

Conclusions on the Public Interest and Recommendations

241. The total amount paid by the public for colour film and processing within our terms of reference was probably nearly £12 million in 1962, rising to more than £15 million in 1964. About one-third of this outlay represented distributors' margins; the return to the manufacturers, importers and processors was nearly £8 million in 1962 and more than £10 million in 1964, of which rather more than half (£4.2 million in 1962 and £5.6 million in 1964) was attributable to the sale of the film and the rest to the service of processing. Kodak was responsible for some three-quarters of the sales of film and some two-thirds of the processing, that is for about seventy per cent. of the total trade covered by our reference. In 1962 the competitor with the next largest share of the trade was Ilford with about ten per cent., but by 1964 this share had fallen to some four and one half per cent. and Agfa had taken second place, its share having risen from about seven and one half per cent. in 1962 to about eleven per cent. in 1964¹.

242. Amateur colour film is normally made by specialists in photographic products, which include all kinds of sensitised photographic materials (i.e. films, plates, printing paper, etc., in both black and white and colour, for the amateur, for the professional photographer and for medical, industrial and commercial use, including film for the cinematograph industry) and, in many but not all cases, cameras and other photographic apparatus (which are also produced by manufacturers who do not make sensitised materials). The number of photographic manufacturers whose products include sensitised materials is very small. Apart from the Eastern bloc and Japan, the world market for colour film is now largely supplied by five groups. Three of these are American controlled, namely the Eastman Kodak group, the 3M group (Ferrania and Dynacolor) and the General Aniline group (Anso)²; The other two are the Agfa/Gevaert group and Ilford with its connections with ICI and CIBA. These groups sell their films and other products on a world-wide basis but their colour film production plants are very few in number. Only two of them, Kodak and Ilford, make colour film in this country, but the products of Agfa/Gevaert and, to a lesser extent, of 3M, are imported to compete with the home produced products; competition from Anso has so far been only on a very small scale. The imported films have to bear import duty.

243. Although there were some colour films on the market in the later 1930's, the commercial exploitation of colour film for the amateur is largely a post-war development. It was made possible by many years of costly

¹ In addition Gevaert and Perutz films had between them about four per cent. of the total market in 1964. The companies which supply Agfa, Gevaert and Perutz films in this country are not 'inter-connected bodies corporate' for statutory purposes, but see paragraph 103 for the relationship between the respective manufacturing companies abroad.

² Polaroid is a more recent competitor and we have little information as to its progress. Du Pont, as far as we are aware, has not yet entered this field on a commercial scale. Both of these are American-controlled. (See paragraphs 116 and 117).

research and experimentation ; and it was natural that this somewhat speculative investment should have been undertaken for the most part by manufacturers who were already established in the field of black and white photography. Agfa and Eastman Kodak were among the first to develop marketable products but other photographic manufacturers entered the colour field commercially after the war. It has become increasingly apparent, however, that any manufacturer who is to exploit the colour film market successfully must not only possess the necessary skills but be prepared to invest very large sums in continued research towards the long-term improvement of his products, in plant for quantity production (on a scale sufficient to enable him to reduce his costs to a level at which he can attract a mass market) and in sales promotion to develop that market.

244. It is against this background that we are called upon to determine, in the first place, whether Kodak's dominant position as a supplier of colour film in this country, or anything done by Kodak as a result of or to preserve that position, is or may be expected to be against the public interest. Apart from the central question as to Kodak's 'monopoly' position itself, the main issues which appear to us to arise in this connection relate to (1) Kodak's pricing policy (having regard both to the level of its own profits and to the margins it allows to distributors), (2) its policy of confining distribution to certain appointed outlets, and (3) its practice of selling its principal colour product, Kodachrome, only at prices which include a charge for processing. This last practice, however, must be considered in connection not only with Kodak's position as a monopoly supplier but also with those other findings as to the 'conditions' in relation to processing that are based upon the practice of selling at process-paid prices and that involve practically all suppliers of colour film (see paragraph 240). Kodak's and Agfa's 'monopoly' positions as processors of non-substantive and substantive reversal film respectively have also to be considered, though in practice these do not appear to us to raise any separate public interest issues.

245. But for the Resale Prices Act 1964, resale price maintenance would also be a public interest issue in this inquiry since this practice is the basis of one of our findings that the conditions of the Act prevail (see paragraphs 234 and 235). Having regard, however, to the provisions of the 1964 Act (see paragraph 230) we do not think it would be proper for us to express any views whether the practice of resale price maintenance as applied to the sale of colour film operates against the public interest.

Issues arising from Kodak's supply monopoly

246. Having regard to what we have said in paragraphs 242 and 243 we think it was almost inevitable that the colour film market in this country should have fallen into the hands of a very small number of suppliers and that Kodak should be one of them. When colour film was introduced in the 1930's, Kodak had already been making photographic materials in this country for more than forty years and was the leading supplier in the black and white field. It had and has the technical and financial backing of Eastman Kodak which dominates the American and many other markets ; it belongs, therefore, to the largest and most powerful (in relation to photographic interests) of the groups referred to in paragraph 242. Its reputation, both with the distributive trade and with the buying public in this country, was and is a valuable asset in promoting the sale of a new product.

247. This established position in the photographic trade would not have been sufficient by itself, however, to guarantee Kodak's success in the new field of colour film. The Kodak organisation must have achieved and maintained reasonably high standards of technical and commercial enterprise and proficiency. Its inventions were among the first to result in a marketable colour film and continued research has led to constant improvement both in the quality of its products and in factory efficiency. It has shown itself able to attract and meet the growing demand for these products. Its command of these skills is not due solely to its size and power.

248. The patenting of inventions may have played a part in enabling Kodak to exploit advantages it obtained by being the first or among the first in the field but we do not think that the company has abused its power in this respect. It acknowledges that patents afford the patent-owner 'time to recoup expenditure on research and development and time to discover and develop the next step', but says that this, while preventing competitors from immediately copying its inventions, cannot prevent and has not prevented them from producing comparable products by different methods. This view appears to us to be substantially corroborated by what Ilford told us about its own position after the war. Although Kodak owned important patents in the non-substantive field while Agfa patents in the substantive field had been thrown open, Ilford decided to concentrate on developing a non-substantive reversal film because the problems of chemical expertise and, for a time, procurement of materials seemed more formidable in the one field than those arising from Kodak's patents in the other (see paragraph 73). In general, therefore, we accept Kodak's view that its leading position in colour film cannot be attributed wholly or mainly to protection afforded by past or present patents. The question of patent protection has some relevance, however, to the practice of selling films process-paid and thereby reserving their processing to the supplier, and we return to this aspect of the matter in paragraph 282.

