

quantity rates and cash discounts has the object of ensuring that the concessions allowed should fairly represent the advantage gained from prompt payment and quantity sales, and that quantity discounts should not be used as a device to attract custom and encourage over-purchasing.

205. While the A.D.M.T. is confident that its past history and current activities amply justify its continued existence in its present form, it has offered to make certain changes in the Rules and Regulations. The A.D. Co. has also put forward certain suggestions as to the form which any dental trade association should take. Both sets of suggestions are summarised in Appendix 28.

206. The proposals made by the A.D.M.T. do not all tend towards the liberalisation of the Association's rules—they include, for example, the suggestion that in future members should be prohibited from selling to non-members who are known price-cutters, even at retail prices, except on a direct undertaking by the purchaser not to sell above or below the maintained price—but they include the offer to give up certain penalties and to institute some kind of appeal procedure for applicants for membership based on the publication of certain of the requirements for membership which are now purely matters for the discretion of the Council.

207. The A.D. Co. suggests that the rules and regulations of a dental trade association might well be strictly limited to what is necessary to maintain manufacturers' end prices; that the association should not have any rules which appear to interfere in any way in the fixing of end prices and trade discounts, that membership should be open automatically to all *bona fide* dealers; that the only penalties should be expulsion or suspension from the association and small fines; that the rules should not hinder or appear to hinder the acquisition as between dentists of secondhand equipment; and that, if a system of supplies in quantity for hospitals is capable of development without a substantial increase in administrative costs, no rule should be permitted which would prevent hospitals obtaining goods in quantity direct from manufacturers.

208. Some of these suggestions are in line with our own views, but they would leave the essential features of the system unchanged.

CHAPTER 11: CONCLUSIONS ON THE PUBLIC INTEREST IN RELATION TO THE CONDITIONS AND PRACTICES FOUND TO PREVAIL IN THE INDUSTRY

209. We now come to item 3 of our terms of reference, namely, our duty to report "whether the conditions in question or all or any of the things done as foresaid operate or may be expected to operate against the public interest". Under the terms of the Act we must have regard, amongst other things, to the matters set out in Section 14 of the Act. Before proceeding to this duty, we would emphasise that, whereas the conditions found to prevail are matters of fact, our conclusions on public interest must necessarily be matters of opinion. We are not asked to say whether the conditions have in the past operated against the public interest, but whether they do so now or are likely to do so in the future. We have felt that one of the most important guides in this task must be the use and effect of the industry's practices and policies in the past and we have, therefore, described these at length. We have to bear in mind, as regards the future, that the National Health Service has created a new situation and, as regards the past, that trading conditions have not been normal in the last few years.

210. Under the National Health Service the Government are now, in the last analysis, the purchasers of the large majority of dental goods, and this gives the industry an assured and greatly expanded home market. It is pointed out in Chapter 1, para. 6, that the total cost of dental materials and equipment in 1949 was approximately £5,700,000 or about 10 per cent. of the cost of the dental services. It follows that even a substantial reduction in the price of dental goods would have only a small effect on the total cost of the services.

211. We have been impressed by the high sense of responsibility which prevails throughout the industry for the provision of the best quality of goods and of service to the dentist, and by the general satisfaction with the existing situation expressed to us on behalf of the profession. It is clear that a British industry which can, if necessary, function independently of imports has been built up, and that it has coped remarkably well with the enormous expansion demanded by the National Health Service. Nevertheless, we consider that certain changes are desirable in the public interest.

212. We set out our conclusions under two heads:—

I. The position of the A.D. Group* as a concern supplying more than one-third of the goods.

II. The practices for which the A.D.M.T. is responsible.

I. The A.D. Group

213. We wish to make it clear at the outset that our investigation into the affairs of the A.D. Group has been carried out by us in accordance with our statutory duty to report upon it as satisfying the conditions of the Act (see Chapter 7, para. 141). The fact that an investigation has been carried out does not imply that the A.D. Group is a monopoly in the ordinary sense. Indeed, the Group supplies less than half the home market requirements.

