

CHAPTER 7

Conclusions and recommendations

The conditions

234. We are required by the terms of our reference first to determine whether 'conditions' to which the 1948 Act (as amended and extended) applies prevail as respects the supply of building bricks in Great Britain.

235. As we have shown in paragraph 16, the London Brick Company (LBC) supplies over 40 per cent of the market for building bricks in Great Britain. We conclude therefore that 'conditions' to which the Act applies prevail because LBC supplies at least one-third of the building bricks which are supplied in Great Britain.

236. There is no other company supplying as much as one-third of the building bricks which are supplied in Great Britain. Our reference required us to investigate the supply of building bricks in Great Britain as a whole, and was not concerned with the possibility that another company, or companies, might supply at least one-third of the building bricks supplied in any substantial part of Great Britain.

The public interest

Competition

237. LBC's market power is greater than might be inferred from the statistic that in 1974 it supplied 40.9 per cent of the market for building bricks in Great Britain (see paragraph 16) or 44 per cent if engineering bricks are excluded (see paragraph 107), since LBC has a complete monopoly of fletton brickmaking. Although there is a degree of interchangeability between fletton and non-fletton bricks, the two types do not have precisely the same characteristics and serve somewhat different markets. The relationship differs as between facings and commons and is complex because of the variety of non-fletton facing bricks. We consider that LBC's dominance of fletton brickmaking has given it substantial additional market power.

238. LBC's complete monopoly of fletton brickmaking is relatively recent. From 1950 until 1968 LBC supplied about 70 per cent of the fletton market. In 1968 the remainder of the fletton market was supplied by the following companies in the approximate proportions shown:

	<i>per cent</i>
Marston Valley	14
Redland	8
Whittlesea Central	4
Flettons Ltd	2

239. Flettons Ltd ceased production in 1970, and between 1968 and 1973 LBC acquired Marston Valley (1968), the fletton brickworks of Redland (1971) and those of Whittlesea Central (1973). Although in each case the approach was made by the other party, LBC saw the acquisition of these works as a sensible and logical step. It was confident that its efficiency could be further increased if the scale of its operations could be enlarged and it considered this to be necessary in order to meet competition from alternative materials and methods of building.

It is plain therefore that it welcomed the opportunity to acquire its remaining competitors in fletton brickmaking, but there is no evidence that its present complete monopoly position was deliberately and specifically sought.

240. New entry into fletton brickmaking now seems unlikely. Redland Bricks Ltd told us that what it regarded as LBC's 'unattractively low prices' was one of its main reasons for deciding to sell its fletton interest to LBC; and that it had considered re-entering the field but had come to the conclusion that it did not want to enter an activity dominated by LBC (see paragraph 180). In order to compete with LBC in terms of costs, a competitor would have to erect at least one modern plant of efficient size. Such a plant, capable of producing 5 million bricks per week would cost about £5 million at 1975 prices (see paragraph 70). A new entrant from outside the brick industry would have to build up a marketing organisation and connections, and it would not enjoy the flexibility which LBC derives from its multi-plant operations. Any new entrant would be dependent on LBC for LBC's know-how. Even if it set up at a distance from LBC's works, it would probably find itself largely forced to follow LBC's price leadership. In these circumstances, and bearing in mind that brickmaking is not a growth industry, that the market is a fluctuating one and that the return on capital would be uncertain, LBC's monopoly of fletton brickmaking seems unlikely to be challenged.

241. In relation to non-fletton brickmakers, LBC enjoys advantages arising from the characteristics of the Oxford clay which is the raw material for its bricks. Much the most important advantage conferred by this clay is its exceptionally high carbonaceous content. LBC estimates that this enables it to fire its bricks with only about one-quarter of the external fuel needed by other brickmakers. The statistics in paragraph 176 indicate the higher fuel and electricity costs per 1,000 bricks incurred in producing non-fletton bricks and suggest (as might be expected) that the general increase in fuel costs in 1974 increased the comparative cost advantage enjoyed by fletton brickmaking. However, as fletton bricks are transported over greater distances from their works than are most other bricks, the improvement in LBC's comparative production costs arising from higher energy prices is offset in part in the more distant areas by the increased fuel cost of delivery there.