249. There are two other factors which may have contributed to the establishment of Kodak's dominance in colour film. The first of these is the effect of the war upon the various producers and potential producers. We think that while some of these had to suspend their activities in amateur colour photography during much of the war, Kodak's parent company probably emerged with more accumulated experience of colour film and in better condition to exploit it than any competitors.

250. The second of these factors is the existence of a tariff on imported colour films. Roughly speaking the effect of the normal tariff rate on still film has been that a proportion in the neighbourhood of three to four per cent. of the retail price where the film is sold process-paid—or seven to eight per cent. for other film—has represented import duty (though at the present time the duty content is larger owing to the temporary surcharge)¹.

¹ Subject to some exceptions, the normal import duty on still film is twenty per cent. charged on the landed value (see paragraph 17). The incidence of this duty in the retail price at which the film is ultimately sold depends, of course, upon a number of variable factors. For four types of process-paid films sold by two importers whom we investigated the duty represented from three and a quarter to four and a half per cent. of the retail price in 1963 (including purchase tax) or from seven and a quarter to seven and a half per cent. of that part of the retail price that was attributable to the sale of the film. The additional surcharge, which has operated since October 1964, was at first at the rate of fifteen per cent. on the landed value but is now at ten per cent.

Kodak has submitted that the tariff does not inhibit competition from foreign manufacturers. Every manufacturer, it says, is competing as an exporter to a number of tariff-protected markets, in some of which competitors are established as manufacturers. The advantages of large-scale production are such that no manufacturer can afford to set up factories in more than one or two of the national markets in which he sells, and the Eastman Kodak group for its part would not contemplate manufacturing in one of its existing export markets unless it were satisfied that this would be more economical for the group as a whole than exporting over the tariff barrier. It assumes that similar calculations on the part of a manufacturer such as Agfa have deterred it so far from manufacturing in the United Kingdom. Agfacolor and a number of other imported colour films are generally sold here, however, at prices which are below Kodak's; and though this may well mean that the overseas manufacturer is taking a lower rate of profit than Kodak from his sales in this country he is not inhibited, Kodak says, from competing for a larger share of the market with a view, if sufficiently successful, to setting up a factory here. According to Kodak, therefore, the main reason why no overseas competitor has obtained such a share of the market as to make it economic for him to manufacture here is that Kodak offers the public better products and services than any other supplier.

251. We think that this is an over-simplified view of the situation. Questions of technical excellence apart, in the absence of a tariff foreign competitors would surely have more freedom of manoeuvre; some might be content to take more profit from their existing share of the market but others might be expected to provide Kodak with more formidable competition either by spending more on sales promotion or by reducing their prices.

252. To sum up thus far, we think that the bulk of the colour film trade in this country was likely, for economic reasons, to fall into the hands of not more than two or three suppliers in any event; that the emergence of Kodak as the leading supplier is due primarily to the strength of its already established position in the photographic industry which was reinforced in the years during and after the war, to the support of its American parent and to the technical and commercial skills with which it has exploited these advantages; but that it has attained a higher degree of dominance in the colour film market than might have been the case if stronger British-based competition had been forthcoming¹ and if other suppliers whose products are subject to import duty had been able to compete on equal terms.

253. None of these preliminary conclusions as to the reasons for the existence of Kodak's present monopoly position involves any criticism of the company's policies or actions in achieving this position. When it comes to forming a judgment upon the way in which Kodak uses the dominant position it has established, one of the most important of the considerations to be taken into account is its policy and practice in relation to prices and profits. In chapter 7 we have described Kodak's pricing policy and given the results of our investigation of the costs and profits of its colour film business in the years 1958 to 1964 together with some profit figures for its whole business. For convenience we repeat here two tables (see paragraphs 174 and 171) in which we compared (1) the rates of profit on capital employed

¹ Both Ilford and Kodak have said that the former's share of home sales of black and white films is probably about forty per cent.

earned by Kodak on its whole business (calculated on the historic cost basis by two methods, Kodak's and our own) with our indices of profit for manufacturing industry as a whole, and (2) the rates of profit on capital employed earned by Kodak on its colour film business with those earned upon the remainder of its business and upon its whole business (these calculations being our own):

Profits on capital employed (historic cost basis)

1. *Kodak (all business) and manufacturing industry*

	1958	1959	1960	1961	1962	1963	1964
	%	%	%	%	%	%	%
Kodak:							
Kodak's calculation ...	13.3	19.4	19.9	22.3	16.9	20.3	21.0
Commission's calculation ...	15.5	20.4	21.5	24.1	18.7	21.1	22.8
Manufacturing industry:							
Commission's calculation ...	14.9	15.9	16.6	14.0	12.5	13.4	N/A

2. *Kodak: colour film business and other business
(Commission's calculations)*

	1958	1959	1960	1961	1962	1963	1964
	%	%	%	%	%	%	%
Colour film business ...	27.5	37.3	39.4	50.2	44.1	51.7	55.6
Other business...	14.2	18.2	18.8	20.3	14.6	16.2	17.6
All business ...	<u>15.5</u>	<u>20.4</u>	<u>21.5</u>	<u>24.1</u>	<u>18.7</u>	<u>21.1</u>	<u>22.8</u>

Notes: 1. The differences between the two sets of figures for Kodak (all business) are explained in paragraph 170. Both calculations are after adjustment to take account of the American parent company's research and both, so far as the processing element in the sale of process-paid films is concerned, reflect results based on sales made in the years concerned.

2. The method of calculation of the figures for Kodak's colour film business is explained in paragraph 164; those for its other business are arrived at by deduction from the figures for all business (our calculation)—see paragraph 171. The figures for colour film business are on a slightly different basis from those for all business inasmuch as the former, so far as the processing element in the sale of process-paid films is concerned, reflect results based on processing carried out in the years concerned; but we are satisfied that the effect of this difference upon the figures is negligible.

3. The method of calculation of the figures for manufacturing industry is explained in appendix 7.

254. We do not regard our indices of profits for manufacturing industry as a whole as providing a precise yardstick for judging the profits of individual companies, still less for judging the profits earned by a particular company on a product, or group of products, which represents only one section of its trade. In this latter connection we bear in mind, too, that Kodak itself does not accept the figures given in respect of its colour film business and argues that there can be no accurate computation of the profitability of a section of its business. Kodak has also criticised our use of the historic basis for the calculation of capital; we acknowledge that this basis is open

to criticism for certain purposes but think that it is the only one available which affords a comparison between the results of the company and those of manufacturing industry¹. After giving due weight to these considerations we are satisfied that the following points can fairly be made:

(a) Kodak's profits on capital employed on its business as a whole during the seven years examined were substantial. In the first of these years its profits appear to have been around the average for manufacturing industry but both our own figures and Kodak's show that over the six subsequent years the level for the company was generally about twenty per cent., on the historic cost basis; and our indices for manufacturing industry suggest, as far as they go, that this was a fairly high level of profit in relation to industry generally.

