

THE MONOPOLIES COMMISSION

**Beecham Group Limited**

and

**Glaxo Group Limited**

(Now a wholly owned subsidiary of Glaxo Holdings Limited)

**The Boots Company Limited**

and

**Glaxo Group Limited**

(Now a wholly owned subsidiary of Glaxo Holdings Limited)

**A report on the proposed mergers**

*Presented to Parliament in pursuance of Section 9 of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 (as applied by Section 6(5) of the Monopolies and Mergers Act 1965)*

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## Members of the Monopolies Commission

Sir Ashton Roskill QC\* (*Chairman*)

Sir Alexander Johnston GCB KBE (*Deputy Chairman*)

Professor T Barna

Bernard Boxall Esq CBE

J Crawford Esq OBE

Sir Roger Falk OBE\*

John Gratwick Esq

Professor H L A Hart\*

D A Hunter Johnston Esq

Mrs Jacqueline Inchbald\*

M J Methven Esq

K A Noble Esq

Roger G Opie Esq\*

E L Richards Esq CBE MC TD\*

G B Richardson Esq

Lewis Robertson Esq CBE

S A Robinson Esq\*

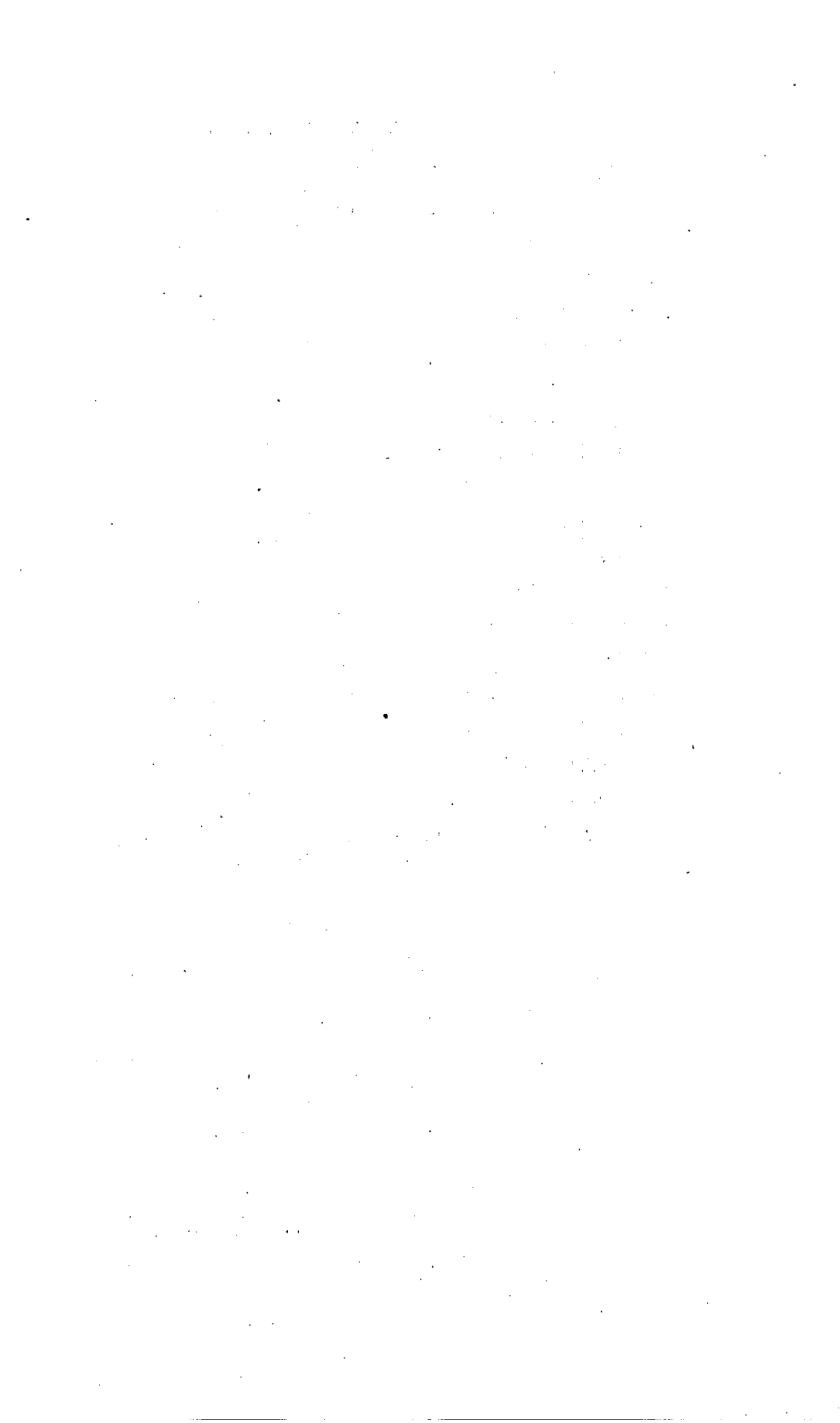
L H Williams Esq\*

Professor B S Yamey CBE\*

E L Phillips Esq CMG (*Secretary*)

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\*These members formed the group which was responsible for these inquiries (see paragraph 2).



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## Introduction

1. The two proposed mergers involving (1) the acquisition of Glaxo Group Limited by Beecham Group Limited and (2) the acquisition of Glaxo Group Limited by The Boots Company Limited were referred to the Commission for investigation and report on 4 February 1972 by the Secretary of State for Trade and Industry under the powers given to him by Section 6 of the Monopolies and Mergers Act, 1965. (The two references are reproduced in Appendices 1, in respect of Beecham/Glaxo, and 2, in respect of Boots/Glaxo). At the same time the Secretary of State exercised the powers to stay the proposed mergers conferred upon him by Sections 3(5) and 6(11) of the Act by making two Orders thereunder. These Orders (reproduced in Appendices 3 and 4) were The Restriction of Merger (No 1) Order, 1972, in respect of the Beecham/Glaxo merger, and The Restriction of Merger (No 2) Order, 1972, in respect of the Boots/Glaxo merger. Both Orders took effect on 5 February 1972.