242. LBC refers also to other, lesser, advantages arising from use of Oxford clay, namely, 'green' brick strength, the uniform size of the bricks, and their light weight. As against these advantages fletton bricks have some shortcomings (see paragraph 109) which do not however prevent them from having a wide range of applications.

243. The principal advantage of fletton facings is their cheapness. They tend to be used where cost is the main consideration. Non-fletton facings tend to be chosen where considerations of technical qualities or appearance take precedence over cost. The demand for fletton facings tends to be unresponsive to changes in their price, so long as this is kept significantly below that of non-fletton facings. LBC points out that all facings encounter competition from building materials other than bricks, including faced concrete blocks, tilehanging to timber and factory assembled materials and components. So far, however, the use of such materials in private housing, which constitutes LBC's most important single market, has been small (see paragraphs 15 and 118).

244. In the case of common bricks, there is little to choose between the characteristics of flettons and non-flettons for most applications and the market for them is therefore much more homogeneous than that for facings. As a consequence, the range of prices is much narrower. However, LBC considers that the main competition to its common bricks does not come from other common bricks but from other building materials, in particular concrete blocks. Its contention has support from the fact that concrete blocks have gained substantially at the expense of common bricks during the past ten years (see paragraph 14).

245. In assessing LBC's competitive strength, account has to be taken of the cost of delivering bricks. It is a characteristic of most traditional building materials that they are cheap to make but costly to transport, and it is a matter of observation that most older buildings were constructed predominantly from local materials. Cheap transport has altered the balance but, because the cost of transporting bricks is very high in relation to their cost of production, transport continues to exercise a profound influence on the market for them. Bricks can be made wherever there is suitable clay or other material but bricks with particular characteristics can only be made where the clay giving these characteristics to the finished bricks is found. Thus, 'blue' engineering bricks are largely made in Staffordshire, and there is a national market for such bricks because of their loadbearing, low porosity and other characteristics. Other types of building bricks, perhaps made from a unique clay deposit giving exceptional beauty or colour or texture to the finished brick, enjoy a national market because cost is not the ruling factor in their choice. At the other end of the scale are bricks made from clay which does not confer any special qualities on the finished article and these therefore have to be sold primarily on price. Such bricks tend to have a purely local market because the cost of transporting them makes them uncompetitive when sold at any substantial distance from their place of production. A local market radius of 30 miles is typical for a small brickworks making such bricks. Within these extremes there are brickmakers, large and small, making bricks having a wide variety of characteristics and enjoying a market that is not narrowly local but is nevertheless not wider than regional.

246. Fletton bricks have no special physical advantages other than their uniformity and lightness. However, because they can be produced so much more cheaply than other bricks, they can bear much higher transport costs without ceasing to be competitive. Uniquely therefore they are a common purpose brick which has come to enjoy a wide national market in England and Wales with limited sales as far afield as Scotland despite the cost of transport. LBC is confident that its share of the market for bricks will increase in the longer term. If the company's confidence is well founded, its market power would be likely to grow.

247. We go on to consider whether LBC's market power has or is likely to lead to adverse effects or abuses. First, we consider whether LBC's prices and profits have, in all the circumstances, been reasonable. We then consider LBC's investment policy, its efficiency and its labour relations. This is followed by an examination of certain of its trading practices, namely its pricing policy for common bricks and its policy on transport charges; and of other, minor, matters. Finally, we comment on some problems arising from fluctuations in the demand for bricks.

Prices and profits

248. LBC says that it seeks to achieve its profit objectives by increasing the volume and efficiency of its production rather than by raising its prices. It also

states that the prices of some of the bricks produced at the Redland and Whittlesea Central works which it acquired were higher than its own and that, after acquisition, it reduced the prices of these bricks to the LBC level. We have noted that since 1963 LBC increased the price of its facing bricks considerably less than the price of its common bricks (see Appendix 5), even though its market power has been greater in facings.