(b) The profitability of Kodak's colour film business (amounting to less than one-tenth, by value, of its total business in 1958 but increasing year by year to about one-sixth in 1964) was much above the average for its whole business and was generally rising over the period examined. This conclusion is inescapable after making full allowance for all Kodak's criticisms of our figures for its colour film business and is indeed acknowledged by Kodak (see chapter 9).

(c) Kodak's colour film business covers the supply of films and their processing, and each of these activities may be further broken down as between Kodak's three types of colour film. Kodak regards our profit figures for these various categories of its colour film business (see paragraphs 165 and 166) as even more imprecise than the figures for that business as a whole but we infer, nevertheless, that (i) both supply and processing are highly profitable activities, and (ii) while the supply and processing of Ektachrome and Kodacolor yield quite high rates of profit on capital employed, Kodachrome not only provides the bulk of the profits on colour film (as might be expected having regard to its preponderance in the sales and particularly in processing) but earns substantially higher rates of profit.

255. It is in this context that we have to consider Kodak's case in defence of its level of profits. The company's arguments may be summarised as follows:

(a) Kodak's colour film is marketed in competition with many other products outside the field of photography which provide hobbies and pastimes for the public; more immediately with black and white film; and most immediately with the colour film of three or four other manufacturers who, whether producing in this country or not, belong to powerful groups trading internationally. In these circumstances Kodak cannot sell at any prices it chooses but only at such prices as will induce the public to buy its products in preference to other colour film or to other ways of spending their leisure.

(b) The extent to which Kodak colour film is in fact bought, although most competing films are obtainable at rather lower prices, is evidence that in the public's view Kodak offers better quality and services. Kodak believes that this view is correct and that its prices are competitive having regard

¹ See paragraph 175 for our reasons for not accepting Kodak's own figures for its whole business calculated upon a replacement basis as comparable with our indices for manufacturing industry on a replacement basis.

to the superior quality it offers; if it were to reduce its prices it would dominate the market to an even greater extent than at present.

(c) The company has kept its prices for colour film stable or in some cases reduced them over a period of seven years in which the index for miscellaneous retail prices has risen by forty per cent. That it has been able to earn high rates of profit over this period is due to continuous improvement in the efficiency of its operations.

(d) No company making a range of products can be expected to earn the same rate of profit on each product. Having regard to the general aims of its pricing policy (see paragraph 159) Kodak would expect to earn high rates of profit on colour film, which is one of its most successful products. This, it says, is entirely justified because its parent invested large sums in the research which has led to the marketing of colour film and is entitled to take its reward when the opportunity offers.

(e) Even if the Commission were right in assuming that they could isolate the profits of Kodak's colour film business, the company should for these reasons be judged not on those profits alone but on the profits earned on its whole business, of which the colour film trade is an integral part.

(f) Kodak, as a growth company, would expect its overall profits to be above the average for manufacturing industry, but they are, it says, moderate by comparison with those earned by many other growth companies, by other producers of hobby goods and by other British companies which are American-owned.

256. As to the contention that Kodak earns its profits on colour film in the face of strenuous competition, we can agree of course that it would be possible for Kodak to price itself out of the market but that is not to say that we believe its prices to be subject to such strong competitive pressures as exist in many other trades. A section of the public is prepared to spend some of the money it devotes to its leisure on colour film which, as a relatively new and sophisticated product, it expects to find fairly expensive. We doubt whether in these circumstances the pressure exerted by the public on the level of prices is as strong or persistent as in the field of necessities. In addition, Kodak has experienced so far only a limited degree of price pressure from competitive makes of colour films; Ilford has been handicapped by its inability to gain public approval for its products and other suppliers by the tariff. Thus Kodak not only is the inevitable price leader in colour film but has very considerable discretion as to the level of prices it sets for itself and for others. We agree that price reductions by Kodak might well enhance its dominant position in the market but do not regard this as a convincing argument in favour of a price structure yielding an unduly high level of profit.

257. We accept that a company's profit rates may be expected to vary from product to product and that we must have regard to Kodak's overall level of profit as well as to that earned in the section of its trade that is covered by our reference. But we cannot accept the view that so long as Kodak's *overall* profit level although high is not unreasonably high, the company should be free to make on its monopoly *colour film* business a very high rate of profit. Such a view might in our opinion have the consequence that a rate of profit, which would be regarded as objectionable if the company concerned had no business other than in reference goods, could

not be condemned if the company happened to have other less profitable business outside the reference which was allowed to counterbalance the profit on reference goods. Our concern here is with colour film and with the effects of Kodak's monopoly position in that section of the photographic trade. The rates of profit that Kodak has been earning on its business as a whole are fairly high but we have not investigated the whole of its business and we do not assume that they are unreasonably high for a successful company. In 1964 the one-sixth of its business with which we are concerned provided one-third of its total net profits. We cannot dissociate this fact from Kodak's monopoly position in the supply of colour film.

258. Colour film appears to have an assured future with prospects of substantial growth. Kodak argues that it could quickly lose ground to its competitors if it failed to keep ahead of them in inventions and in technical and commercial application of inventions. We have already said that Kodak's skills in these respects have contributed to establishing its dominant position, but that is not to say that we accept that Kodak is superior to all its competitors in these respects or that it could not maintain its dominant position unless it were superior. Agfa has told us that 'in order for us to compete with Kodak we need to offer something *better* than Kodak offers; offering even *equal* quality and service we should be at a disadvantage relative to Kodak'. While we make no comment on Agfa's claim that it does in fact offer something better than Kodak offers, we think there is substance in the argument. We think that photographic manufacturing is not a particularly high risk activity¹ and that, so far as colour film is concerned, a monopoly position founded upon Kodak's reputation with the public is not likely to be suddenly eroded. So far as we are aware the Eastman Kodak organisation has suffered no serious setback throughout its history.