2. On 7 February 1972 the Chairman (in accordance with the provisions of Section 1 of the 1965 Act and paragraph 9(1) of Schedule 1 thereto) directed that the functions of the Commission in relation to the investigations under the two references should be discharged through a group consisting of nine members of the Commission.

3. Section 6(7) of the Act empowers the Secretary of State for Trade and Industry to make a reference to the Commission where it appears to him that 'arrangements are in progress or contemplation' which, if carried into effect, will result in Section 6(1)(a) and (b) of the Act being satisfied. It appeared to the Secretary of State that Section 6(1)(a) and (b) would be satisfied by the carrying into effect of the arrangements proposed by Beecham Group Limited or of those proposed by The Boots Company Limited in that

- (a) one or more enterprises carried on by or under the control of Glaxo Group Limited would cease to be distinct from enterprises carried on by or under the control of Beecham Group Limited or of the Boots Company Limited (as the case might be); and
- (b) assets of a value in excess of £5,000,000 would be taken over in either case.

4. Section 6(7) requires the Commission to proceed 'in relation to the prospective . . . results of the arrangements proposed . . . as they might proceed in relation to the results of arrangements made immediately before the reference'. Thus we are required to treat each of the proposed mergers as if it had already been completed.

5. Under Section 6(2) of the Act we are required in each case to investigate and report on the facts, that is whether Section 6(1)(a) and (b) of the Act are satisfied and, if we find that they are, to report whether the proposed merger operates or may be expected to operate against the public interest. If we so find, we are to consider whether any and if so what action should be taken to remedy or prevent any resulting mischiefs and, if we think fit, we may include in our report recommendations as to such action.

6. In investigating and reporting upon the facts we are not to consider whether the provisions of Section 6(1)(b)(i) are satisfied, that is whether either merger will create or intensify the kinds of monopoly situation referred to in that subparagraph. We are, however, free to consider any monopoly aspects in relation to the public interest and we have, where appropriate, taken these aspects into account.

