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THE MONOPOLIES COMMISSION

Aluminium Semi-Manufactures

A Report on a Reference Concerning the Supply of Aluminium Semi-Manufactures

*Presented to Parliament in pursuance of
Section 9 of the Monopolies and Restrictive Practices
(Inquiry and Control) Act 1948*

*Ordered by THE HOUSE OF COMMONS to be printed
20th December 1966*

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* These members formed the group appointed by the Chairman of the Commission (in accordance with the provisions of section 1 of the Monopolies and Mergers Act 1965 and paragraphs 9(1) and 9(7) of Schedule 1 thereto) to discharge the functions of the Commission in relation to this inquiry.

Aluminium Semi-Manufactures

Report on a Reference concerning the Supply of Aluminium Semi-manufactures

1. This report is made in compliance with section 2(1) of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 (as amended) and relates to the reference on the supply of aluminium semi-manufactures which was made to us by the Board of Trade on 2nd July 1965 and varied on 18th August 1965. The reference and variation are reproduced in the Appendix hereto.

2. Under the terms of reference as varied our only duties are to investigate and report (i) whether conditions to which the Act applies prevail as respects the supply of aluminium semi-manufactures in the United Kingdom by virtue of the fact that two or more persons refuse normal trade discounts to distributors who obtain part of their requirements of aluminium semi-manufactures from abroad, and, if so, (ii) what things are done by the parties concerned as a result of or for the purpose of preserving those conditions and (iii) whether those conditions or things done operate or may be expected to operate against the public interest. So far as (i) is concerned section 29(1) of the Restrictive Trade Practices Act 1956 provides that for the purposes of any reference made to us under section 2 of the 1948 Act 'conditions to which that Act applies shall not be deemed to prevail as respects the supply of goods of any description . . . by reason of any agreement to which Part I of [the 1956 Act] applies'. Unless the answer to (i) is affirmative (ii) and (iii) do not arise.

3. After receiving the reference we obtained a considerable amount of written evidence from manufacturers and distributors of aluminium semi-manufactures as well as from other sources. This information appeared to show that (a) four of the largest manufacturers—namely, Alcan Industries Ltd., James Booth Aluminium Ltd., The British Aluminium Co. Ltd. (with its subsidiary, Aluminium Corporation Ltd.) and Imperial Aluminium Co. Ltd.—who were allowing 'stockist' terms to certain distributors were allowing less advantageous terms to certain other distributors who were purchasing some of their requirements of these goods from abroad, and (b) those four manufacturers were together responsible for the supply of at least 73 per cent, by weight, of all the aluminium semi-manufactures supplied in the United Kingdom in 1964.*

4. In March 1966, when we were awaiting further information and explanations from some of the manufacturers concerned, we were informed by solicitors acting for one of them that it seemed probable that certain existing arrangements between a number of them were registrable under the 1956 Act and that these might include an arrangement relating to the withholding of normal trade terms from stockists who imported foreign aluminium semi-manufactures. We, therefore, decided to suspend our investigation until the situation had been clarified.

5. In September 1966 an agreement, numbered 3046, was placed upon the register of restrictive trading agreements, together with a variation thereof. The parties to the agreement include the four manufacturers referred to in paragraph 3 above and certain others. The document recording agreement

* Our information on sales values is less complete, but we are satisfied that, in terms of value, the proportion would also exceed 70 per cent.

number 3046 specifies, in paragraphs 10 to 14, certain communications between and actions taken by parties before the date of our reference in relation to the withholding of stockists' terms from certain stockists who imported foreign aluminium semi-manufactures. The document recording the variation of this agreement sets out the subsequent determination of some other practices referred to in agreement number 3046 but not of the practices referred to in paragraphs 10 to 14.

6. It now appears, therefore, that insofar as those manufacturers who are parties to agreement number 3046 may, at the time when our reference was made or subsequently, have been refusing normal trade discounts to distributors who were obtaining part of their requirements of aluminium semi-manufactures from abroad, they have been doing so in pursuance of that agreement. The agreement is an agreement to which Part I of the 1956 Act applies and the conditions of the 1948 Act may not be 'deemed to prevail . . . by reason of' that agreement. Four of the manufacturers concerned were, as we have said, responsible in 1964 for at least 73 per cent, by weight, of the total supplies in the United Kingdom of aluminium semi-manufactures. We have no reason to suppose that other manufacturers have also been operating the specified practice, but in any event it is impossible that any or all of them could be found to be responsible for as much as one-third of the total supplies. It follows that our answer to question (i) in paragraph 2 above must be in the negative.

7. Our conclusion must accordingly be that conditions to which the 1948 Act, as amended by the 1956 Act, applies do not prevail as respects the supply of aluminium semi-manufactures by virtue of the fact that two or more persons refuse normal trade discounts to distributors who obtain part of their requirements of aluminium semi-manufactures from abroad. In these circumstances we have no further duty to perform under this reference.

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20th October 1966