259. In our view, Kodak earns from its colour film trade a disproportionately large share of its total profits because its monopoly position in colour film affords it more discretion than it has in its other fields of activity. We have no objection to a successful competitor gaining a fair reward for his success; but when his success leads to a position of market dominance such as Kodak enjoys in colour film it involves him in responsibilities to the public interest. The public interest appears to us to require in the present case that the monopoly supplier should use his position to ensure that the consumer obtains good quality and efficient service at the lowest price consistent with a fair reward to the supplier. Although there is no reason why a part of that reward should not subsequently be devoted to financing the further expansion of the supplier's business, we do not think that his requirements for expansion should determine the size of the reward. We note that according to our figures for Kodak's colour film business in 1964 (paragraph 165) an average reduction of twenty per cent. in the company's selling prices would still have left Kodak with a profit on this business of twenty per cent. on capital employed on the historic cost basis (sales being presumed to remain unchanged quantitatively). We make this point not in order to suggest that twenty per cent. is necessarily the desirable maximum rate of profit but to illustrate the room for manoeuvre which

¹ See Mr. Bruce's and Mr. Smith's note of dissent, paragraph 294.

Kodak enjoys and the quite significant effects that a change of pricing policy might bring about.

260. Such a price reduction would, no doubt, strengthen Kodak's command of the market. The calculation we have made in the preceding paragraph is unrealistic in this sense. Had Kodak in fact been selling at prices twenty per cent. below the actual level in 1964, this would certainly have stimulated demand for its products and led to increased sales; these might eventually be expected in turn to provide scope for further economies of scale and still lower prices. As we have already indicated we do not regard it as a valid objection to such a process that it would tend to enhance Kodak's monopoly position. A monopoly can be advantageous to the public interest if it results in economies of scale which are passed on to the consumer. This may also have the effect of strengthening the monopoly, but the monopoly can be regarded as justified so long as it continues to achieve and pass on further economies.

261. Having regard to all the considerations we have discussed in paragraphs 257 to 260 we conclude that Kodak's pricing policy (so far as that relates to its own selling prices) is a thing done as a result of its monopoly position and that, in the light of the high profits aimed at and obtained by that policy, it operates and may be expected to operate against the public interest¹.

262. Kodak's pricing policy determines not only its own selling prices and profits but also the retail prices at which its colour films are ultimately sold and very largely the retail prices charged for its processing services. The minimum retail prices for films, which include in the case of Kodachrome the charges for processing, are fixed and maintained by Kodak; those for the processing of Ektachrome and Kodacolor, when carried out by Kodak itself or one of its B companies, are recommended and, we understand, generally observed. As already indicated (see paragraph 245) we do not propose to pass any judgment upon the practice of resale price maintenance as operated by Kodak or any other supplier of colour film, but we are concerned with the level of the margins which Kodak allows to retailers and other distributors.

263. Generally, the retailer's discount on sales of Kodak colour film, including the process-paid Kodachrome, is thirty per cent. of the retail price, and on the processing of Ektachrome and Kodacolor thirty-three and one third per cent.; two large multiple retailers, however, are allowed additional discounts². Over the bulk of the trade these discounts are allowed in direct dealing between Kodak and the retailers; only about nine per cent. of the company's sales of colour film are made to wholesalers (whose discount is normally thirty per cent. plus twelve and a half per cent.), while a few processing orders may also reach Kodak by subcontract from other processors (who are usually allowed a handling discount of five per cent.).

264. Basically the discount structure for colour film was determined by the terms allowed on black and white film; colour film was introduced, that

¹ See Mr. Bruce's and Mr. Smith's note of dissent, paragraph 293.

² See paragraph 55. The one type of cine film that carries a discount of only twenty-five per cent. is not sold in large quantities.

is to say, into the existing structure, which had undergone little change over a long period of years. Very roughly it may be said that the price of a colour film is from two to three times the price of a comparable black and white film but that where a charge for processing is included in the colour film price this combined price may be about five times the black and white price. There is, approximately, the same relationship between the cash values of the retail margins on colour and black and white films¹. It is apparent that Kodak, when introducing colour film, did not seriously contemplate introducing a differential discount structure. In effect the company says that the margins it allows have been determined largely by the level of the margins which retail chemists traditionally expect and generally obtain on the goods they sell. Kodak says it has no evidence that the margin allowed on colour film is too high, and that in any event it would not like to take the initiative in reducing the margin since it would thereby forfeit the goodwill of the retail trade which has been built up over many years.

265. As is shown by Kodak's attitude on this question, there is a close connection between the level of the margins the company allows and another of the issues we have to consider, namely that arising from its policy of confining distribution to certain appointed outlets (see paragraph 244). It is implicit in this attitude that Kodak is dependent upon the goodwill of the retail chemists. Its close relations with the chemists are of long standing. The association between retail chemists and the distribution of photographic products began in the early days of amateur photography, when processing was for the most part carried out by chemists on their own premises. As the industry has grown, processing has become a specialised function which the normal retail chemist no longer undertakes; also the retailing of photographic products has been taken up by a number of specialist shops outside the chemists' trade. Although these shops sell film their main interest is in cameras and other apparatus and the chemists' shops have remained the principal outlets for black and white and colour film and the principal retail intermediaries between the public and the processors. The policies pursued by Kodak and other suppliers have played a large part in bringing this situation about. Kodak has never been prepared to allow its products to be sold indiscriminately by such retailers as might wish to stock them but sells only through appointed dealers; and the chemists still form the backbone of its list of appointed dealers. Other suppliers have on the whole pursued similar policies.

266. It appears to us that Kodak has not been greatly concerned to find the most economical method of distributing its goods to the public. It believes that the reputation of, and therefore the demand for, its products would suffer if they were sold indiscriminately. As we make clear in paragraphs 270 to 274, we do not in any event accept that it is necessary to confine the colour film trade to the existing channels. But even if it were we doubt whether the traditional margins in the chemists' trade have much to do with the level of margins allowed on colour film, for the margins for selected products sold by chemists, as shown in the lists submitted to us by Kodak itself (see paragraph 213), in fact vary from twenty per cent. to thirty-eight per cent. In effect, thirty per cent. is the traditional minimum

¹ The normal retailer's discount on black and white film is now thirty-three and one third per cent. as against thirty per cent. for colour film (see paragraph 156).

chemist's margin for photographic film and Kodak bears considerable responsibility for maintaining this tradition¹ and applying it to colour as well as to black and white film. Other suppliers, even if they wanted to do so, are powerless to effect any reduction in margins in the absence of action on the part of the dominant supplier. Any such move on the part of Kodak would, of course, meet strong opposition from the organised retailers, but we do not believe that this could be effective or could bring about any reduction in Kodak's trade.