7. A notice inviting evidence on the references was inserted at the outset of our inquiries in the following publications: *British Dental Journal*, *British Medical Journal*, *Chemist and Druggist*, *Financial Times*, *Retail Chemist*, *The Pharmaceutical Journal* and *The Times*. We have held 10 hearings in all: two each with representatives of the three companies, and one each with representatives of the Association of Scientific, Technical and Managerial Staffs, the Department of Health and Social Security, the National Research Development Corporation and the Union of Shop, Distributive and Allied Workers. We have sought written evidence from all sections of the pharmaceutical industry and trade, from related staff associations, trade unions and professional associations, from purchasers of pharmaceutical products and from trade associations which, while not representative of the pharmaceutical industry or trade, could be expected to have views to express on behalf of their members handling pharmaceutical goods, eg supermarkets, grocers etc. Some of the evidence we have received is of a commercially confidential nature and our report contains only such information as we consider necessary for an understanding of our conclusions. For this reason we have omitted much of the detailed accounting and financial information, covering periods of several years, which Beecham, Boots and Glaxo furnished at our request and which helped us considerably in the course of our inquiries.

8. We should like to take this opportunity to thank all those who have provided us with the information required for our investigation, in particular Glaxo Group Limited, Beecham Group Limited and The Boots Company Limited, upon all of which companies our demands for information have of necessity been heavy. We are particularly indebted to Dr Basil J Bard CBE PhD, DIC, Managing Director of the National Research Development Corporation, and Dr James C Cain ARIC MBiol, Chief Executive of the Corporation's Applied Science Department, for the time and patience they devoted, independently of the hearing at which they gave evidence for the Corporation, to instructing us in certain highly specialised aspects of the merger inquiries. Thanks are also due to the Department of Health and Social Security for helping us compile the glossary at Appendix 17. Finally we are most grateful to the Economic Development Committee for the Chemical Industry for allowing us to see and draw upon the draft of *The Report of the Pharmaceuticals Working Party* which at the time of signing our Report has not yet been published.

## **The Proposals of Beecham Group Ltd and The Boots Company Ltd to Acquire Glaxo Group Ltd**

9. On 2 December 1971 Beecham Group Limited ('Beecham') gave the Chairman of Glaxo Group Limited ('Glaxo') a document announcing Beecham's intention to bid for control of Glaxo. Later that day the Board of Directors of Glaxo issued a press statement which stated that *prima facie* the Beecham proposals did not seem to be likely to be in the interests either of the stockholders of Glaxo Group or of the British pharmaceutical industry and that it was presumed that the Department of Trade and Industry would consider whether the matter should be referred to the Monopolies Commission.

10. On 15 December the Chairman of Glaxo issued to stockholders of Glaxo the text of a statement he had made at Glaxo's Annual General Meeting on 13 December giving some of the reasons why the Board of Directors were strongly opposed to the bid.

11. On 6 January 1972 the Department of Trade and Industry announced that the proposed merger would not be referred to the Monopolies Commission.

12. On 10 January Beecham, through Hill Samuel & Co Ltd, issued an offer document to the stockholders of Glaxo. Beecham offered them eleven Ordinary 25p shares of Beecham and £3.60 nominal of 5 per cent Convertible Unsecured Loan Stock 1991/6 for every nine 50p Ordinary Stock Units of Glaxo. Beecham also offered 40p in cash for each 6 per cent Cumulative Preference Stock Unit of 50p of Glaxo. One of the conditions to which the offer was subject, in the case of the Ordinary Stock, was acceptance, by 31 January (or a date not later than 10 March, at Beecham's discretion), in respect of not less than 90 per cent of that Stock or such lesser percentage as Beecham might decide, subject to a minimum of over 50 per cent of the issued Ordinary Stock and of the total voting rights attributable to the share capital of Glaxo exercisable at the time of the declaration.