214. The reputation of the Group's products is high and its organisation is clearly one which enables it to study and satisfy the needs of the profession. It has made great contributions to the export trade and substantial additions to this country's manufacturing resources in the dental goods field. These beneficial features are, no doubt, bound up in some measure with the large and complex organisation of the A.D. Co. and its subsidiaries at home and abroad. We have formed the opinion that the Group has used with moderation the great power which it has derived from its substantial hold on the market and the support afforded to it by the restrictive practices of the A.D.M.T. In the following paragraphs we examine certain aspects of the Group's policy in detail and draw attention to certain features which are not so clearly in the public interest.

215. We have noted some of the A.D. Co.'s restrictive agreements. Those restricting the use of raw materials in favour of the Company are no longer in force and we need only say of them that had they still been operative, whether in writing or otherwise, we should have had to examine their effects on the public interest. The agreements with the D.M. Co. and the S.S. White Company of Great Britain relating to the sale of burs have recently been entered into and are still operative. They include clauses which limit the extent to which these two concerns, who are among the largest dealers in the country, may stock burs not made by the A.D. Group, which, as we have pointed out elsewhere, is the only manufacturer of burs in this country (see

* See Chapter 7, para. 140.

Chapter 7, para. 149 and Appendix 26). The Group has urged, in justification of these agreements, that they have guaranteed long runs of manufacture, but the quantities of less than one million which appear to be envisaged in each of the agreements represent only a very small part of the Group's total annual output of burs and, in any case, the quantity rebates provided for in the agreements should go some way towards the encouragement of large purchases. The agreements do, however, tend to reinforce the Group's monopoly of burs in this country by hampering the sale of other burs by the depots of the D.M. Co. and S.S. White.* The Group has stated the general policy to which its retail subsidiaries conform in the matter of stocking competing products in the following terms:—

“A.D. Company is only one of the many manufacturers of dental products and one of the many agents for products of foreign and home manufacturers. These are all competitive products and the retailer must stock all of them in such quantities as his judgment or estimate of consumer preference dictates.”

This general policy appears to conflict with the policy reflected in the agreements with the D.M. Co. and S.S. White and, if the latter policy were also to be applied to the sale of competing burs in the Group's own retail subsidiaries, there would be restrictions on the sales of competing burs through the retail outlets for about half of the total retail trade in dental goods; and this, we believe, might well be contrary to the public interest.

216. We now turn to the A.D. Co.'s agreement with the Dentists' Supply Company of New York and to the general policy for the production and distribution of teeth which is connected with it. There are three aspects of these arrangements, relating to the supply of teeth in the United Kingdom, to which we must draw attention in considering the effect of the Group's policies on the public interest:—

(i) The concentration of all manufacture of teeth for wholesale distribution by the Group (other than poured porcelain teeth) in the hands of the Dentists' Supply Company and its subsidiaries, with the consequence that the A.D. Group is debarred from manufacturing in its own factories not only other kinds of porcelain teeth but also acrylic teeth. The Group's explanation of the origin of this arrangement is given at the end of para. 156. The Dentists' Supply Company has not yet evolved an acrylic tooth for supply to the United Kingdom market and, had this country been dependent on the A.D. Group for the supply of acrylic teeth over the last few years, an enormous demand from the profession would have remained completely unsatisfied. So long, however, as there is an adequate supply of good quality acrylic teeth from other manufacturers in this country, we do not think that much harm can result from the A.D. Group's dependence on the Dentists' Supply Company in this matter. The main requirement is, in our view, that the Ministry of Health, as the Government Department concerned with the supply of dental goods in this country, should be aware of this self-imposed restriction on the manufacture of porcelain and acrylic teeth by the A.D. Co.

(ii) The Group's past action in regard to the supply to the United Kingdom market of teeth manufactured on the Continent (see para. 157). The Group is in a position to exercise some influence on the import of teeth into this country from the Continent, but we do not wish to comment further on this, as this aspect of the Group's arrangements forms part of its general international trading policy, which is not covered by the terms of our reference.

* We understand that burs comparable in price are already being imported from Sweden.