267. It is, of course, impossible to isolate the costs and profits of retail trading in the particular goods with which we are concerned. A retail margin of thirty per cent. is, we think high for packaged goods of small bulk which have a quick turnover and are restocked by the supplier at short notice (see paragraph 138). We are struck in particular by the fact that the retailer can earn two or three times as much by selling a colour film as by the more-or-less identical operation of selling a black and white film; and if the colour film is process-paid the margin is nearly doubled again without his being required to give any additional service. As far as we can ascertain, the matter of financing of stocks hardly arises in this connection because of the credit terms allowed and the small stocks normally carried; the retailer has often sold the film for cash before the time arrives for him to pay for it. Kodak says that a great deal more is involved in the selling of colour film than a simple exchange of cash for a packaged commodity; that a proportion of customers need advice both on the kind of film to buy and on how to get the best results from it; that retailers who keep trained staff capable of giving such advice probably earn on average the margins they receive; and that the company does everything possible to encourage its appointed dealers to give this kind of service. We do not find these arguments convincing. We think that the retailing of colour film does not today call for any exceptional skills and that the level of the retail margin is due primarily to the weakness of competitive pressure on prices to which we have already referred (see paragraph 256). In the absence of any compelling stimulus to keep the retail prices of its products as low as possible Kodak prefers not to risk offending its traditional distributors.

268. The considerations relating to the retail margins on processing charges are very similar. Inasmuch as the public are less experienced in the use of colour film the retailer may encounter more trouble from customers dissatisfied with the processed results than is usual in the case of black and white photography, but we cannot think that this justifies a margin which, in cash, is worth about twice what he would get on the processing of a comparable black and white film.

269. We conclude, therefore, that Kodak's pricing policy (so far as it relates to retail margins on the sale and processing of colour film) is a thing done as a result of and for the purpose of preserving its monopoly position and that, having regard to the level of these margins, particularly those allowed on the sale of process-paid films, that policy operates and may be expected to operate against the public interest.

¹ Figures submitted by Kodak suggest that retail margins on colour film are lower in the United Kingdom than in the USA and certain other countries. We assume that the Eastman Kodak organisation must have played a considerable part in setting the pattern in these countries as well as in the United Kingdom.

270. We return to the associated issue of restricting the retailing of colour film to appointed dealers. As we have said, the chemists still form the backbone of Kodak's list of appointed dealers but this list also includes photographic specialists, departmental stores with photographic departments and, particularly in rural areas, a number of shops of a more general character. Kodak on the one hand wishes its products to be easily available to the public. On the other hand it says that they should not normally be sold from outlets where no knowledgeable advice on their use can be given, and that they should not be sold at too many points 'because if you spread your trade too thinly no one will be making reasonable profits and you will have a demand for increased margins'. Thus in considering applications from potential new dealers the company takes into account both the conditions in which its goods would be sold in the particular shop in question and the extent of local competition.

271. As to having advice available wherever Kodak colour film is sold, we are doubtful whether this is necessary and whether Kodak in fact achieves its object. We think that the majority of buyers know what they want. Those who need advice can go to the specialist shops but this is no reason why other customers should not be able to buy at shops which do not provide this service. Under present conditions, moreover, the quality of advice available from appointed dealers seems to us likely to be extremely variable. Kodak says that it does its best to train its dealers, but there appears to be no obligatory standard of service and we note that, in order to meet demand in the holiday season, Kodak films may be sold at such places as beach kiosks.

272. As to the argument against spreading the trade too thinly, we do not think that if this trade were opened up to types of retailers other than those who are at present allowed to engage in it this would necessarily have the effects envisaged by Kodak. From Kodak's own point of view it would, no doubt, be more costly to deal direct with a much larger number of retailers than at present, but there is no reason why there should not be a quantity qualification for direct purchase from Kodak, accompanied perhaps by some system of quantity allowances. We think that this trade might well attract retailers who are prepared to operate on lower margins than the chemists. Woolworths has, for instance, been excluded from this trade and Kodak has made it clear that it would not even consider using this company as a distributor except under conditions which would confine the trade to certain approved stores. Although mail order trading has greatly increased in recent years, no mail order houses have been allowed to handle Kodak film.

273. We think that Kodak's policy in this matter has been considerably influenced by its desire not to offend its traditional retailers. These are represented by The Photographic Dealers' Association (PDA). It will be clear from the account we have given in paragraphs 144 to 157 that this association is particularly sensitive not only about changes in the terms allowed to retailers on photographic goods but also about the retailing of these goods by persons who, in its view, are not qualified to handle them. Most of the incidents which we have described in this latter connection arose from the actions not of Kodak but of Ilford, and it is clear that Ilford has

on occasion been threatened implicitly and even explicitly, with a boycott of its goods if it were to sell, or continue to sell, through channels of which members of the PDA did not approve. Such an attitude may be effective against a supplier who has only a small share of the market. We doubt whether it would be effective against Kodak if that company were determined to overcome it. Kodak is much better able than any other supplier to give a lead in this matter. That it has not done so is, we believe, due to the desire to retain the goodwill of the body of retailers with whom it has long been associated. It appears to us that one effect of this is to keep the retailer's margin higher than it need be.

274. We conclude, therefore, that Kodak's policy of confining the retail distribution of its colour film to certain appointed outlets is a thing done as a result of and for the purpose of preserving its monopoly position and that this operates and may be expected to operate against the public interest.

275. The remaining practice that has to be considered in relation to Kodak's monopoly position is that of selling Kodachrome only at process-paid prices. The practice may be thought to be specially significant to the monopoly position since, in the first place, one effect of it is that Kodak reserves to itself the processing of by far the most popular colour film on the market¹, and secondly, the processing of Kodachrome is a very profitable activity. We bear in mind, however, that we have also to reach a conclusion about the effect on the public interest of the practice of other suppliers who similarly reserve for themselves or their appointees the processing of certain of their own products. And in some cases these suppliers have adopted the practice not simply in imitation of Kodak but because they believe that if they are to compete with a supplier who dominates the market as Kodak does they must at all costs eliminate the possibility that the quality of the goods they sell may be misrepresented by inefficient processing. In these circumstances we think that the practice of selling colour film process-paid must be judged as a whole and we consider it separately in paragraphs 277 to 285.

276. Subject to this point, we have found that Kodak's monopoly position is basically due to a number of factors, none of which calls for criticism of the company's policies or actions (paragraph 252), but that as a result of or in order to preserve that position it does certain things which are against the public interest; that is to say it pursues a pricing policy for colour film which results both in excessively high profits for itself (paragraph 261)² and in excessively high retail margins (paragraph 269) and it is also unduly restrictive in confining the retail distribution of colour film to certain appointed outlets (paragraph 274). As to the question whether Kodak's monopoly is itself against the public interest, we feel that the things done by Kodak which are against the public interest are capable of being remedied while still leaving it in its dominant position in the market; and in view of economies of scale which exist in this industry and of the company's general efficiency we do not think that its monopoly position in itself (that is, the fact that it supplies more than one-third of the market) operates or may be expected to operate against the public interest.

