

## CHAPTER 7

### Conclusions

#### I. The 'Conditions'

233. The goods covered by our reference include 'raw' flat glass and safety glass made from such raw glass. In the table below we show the total sales in the United Kingdom and the share of the dominant supplier in each of these categories in 1966\* :

	Raw flat glass £million	Safety glass £million
Pilkington group ... ..	25.4 (91.0%)	13.0 (78.7%)
Other suppliers ... ..	2.5	3.5
Total ... ..	<u>27.9</u>	<u>16.5</u>

*Note:* Manufacturers' sales are at their net selling prices; sales of imported goods are estimated. Sales of raw flat glass include sales to safety glass manufacturers; in the case of the Pilkington group they include sales by Pilkington to its subsidiary, Triplex, and transfers (at normal commercial price) from Pilkington's raw glass works to other Pilkington works for further processing, including toughening.

234. The shares of the various suppliers are, no doubt, liable to fluctuate to some extent from year to year, but we do not know of any factor which may be expected to produce any significant change in these shares except for the merger of BIG with Triplex. BIG's share of the home sales of safety glass in 1966 was approximately 11.5 per cent; unless motor manufacturers place a higher proportion of their orders overseas or with some of the remaining small home manufacturers of safety glass than they have done in the past, the Pilkington group's share of the safety glass trade may, therefore, be expected to be about 90 per cent in future. Other things being equal the merger may also be expected to result in a small increase in the Pilkington group's share of the raw flat glass trade at the expense of imports.

235. We conclude that the conditions to which the 1948 Act, as amended, applies prevail as respects the supply of flat glass because at least one-third of all the flat glass which is supplied in the United Kingdom is supplied by the Pilkington group.

#### II. The Public Interest

236. Our next duty therefore is to consider whether the 'conditions' which we have found to prevail (that is to say the state of affairs in which the Pilkington group is responsible for some 90 per cent of the total supply in the home market of flat glass, including safety glass), or anything done

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\* Throughout this chapter sales and profits are attributed to the calendar year coinciding most closely with the financial year of the company or companies concerned.

by the Pilkington group as a result of or for the purpose of preserving those conditions, operates or may be expected to operate against the public interest.

237. Flat glass supplied in the home market accounted for about one-half, by value, of the total sales in 1966 of Pilkington and its United Kingdom subsidiaries (excluding Triplex); and exported flat glass accounted for roughly one-third of the other half. So far as the Triplex companies are concerned, safety glass supplied by TSG accounted for between 80 and 90 per cent of the group's total sales and virtually all of this was supplied in the home market. Thus although our inquiry does not cover the whole of the interests of the Pilkington group we are concerned with the most important of its activities in the United Kingdom.

238. The flat glass covered by the terms of our reference is an important essential material in the present-day economy. For general glazing purposes in buildings of all kinds and in vehicles of all kinds no other material has the same properties or is generally acceptable. In this field the Pilkington group has a share of the home trade which not only passes the technical test for the prevalence of the 'conditions' under the Act but amounts to an almost complete monopoly. The only competition in raw flat glass is from imports over a tariff of 15 per cent\*. For safety glass the tariff is at the level of 20 per cent\* and, with the absorption of BIG into the Pilkington/Triplex group, such competition as remains is for the most part in the field of minor, specialised products.

239. In a larger context, however, the Pilkington group is one of some nine or ten large glass makers who are competing with one another on a world-wide basis. Although our concern is with the position in the home market we take into account so far as it seems to us relevant the fact that the group also operates outside that market in very different competitive circumstances from those which prevail within it.

240. In examining the monopoly situation in the home market it has appeared to us that, in general terms, the principal questions we should ask ourselves were whether in the absence of competition the flat glass industry was or was likely to become less efficient, less productive in research and innovation or less well equipped to meet demand than it would otherwise be; whether the monopoly situation was being, or was likely to be, exploited to yield high profits to the detriment of the consumer; whether it had led or was likely to lead to any particular practices which were detrimental to the consumer or the general economic interest; and whether the monopoly in flat glass—including the control of the safety glass industry by the dominant raw glass manufacturer—was founded upon a genuine economic advantage rather than upon the pursuit of monopoly power for its own sake.

### **Efficiency**

241. We do not know of any single yardstick by which efficiency can be measured. Manufacturers in competition with one another have an incentive to reduce their costs and improve their products. Where there

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\* We understand that, as a result of the 'Kennedy Round' tariff agreements, these rates will be reduced by successive steps to 7½ per cent on raw flat glass and 10 per cent on safety glass in the course of the next five years (see appendix 5).

is a complete monopoly this particular incentive is absent ; it also becomes difficult to discover by comparison what the effects of this may be. Although even in the United Kingdom the Pilkington group does not enjoy a complete monopoly of the market it is the only raw glass manufacturer in this country and therefore the only one whose costs we have been able to examine. So far as possible we have compared Pilkington's performance with that of its overseas competitors but such information as we have about the latter is necessarily fragmentary and obtained at second hand.

242. Pilkington claims that it is 'at least as up to date in techniques of production as our competitors' and asserts that 'in the present international competitive situation, it is the need to be very large and very efficient in order to survive at all that has discouraged fresh attempts to manufacture here'. In other words, it says that the monopoly situation in this country is a result of the incentive towards lower costs and higher efficiency which is provided by world-wide competition, and that because Pilkington's interests are not limited to this country this incentive is a continuing factor which makes the company more competitive in this country as well as elsewhere. Thus while the company does not claim to be as efficient as it should be 'in absolute terms' it believes that international competition must compel it constantly to strive for improvement in this respect ; and at the present stage the programmes of 'modernisation and mechanisation' made possible by the introduction of the float process, together with administrative re-organisation, are expected to produce such continuing improvement.

243. Pilkington at the present time is still developing the techniques of float glass production and the potential economies of the process. In paragraph 84 we have alluded to the internal losses of glass, due to cutting, accidental breakage and the scrapping of faulty products. Pilkington told us that a loss of 30 per cent was regarded as very near the theoretical minimum for plate glass before plate was largely replaced by float. The losses on float have naturally been high as each new specification has been introduced. In some cases they have since been reduced to or below 30 per cent, in other cases the loss has remained above this level ; but the general trend of float losses over the period we examined was downward. Pilkington believes that if it can maintain this trend it will remain ahead of its competitors, who are less advanced in the development of float and are encountering the same difficulties.