(iii) The price level which has been maintained in this country for porcelain teeth marketed by the Group on behalf of the Dentists' Supply Company and its subsidiaries. The A.D. Group is the sole agent for these teeth in this country and is, therefore, responsible for fixing the wholesale and retail prices. Further, the A.D. Co. has a one-third interest in the Dentists' Supply Company itself. It will be recalled that the output of Dentsply Ltd., the Dentists' Supply Company's subsidiary at Brighton, together with the far smaller output of poured porcelain teeth* from the Group's own factory, accounts for three-quarters of the total United Kingdom production of porcelain teeth. In our view the prices maintained in this country for Dentsply and Dentists' Supply Company teeth are too high, and we believe that a substantial reduction in the retail prices of these teeth is desirable in the public interest.

217. The representatives of the Group have argued that the trading profits of the Group must be looked at as a whole, and they have called our attention to the reasonable general level of profits achieved in 1948. For the reasons given in Chapter 7, para. 148, we think it probable that the level was higher in 1949. In any case, however, we do not consider that the high net profits made by the Group on its sales of the sole-agency teeth at the wholesale and retail stages in 1948 can be justified by reference to the overall position, particularly when regard is had to the additional profits accruing to the A.D. Co. through its interest in the manufacturing concern, and to the influence which the prices fixed by the Group must have on the general price level for porcelain teeth and indirectly for acrylic teeth. The A.D. Group allocates its distributing expenses amongst the various products which it sells. On the basis of this allocation its wholesale and retail net profits on teeth bought from Dentsply Ltd., Brighton, and from the Dentists' Supply Company, New York, for sale in the home market were as follows in 1948:—

	<i>Per cent. on sales</i>	
	<i>Wholesale</i>	<i>Retail</i>
A.D. Group's net profit on teeth bought from Dentsply Ltd., Brighton	18·6	12·9
A.D. Group's net profit on teeth bought from Dentists' Supply Company, New York ...	20·2	14·7

218. Turning to the manufacturing stage, we recall that the net profits taken by Dentsply Ltd., Brighton, on their sales to the Group were 29·1 per cent. on sales in 1948, representing 54·5 per cent. on capital employed, and, in 1949, 32·4 per cent. on sales, representing 86·3 per cent. on capital employed. These profits, we consider, are unnecessarily high. We note that A.D. Co.'s agreement with the manufacturers lays down the rate of profit to be aimed at for the manufacturers on the sale of teeth, but it also provides that, in fixing the manufacturers' prices, account is to be taken of the economic and political conditions of the countries covered by the agreement. We conclude that the reduction in Dentsply Ltd.'s factory prices, which we believe to be necessary, can be effected within the terms of the agreement.

219. Under Section 7 (2) of the Act we have considered what action should be taken in respect of the A.D. Group. We recommend that the Group itself should reduce the prices of the sole-agency porcelain teeth and should reconsider its arrangements for the distribution of burs in the light of this report.

* See para. 159.

II. The practices of the A.D.M.T.

220. We have stated in earlier chapters that the A.D.M.T. is an association of manufacturers and dealers controlling nine-tenths of the retail supply of dental goods in this market, and that we consider that it restricts competition within the meaning of Section 3 of the Act. The chief practices which we have found to restrict competition and to be operated by the A.D.M.T. are the following:—

(i) agreement by dealer members to maintain manufacturers' end prices (Regulation 8);

(ii) agreement by manufacturer members to fix the resale prices of *all* dental goods (Regulation 2);

(iii) agreement by manufacturer members to sell dental goods only through dealer members (Regulation 66);

(iv) agreement by dealer members to buy essential dental goods (in fact practically all) from member manufacturers only (Regulation 68);

(v) agreement by both on penalties for breaking the agreement, the most important of which is the power to expel a member from the Association and to impose a collective boycott (Rule 11 and Regulation 67);

(vi) discouragement of all competition between dealers except in the quality of service;

(vii) limitation of membership in such a way as to make entry both into manufacturing and dealing difficult, and also so as to impose on the trade (both manufacturers and distributors) a particular specialised character;

(viii) the taking of power to impose penalties on members using "unfair means in competition or trading" (Rule 11 (2)), the decision as to what is unfair falling to be made in each case as it arises.

