industry
1 - 19 Victoria Street
London
SW1E 6RB

NBM

26 February 1986

Dear Paul,

**COMPETITION ACT 1980: SECTION 11 NATIONALISED INDUSTRY REFERENCES
TO THE MONOPOLIES AND MERGERS COMMISSION**

I am writing in reply to Leon Brittan's letter to Nigel Lawson of 17 January. I have also now seen Peter Walker's of 30 January, Kenneth Baker's of 2 February and Nicholas Ridley's of 10 February.

Like you, I was pleased that a full programme of six references was achieved in 1985 and share your view that we should make every effort to consolidate this achievement in 1986 by obtaining a further six references. I am particularly aware that the National Audit Office have included in its programme for this year "an examination to assess the arrangements for identifying topics for references to the MMC, for following up recommendations and establishing whether accepted recommendations have achieved their expected results". It is therefore very important that MMC references are well chosen, kept up and effective.

I am content with your proposals for the 1986 programme. I see no difficulty with Peter Walker's suggestion that the reference to the CEGB in the draft Parliamentary Answer should be amended to "an aspect of the CEGB's operations". But I do not think the potential difficulties he warns of in relation to Sizewell need preclude a more general reference on financial management and I feel strongly that we should work towards such a reference. I would be grateful if my officials could be closely involved in discussing the terms of the reference and its' precise timing.

I do not entirely share Kenneth Baker's view that a reference for the water authorities should be dropped. We are expecting only two or three authorities to be ready for privatisation

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by the end of 1987. I wonder therefore if it might not be possible to choose an authority (e.g. North West) and a top (for example investment appraisal) which would not impinge directly upon the preparation for privatisation?

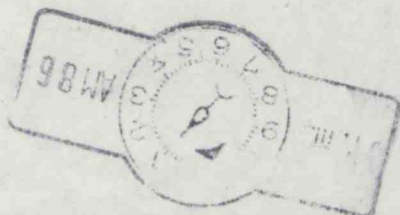
I am therefore content with your proposed Parliamentary Question and Answer.

Yours,

JK

JOHN MacGREGOR

Copies of this letter have been sent to the Prime Minister, members of E(NI) and Sir Robert Armstrong.





cc BG
DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

The Rt Hon Paul Channon MP
Secretary of State for Trade
and Industry
Department of Trade and Industry
1-19 Victoria Street
LONDON SW1H 0ET

10 February 1986

NBPQ

Dear Paul

I am replying to Leon Brittan's letter of 17 January seeking agreement to the 1986 Programme of MMC references under Section 11 of the Competition Act 1980, and to the text of the proposed announcement.

I have, of course, already agreed to the inclusion of a re-reference on BR's L&SE sector in the 1986 Programme, and I am happy to confirm this. I understand that the re-reference is unlikely to take place much before the summer, but it would clearly be helpful if we could give BR as much notice as possible; I should therefore be grateful if your officials could keep in touch with mine about the timetable.

We have still, of course, to agree the terms of reference. I am content with the text of your proposed announcement about the Programme as a whole.

I am copying this letter to the Prime Minister, members of EN(I), the Home Secretary and Sir Robert Armstrong.

Yours sincerely

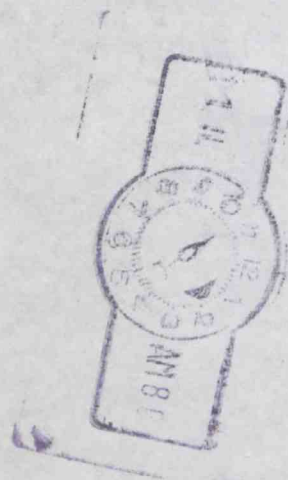
Nicholas Ridley

NICHOLAS RIDLEY

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2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: B/PSO/10561/86

Your ref:

7 February 1986

Ind Paul

COMPETITION ACT 1980: SECTION 11 NATIONALISED INDUSTRY
REFERENCE TO THE MONOPOLIES AND MERGERS COMMISSION

Leon wrote to me on 17 January about MMC references for 1986. I am pleased to see that the programme of references for 1985 seems to be proceeding so well.