244. In the last resort, our judgment in this matter must be largely subjective. We accept that Pilkington does not operate in a complete competitive vacuum, and that it has a continuing incentive to pursue large-scale inventions and innovations that may be expected to reduce costs in the longer run. Its prices compare favourably with those of its competitors, as shown by its success in establishing and maintaining an export trade to the United States. If the pressure of price competition is rather less urgent in the home market than in some other industries this, it may be argued, is part of the price that has to be paid for any advantages of the monopoly to the public interest. However this may be, we have seen no reason to suppose that this part of the price is unduly heavy. The revolution in glass-making involved in the introduction of the float process

has inevitably been attended by teething troubles. Pilkington has not used patent control of the process to hold off its major competitors\* while it perfected its own techniques, but has adopted a licensing policy which permits them to compete in Pilkington's markets and to develop improvements of the process without having to pass these on exclusively to Pilkington. To this extent Pilkington is exposing itself to competition. As far as we are able to judge Pilkington is seeking maximum efficiency. The company acknowledges that there may be particular specifications of glass which some of its overseas competitors can produce more satisfactorily than itself; its own sheet process, for instance, is suitable for the thicker substances which meet most of the demand but not for the thin sheet (less than 1.2 mm.) which Belgian and German manufacturers make by a different process. Subject to this, we know of no reason for disputing Pilkington's claim that taken as a whole its techniques of production are at least as up to date as those of its competitors.

245. On the safety glass side such comparisons as we have been able to make between Triplex and BIG—as to capacity and range of production, innovations and costs—have generally been to the advantage of Triplex. In this part of the flat glass trade, moreover, the monopoly supplier is confronted by a few extremely powerful customers, some of whom have independent access to information on the techniques of safety glass manufacture, and all of whom exert unrelenting pressure upon Triplex's selling prices and, therefore, upon its costs. These motor manufacturing customers are on the whole satisfied that Triplex is an efficient producer of the glass components they require. Triplex's records and its own evidence to us and the evidence of purchasers show that the company has been spurred on in the past by the need to match BIG in price and keep ahead of it technically. The effects of this competition have now been removed. The competition was, however, to some extent artificial. BIG, it could be said, was simply an instrument used by the two largest customers to bring their buying power to bear upon Triplex; and the fact that these customers are now content to buy from Triplex without retaining this check upon its prices and costs may be represented with some justice as a tribute to Triplex's efficiency. In this field we can see no reason for believing that the Pilkington group could afford to be inefficient in the face of its knowledgeable and exacting market.

### **Research**

246. In discussing the matter of efficiency we have already touched upon questions relating to research, development, innovation and improvement of quality; but there are some further considerations which are perhaps peculiar to this field. It is arguable on the one hand that a monopoly commanding and concentrating the whole resources of an industry will be less wasteful in the conduct of its research and more effective in producing results than a number of smaller concerns which tend to duplicate one another's efforts without achieving the same depth. On the other hand

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\* i.e. those glass manufacturers who were already competing on a world-wide basis in the plate glass market. Other foreign manufacturers are licensed for the float process on a more limited basis (see paragraph 52).

development and innovation are not exclusive to those with large resources, and sometimes the best results are achieved when a number of minds approach a problem independently and from different angles.

247. So far as the Pilkington group is concerned we can only judge this matter in the light of experience. Pilkington's achievement in developing the float process speaks for itself, but the company claims that this is only the 'most dramatic' episode in a record which includes many of the innovations in plate glass over the last 50 years as well as significant developments in the processes for wired, cast, rolled and sheet glass. In this particular case concentration of resources for research and development appears to be justified by success up to the present.

248. So far as safety glass is concerned it is claimed that since Triplex can rely upon Pilkington's resources for fundamental glass research it can now concentrate upon applied developments in its own particular field. We are told indeed that since Pilkington became the dominant shareholder Triplex has done much more research and development of its own and no longer relies upon obtaining the use of inventions developed elsewhere; in particular it has done much work on the design and development of plant for quantity production.

249. Triplex has been responsible for introducing virtually all of the innovations in motor safety glass which have appeared in the United Kingdom market in recent years, though this is only to say that it has always been ahead of BIG in this respect. The power and knowledgeability of Triplex's customers must again be borne in mind; these customers themselves serve a world-wide market and we do not think that Triplex could retain their confidence unless it kept up with overseas developments in safety glass. We therefore think that the concentration of research and development within the Pilkington group so far as this country is concerned involves little risk and indeed has certain advantages for the public interest.

### **Capacity**

250. One of the objections to a monopoly situation is that the producer who is the sole source of a commodity may feel no compulsion to create and maintain sufficient capacity to meet the whole potential demand for that commodity. If this plant is sufficient to meet the highest peaks of demand it will be under-worked and therefore less profitable at other times; and it might, therefore, appear to suit his own interest if he were to maintain capacity sufficient to meet only an average level of demand. Conversely, of course, it may be argued that competing producers tend to install excess capacity in the aggregate.

251. With regard to raw flat glass, Pilkington says that under no circumstances would it 'plan to create a shortage'. It estimates future demand on the basis of market information and plans to have sufficient capacity to meet that demand on the assumption that the 'normal attainable load percentage' will be 85 per cent of theoretical capacity. It carries stocks to meet sudden spurts in demand and, if need be, can as a final resort call upon supplies from overseas members of the group to meet shortages. In

general, Pilkington says that its capacity has been adequate since 1950; there have been shortages of particular glasses for limited periods but these were world-wide phenomena.

252. As to shortages of particular types of glass there is perhaps some room for argument. In particular the evidence appears to show that over the years Pilkington has not always met all demand for thick drawn sheet (see paragraph 43 and appendix 8). Thick drawn sheet is required by the building industry but by far the largest customer in recent years has been the safety glass industry. Until shortly before the war Pilkington, believing like Triplex that the motor industry should use plate, left the market for this particular substance to Continental producers. The motor industry, however, increasingly demanded sheet, and by the late 1930s Pilkington was producing thick drawn sheet for the safety glass industry, including Triplex (see paragraphs 34 and 94). For many years after the war Pilkington appears to have been unable to satisfy all demand and to have given priority to the safety glass industry. More recently Pilkington expected the safety glass industry's demand to be transferred to float but the British motor industry would not conform with this plan while sheet remained cheaper than float. Thus until about 1965 Pilkington had to meet Triplex's and BIG's orders for sheet and this was to some extent at the expense of the merchants and the building industry. These latter customers turned to imported glass and some of their demand was in fact met from Belgium, while BIG, partly as a matter of policy, placed a large proportion of its orders abroad. Pilkington explains that the Belgians would not have been under similar pressure because the motor manufacturers in the Common Market were using plate and, in any case, Belgium itself had no motor industry. Pilkington eventually solved part of its problem by selling float of 'B' quality to Triplex and BIG at sheet prices. As a result it is now much more ready than in the past to meet demand for thick drawn sheet from the general trade, though its competitors will not abandon this market without a struggle and some customers prefer to retain their contacts with overseas sources\*. We draw attention to this episode because, in this instance at least, the Belgian glass industry has been able to satisfy demand which Pilkington could not meet.