221. All these practices obtain their force and effectiveness through exclusive dealing and the collective boycott. By the first of these two general terms we mean the provisions contained in Regulations 66 (no member to supply dental goods to non-members except at retail prices) and 68 (no member to buy essential dental goods from non-members except under special permit from the Secretary), which are in effect a permanent boycott of non-members; and by the second, the potential boycott of members contained in Regulation 67 (no business to be done with members who have been expelled) and in the powers in Rule 11 to expel a member from the Association either permanently or temporarily (Rule 11 (1) (i) and (ii)), to place a member or non-member on the stop list (Rule 11 (1) (iii) and (5)-(12)) and to reduce a member's trade discount (Rule 11 (1) (v)).

222. The broad effect of these provisions is:—

(a) that dealers covering nine-tenths of the trade may not buy from any manufacturer who does not wish or is not allowed to join the A.D.M.T.;

(b) that manufacturers covering nearly nine-tenths of the whole trade may not sell to any dealer who does not wish or is not allowed to join the A.D.M.T.;

(c) that, if they break any of the A.D.M.T.'s rules, manufacturer or dealer members can be boycotted by an overwhelming majority of the trade;

(d) that a manufacturer or dealer cannot leave the A.D.M.T. through disagreement with its rules or method of government without losing most of his business and so risking his livelihood.

223. The Rules and Regulations cited in para. 221 may, in our opinion, be expected to operate against the public interest for the following main reasons:—

(i) To keep individuals out of the trade or to restrict them to a very small section of the trade because they do not wish or are not permitted to join the Association, and virtually to threaten to exclude members from nine-tenths of the trade if they leave the Association seem to us to be practices and powers involving an extreme interference with the freedom of the subject to carry on any lawful business

(ii) To deprive a member of most of his business (or to threaten to do so) if he breaks a trade association rule or agreement seems to us to be an extra-legal penalty which would be out of proportion to the seriousness of the breach, even where the rule or agreement itself might be in the public interest; *a fortiori* it is contrary to the public interest where the rule or agreement broken is itself not in the public interest.

(iii) The risk to the public interest arising from the other rules and agreements is considerable when exclusive dealing and the collective boycott are employed to enforce them. When an association covering so large a proportion of the industry arms itself with these far-reaching powers, it becomes self-perpetuating because of the risk involved in leaving it, and there is no adequate safeguard to prevent it from restricting competition to an extreme degree, maintaining prices and margins at unnecessarily high levels, hampering the development of any progressive makers or traders outside the association and restraining and restricting innovations in methods of distribution by its members.

224. These undesirable results are possible. How far they have occurred or have been avoided we have endeavoured to establish. If we emphasise here that we have not found any very great abuse of the powers of the A.D.M.T., we must also emphasise that, in our opinion, this is a tribute to the moderation of the men who control it, rather than to the nature of its Rules and Regulations.

225. It has been seen in Chapter 5 that the A.D.M.T. claims the right by means of the grant or refusal of membership to screen entry into the industry. To achieve this the only powers needed (granted the fact that the Association's membership covers the bulk of this trade) are the power to grant or refuse membership, which rests in the Council, and the rule that business may not be conducted with non-members (except for sales at retail prices). We have no doubt that the A.D.M.T.'s hold on the industry is strong enough to make it very difficult indeed for those refused membership to obtain a foothold in the industry. We have particularly noted (see Chapter 6) that even so large a concern as I.C.I. found it necessary to enter the A.D.M.T. and to submit to its rulings in order to obtain distribution of its goods through the dental trade, and we have described there how the power of the Association was used to confine so far as possible the production and distribution of certain dental goods to its members.

226. We note that of the applicants for membership since 1935 (excluding as regards dealer applicants the war years when special considerations applied) nearly half of the manufacturer applicants and nearly two-thirds of the dealer applicants were refused (Chapter 5, paras. 88 and 91). The qualifications for membership, laid down in Rule 4, are not exhaustive since the Council has a final discretion, and in Chapter 5 we have examined the

A.D.M.T.'s policy and practice on this matter in relation both to individual cases and to the reasons for the rejection of applicants given to us by the A.D.M.T. in evidence. It is not easy to set out the policy clearly as there are inconsistencies in its application. Examples of the working of this part of the A.D.M.T.'s policy are given in the chapter referred to above. We note here only the following:—