249. LBC's prices can be judged by reference to its profits and its efficiency. We discuss the latter in paragraph 257. In Appendix 6 we show LBC's group profits over the past 20 years in terms of capital employed on an historic basis¹. It will be seen that in no year did LBC's group profits exceed 30 per cent. The separate calculation of profits over the past five years for bricks alone (see paragraph 165) suggests that the profitability of LBC's brickmaking activities tends to be slightly higher than the profitability of the group as a whole, and in 1973 the return on capital for bricks alone, at 31.5 per cent, was slightly in excess of 30 per cent. The average level of group profit over the 20-year period was 23.5 per cent.

250. LBC says that the most important element in the risk attaching to new projects is uncertainty about the level of demand (see paragraphs 211 and 214). We are, however, struck by the consistency of LBC's profits record. Only in four years out of the past twenty did group profits fall below 19 per cent, and only in one of these (1974) did they fall below 10 per cent. This suggests to us that the risks attached to LBC's brickmaking activities are smaller than might be inferred from the vagaries of the brickmaking industry. Such a conclusion would be consistent with our opinion as to LBC's market power. The evidence indicates that LBC has not exploited its market power to raise prices at times when demand for bricks has been strong but has been able to use its market power to raise its prices in a recession so as to recover its profitability (see paragraph 160). The resilience of LBC's profits in periods of recession also reflects the advantages of operating a large number of plants of varying levels of profitability (see paragraph 254).

251. While LBC has not in our view exploited its monopoly position to charge excessive prices or to make excessive profits, we nevertheless consider that it has the market power to do both these things. If its policies in these respects were to change, therefore, there might be a case for a further reference to this Commission.

LBC's investment policy

252. We have no reason to dispute LBC's claim that it has reached the practical limit in the modernisation of its old works, (see paragraph 209), and our interest therefore centres on its policy in relation to the construction of what it calls 'new generation' works (see paragraph 117) of which two, Kings Dyke and New Saxon, are in operation.

253. In general, new works may be constructed either for the purpose of increasing capacity or reducing costs or both. Table 9 (see paragraph 16) shows that brickmaking is not a growth industry and that for the last ten years fletton bricks have done little more than maintain their share of the total brick market. We have referred (see paragraph 246) to LBC's confidence that it can increase its market share in the longer term, but the main justification for new works has been

¹We have been unable to compare results on either a Current Purchasing Power basis or a Current Cost Accounting basis as CPP figures are available for 1974 only and CCA figures not at all. (See paragraph 156.)

to reduce costs rather than to expand overall brickmaking capacity though increased facings capacity has also been an objective. The methods by which LBC appraises the case for new works projects are explained in paragraphs 211 to 213. The return of 20 per cent on a discounted cash flow basis for which LBC has aimed in respect of new projects is not in our view unreasonable after making allowance for investment on which no direct return is sought and for risk. The level of LBC's investment in new works is discussed in paragraphs 216 to 221.

254. LBC says that the uncertainties arising from fluctuations in the demand for bricks have not deterred it from its policy of investing in new works, but that its financial position would have been much worse in 1974 if all its plants had been new with continuing capital charges. The closing of modern plant would not have cut costs as effectively as the closing of old plant the variable costs of which are higher. The older, labour intensive, works have therefore acted in commercial, but not human, terms as a valuable buffer against the vagaries of the cycle. It is not clear from calculations which we have made that LBC could reduce its costs overall by building further new works irrespective of the effects of recession. The fact that it has kept in being works of widely varying performance (see paragraph 123) is understandable.

255. LBC's present strategy is to get back into full operation the more efficient of its 'old' plants and then to build a further 'new generation' works; the timing would depend on the market and the overall economic situation. We see no grounds for criticism of the company's recent investment performance or of its current strategy.