253. To some extent, no doubt, the continued shortage of thick drawn sheet in the 1960s was one of the teething troubles of the transition to float; intending as it did ultimately to meet the demand of the motor industry for thick drawn sheet with float Pilkington was not willing to invest heavily in additional capacity for sheet. Pilkington does not claim to be infallible and similar occurrences are not impossible in the future. Subject to this, we believe that Pilkington is very conscious of its responsibility, as a monopolist, to meet demand. This responsibility goes beyond the home market. As the company has pointed out, it has in fact 'converted a pre-war adverse balance of trade in flat glass averaging of the order of £1 million per annum to a favourable balance of about £8.5 million per annum in recent years'. Generally speaking we have seen no evidence that these exports have been achieved at the expense of the home market, and we accept that broadly

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\* Imports of thick drawn sheet amounted to 14.5 m. sq. ft. (value £959,000) in 1965 and 14.3 m. sq. ft. (value £894,000) in 1966. A substantial proportion of this was bought by BIG.

Pilkington has maintained, and plans to maintain, adequate capacity to meet home and export demand.

254. In the safety glass field the main safeguard against shortage of capacity is, once more, the existence of exacting customers. Triplex says that it has always met the demands of the motor industry in this country, whose production of motor vehicles 'has never been limited by lack of safety glass'. In connection with the merger with BIG it has given to BMH and Ford individual assurances that it will at all times maintain adequate capacity to meet their forecast demands, and it has told us that 'the spirit of the assurance applies equally to the motor industry as a whole'. Triplex now operates on the basis of an annually adjusted 10-year plan for forward investment which takes account not only of the motor manufacturers' forecasts but of all market information. Even before the merger with BIG the company's aim in the long term was to have sufficient plant to make all the safety glass required by the motor industry.

255. We have no doubt that Triplex is fully aware of the sensitivity of the motor industry to any potential shortage of components, and we think that there is little risk that it will lose sight of the extent to which its own interests would be involved in any failure in this respect. Triplex might, indeed, seem more open to criticism on the opposite ground, that it has installed excessive capacity. As we have said, the company's declared aim before the merger with BIG was to be in a position to meet the whole requirements of the motor industry; and in the event—admittedly at a time of low demand—it finds itself able, following the merger, to do precisely this without making use of BIG's capacity. Triplex points out, however, that output can be controlled by the number of shifts worked and is more flexible than in the basic glass industry, and it says that in its planning it has always envisaged that abnormal peaks of demand would be met by more intensive use of plant, by drawing on stocks and in the last resort by some lengthening of delivery periods. The company assures us that (except in the case of laminated glass, where there is admitted spare capacity\*) there has never been any question of installing or maintaining plant in excess of that needed to meet the normal expected demand. It adds, however, in this connection that there have been times in the past when, effectively, it has had to bear the whole demand of the motor industry because production at BIG has broken down. However this may be, we would assume that Triplex is less likely to over-insure in the matter of capacity now that it can foresee with greater accuracy the demand it will have to meet.

### **Prices and profits**

256. In appendix 7 we have set out various sets of figures of profits as percentages of capital employed. As is made clear by the comments in the notes to that appendix we regard all these figures as relevant to our judgment on profits in one way or another, though ultimately this judgment must be made on an empirical basis, in the light of the various comparisons the figures afford and of all the circumstances of the company and of the industry.

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\* See paragraph 110.

257. This being said we repeat here for convenience the figures of profits as percentages of capital employed (on a replacement cost basis) earned on reference goods by the Pilkington group over the seven years 1960 to 1966 :

						Pilkington (excluding Triplex)	Triplex
						%	%
1960	...	...	...	...	...	17.8	16.9
1961	...	...	...	...	...	7.9	20.2
1962	...	...	...	...	...	15.4	24.7
1963	...	...	...	...	...	14.3	31.9
1964	...	...	...	...	...	19.3	19.1
1965	...	...	...	...	...	11.8	17.0
1966	...	...	...	...	...	14.5	17.2
Average, 1960-66	...	...	...	...	...	14.4	20.7

*Notes:*

1. These figures are calculated on the replacement cost bases put forward by the companies; they are rather lower than our alternative calculations (see note 5 to appendix 7).

2. Because of the change in Triplex's financial year, that company's figure for 1964 is based upon nine months' trading and the average covers a period of 6 years, 9 months

258. Leaving Triplex aside for the moment, it must be borne in mind that the figures for Pilkington have been arrived at after charging considerable development expenditure on float but without taking account of any of the royalties or other sums received from overseas licensees in respect of the float process\*. After taking this last factor into account we consider that there are no grounds for suggesting that in the period examined Pilkington itself has exploited its monopoly position by taking an excessive rate of profit on flat glass sold in the home market. Pilkington contends that the profits earned by the group as a whole (which as percentages of capital have been substantially lower than those earned on reference goods alone—see appendix 7) have in fact been too low for a company in a 'capital-intensive' industry which expects to undertake further substantial capital expenditure in the next 10 years.

259. The period we have examined might be regarded as abnormal inasmuch as it covers the introduction of the float process. The potential economies are believed to be substantial, but the company has been proceeding by trial and error and it certainly would not contend that the costs in these six years should be taken as representative for glass produced by the float process when working at maximum efficiency. During this period Pilkington's profits, while as we have said not excessive, have been maintained at a reasonably comfortable level. We must therefore ask ourselves whether, by such other criteria as may be available, its prices appear to have been reasonable, and whether it is likely to be in a position in the future to adopt a pricing policy involving a much higher level of profit.

\* See paragraph 85.

260. As to price levels Pilkington has produced figures comparing the movements of some of its own prices with those of the Retail Price Index over the past 30 years (see appendix 9); effectively these suggest that, in terms of real value, Pilkington's prices have fallen over this period by proportions which vary in the given examples from 10 per cent (for horticultural sheet on sale to a merchant) to 64 per cent (or  $\frac{1}{4}$ -inch plate/float on sale to Triplex)\*. We would have expected that development in the glass industry over this period would have led to lower prices in real terms and we accept that there have, in this sense, been progressive and, in aggregate, substantial reductions in price since 1937.