¹ In 1964 Kodachrome accounted for more than fifty per cent. (whether by value or by area) of all the colour film supplied in this country by manufacturers and importers.

² See Mr. Bruce's and Mr. Smith's note of dissent, paragraph 294.

The practice of selling certain colour films only at process-paid prices

277. As the table in paragraph 238 shows, the bulk of the reversal colour film on the market is sold only at prices which include a charge for processing; this is in contrast with the normal practice in the negative-positive field, which is to sell the film free of any processing charge. The only exceptions of any consequence in the reversal field are Kodak's Ektachrome and a Ferrania film, which account respectively for about nine per cent. and about one per cent. (by value) of the total market for reversal film. None of the exceptions is of the non-substantive type.

278. The foundation of all the arguments in favour of selling colour films process-paid is that the unexposed film is, in effect, an interim product. The ability to produce this interim product has called for expensive research and development on the part of the manufacturers; its production is a highly technical operation, demanding specialised knowledge, experience and equipment. But at the stage when the customer buys the film he has nothing to guide his choice except the maker's reputation and his own experience, if any, of the processed results of the make chosen. Processing demands further and different applications of those technical skills which the manufacturer of the film possesses; and it remains a vital interest of the manufacturer that his films should be processed efficiently, for the reputation of the interim product depends upon the quality of the end-product after processing.

279. It may be possible for the manufacturer to impart his skills to other persons who are willing to undertake the processing. Whether he judges it reasonable to do this in a particular case depends upon a complex of different factors. Generally speaking, manufacturers believe that, however much technical help and supervision they may offer after putting the processing of their films into the hands of a number of independent processors, they cannot ensure that the quality of the processing will be consistently of the standard that they themselves would provide if they reserved the processing to themselves¹. In spite of this objection they judge it to be in their own interests to allow and encourage the independent processing of some of their films. This happens particularly in the case of negative-positive films, because the processes are on the whole less difficult to carry out; because of the particular advantages in this case of local services²; and because the manufacturers, depending as they do upon the quality and efficiency of the established independent processors in the field of black and white photography, may be reluctant to discourage them by refusing them any foothold in the growing field of colour. So far as reversal films are concerned, the non-substantive type is undoubtedly more difficult to process than the substantive; but in either case a rather higher standard of accuracy is called for than in processing negative-positive films because in the latter case faults can to some extent be corrected in the subsequent operation of

¹ See, for instance, the observations of Kodak, Ilford and Agfa on the variable quality of the processing of those films that are not sold process-paid (paragraphs 208, 222 and 224).

² An order for the processing of a negative-positive film generally implies also an order for prints; but the numbers of prints ordered for each exposure may depend on the result of developing the negative, and sometimes there may be a further order for additional prints. A central processing station for a particular manufacturer's negative-positive films therefore involves difficulties in the matter of contact with the customer which do not arise in the processing of reversal film.

printing. The question of volume is also pertinent to the manufacturer's decision. If he is to process his own films at all—and even if he allows other persons to process them as well he will, in order to set a standard, normally want to do this in the case of his reversal films—he will wish to have sufficient volume of business to enable him to do so economically without charging a prohibitive price for the service. The volume required for this purpose may vary from one type of film to another, but where a particular film has only a small share of the market it may well at present be the case that processing is entirely uneconomical on the basis of anything less than the total volume of processing orders for that film. Different manufacturers have, no doubt, given different weights to these various considerations. Kodachrome on the one hand provides a far larger volume of processing work than any other type of colour film but on the other hand is a non-substantive film, difficult to process and requiring complex and expensive plant for processing on a commercial scale; Kodak reserves the processing of this film for itself. It does not, however, reserve the processing of its substantive reversal film, Ektachrome, which has a much smaller sale than Kodachrome. Of the other makes of reversal film, which are practically all sold only process-paid, Agfacolor reversal film (substantive) and Dynachrome (non-substantive) alone have larger sales than Ektachrome.

280. The *prima facie* objection to the practice we are considering is that it gives the supplier a complete monopoly of the processing of the particular film and thereby eliminates the possibility of competition in price, quality or service in the processing of that film. Those who support the practice say that this criticism is of no substance because the supplier is acting just like manufacturers of other goods who, in effect, 'monopolise' all the processes of manufacture of their particular products; suppliers of process-paid films are, it is said, simply offering the public developed films in full competition with one another. The analogy with an end-process of manufacture does not, however, seem to us entirely valid. The film, as we have pointed out, becomes the property of the customer before the end-process is carried out. He may spoil the film, when exposing it or otherwise, in which event the further process for which he has been required to make pre-payment will be of no use to him. He may think that someone else could process the film better or more quickly or more cheaply than the supplier and, whether he be right or wrong, the wishes of the owner of the film demand some respect. The fact that processing has been thrown open to competition as regards most negative-positive films and even some reversal films suggests that there is an element of artificiality in the attitude of those who insist that processing is essentially a manufacturer's operation.

281. We understand, nevertheless, the manufacturers' interest in maintaining the highest possible standards of processing. We appreciate, too, that at the present stage of development of colour film there may be many types of film for which a processing unit is not likely to be economically viable with any smaller volume than that of all the processing orders; and that even Kodachrome may not at present offer scope for more than a few processors to operate economically. We recognise that the field of colour film is subject to constant new invention and change which often imply alterations in methods of processing, and that it is far easier for a manufacturer to introduce his new processing methods (while continuing for

an interval to apply the old methods to his obsolescent types of film) at a single processing station of his own than at a number of stations which are not under his control. All these are factors which, at the present stage of development of the colour film market, might well tend to have the effect of concentrating much of the processing in the hands of the manufacturers.

282. We do not think it follows that this must necessarily be the pattern for the future. The techniques of processing are likely to become more widely understood over the years and may indeed become more standardised. At present it is difficult if not impossible for an independent processor to process any make and type of colour film without assistance, direct or indirect, from the manufacturer. In giving such assistance the manufacturer may be imparting knowledge of inventions which are covered by his patents; more often, perhaps, what he does is to sell to the processor materials which he has made up to his own patented formulae, with instructions on how to use them. In any event, the processor needs the manufacturer's know-how. By refusing to impart their knowledge manufacturers can for the time being frustrate other persons who might wish to process their films. So far as their knowledge is covered by patents, their right to do this is conditionally protected by law, and we have no evidence of any circumstances that might put this protection in question. Technical knowledge and experience outside the patent field are not so protected, but these have been obtained by the enterprise of the manufacturer, generally at considerable expense, and he has a strong moral right to exploit them immediately to his own advantage. By selling his films only on the process-paid basis, however, he creates a situation in which potential competitors, even if able to match his knowledge, cannot in practice apply their own knowledge to his films because the manufacturer has ensured that the customer, having paid in advance, will return the film to him for processing.