256. LBC, in common with the brickmaking industry at large, has come under some criticism for its inability to satisfy the demand for bricks at peak periods. LBC says it does not aim to meet every peak of demand, irrespective of its duration or height. We do not think LBC would have been justified in undertaking greater investment in fixed plant for this purpose particularly as such a course would have left it with an even larger amount of unused capacity in 1974-75. Investment in brick stocks would be an alternative to greater investment in fixed plant. Stocking involves substantial outlays and risks, and we do not criticise LBC's stocking policy. We refer again to these matters in our comment on the problems arising from fluctuations in the demand for bricks (see paragraph 275).

Efficiency

257. LBC's efficiency can no longer be measured against fletton competition because this has disappeared. However, LBC claims that it was able to improve the productivity and profits of both the Marston Valley and Redland brickworks, after taking them over, by the injection of funds for further modernisation, by rationalisation and by the application of LBC's know-how in fletton brickmaking. It also states that the evidence on acquisition showed that in no case was the efficiency of its erstwhile fletton competitors as high as its own average efficiency. LBC claims that virtually all innovation in the fletton industry has originated within the company. We have not been able to test these various claims, but we have no reason to doubt them. We note innovations such as 'selfstak' and the development of the 'fletliner' service, and its initiative in the design of 'new generation' works. We have noted also its methods of monitoring its internal efficiency (see paragraphs 202 to 204) and the development of its operational scheduling model for the efficient control and development of the company's

operation (see paragraphs 205 and 206). We have already referred to LBC's general investment policy and performance (see paragraphs 252 to 256). Our broad conclusion is that LBC is efficiently managed.

Industrial relations and wages

258. Representatives of the TUC and the principal unions involved praised the company for the improvement it had effected to working conditions and safety in plants which it had acquired and for its efforts to find alternative employment for redundant labour in other works in the 1974 recession; but in 1974 they were extremely critical about LBC's method of industrial relations, in that they alleged lack of consultation on a variety of matters and an unresponsiveness to trade union complaints on working conditions, redundancies and other matters. The company was considered to have an outdated paternalistic attitude towards its labour and to be unconscious of the bad state of industrial relations which, in the union's view, in fact existed. LBC, on the other hand, claimed credit for good industrial relations and suggested that it could not have carried through smoothly the difficult operations of production cutbacks and redundancies in 1974 without the co-operation and understanding of its workers (see paragraph 197). We found it difficult to assess the effect of the evidence which we received in 1974 because it was so conflicting but it did not justify any complacency on the part of LBC about the state of its industrial relations at that time. In 1975, the TUC informed us that there had been some improvement from the union standpoint (see paragraph 198). In any event, we consider that no connection is established between the state of LBC's industrial relations and its monopoly of fletton brickmaking.

259. In view of the suggestion contained in paragraph 68 of a report by the National Board for Prices and Incomes (NBPI)¹ to the effect that LBC may be under no pressure to resist wage demands because it can pass on any wage increase to its customers, we made a limited investigation into certain wages paid by LBC in relation to those of other brickmakers and to those paid by certain manufacturers of other materials. The evidence we obtained (see paragraph 195) was insufficient to support any view that LBC has adopted an easy-going attitude towards wages because it can afford to do so.

LBC's pricing policy for common bricks

260. For many years LBC has, as a matter of policy, accepted lower margins on its common bricks than on its facing bricks. The NBPI report to which we have already referred (see paragraph 259) concluded in 1970 that LBC's ex-works prices of common and facing bricks did not reflect relative costs and recommended that any further increase in prices should be concentrated on the price of common bricks. In fact, since 1969 LBC has reduced the disparity progressively.

261. In its original evidence to the Commission, in February 1974, LBC stated that, as a matter of policy, it would wish to see the margins on common bricks improved; but, because of the effect of any sharp change in building costs, it considered that this could only be achieved over a period. Moreover, while the development of 'set-on-edge' facing bricks (see paragraph 119) increased operational flexibility, a proportion of commons still had to be produced (see paragraphs

¹Report No 150 entitled *Pay and other Terms and Conditions of Employment in the Fletton Brick Industry and the Prices Charged by the London Brick Company* published in July 1970.