261. In spite of this and in spite of the duty, the price level has not been such as to keep out imported glass entirely. In Pilkington's view this is not a reflection on the prices which it has charged for its own products. The glass makers of Western Europe regard the United Kingdom as a traditional market for their products. Their share of that market has been much reduced but they are anxious to retain a foothold and, like Pilkington itself, may be willing on occasion to dispose of surplus production by selling it abroad at a low margin of profit. There are also, Pilkington says, customers in this country who buy from abroad for the sake of retaining contact with an alternative supplier rather than for any advantage in price or quality. So far as glass from Eastern Europe is concerned, this has been low quality sheet, mainly used in this country by the horticultural industry and frequently sold at prices below Pilkington's prices for horticultural glass. We have, of course, no information about the relation between costs and export prices of Eastern European glass. From Pilkington's point of view horticultural glass has long been regarded as glass which is imperfect for other purposes and whose alternative use is as cullet (see paragraph 63), and we understand that it was originally priced virtually as a by-product. As noted in paragraph 260, Pilkington's price for horticultural glass shows the lowest percentage reduction in absolute terms over the past 30 years and it may be that in this case Pilkington has tended to charge what it thought the traffic would bear. We are told that Pilkington is now making horticultural glass as a main product. It will no doubt have to pay regard to the prices charged for imported Eastern European glass in determining its own prices.

262. We do not regard the matters mentioned in paragraph 261 as casting any serious reflection upon Pilkington's pricing policy up to date. We certainly would not wish to suggest that because a manufacturer has a monopoly of production in this country he should be able to price imports completely out of the market. The evidence as a whole does not suggest that Pilkington's home prices are high in relation to world prices.

263. As to future pricing policy Pilkington says that it has told its foreign competitors that its float glass prices will be based on actual costs and not upon plate glass prices. It acknowledges that so far these costs have not been reduced as quickly as was originally hoped and says that it has absorbed the extra cost during the development stage of the float process without raising prices (vide the moderate level of profits earned).

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\* These calculations were made on the basis of 1967 prices before they were increased by a surcharge of  $1\frac{1}{2}$  per cent (see paragraph 79).

Without quantifying precisely it expects to achieve over the coming years substantial reductions in cost which will lead to reductions in price (subject to the effects of any general price inflation). At the same time the level of group profit, as has been said, is at present too low in Pilkington's view. The company needs higher profits to provide for future capital development and it considers them justified both by the risks involved (expensive research can fail to produce results and expensive plant can be rendered obsolete by the inventions and improvements of competitors) and by the company's successful enterprise. Pilkington considers that it should aim at a level of profit not lower than that of the 'upper quartile' (see paragraph 209 and appendix 7, and see also paragraph 267). Licensing income is expected to make a significant additional contribution to group profits but the company also looks to the expected reduction in costs for some part of its reward.

264. Briefly, therefore, Pilkington expects to reduce its costs for flat glass, to pass on some part of the cost saving to the consumer and to keep the rest as additional profit for itself while relying on licensing income from abroad as a further addition to group profit. In principle we accept that this is a reasonable programme. Whether it will prove reasonable in practice must depend to some extent upon the efficiency and sense of responsibility of the monopolist. We believe that Pilkington has acted with a full sense of responsibility to the public interest in the past and that it is likely to continue to do so unless there should be some unforeseen change in the character of the management. We think that Pilkington's prices may be expected to come down in real terms; and in this connection the progressive reduction in the import duty over the next five years (see appendix 5) should help to increase the competitive pressure on its prices. We do not think it would necessarily be against the public interest if the company were able at the same time to increase its profit margins. As to the 'upper quartile' objective, this was the subject of a good deal of discussion (relating more particularly to Triplex's profits—see paragraph 267). If we are to take Pilkington as saying that it should aim at a level of profit on the whole of its business not less than about 20 per cent on capital calculated on a replacement basis, we can only point out, first, that Pilkington does not calculate its own total profits on this basis and, secondly, that if we may judge by the figures which it submitted and which were calculated on a roughly historical basis (see appendix 7, column 8) its performance in recent years has been far below this level. Having envisaged some increase in Pilkington's profit margins as being compatible with the public interest, we do not wish to lay down any precise limit to such an increase, but we would not expect Pilkington to exploit the position by taking unreasonably high profits.

265. Triplex has clearly been earning substantially higher rates of profit on capital than Pilkington (see paragraph 257). It has been able to do this in spite of the strength of its market customers and of the fact that, throughout the period examined, it had to contend with competition sponsored by the two largest of those customers. This latter check upon Triplex's freedom of manoeuvre has now been removed by Triplex's acquisition of BIG.

266. Triplex says that its price policy up to the present has had to be determined in the light of the prices charged by BIG to its owner-customers but that, subject to this, it has aimed at, though it has not always achieved,

certain specified rates of profit on selling price (namely nine per cent on flat glass, 13 per cent on simple curves and 20 per cent on difficult curves). We discuss some of the implications of these profit differentials below, but Triplex contends that the important considerations are the aggregate prices paid for sets of glass for given models and profits earned over the trade as a whole. The customers, who are able to make comparisons with overseas prices, are, Triplex says, satisfied with the prices they pay. In Triplex's view it is 'subject to a higher risk than the average by virtue of its dependence on the motor industry, with its fluctuations in demand' and is entitled to a relatively high reward if—as it says has been the case—it is able to earn that reward by cost saving, skill and efficiency.

267. A good deal of the discussion of Triplex's profits has involved the so-called 'upper quartile'. As explained in appendix 7 and paragraph 232, both the basis for determining the level of the 'upper quartile' and Triplex's expressed aim in relation to that level have been modified in the course of the discussion. We take these somewhat complex arguments to mean that Triplex thinks it can justifiably aim in future at an average profit over the years in the neighbourhood of 20 per cent on capital calculated on a replacement basis, though a higher level would have been justified in the past when Triplex was in competition with BIG (see paragraph 232). The Triplex group figures appear on the whole to have been rather below this level up to 1965, though its profits on safety glass in the home market were a little above it. For our part, we would not wish to specify any given rate of profit as desirable, either as maximum or minimum. We do not regard the profits actually earned by Triplex on reference goods in the years examined as an unjustifiably high reward so long as we can be satisfied that its prices are not open to criticism on other grounds.