As regards manufacturers that—

(a) until 1947 Ordinary manufacturer membership was reserved to manufacturers solely engaged in the production of dental goods, other manufacturers being obliged to accept Affiliated membership with no voting rights, or to appoint sole agents, unless (as in the case of I.C.I.) a special exception was made for them ;

(b) even now concerns engaged "in a trade allied to the dental trade" are eligible only for Affiliated membership which carries certain disabilities, in particular that the concerns may not deal direct with the profession ;

(c) the A.D.M.T. claims, and has exercised, the right to reject would-be manufacturer entrants on the ground of the alleged sufficiency of supplies ;

(d) the A.D.M.T. claims the right to examine the products of would-be manufacturer entrants and to reject applicants on the grounds of the quality of their products (in fact, in the one case of rejection on the grounds of quality which has come to our notice, the quality check was not a scientific one and the manufacturer was not prevented from distributing the article in question through an existing member of the A.D.M.T. acting as a sole agent) ;

(e) no new manufacturer of acrylic teeth has been admitted to membership of the A.D.M.T., though some new manufacturers have been permitted to distribute through sole agents who are members.

As regards dealers that—

(f) only one concern wholly new to the trade has been admitted as a dealer member since 1935 ;

(g) membership has been refused to surgical instrument dealers and chemists on the grounds that they belong to another trade (notwithstanding that one at least of these of standing and repute at one time dealt in certain kinds of dental goods) ;

(h) the A.D.M.T. has claimed throughout the right to refuse applications from members of the dental profession, under which they include laboratories ;

(i) the A.D.M.T. states that control of dealer membership could be used to prevent what it would consider to be an uneconomic increase in the number of dealers, although the control has not so far been used for this purpose.

227. The A.D.M.T. maintains that, while mistakes have been made in the handling of individual cases, its policy on admitting and rejecting applicants on the various grounds set out in Chapter 5 has been carried out in the interests of the applicants and has not been contrary to the public interest. We do not share this view. In our opinion the A.D.M.T.'s policy and practice in this respect cannot be expected to achieve (in the words of Section 14 of the Act) "the organisation of industry and trade in such

a way that their efficiency is progressively increased and new enterprise is encouraged". The limitation of dealer membership to those dealing in dental goods alone discourages experiments in other methods of distribution. The discouragement offered to new manufacturers is liable to impede the introduction and promotion of new materials and equipment, an effect which is particularly undesirable in an industry serving the needs of public health.

228. We are not competent to judge whether the A.D.M.T.'s conception of the type of specialisation required for the manufacture of dental goods is likely to be the most efficient. Nor do we feel that it is necessary, or indeed possible, for us to pronounce on the question whether the type and standard of service given to the dentist is the best in the public interest, having regard both to the need for an economical use of the national resources and to the dentists' requirements. But we do not think that it is in the public interest that the pattern of the industry should be imposed, or that entry into this expanding industry, in a market assured and protected through the National Health Service, should be limited or controlled by members of a trade association.

229. The collective enforcement of resale price maintenance is achieved by the agreement of dealers to maintain end prices (para. 220 (i)), the agreement of manufacturers to sell only through dealer members (para. 220 (iii)), and by powers of boycott (para. 220 (v)). Our main objection to the collective enforcement of resale price maintenance lies in the fact that, in the view of the A.D.M.T., it can only be made effective if there is exclusive dealing and the power of boycott, to which we have already set out our objections. There are also other objections to the system operated by the A.D.M.T. In its simplest form resale price maintenance implies no more than the protection of the end prices of manufacturers' brands, and it is as such that it has primarily been justified to us by the A.D.M.T. But in this trade it has been developed into a complete system for the restriction of competition between dealer members of the A.D.M.T. and for the protection of their gross margins and net profits. It has also afforded a general protection for the level of manufacturers' prices. We illustrate these points under headings (a) to (e) below:—

(a) By a gradual process a point has now been reached at which any form of competition between dealers which could, by any stretch of the imagination, be regarded as a form of price cutting or as "excessive services", whether or not price cutting is its main effect, is prohibited. Dealers are controlled by rules laid down by the A.D.M.T. in the terms they may give for hire purchase and for the grant of credit to their customers, in the prices they may offer for secondhand goods and the prices at which they may resell them, in the giving of samples and in sales on approval, in charges for the loan and installation of equipment, and even in such small matters as the supply of prepaid business reply cards to customers. The result is that little initiative is left to the individual dealer. The A.D.M.T. decides what is and what is not "excessive" service, and (except in so far as those dealers who are also manufacturers can be regarded as taking part in the price competition which exists between manufacturers) dealers are restricted to competition in the quality of the permitted types of service.