120 to 121). LBC later claimed (see paragraphs 169 and 170) that price adjustments and additional costs incurred in the production of facings had brought the margins into line.

262. LBC has been unable to substantiate this claim as it has not in the past ascertained all the additional costs incurred in the production of facings. On the basis of ascertained costs alone, a 4 per cent rise in the price of commons and a 4 per cent reduction in the prices of facings would be necessary to close the gap in the margins, even after the price adjustment in July 1975. There might well remain a gap even if all the additional costs, both ascertained and unascertained could be brought into the reckoning, but it would be smaller.

263. We feel we are entitled to assume that it is now LBC's policy to keep the margins in line. We think that this policy is right in present circumstances but that any present difference in the margins is not important enough to justify any recommendation by us.

Transport charges

264. We have already observed (see paragraph 245) that the cost of transporting bricks is high in relation to production costs, and that LBC's exceptionally low costs of production enable its bricks to bear much higher transport costs than other general purpose bricks without ceasing to be competitive (see paragraph 246). In 1973, for instance, the costs incurred by LBC in delivering its bricks (£11.6 million) amounted to approximately one-half of all its other costs (£23.4 million) (see paragraph 183 and Appendix 8). The method by which LBC recovers its transport costs from its customers can therefore have a material effect on its delivered prices and on its competitive position.

265. LBC's broad policy is to recover the total costs of delivering its bricks without making either a profit or a loss on its transport account. This is also the policy of most other brickmakers. Nevertheless, in practice LBC usually incurs a loss; in 1973 and 1974 taken together, the loss amounted to nearly £1 million out of £21.5 million of total transport costs incurred (see paragraph 183).

266. Although it is LBC's broad policy to make neither a profit nor a loss on its transport operations overall, this does not apply to its individual charges. LBC has for long maintained the practice of overcharging for delivering bricks relatively close to its works; and undercharging for delivering at a distance. The NBPI in their report referred to in paragraph 259 recommended that LBC's scale of charges at different distances should, unless there were good reasons to the contrary, reflect the actual costs of delivery. Recently, the amounts of the disparities at most distances have become somewhat less particularly when expressed as a percentage of the delivered price (see paragraphs 184 to 188). Nevertheless, LBC's charges for delivering bricks to the most distant areas are still below the cost of transport, in some cases by 17 per cent which is more than 7 per cent of the delivered price and about 11 per cent of the ex-works price (see paragraph 188). This practice represents unfair competition, and could lead to an inefficient use of national resources. This could arise if, as a consequence of LBC's pricing policy, some builders in (say) Wales were to find LBC's bricks cheaper than equivalent locally produced bricks when the costs of producing and delivering the latter were lower. This would be objectionable particularly if the importing area suffered from relatively high unemployment.

267. LBC's explanation of the origin of the practice and the arguments for continuing it are set out in paragraph 190. We appreciate that its abandonment could entail some increase in LBC's prices in some distant areas, and that this in turn might lead to some charging of higher prices by LBC's competitors in those areas. However, although the building trade in these areas might have to pay some higher prices, the building trade in areas close to LBC's works should pay lower prices.

268. LBC regards the amount of the undercharges as small in relation to the delivered price of bricks and would not expect the effect on its sales of their removal to be other than marginal. We do not think the practice can be condoned on the grounds that the amounts are not great in many parts of the country in view of the figures which we quote in paragraph 266. We have no wish to discourage LBC's further penetration of the brick market, but we think that the company should, so far as it is reasonably practicable so to do, relate its transport charges to the customer to the cost of delivery to him.

269. There are some resemblances and some differences between the facts and circumstances of LBC's practice in regard to transport charges and those of the uniform delivered price practice of the BPB group which the Commission criticised in their report on Plasterboard¹. Common to both are the market power of LBC and the BPB group, the high cost of transport relative to the cost of production and the failure to relate transport charges to the cost of delivery to the customer. The fact that the two cases are not in all respects parallel does not in our view² justify different conclusions.