268. We think it is clear that Triplex has on occasion had to reduce certain of its prices because BIG was charging lower prices, and that, in general, Triplex earned its highest rates of profit on glasses of kinds which BIG could not make (e.g. difficult curves). Triplex effectively admits the truth of this but infers that BIG's prices were not necessarily profitable and that if Triplex had to cut its profit on one product it naturally expected to recoup this on another. BIG's profit record for the years 1964 to 1966 shows that it was pricing its products on a basis that did not prove strictly economic; on the other hand its profits in the two previous years were at a quite satisfactory level (see paragraph 167). The only conclusion we can reach is that Ford and BMH may, to some extent, have allowed themselves to be misled by their own chosen instrument for exercising some restraint upon Triplex. As a producing unit BIG's strength was never comparable with Triplex's. Since it was never capable of producing all the safety glass required by its two controlling customers it had little chance of obtaining business elsewhere, and the loyalty rebate offered by Triplex no doubt deterred some customers from giving it even small orders. Though Ford and BMH controlled BIG there were outside shareholders to be considered and the company could not be allowed to incur losses in order to force Triplex's prices down. In the event the price levels reached by competition between Triplex and BIG afforded Triplex handsome profit margins overall.

269. The situation as it existed before the merger does at least suggest that Ford and BMH, as well as the other main motor manufacturers, could

find no general grounds of complaint against Triplex's prices, and that Triplex in fact earned its profits by its own cost-saving efficiency while selling at prices which were reasonable by world-wide standards. The prices of curved laminated glass, in which BIG did not compete, were exceptional in this latter respect. Triplex agrees that these have been high by overseas standards and that its profits on them have been high as percentages of selling price. In mitigation it points to the fact of redundant capacity in this sector, but it has recently undertaken to reduce these prices by about five per cent\*.

270. On the whole we think the principal safeguard against the possibility that Triplex might exploit its monopoly position by charging excessive prices remains the power and technical expertise of its motor manufacturing customers. In this connection, one consequence of the elimination of BIG as an alternative supplier must be to reinforce the authority of BMH and Ford in their dealings with Triplex, since each of them will in future be requiring something between a quarter and a third of Triplex's production. It appears to us that the motor manufacturers are themselves confident of maintaining their own interests in the face of Triplex's monopoly, and we believe that the interest of the motor industry in the price of safety glass coincides with the public interest.

### **Particular practices and arrangements**

#### *(1) Pilkington's discount structure*

271. We have described Pilkington's discount structure in paragraphs 69 to 77. The prima facie criticisms that might be made of it are, first, that it is somewhat arbitrary in that there are no declared standards of qualification for direct purchase from Pilkington and no disclosed scales of quantity terms, and, secondly, that the discounts Pilkington grants to merchants on plate and float are determined in the light of annual discussions with representatives of the West European glass manufacturers with a view to ensuring that merchants are given terms related to their total purchases of plate and float.

272. On the first point, Pilkington says that an efficient glass merchanting trade is in its own interests and in the public interest, for large-scale stocking by merchants is essential where production is by continuous process and, therefore, inflexible. Pilkington, as the dominant producer, feels a responsibility in this matter and exercises its own judgment with a view to encouraging merchants who will hold large and varied stocks, install the equipment necessary for efficient handling and lend themselves to Pilkington's methods. Ostensibly it might be possible to bring about these results by laying down rules but in practice the company believes that by exercising its judgment it can make more reasonable allowance for exceptional cases than would be possible by rule of thumb. If the merchant trade wanted published standard terms Pilkington would certainly reconsider its attitude but it has no reason to believe that there is any desire for a change in this respect.

273. In considering this question we have had in mind the fact that the glass manufacturing and merchanting trades are both very old, involving

\* We are told that this reduction accounts for about one-half of the saving of £200,000 expected to accrue to motor manufacturers from the price reductions of 1st July 1967—see paragraph 182.

inter-firm relationships going back over a great many years. In the past, moreover, Pilkington and the merchants' trade associations have had special arrangements. It seemed to us not impossible that in these circumstances Pilkington's judgment on the matter of terms could be influenced by considerations of usage or sentiment as well as of efficiency, or in other words that the company might tend to allow undue advantage to particular merchants because they were old established or because they were members of a trade association or, possibly, to merchants in general at the expense of new types of large-scale users who might wish to buy direct.

274. Pilkington acknowledges that it might well tend to look more favourably on a member of a merchants' association than on a non-member since it believes that any responsible merchant ought to belong to the appropriate association; but it allows merchant terms to some non-members and would not make membership a condition of the grant of terms. More generally it points to the changes in the relative positions of individual merchants, as indicated by the value of their annual purchases, to show that its discount structure has not discouraged growth. As to users, Pilkington says that these require glass cut to their individual requirements and not in the 'stock' sizes which merchants buy. It is the normal function of the merchant to provide an efficient local service to the user by cutting to his requirements, and Pilkington would not think it right to undermine the merchant's position by permitting the same user to buy direct from itself. Where the user's purchases of cut glass are on a large enough scale, however, Pilkington sells direct to him at negotiated prices. The company would be reluctant to sell stock sizes at merchant terms to anyone who was not carrying out the functions of a merchant because it thinks that it should protect the merchant's position; but in practice demand from users for stock sizes hardly ever arises.

275. Although on the whole we accept that there is no undue discrimination against users in favour of merchants, we hope that if there should arise a demand from a new class of user, such as industrialised builders, who might wish to buy stock sizes in order to cut to their own requirements, Pilkington would be ready to meet this demand. As to the failure to disclose a scale of merchants' terms or any standard of qualification for direct purchase, this appears to us to be rather out of line with modern commercial practice; and secrecy may be particularly objectionable where a monopoly supplier is concerned. Though it is true that we have not received a great volume of complaint on the subject there are certainly some customers or would-be customers who believe that they are not granted merchants' terms because they do not belong to the appropriate association, or that their terms are less favourable than they should be if determined by size of purchases alone. Such complaints may be ill-founded but are always likely to be made in the absence of a disclosed standard. We agree that standard terms could be an embarrassment if they had to be adhered to rigidly, but there is in fact no need to make them mandatory. We do not regard this as a vital issue arising from Pilkington's monopoly position but express the hope that the company will re-examine its practice in this matter.

276. As to Pilkington's practice, after discussions with West European suppliers, of determining a merchant's percentage discount on plate and float on the basis of his total purchases of such glass from all sources, Pilkington

argues that (1) this is logical since the 'adaptations to their methods of trading' made by the merchants in order to earn their discounts are of equal value to all suppliers, (2) discounts related to the volume of purchases from individual suppliers would become, effectively, fidelity discounts and therefore tend to allocate particular customers to particular suppliers, and (3) the present arrangement on the other hand leaves 'the way clear for competition from European manufacturers unhindered by the incentive of fidelity to us'. Historically the arrangement has evolved from a time when the West European suppliers were in a much stronger position in this market and merchants could, if there were no such arrangement, play one supplier's terms against another's. On Pilkington's part the traditional feeling that no customer should be allowed to fall wholly into the hands of a foreign supplier has also helped to perpetuate the practice. At the present time we are told that about 80 per cent of Pilkington's sales of plate and float to merchants are on the maximum terms anyway and that the discussions are concerned only with those merchants who buy the remaining 20 per cent.