(b) Though there is no agreement to maintain margins at any particular level, the A.D.M.T. does not dispute that it is its object to maintain existing margins and it informs us that dealers' gross margins remained at about the same level as a percentage of selling prices throughout the years 1923

to 1938. We are convinced from our examination of the history of the A.D.M.T. that the Council has brought influence to bear on new manufacturer members to keep dealers' margins at the levels "generally adopted in the trade". Gross percentage margins, however, have been substantially reduced since the war and in 1948 they were considerably below those in 1938. As is shown in Appendix 8, the average net profit earned by dealers in 1948 was 8.2 per cent. on sales. It appears from the small sample of dealers' results which we have been able to obtain for 1949 that, owing to the very big increase in turnover in that year, the net profits of dealers increased substantially in relation to sales, although the gross margins were somewhat reduced (see Appendix 9). We are informed that the 1948 figures and, *a fortiori*, the 1949 figures of net profits were higher than those obtained in previous years because of the introduction of the National Health Service in July, 1948. We think that given a continuance of favourable trading conditions further reductions in gross margins ought to be made.

(c) It seems clear that in this industry the system of collectively enforced resale price maintenance has had the effect of buttressing the general level of prices; manufacturers themselves claim that part of the value of resale price maintenance to them lies in the fact that, if dealers compete in price, the result very soon is a request for increased discounts (i.e., for a reduction in the manufacturer's price). Moreover, manufacturer members have a protected outlet through member dealers for their products. We refer in Chapter 8 to manufacturers' costs and profits. Manufacturers' profits on porcelain and acrylic teeth, and on acrylic denture-base materials and dentine, are in our view too high. Taken together, these products represent about one-third of the value of the total supply of dental goods. No doubt the profits made on these products are accounted for in part by the rapid increase in sales due to the National Health Service, and, in the case of acrylic products, by the fact that normality in trading conditions in these relatively new materials has not yet been reached. Where, however, there exist special circumstances which support the price level, it is all the more necessary in the public interest that added protection should not be given to this level by restrictive practices.

(d) The discounts to consumers which have been laid down by agreement through the A.D.M.T. were, in fact, gradually reduced over the years 1924 to 1939. Examples are the reduction in the maximum cash discounts which might be given to any customer, the reduction in the discounts which might be given to hospitals, and the denial of any special discount to non-voluntary hospitals from 1927 to 1947 (see Chapter 4, para. 66). The discounts for hospitals were raised again and were given to all hospitals in 1947.

(e) The A.D.M.T. has taken energetic action to discourage dentists' co-operatives, of which there are successful examples on the Continent (see Chapter 5, paras. 79 to 81) and its representatives have maintained strongly to us in oral evidence that it is contrary to the interests of the members to allow such co-operatives to develop. The general power to impose penalties on members for using unfair means in competition or trading (para. 220 (viii)) was used to support the action taken on this point.

230. We do not on balance see any objection in this particular trade to the individual manufacturer maintaining the end prices of his goods when he so chooses. But we do not think it is in the public interest that he should be forced to fix end prices in every case (see Chapter 4, para. 62) or be limited by agreement with other manufacturers and dealers in the maximum

discounts which ne may allow to hospitals and other large buyers. It is contrary to the rules of the A.D.M.T. for hospitals to be supplied with goods at wholesale prices, however large their purchases and whether or not they are prepared to buy direct from manufacturers. Some years ago, I.C.I. made strong representations to be allowed to supply hospitals at larger discounts than were permitted by the A.D.M.T. and were refused; further the A.D. Co. has suggested to us that the A.D.M.T.'s rules could possibly be altered to permit of hospitals buying on trade terms (Appendix 28). A similar point arises in relation to dentists' co-operatives, which we mention in para. 229 above. We think that the A.D.M.T. should eliminate from its Rules, Regulations and policy any provisions which either prevent manufacturers from selling to users who are prepared to take delivery in relatively large quantities (such as hospitals or dentists' co-operatives) at the prices applicable to the dealers for such quantities, or prevent distributors, if they so wish, from making general price reductions to users by means of a dividend or other method which does not single out the goods of particular manufacturers.