270. We have been made aware during the course of our inquiry that LBC has it in mind to change its present zoning system for the calculation of transport charges (see paragraph 193). Although these proposals will have the effect of 'coarsening' the rate structure, we consider that they can be implemented without material detriment to the principle (see paragraph 268) on which we think transport charges should be based.

271. We consider that an exception to the principle can be justified if lower transport charges are used for developing a particular market to a point where it will become self-supporting. Thus, provided that a 'fletliner' service is introduced in the North-East by LBC in the near future, we see no objection to the continuation of some degree of under-charging these so long as the delivery charges are not set below the level which would be appropriate with a 'fletliner' service in operation.

Complaints and other matters

272. We received some complaints to the effect that (a) in times of low demand LBC 'dumps' bricks in distant areas but withholds them when demand recovers, and (b) in times of high demand large customers receive more favourable treatment than do small customers. LBC contends that these allegations are untrue, and we are satisfied that the available statistical evidence does not support them. LBC has also explained to us the operation of its base-line entitlement system which determines allocation at times of high demand (see paragraphs 223 and 226). We are satisfied by the company's explanations in this respect.

¹*A Report on the Supply of Plasterboard* published by Her Majesty's Stationery Office on 21 January 1974.

²See note of dissent in paragraphs 281 to 284.

273. LBC normally permits its customers to collect from its works at an ex-works price, but suspends this facility during periods of high demand. It asserts that in normal times there is almost no demand for this facility; but in times of high demand customers hope to 'jump the queue' by collecting, and the presence of their lorries would add to vehicle congestion at the works and reduce vehicle throughput at a time when it was important to maximise it. It says that it would also add to administration costs, and that to overcome the difficulties it would be necessary to set up special stockyards at these times for which the collecting customer would probably be unwilling to pay. We think LBC should consider the practicability of accommodating in times of high demand those of its customers who make it their practice to collect in normal times, but have no other suggestion to make.

274. The NBPI report to which we have already referred (see paragraph 259) recommended that small loads should attract a delivery surcharge. This recommendation was not followed by LBC for reasons of administrative difficulty. If the difficulties could be overcome, we would see no objection if LBC, within a policy of incurring neither profit nor loss on its transport operations overall, were to surcharge by the amount of the additional expense involved, the customer who requested delivery in lorries smaller than the company or its private hauliers would normally select.

Fluctuations in the demand for bricks

275. We have referred in paragraph 256 and elsewhere in our Report (see Chapter 3) to the fluctuations in the demand for bricks which have been a recurrent theme during our inquiry. The brickmaking industry tends to suffer particularly severely from fluctuations which affect the construction industry as a whole. This is partly because bricks are a 'starting' material and brickmaking is therefore affected by changes in demand sooner, and with less warning, than almost any other building material. The impact on the industry tends to be exacerbated by multiple ordering when brick supplies are short followed by a collapse in orders when the shortage disappears. These rapid reversals pose particular problems for makers of clay bricks because the economic production of these bricks depends on continuous flow through the kilns. In time of boom, brickmakers are often unable to meet in full the demand for bricks. In a recession, on the other hand, brickmakers are often faced, because of the high cost of operating below capacity, with the alternatives of stockpiling bricks for which there is no immediate demand or shutting down works altogether and dispersing the labour force that operates them. The fluctuations create additional costs and increase the risks of investment. Thus, they affect the consumer adversely because they lead to higher prices and because shortages of bricks can add materially to building costs.

276. There are no remedies short of the creation of a more stable climate for the industry, for which Government has a special degree of responsibility. Measures taken by Government to influence the level of demand in the economy at large affect the industry, and variations in the level of new orders by public authorities, which may arise as part of the process of central economic management, have direct and substantial impact; public sector construction work accounts for a substantial proportion of all building (see footnote to paragraph 38).