283. We think, therefore, that manufacturers and importers should not, by selling their colour films only on a process-paid basis, reserve the processing of these films exclusively to themselves or their appointees; in our view the customer should, if he wishes, be able to buy the film without contracting for its processing. This applies to both the substantive and the non-substantive types of reversal film. We recognise that a mere change in the selling practice will at present be of little value to independent processors unless they have or can acquire detailed technical knowledge of the processes applicable to each film. We return to this aspect of the matter when considering our recommendations.

284. We conclude, therefore, that the practice on the part of nearly every manufacturer and importer of selling one or more of his types of reversal colour films only at prices which include a charge for processing operates and may be expected to operate against the public interest. This practice is a ground for our findings that the conditions prevail as respects the application of the substantive and non-substantive reversal processes (paragraph 240).

285. The other grounds for these findings were that more than one-third of all the colour films to which each of these processes was applied was subjected to the process by or on behalf of a single person—Agfa in the

case of the substantive reversal process and Kodak in the case of the non-substantive reversal process. We do not consider that these 'monopoly' positions in processing operate or may be expected to operate against the public interest, and the only 'thing done' by either company in this connection which calls for any consideration is the practice which we have found, in paragraph 284, to be against the public interest.

Remedies

286. Our conclusion that Kodak's monopoly position itself does not operate against the public interest is based in part upon the assumption that those practices of the company which we have found to be against the public interest are capable of being remedied while the company retains its dominant position (see paragraph 276). We explain below the remedies we have in mind both in this connection and as a consequence of our conclusion about the practice on the part of Kodak and other suppliers of selling at process-paid prices.

287. **Kodak's profits.** Kodak's high rates of profit on colour film have been obtained in conditions which we do not regard as severely competitive. With one exception Kodak's competitors are based overseas, and in paragraph 251 we have stated our view that the tariff on imported colour film reduces their effective competitive power. We recommend therefore that the import duty on colour film should be abolished. It would be idle to pretend that this is likely to be sufficient by itself to bring about any immediate drastic alteration in Kodak's pricing policy and, in the absence of any automatic safeguard against excessive profits on the part of the dominant supplier in this industry, we see no alternative to some form of regulation of prices. We do not think it advisable to make any precise recommendation on this subject since the balance of price as between the various types of colour film it markets is and will continue to be a matter of proper concern to Kodak. We recommend, therefore, that significant reductions should be made in Kodak's own selling prices for colour film and in its charges for processing, and that the extent of such reductions should be for the Board of Trade to decide in the light of our report and after consultation with Kodak¹.

288. **Distributors' margins on Kodak's colour films.** We have found that the level of the retail margins allowed by Kodak on the sale and processing of colour film is too high. The margins on the sale of colour films (including process-paid films) are at present supported by resale price maintenance and we regard this practice as outside the scope of our judgment upon the public interest (see paragraph 245). If the practice should continue we recommend that Kodak should reduce the normal retailer's discount on the sale of its colour film to yield an amount not substantially more than the amount received by the retailer on comparable black and white film (the retail price being, of course, reduced to such a level as will take account both of the reduction in Kodak's own selling price and of the saving in the margin); the extent of this reduction is also a matter for the Board of Trade to decide after consultation with Kodak. So far as the margins on processing are concerned, the recommendations we make in paragraph

¹ See Mr. Bruce's and Mr. Smith's note of dissent, paragraphs 296-299.

290 would have the effects of ensuring that (i) no retail price prescribed by a manufacturer or importer for his colour film would include a charge for processing and (ii) the retail charge for processing, and therefore the margin added by the retailer to the wholesale charge, would be determined by the retailer himself since there would be no recommended retail price¹. In these circumstances we need make no further recommendation as regards the margins on processing allowed by Kodak.

289. Kodak's retail outlets. We recommend that Kodak should permit its colour films to be stocked and sold by any retailer who wishes to deal in them, subject only to such normal commercial considerations as credit-worthiness. At present the company deals direct with most of its appointed dealers without differentiation in terms (apart from special terms allowed to certain multiple retailers). We recognise that, if our recommendation is implemented, direct dealing with some of the retailers who wished to stock Kodak's colour films might be uneconomic and that the company might have to introduce some form of qualification for direct purchase by retailers and, possibly, differential terms. We further recommend that, if Kodak differentiates between retailers in regard to direct purchase from Kodak, such differentiation should not be based otherwise than upon the quantities purchased.

290. Process-paid sales. In our view the customer should be able to buy the film without being obliged as part of the same transaction to contract for its processing, the customer being, however, free if he so wishes to contract at the same time for its processing (by the supplier or by another processor). We do not think it follows that retailers should be forbidden to sell process-paid. Indeed we see some advantage in permitting retailers to compete with one another by offering colour film at process-paid prices set by the retailer himself. For this purpose they would no doubt have to make arrangements with particular processors; and we see no objection to this provided that the arrangement does not have the effect of requiring the retailer himself to sell particular films only on a process-paid basis. Our objection is only to the practice of the original supplier of reserving to himself or his appointee the processing of a particular kind of film. We recommend, therefore, that (a) the sale of a colour film by a manufacturer or importer should be a separate transaction from any contract he may enter into to process it, and (b) no manufacturer or importer should stipulate that any film shall be sold process-paid by a retailer or other distributor of the film. It would follow that manufacturers and importers should arrange to supply all colour film to retailers in a way which enables the retailer to sell either process-paid or not as the customer may require. We further recommend that processors should not maintain or recommend the retail prices to be charged for processing. We have recognised that such measures will not, by themselves, assist independent processors to acquire the technical knowledge and experience necessary for successful processing of the films in question. In view of what we have said in paragraphs 281 and 282 we do not think it is necessarily wrong that much of the processing should have been concentrated in the hands of the suppliers up to the present, nor do we believe that a change

¹ Subject to the fact that processing charges for negative-positive colour films are outside the scope of these recommendations, but see paragraph 291.

in this situation should be brought about by compelling them to disclose their technical knowledge. We express the strong hope, however, that the suppliers will recognise that, as the use of colour film grows, a wider knowledge of processing techniques is likely to be both inevitable and in the public interest, and that in appropriate cases they will afford to independent processors who wish to undertake the processing of films hitherto sold only on a process-paid basis technical help of the same nature as that already given in relation to the processing of most negative-positive films and of Ektachrome.