13. On 12 January The Boots Company Ltd ('Boots') and Glaxo announced their intention to merge by means of offers by Boots for the issued share capital of Glaxo. The terms of the offers were stated to be nine 25p Ordinary shares of Boots and £4 nominal of 5 per cent Convertible Unsecured Loan Stock 1985 for every five 50p Ordinary Stock Units of Glaxo. Boots also offered 40p in cash for each 6 per cent Cumulative Preference Stock Unit of 50p of Glaxo.

14. On 14 January the Chairman of Glaxo wrote to the stockholders of the company, recommending them to accept the bid from Boots but to reject that from Beecham. On 21 January he again wrote to the stockholders of Glaxo, giving reasons for his recommendation not to accept the offer from Beecham.

15. On 24 January Beecham, through Hill Samuel & Co Ltd, made an increased offer to the stockholders of Glaxo, namely 29 Ordinary 25p shares of Beecham and £20 nominal of 5 per cent Convertible Unsecured Loan Stock 1991/6 for every twenty 50p Ordinary Stock Units of Glaxo. The offer of 40p in cash for each Preference Stock Unit of Glaxo remained unchanged. The offer was now to be unconditional if acceptances had been received by 8 February in respect of a minimum of 50 per cent of Glaxo Ordinary Stock (and of the total

Glaxo voting rights). On 25 January the Chairman of Glaxo advised the stockholders of the company not to accept the offer.

16. On 27 January J Henry Schroder Wagg & Co Ltd, on behalf of Boots, announced an increased offer to the stockholders of Glaxo, and posted an offer document on 31 January. (The earlier bid by Boots had not been the subject of an offer document.) Boots offered two 25p Ordinary shares of Boots and £1 nominal of 5 per cent Convertible Unsecured Loan Stock 1985 for each 50p Ordinary Stock Unit of Glaxo. Boots also offered, as previously, 40p in cash for each 6 per cent Cumulative Preference Stock Unit of 50p of Glaxo. The offer document contained a letter from the Chairman of Glaxo to its stockholders, recommending them to accept the bid. In the light of Boots' increased offer, Beecham adjourned an Extraordinary General Meeting of Shareholders, held on 2 February, the object of which was to have been to secure approval to the issue of the Convertible Unsecured Loan Stock which formed part of the offer to Glaxo's stockholders.

17. On 4 February the Secretary of State for Trade and Industry referred the proposed merger between Beecham and Glaxo and the proposed merger between Boots and Glaxo to the Monopolies Commission under Section 6 of the Monopolies and Mergers Act, 1965. The bids lapsed although both Beecham and Boots stated that their interest in merging with Glaxo had not diminished.

## CHAPTER 2

### The Industrial and Commercial Background

18. The world market for pharmaceuticals, excluding countries of the Communist bloc, was estimated at £7,100m in 1970, and the United Kingdom market in the same year was valued at about £280m, thus representing approximately 4 per cent of the world market. (The world and United Kingdom market values shown are at manufacturers' prices.) The structure of the pharmaceutical industry in the United Kingdom is typical of the worldwide structure; ie it is made up of a large number of relatively small producers, some of medium size, and a relatively small number of large producers. In general the large companies have substantial international business; at the other extreme, the small companies operate mainly in their home markets. (Appendix 5 contains a list of companies with a turnover of more than \$50m in the world pharmaceutical market, extracted from the Economic Development Committee's Draft *Report of the Pharmaceuticals Working Party* prior to publication of that Report as referred to in paragraph 8.) The 1968 *Census of Production*\* showed that there were 283 enterprises in the pharmaceutical industry in the United Kingdom in that year and the Department of Health and Social Security has estimated that foreign-controlled companies in the United Kingdom industry supplied about 64 per cent (by value) of prescription medicines supplied in this country in 1970.

19. The large companies with international business generally have production facilities in a number of countries and usually market their products in most

\**Census of Production* 1968. Report No 30, Pharmaceutical Chemicals and Preparations. HMSO London 1971.