231. The A.D.M.T., and so far as we know all its members, regard exclusive dealing and the collective boycott as essential to the maintenance of individual manufacturers' resale prices. It may be that some manufacturers would have difficulty in ensuring that the resale prices of their goods were maintained if it were not for these provisions, but we are not convinced that this would be so and, in any event, we do not think that this possibility can justify the continuance of the present system. The A.D.M.T.'s representatives are greatly influenced by the fear that, without collective enforcement, resale price maintenance would become ineffective over a large area and that there would be a rapid return to the conditions which ruled when the A.D.M.T. was formed in the early 1920's. We are not disposed to follow the representatives of the A.D.M.T. all the way in their interpretation of the past (see Chapter 3, para. 47) but, in any case, the conditions of to-day are entirely different. In particular, the National Health Service has greatly expanded the home market for dental goods and protects it in a special way against the ups and downs of trade. Whatever, therefore, may have been the situation when the A.D.M.T. was formed, we are convinced that the powerful sanctions built up by it during the 27 years of its life are not necessary to the health of the industry of to-day.

232. We have set out our views as to the extent to which the practices of the A.D.M.T. may be expected to operate against the public interest. We are not required by the Act to suggest remedies in our report but we are empowered to do so, if we think fit, after having considered (as we are enjoined to do) what these might be. The Act indicates that remedial action may come from the Government or the parties themselves and be taken under the special procedure laid down in the Act, or otherwise.

233. We recommend that the A.D.M.T. should review its Rules, Regulations and policy and revise them in the light of this report; and that its members should revise those prices and terms of sale which we have criticised. As regards action having statutory force, it seems to us better to remove a few vital features of the present system rather than to attempt to elaborate a code of prohibitions aimed directly at each and every practice which is not wholly desirable. Almost every practice which in our view operates or may be expected to operate against the public interest rests fundamentally for its enforcement on exclusive dealing and collective boycott. We recommend that these practices of exclusive dealing and collective boycott should be

prohibited. We recognise, however, that it must be for Parliament to consider, in the light of the findings made, for example, by the Lloyd Jacob Committee (which clearly indicate that similar practices are operative over a wide range of industry), whether legislation confined to this particular industry should or should not be enacted.

R. H. A. CARTER (*Chairman*)

C. N. GALLIE

FREDERICK GRANT (*Subject to the reservation below*)

JOAN ROBINSON

H. L. SAUNDERS

GORDON STOTT

JOSIAH WEDGWOOD (*Subject to the reservation below*)

R. E. YEABSLEY*

A. KILROY,

(*Secretary*)

3rd November, 1950

234. We sign this report subject to the following reservation as regards para. 233. We feel that it is our duty to express in explicit terms the views which we have formed concerning action having statutory force. The practices of exclusive dealing and collective boycott, which the Commission have found to exist in this industry, are not peculiar to this industry or exceptional in their character. It is common knowledge that similar practices are carried on, in one form or another, in other industries. The fact that this industry is the subject of our first report has no significance, and it is not a large industry. Further the Commission find that there has not been any very grave abuse of the A.D.M.T.'s powers. In these circumstances, although the Act makes provision for *ad hoc* legislation† against a single industry, we are of opinion that it would be wrong to enact *ad hoc* legislation against this industry; but we would not recommend its exemption from any general legislation which may be passed to deal with such practices as exclusive dealing and collective boycott.

FREDERICK GRANT

JOSIAH WEDGWOOD

* Sir Richard Yeabsley left this country before the Report was completed. Some evidence was received after his departure and was communicated to him together with alterations to the provisional draft report proposed since he left. He has authorised the affixing of his signature to the Report in its final form.

† By Statutory Instrument approved by Resolution of each House of Parliament (see Section 10 of the Act).