As far as 1986 is concerned, I am quite content that the proposed programme should include a reference of the British Waterways Board. As you say, we can agree the exact timing and terms of reference later. However, I think that it would be most unwise to include another water industry topic in 1986. Leon's letter does acknowledge that we need to take account of progress towards privatisation. As you know, the White Paper on water industry privatisation has been published, and from now on we expect financial institutions and potential investors to take a close interest in the performance of the industry. In fact, the Water Authorities are already receiving enquiries. MMC investigations have achieved a good deal by identifying areas for improvement, but it does not really appear appropriate to be positively searching for weaknesses at a time when we are preparing the Authorities for early sale. In addition you will realise that senior management do take MMC investigations very seriously and devote a good deal of personal time to them. The preparation for privatisation will also make major demands on senior management time and will be difficult to fit alongside an MMC investigation, and changes in management on privatisation could reduce the relevance of the findings anyway. I hope that we can agree that a reference to a water industry topic should be omitted from the 1986 programme.

More generally, in view of our successful programme of privatisation, I wonder whether six references a year is still the right number. With the smaller number of industries requiring investigation, there is a risk of too frequent repetition which will reduce the impact of the MCC reports. It is important that investigations should not become routine. Perhaps we should discuss this with colleagues at E(NI).

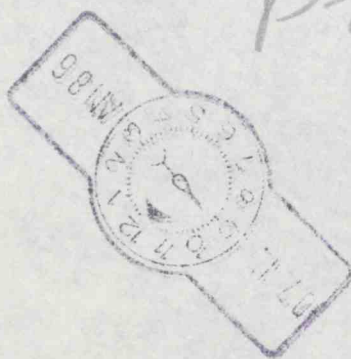
I am copying this letter to recipients of Leon's.

Ken Baker
KENNETH BAKER

The Rt Hon Paul Channon MP

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PT 10





QUEEN ANNE'S GATE LONDON SW1H 9AT

31 January 1986

NSP

Dear Paul,

COMPETITION ACT 1980: SECTION 11 NATIONALISED INDUSTRY REFERENCES TO THE MONOPOLIES AND MERGERS COMMISSION.

Leon Brittan sent me a copy of his letter of 17 January with proposals for this year's programme of references to the Monopolies and Mergers Commission.

I am content with the proposal to include the Horserace Totalisator Board as a reserve candidate for the 1986 programme of reviews and with the text of the proposed announcement. I note that if a more worthy candidate emerges you would propose to defer the review of the Tote, and that in any event it may not be possible in practice to carry out the review of the Tote until 1987.

It would be helpful if our officials could remain in touch about the timing of the announcement and the terms of reference of the inquiry into the Tote.

I am copying this letter to recipients of yours.

*Lower,
Tony In.*

The Rt Hon Paul Channon MP

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SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
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01 211 6402

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

WBN

30 January 1986

Nigel

COMPETITION ACT 1980: SECTION 11 REFERENCES

Leon Brittan's letter of 17 ^{or 14} January proposed announcing a re-referral of the CEEB as part of the 1986 programme of nationalised industry references.

The electricity industry is somewhat resentful that its federal structure has led to frequent MMC attention. Nonetheless, I accept that the importance and profile of the CEEB is such that there is a case for some aspect of its operations being included in the 1986 programme.

We must, however, avoid any implication that a general re-referral of the CEEB is envisaged, which would imply looking again at some of the investment appraisal problems brought to light by the first study but now so exhaustively tackled in the Sizewell Inquiry. This could have obvious repercussions on the timetable of the rest of the Sizewell Inquiry process and subsequent handling of the Inspector's Report. If we were to contemplate general re-referral that could not be before 1987 at the earliest. I therefore prefer to avoid these difficulties by wording the announcement to refer to "an aspect of the CEEB's operations" rather than a "re-referral". I would then seek to agree a suitable CEEB topic as quickly as possible.

I am copying this to the Prime Minister, other members of E(NI), the Home Secretary and to Sir Robert Armstrong.

Peter Walker

PETER WALKER

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