277. Pilkington says that there are no similar discussions on sheet or cast glass because in those cases the competitors' basic prices to merchants are generally higher than Pilkington's, whereas for plate and float their policy is to match Pilkington's prices. As regards the discounts on plate and float it says that it makes its own decisions and that the West European manufacturers have equal freedom of action.

278. We do not find ourselves wholly convinced by some of the arguments for aggregated discounts to merchants on their purchases of plate/float—more particularly since, so far as they are of real substance, they might be expected to apply in principle to all types of glass. Nor do we think it incumbent upon Pilkington to keep the ring open for its competitors but we doubt whether it would wish to do so if there were any prospect of these competitors obtaining a larger share of the market.

279. There remains the point, moreover, that the West European suppliers allow the same aggregated discounts as Pilkington. Any supplier who is to allow an aggregated discount must, of course, obtain in one way or another information about his customers' purchases from other suppliers. The annual discussions between Pilkington and the West European suppliers not only enable all parties to obtain the necessary information for their respective purposes but provide an opportunity to reach common decisions as to the actual discounts to be allowed in particular cases.

280. Essentially the situation is that Pilkington is the price leader in the United Kingdom market for plate/float; its competitors could not sell at higher prices and do not, in general, try to undercut Pilkington's prices (whether by quoting lower basic prices or by allowing higher discounts). Without annual discussions or other regular exchanges of information the situation might be rather more fluid—since suppliers would probably be less certain that they were matching their competitors' terms—but perhaps not very different so long as the Western European suppliers were not minded to attack Pilkington's prices. In spite of what is said in paragraph 278 we do not think it is necessarily undesirable that Pilkington should allow some of its merchant customers terms which take account of their potential buying power and not only of their actual purchases from Pilkington. We

doubt whether it is necessary for Pilkington to hold discussions with its competitors for this purpose but regard this practice as largely an historical relic of former more comprehensive arrangements.

(2) *The sheet glass arrangement*

281. There is an arrangement of a different kind, based on an unsigned agreement which is observed in principle, between Pilkington and the West European glass manufacturers in relation to sheet glass. Here the general effect is a rather loose system of overall export quotas while in certain national markets the parties, other than those whose home market is the one in question, sell at common prices. Thus West European sheet glass is sold for the most part at common prices in the United Kingdom but there is no obligation on Pilkington to sell at the same prices.

282. The effects of this arrangement, such as they may be, are not confined to the home market, which is our concern. In the home market the arrangement may possibly have some effect in discouraging competition between West European suppliers. We have no evidence that this would have been likely to occur in the absence of the arrangement, nor indeed have we found any evidence that the arrangement produces any effects in the home market, harmful or otherwise. Since we are not able to examine fully how the arrangement works in overseas markets we are in no position to judge whether its effects as a whole are, as Pilkington claims, both in Pilkington's interest and in the national interest but, in these circumstances, we find no ground for saying that the effects are against the public interest so far as the home market is concerned.

(3) *Triplex's loyalty rebate*

283. Since the end of the war and, probably, since the late 1930s Triplex has been allowing a loyalty rebate to certain motor manufacturers who purchased all their requirements of safety glass from Triplex. This rebate was not offered to small consumers (such as coach-builders etc.) but so far as the main motor manufacturers are concerned the rebate is, at present, at the flat rate of 1½d. per square foot purchased, without regard to quantities. Very roughly, for most of the purchasers concerned, this appears to be equivalent to a reduction of around 2½ per cent in the average purchase price. Until the merger with BIG, BMH and Ford did not qualify for the loyalty rebate but the other main motor manufacturers confined their purchases to Triplex. BMH and Ford are now also receiving this rebate but Triplex has undertaken to abolish the rebate and the consequent exclusive obligation, making corresponding reductions in basic prices. There is also a graduated scale of volume rebates which, in various forms, has been and continues to be operated; this involves no exclusive obligation, though as long as BMH and Ford were placing part of their orders with BIG one effect was, of course, to reduce the volume of their purchases from Triplex and, therefore, the rate of volume rebate to which they were entitled.

284. In principle, the economic objections to loyalty rebates are that the reduction in the price paid by the purchaser bears no relation to savings in the supplier's production or selling costs, and that they tend to create a rigid market, divided between 'loyal' customers buying from one supplier and customers who, on the whole, seek to place their orders elsewhere. In

the present instance, the opportunity to place orders other than with Triplex was limited ; but one effect of the rebate may have been virtually to confine BIG's trade to its two main shareholders (though, as we have pointed out in paragraph 268, BIG's capacity for taking on other orders would in any case have been very limited).

285. Triplex justifies its continued use of the loyalty rebate mainly on the ground that it was confronted with a peculiar form of competition from BIG\*. This was sponsored by the two largest potential customers who, so far as Triplex could tell, were prepared to allocate part of their orders to BIG without strict regard to price. In those circumstances, Triplex felt it necessary to make its business with the remaining customers secure by offering them a 'loyalty' inducement ; otherwise BIG could have kept its smaller capacity fully employed at all times by offering particular specifications at cut prices, leaving Triplex's capacity to bear the whole of the consequences of fluctuating demand.

286. We accept that the competition Triplex had to face from BIG had some unusual features and we can understand Triplex's reaction to it. In the motor component field it is not in fact unusual for a motor manufacturer to have a 'sole' supplier for a particular component ; the more unusual feature here was the readiness of the two largest of them to split their orders and, apparently, to co-operate for the purpose. Neither the loyalty rebate nor the volume rebate is strictly related to savings in Triplex's costs ; but, bearing in mind that Triplex makes safety glass to the customer's specification and not standard articles for general sale, it has not been unreasonable to offer customers inducements to concentrate their orders with a view to obtaining the greatest possible saving on long production runs. The particular circumstances which led Triplex to maintain the loyalty rebate have now come to an end and this form of rebate is to disappear. It is no part of our duty to pronounce upon loyalty rebates in general, but in the circumstances of this case we find no grounds for saying that the practice has been against the public interest.

### **The monopoly situation**

287. Broadly speaking Pilkington has a monopoly in the home market for raw flat glass and controls Triplex which has a monopoly in the home market for safety glass†. Thus in considering the statutory monopoly situation in flat glass as a whole we think it relevant to make a preliminary judgment upon, first, the monopoly situation in safety glass (including its reinforcement through the merger with BIG) and, secondly, Pilkington's control of the safety glass industry. Much of the ground relevant to these judgments has already been covered in the preceding paragraphs.