277. On the assumption that some fluctuation in the demand for bricks is unavoidable, we have considered whether its effects could be mitigated. We have

already recorded our view that LBC would not have been justified in undertaking more investment in fixed plant for the purpose of meeting shortages at peak periods and we do not criticise LBC's stocking policy (see paragraph 256). We take a similar view in relation to the brickmaking industry as a whole. However, we consider that the creation of buffer stocks of bricks could be a means by which adverse effects of the fluctuations for both producers and consumers of bricks might be lessened. The unions strongly supported the creation of a 'brick bank' when demand recedes for the purpose of securing a greater degree of continuity of employment (see paragraph 233). While the unions, in putting forward this proposal, appeared to have the problem of redundancy primarily in mind we think that the stockpiling of bricks in a recession might often be less costly in commercial as well as in human terms than shutting down works; could reduce the price of bricks; and make them more readily available when demand recovers from the depressed periods of the cycles.

278. The policy of different brickmakers towards producing for stock varies and indeed in some cases the protracted stocking of bricks may not be practicable for reasons of space or because of deterioration in the product. We have not discussed with individual brickmakers or representatives of the industry the practicability of producing bricks for stock in a recession to a greater extent than at present or schemes by which this might be encouraged, but we suggest that the Government should consider the desirability of doing so. Considerations relevant to the success of a scheme would include the reliability of medium-term forecasts of demand for bricks and the availability of risk capital for investment in stocks.

Summary of conclusions

279. Our conclusions may be summarised as follows:

- (1) The 'conditions' of the Act prevail as respects the supply of building bricks in Great Britain by reason of the fact that LBC supplies at least one-third of the building bricks which are supplied in Great Britain (see paragraph 235).
- (2) The 'conditions' do not operate and may not be expected to operate against the public interest. (See paragraphs 251 and 257.)
- (3) LBC's practice of overcharging, for transport, customers relatively close to its works and undercharging customers relatively distant from its works is a thing done as a result of the conditions and operates and may be expected to operate against the public interest (see paragraphs 264 to 269)¹.
- (4) There are no other things done as a result of, or for the purpose of preserving, the conditions which operate or may be expected to operate against the public interest.

Recommendation

280. In view of our conclusion (3) above, we recommend that, subject to the qualifications contained in paragraphs 270 and 271, LBC should in future relate its transport charges to the customer to the cost of delivery to him (see paragraph 268)¹.

¹See note of dissent in paragraphs 281 to 284.

ASHTON ROSKILL (*Chairman*)

G. F. ASHFORD

(*Subject to note of dissent*)

T BARNA

ROGER FALK

F E JONES

R G OPIE

S A ROBINSON

RITA STEPHEN

Y LOVAT WILLIAMS (*Secretary*)

25 November 1975

Note of dissent by Mr Ashford

281. I am unable to agree with my colleagues' conclusion and recommendation on the subject of transport charges. My colleagues recommend that LBC should relate its transport charges to the customer to the cost of delivery to him. In my opinion this recommendation would be likely to result in a restriction in competition in those areas of Great Britain where LBC's share of the market is today small and in an increase of LBC's dominance in those areas where LBC's share is already large.

282. I do not consider that undercharging for transport on the scale at present practised by LBC is likely to lead to an inefficient use of national resources in view of the inherent savings of energy and capital costs in the production of LBC's bricks (see paragraphs 176, 70 and 75).

283. I agree that undercharging for transport by LBC to the extent of 7 per cent of the delivered cost might be regarded by competitors as unfair competition, but for the reasons already mentioned I do not consider that on balance such competition is contrary to the public interest.

284. In my opinion my conclusion is not in conflict with the finding of the Commission on uniform delivered prices in their report on Plasterboard. In the Plasterboard reference the company concerned had 100 per cent of the plasterboard market and of the only competing material which was gypsum plaster. In the present case LBC has only 40.9 per cent of the brick market and there are many other competing materials (see paragraph 4). In the Plasterboard report the Commission attached particular importance to the deterrent effect of uniform delivered prices on a potential new competitor. In the present case LBC has a large number of competitors, all of whom are much smaller than LBC but some of whom are expanding faster (see paragraph 151) and showing a higher return on capital employed than LBC (see paragraph 172).