291. Because we found that the conditions did not prevail as respects the application of the negative-positive process to colour film (paragraph 240) the recommendations in paragraph 290 do not formally apply to the sale of negative-positive films or their processing. We would hope, however, that the suppliers and processors of negative-positive films would apply the same principles.

Summary of conclusions and recommendations

292. Our conclusions on the public interest and our recommendations may be summarised as follows:

- (1) Kodak's pricing policy, in relation both to its own selling prices (paragraph 261)¹ and to the retail margins on the sale and processing of colour film (paragraph 269), and its policy of confining the retail distribution of colour film to certain appointed outlets (paragraph 274) are things done by Kodak as a result of or for the purpose of preserving its 'monopoly' position which operates and may be expected to operate against the public interest; but Kodak's monopoly position, as such, does not operate against the public interest nor may it be expected to do so (paragraph 276).
- (2) The practice on the part of nearly every manufacturer and importer of selling one or more of his types of reversal colour films only at prices which include a charge for processing operates and may be expected to operate against the public interest (paragraph 284); but the monopoly positions of Agfa and Kodak in relation to the application of the substantive and non-substantive reversal processes, respectively, do not operate against the public interest nor may they be expected to do so (paragraph 285).
- (3) By way of remedies for the matters which we have found to be against the public interest we recommend that:
 - (a) the import duty on colour films should be abolished (paragraph 287);
 - (b) significant reductions should be made in Kodak's own selling prices for colour film and in its charges for processing, the extent of such reductions to be for the Board of Trade to decide in the light of our report and after consultation with Kodak (paragraph 287)²
 - (c) Kodak should reduce the normal retailer's discount on the sale of its colour film to yield an amount not substantially more than the amount received by the retailer on comparable black and white

¹ See Mr. Bruce's and Mr. Smith's note of dissent, paragraph 293.

² See Mr. Bruce's and Mr. Smith's note of dissent, paragraphs 298 and 299.

film, the extent of this reduction being also for the Board of Trade to decide after consultation with Kodak (paragraph 288) ;

- (d) Kodak should permit its colour films to be stocked and sold by any retailer who wishes to deal in them, subject only to such normal commercial considerations as credit-worthiness, and in so far as the company may need to differentiate between retailers in regard to direct purchase from Kodak such differentiation should not be based otherwise than upon the quantities purchased (paragraph 289) ;
- (e) So far as reversal films are concerned,
- (i) (a) the sale of a film by a manufacturer or importer should be a separate transaction from any contract he may enter into to process it ;
- (b) no manufacturer or importer should stipulate that any film shall be sold process-paid by a retailer or other distributor of the film ;

the effect being that

- (c) manufacturers and importers should arrange to supply all colour film to retailers in a way which enables the retailer to sell either process-paid or not as the customer may require ;
- (ii) processors should refrain from maintaining or recommending the retail prices to be charged for processing ;
- (iii) the suppliers should be prepared to consider affording technical help in appropriate cases to independent processors who wish to undertake the processing of films hitherto sold only on a process-paid basis (paragraph 290).

ASHTON ROSKILL (*Chairman*).

T. BARNA.

A. H. BRUCE.

(Subject to note of dissent below.)

BRIAN DAVIDSON.

W. E. JONES.

O. B. MILLER.

J. M. A. SMITH.

(Subject to note of dissent below.)

LAURENCE WATKINSON.

Miss M. DENNEHY (*Secretary*).

27th January 1966.

Note of Dissent

By Mr. Bruce and Mr. Smith

293. For the reasons set out below, we are unable to agree with the conclusion (paragraph 261) that Kodak's pricing policy (so far as that relates to its own selling prices), in the light of the high profits aimed at and obtained by that policy, operates and may be expected to operate against the public

interest. In consequence, we cannot agree with the recommendation (paragraph 292(3)(b)) that significant reductions be made in Kodak's own selling prices for colour film and in its charges for processing.

294. Kodak's overall profit level, although substantial and fairly high in relation to that of industry generally (paragraph 254(a)), is, in our view, reasonable in comparison with those of other fast-growing companies, of other companies producing 'hobby' goods, and of other American-owned British companies (paragraph 204). Further, photographic manufacturing which is in a state of continuous development with frequent process changes, is a high-risk activity, and as such entitled to a more-than-average reward. (In this we dissent from the view expressed in paragraph 258.) We do not consider, therefore, that, having regard to the public interest, Kodak's overall profit level is unduly high.

295. Our reference, however, does not extend to Kodak's whole business, but only to colour film and its processing, which for Kodak is as yet a small but rapidly growing product line.

296. The price and profit relationships of a company's products determine its overall profit level, which in turn governs its general financial policy; it is therefore one of the most vital responsibilities of any board. In our view this responsibility should not be disturbed unless accompanied by circumstances, relating to any group of its products, which were clearly contrary to the public interest; such for instance might be indications of stagnation or inefficiency, evidenced by unreasonable price increases, which had led to serious complaint from the public as to overpricing, and then only if such related to an essential product.

297. In Kodak's case, however, colour film for the amateur is no essential product, but simply a contributor to the hobby or art of photography; again, Kodak is a firm of unquestioned enterprise and efficiency, which over recent years in the face of rising costs has improved the quality of its products, whilst maintaining substantially stable prices, including even some reductions; no spontaneous complaint or criticism from the public as to the price of colour film has been received by the Commission, whose specific enquiries to photographic organisations representing the public have revealed only minor concern on this subject.

298. Further, the actual work involved in consultation by Kodak with the Board of Trade on prices (recommendation (3)(b)) requires consideration. Not only would all Kodak colour film prices in the United Kingdom have to be examined from all angles of quality, costs, profits and above all competitive prices in this country, but they also would have to be related to prices in Kodak's other product lines, and then harmonised with this international company's prices in Europe, in the USA and elsewhere. Similar price consultation on such occasions with main suppliers in the United Kingdom other than Kodak would also appear to be necessary, or at least desirable. Further, prices would have to be kept under review by regular periodic studies of the same kind. We do not think that, in the circumstances, such extensive work would be justified.

299. We therefore conclude that, so long as Kodak's overall profit level remains in reasonable relationship to those of comparable companies, its

Board should be permitted without external influence to continue to exercise its best judgment as to the blend of prices and profits contributing to its overall objectives. We would prefer to rely on the operation of competitive conditions in the market, if strengthened by implementation of the other recommendations made in this report (paragraph 292(3)(a), (c), (d) and (e)), rather than to weaken competition and further discourage new entry by reducing colour film prices substantially below those designed by Kodak to secure (and which indeed secure) a high rate of growth in their colour film business.

A. H. BRUCE.

J. M. A. SMITH.