#### *(1) The monopoly in safety glass*

288. Our considerations in relation to efficiency, research, capacity, prices and profits and particular practices have not pointed towards an adverse judgment upon Triplex's past activities. Our main additional concern is with the effects of the acquisition of BIG.

\* The company, while acknowledging that the rebate is older than this particular form of competition, says that when it was first introduced the climate of opinion about such practices was very different.

† In fact there are certain types of safety glass which are made by Pilkington and not by Triplex but Triplex's field is the preponderant sector of the safety glass industry.

289. To some extent the issues here are confused by the changes in policy and attitude on the part of BMH and Ford which helped to bring about the merger. Before the merger took place Ford said as regards its investment in BIG that 'the real interest we have is in retaining the long term competitive situation on our glass buying', while BMH told us 'it is our impression that where there is only one source of supply for a particular shape of safety glass, the price is at a higher level than where there is more than one source of supply' (this latter statement being reinforced by instances). Subsequently, however, both companies have shown themselves satisfied to rely upon Triplex as virtually their sole supplier of safety glass. Both companies lay some emphasis on the need for further heavy investment in BIG if it were to have been maintained as an effective competitor; both also now speak of an improved relationship with, and confidence in, Triplex and both point to the assurances given by Triplex and to their own buying strength as providing sufficient safeguards against possible abuses of the monopoly position in this field. These latest attitudes are consistent with those of the other motor manufacturers, who have been buying exclusively from Triplex and who remain confident that their own interests are not imperilled by the monopoly.

290. It has naturally occurred to us that the interests of the motor manufacturers, as seen by themselves, are not necessarily decisive so far as our judgment of the public interest is concerned. In this connection we have considered whether, as in some other motor component fields, there is an important replacement trade and, if so, whether the monopoly, and its recent reinforcement, have any effects of which we should take notice on the general public as direct consumers.

291. Briefly the replacement trade in safety glass is, we believe, very small indeed in relation to the total trade. As with other components the motor manufacturers have tended in recent years to assert their right, or at any rate power, to channel the replacement trade through their own spares selling organisations. Triplex does not look on this practice with favour, believing that the public—which requires expert fitting as well as the delivery of the right glass—is more efficiently served by its own specialist stockists than by any more general stockist of motor spares. But Triplex also points out that the motor manufacturers have the power to control the trade if they so wish because the glass parts are made to their designs. BMH and Ford have so far been less exacting in this respect as regards safety glass than most of the other motor manufacturers; but fears have been expressed to us that this attitude on their part was in some way connected with their reliance on more than one supplier and that, after the merger, Triplex will agree, or feel compelled, to stop selling BMH and Ford spare parts through its own stockists. Our own conclusion in the light of what we have been told by Triplex and the motor manufacturers is that this development is not impossible, but that it could have happened earlier if BMH or Ford had so wished and that if it does happen it will not be a consequence of the merger.

292. We think that in the motor safety glass field it can be said in general, as we have already said in relation to prices and profits (see paragraph 270), that the interest of the motor industry coincides with the public interest.

In Triplex's view it would have been in the true interests of that industry if the production of safety glass had been fully concentrated earlier. BMH and Ford, it argues, have been paying higher average prices than they would have paid if they had placed all their orders with Triplex. As a result of the merger the company expects to achieve savings in cost amounting to some £½ million per annum, and although these will be offset at first by terminal costs in connection with BIG it is making immediate price reductions equivalent to these savings. The greater part of these price reductions will go to BMH and Ford in the form of loyalty rebate and higher volume rebate through the concentration of their orders, but there will also be some reductions in basic prices to motor manufacturers (see paragraph 182). This price reduction is clearly a benefit of the merger to the motor industry and, we believe, to the public interest.

293. The virtual elimination of all competition in the United Kingdom safety glass industry has, no doubt, its regrettable aspects. It has to be recognised, however, that this competition would almost certainly have disappeared some 15 years earlier had the principal motor manufacturers not stepped in to sustain it. The competition maintained since then has had some artificial characteristics. It has influenced some of the prices of the dominant supplier but it is difficult to assess how much effect it has had on Triplex's prices and profits as a whole. We accept that there are potential advantages in the merger by way of cost saving through scale of production. It may be argued that the monopoly producer of safety glass will be under no urgent compulsion to make the best use of these advantages from his customers' point of view since the threat of competition, whether from imports or from a new manufacturing source in this country, can only be an ultimate safeguard. But the bargaining power of Triplex's main customers does not depend upon their ability to make threats of this kind. Each of these main customers is well informed technically and requires a substantial fraction of Triplex's production; in certain cases, as we have pointed out, this fraction will be a quarter or more. Customers in this position carry a great deal of intangible authority, and the true restraint on Triplex remains the power of its customers, who will insist on getting a large part of the benefit of cost savings. This restraint is reinforced by the undertakings given by Pilkington and Triplex in connection with this merger (see paragraphs 180 and 181).

294. We do not find in these considerations any ground for an adverse conclusion in relation to the public interest so far as the subsidiary monopoly in safety glass is concerned.

## *(2) Pilkington's control of the safety glass industry*

295. In principle, the safety glass industry could have been concentrated without being controlled by the dominant raw glass manufacturer, and the earlier stages of concentration occurred, in fact, before Pilkington took control. The two issues are not, of course, entirely separate in practice. It is, for instance, clear that the rounding off of Triplex's monopoly in safety glass by the merger with BIG is as much a consummation of Pilkington's own policy as of Triplex's. Pilkington told us before the merger that it would not be satisfied until, like its main overseas competitors, it supplied

the whole glass requirements of the motor trade; and one effect of the merger is to bring the remaining independent manufacturer of motor safety glass of any consequence within Pilkington's captive market for raw glass.

296. In Pilkington's view access to a secure outlet for its glass to the motor trade is a vital interest. Its main regret is that it was slower to recognise this than most of its overseas competitors. It believes that it needs not only access but control, and this belief too is supported by developments in other main motor manufacturing countries, where more than 80 per cent of the safety glass is supplied by companies owned or controlled by the domestic raw glass manufacturers. The motor trade, Pilkington says, ultimately absorbs the largest part of the output of plate and float glass. The processes carried out by the safety glass manufacturer are really only the final processes in a linked series of operations which have to be planned on a vast scale. The motor manufacturers' requirements could not be met efficiently without unified control of all these operations; and in Pilkington's view, therefore, its control of the safety glass industry is as much in the public interest as in its own interest. It believes also that it is to the advantage of the national economy to reduce imports of glass to a minimum, and that in so far as the existence of a captive market has this effect this, too, is in the public interest. Pilkington has undertaken to maintain at all times adequate capacity to meet Triplex's demands. It has also given assurances, however, that Triplex is free to purchase raw glass from foreign suppliers 'when Triplex interests so dictate', that is to say if there should be a breakdown of supply by Pilkington, if purchase from abroad should give better value for money, if Pilkington should be unable to supply particular specifications of glass or, more generally, for the purpose of keeping open alternative lines of supply.

297. Although Triplex is not bound to purchase raw glass exclusively from Pilkington we are told that the imported glass used by BIG, amounting to some eight million sq. ft. per annum, will be largely replaced by glass from Pilkington. In so far as BIG was buying from abroad for a price advantage it could be argued that the inclusion of BIG within Pilkington's captive market was detrimental to the public interest. BIG bought from abroad partly because it was anxious to avoid complete dependence upon its competitor's parent company. We are told moreover that although some of its purchase prices from Continental suppliers were lower than those from Pilkington the prices at which BIG bought from Pilkington were higher than they would have been if BIG had placed all its orders with that company. We think that any effect that the absorption of BIG within the Pilkington group may have on the average cost of raw glass to the British safety glass manufacturing industry is likely to be quite negligible.

298. We think that it was natural, if not inevitable, that Pilkington should seek to control, at any rate, a substantial part of the safety glass industry. As to reducing imports of one particular commodity to a minimum, we do not think it possible to assess the ultimate effects of this but acknowledge that it is an understandable objective for Pilkington. In general the motor industry has not expressed any apprehensions about Pilkington's control; and we note that BMH and Ford did not relinquish control of Triplex's competitor until after Triplex had become, in 1965, a subsidiary company of Pilkington.

299. In general, therefore, we do not think that Pilkington is to be criticised for seeking to control the safety glass industry in this country and we find nothing in connection with that control which operates against the public interest.

(3) *The monopoly position as a whole*

300. As in the case of Triplex's subsidiary monopoly, we have not found any cause for an adverse judgment on the Pilkington group's monopoly position in the matters discussed under the headings of efficiency, research, capacity, prices and profits and particular practices. Nor do the conclusions we have reached on Triplex's position or on Pilkington's control of Triplex point towards such a judgment.

301. Pilkington submits that throughout the world 'it is competition and the nature of large scale, continuous, high quality manufacture that dictates the structure of the industry'; the company aims 'to be competitive and efficient—if this means that we become the only supplier, that would be an incidental result, but it is not the objective'.

302. We accept that the tendency towards national monopolies in flat glass is due mainly to the large capital investment required to lay down the most efficient and economical plant and to the fact that the maximum efficiency and savings of such plant can only be realised if it is producing for a very large market. As Pilkington itself has emphasised this is a consideration which does not affect only the consumers of flat glass in this country. Pilkington has established a very important export trade, which it could not maintain, much less increase, unless it were able to exploit to the full the potential economies of scale which are available to its competitors.

303. No company can for long serve the public interest unless it is a successful commercial enterprise, but commercial success may on the other hand involve abuse of the public interest. We have discussed in the earlier sections of this chapter a number of aspects of Pilkington's situation without finding any such abuse. There is one other aspect which needs to be considered. The Pilkington group is the monopolist supplier of raw flat glass and is also, as a processor and in a relatively small way as a merchant, in competition with some of its processing and merchanting customers. Ostensibly as a supplier it is in a position to penalise those customers in various ways to the advantage of its own processing and merchanting activities. Among the many witnesses from whom we obtained evidence there were a few who expressed fears on this score. On the part of one or two of the small manufacturers of safety glass these apprehensions have to some extent been renewed by the merger between Triplex and BIG; they fear that the Pilkington group might set out to suppress the residue of competition in this field by giving Triplex and the Pilkington toughening works preferential treatment in delivery or price. Pilkington has assured us that its policy is to charge its subsidiary and associated companies and its internal departments 'a fair market price for glass, affording to them only the discounts which their volume of purchases justify'. We have found no evidence of any actions taken by Pilkington with a view to the deliberate suppression of its small competitors by unfair discrimination in price, deliveries or otherwise. The small safety glass manufacturers clearly have no prospect

of competing with Triplex for bulk motor industry orders, though the expected abolition of the loyalty rebate may afford them some opportunity for small orders for flat glass. For the most part they are concerned with making small specialised products. As long as they can meet this kind of demand efficiently we see no reason why they should not continue to earn a livelihood and we do not believe that their degree of dependence upon Pilkington for their supplies of raw material will constitute a handicap.

304. We are satisfied that Pilkington is conscious of its responsibility, as a monopolist, to the public interest. This sense of responsibility may be associated to some extent with the long-established dominance of the Pilkington family within the business, reflected as this still is in the status of Pilkington Brothers Ltd. as a private company. Under this management Pilkington has some remarkable achievements to its credit, culminating in the development of the float process which all the other major glass manufacturers of the world are now in course of adopting. It is not for us to speculate how long the traditional character of the management of the company may continue, but there would, we think, have to be some quite unforeseen change in this respect before Pilkington would deliberately set out to exploit its position of strength at the expense of the public interest.

305. Having regard to our conclusions in paragraphs 294 and 299 we do not find any reason for saying that the monopoly position of the Pilkington group in respect of flat glass as a whole is against the public interest.

#### **Final conclusions**

306. Our statutory duty has been to determine whether the monopoly position or any relevant practices of the monopolist group operate or may be expected to operate against the public interest. Although we are, no doubt, entitled to balance good against ill in forming our judgments it is inevitable, since we are not required to consider whether any of these matters are positively in the public interest, that our discussion of the issues should have laid rather more emphasis on possible faults than on positive virtues. We have recorded elsewhere (see chapter 6) Pilkington's considered justifications of its actions and policies. In a few instances we have expressed some reservations about certain relatively minor matters under discussion, but it would be an exceptional company indeed which was not found to be open to any criticism at all after an investigation of this kind.

307. Our formal conclusions are, therefore, that neither the conditions which we have found to prevail in relation to the supply of flat glass by reason of the monopoly position of the Pilkington group, nor anything done by the Pilkington group as a result of or for the purpose of preserving those conditions, operates or may be expected to operate against the public interest.

BERNARD MILLER (*Chairman*)

HENRY CHISHOLM

ROGER FALK

W. E. JONES

ALIX MEYNELL

T. G. ROCHE

AUBREY SILBERSTON

LAURENCE WATKINSON

M. DENNEHY (*Secretary*)

17th November 1967