

Bicycles

**A Report on the application by
TI Raleigh Industries Limited and
TI Raleigh Limited of certain
criteria for determining whether to
supply bicycles to retail outlets**

*Presented to Parliament in pursuance of
Section 17 of the Competition Act 1980*

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¹ These members formed the Group which was responsible for this Report (see paragraph 1.3).

² Mr Burton became Secretary in the closing stages of the inquiry (on 21 September 1981) and took no part in it. He succeeded Mr J Gill, who continued to assist the Group as Consultant, and who signed the report in that capacity.

Note by the Department of Trade

In accordance with section 17(5) of the Competition Act 1980, the Secretary of State has excluded from the copies of the report, as laid before Parliament and as published, certain matters disclosure of which the Secretary of State considers would not be in the public interest. Accordingly, certain information has been omitted from the text. The omission is indicated by a note in square brackets.

No omissions have been made from Chapter 6, Conclusions.

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CHAPTER 1

Introduction

1.1. On 21 April 1981 The Director General of Fair Trading sent to the Commission the following Reference:

Competition Act 1980

Competition reference under section 5

The Director General of Fair Trading has published a report under section 3 of the Competition Act 1980 ('the Act') stating that a course of conduct pursued by TI Raleigh Industries Limited and TI Raleigh Limited constitutes an anti-competitive practice and that it is appropriate for him to make a reference under section 5 of the Act. The Director General has not accepted from the persons specified in the report any undertaking which covers the course of conduct described in the report as constituting an anti-competitive practice. Therefore, in exercise of his powers under section 5 of the Act, he hereby makes a reference to the Monopolies and Mergers Commission ('the Commission') as follows:

- (a) The persons whose activities are to be investigated by the Commission are TI Raleigh Industries Limited and TI Raleigh Limited (the Group);
- (b) The goods in question are bicycles for a rider with an inside leg measurement of 559 mm or more, the Group's 'Spider' and 'Candy' models for riders with a minimum inside leg measurement of 508 mm and equivalent models produced by other manufacturers;
- (c) The course of conduct to be investigated is the application by the Group of those of its criteria for determining whether to supply bicycles to retail outlets which concern geographical location, loss leading (other than in the circumstances specified in section 13 of the Resale Prices Act 1976), non-availability of technical advice, servicing facilities, stocks of spare parts or—when it is applied in a discriminatory fashion—commitment;
- (d) A report on this reference is to be made within the period of six months beginning with the date hereof.

(signed) JOHN WARNE
on behalf of the Director General of Fair Trading

21 April 1981

1.2. The reference goods as defined in paragraph (b) of the Reference are bicycles intended for use on the roads (as distinct from 'pavement cycles' ie toy bicycles for use off the road by young children).

1.3. The Chairman of the Commission, acting under section 4 of the Fair Trading Act 1973 and paragraph 10(1)(a) of Schedule 3 thereto, directed on 22 April 1981 that the functions of the Commission in relation to the reference should be discharged through a group consisting of six members of the Commission with himself as Chairman. The composition of the group is indicated in the list of members which prefaces this report.

1.4. The Director General's report mentioned in the Reference was published on 27 February 1981.¹ In this report it is referred to as the 'OFT report' and the Office of Fair Trading is referred to as 'OFT'.

1.5. A report of the Director General under section 3 of the Competition Act 1980 states, with reasons, whether he believes that any course of conduct described in the report constituted or constitutes an anti-competitive practice. If so, the report must specify the person concerned, the goods in question and whether the Director General considers it appropriate for the matter to be referred to the Commission, giving reasons for his opinion.

1.6. Once they have received a Reference, the Commission must investigate whether, at any time in the 12 months previous to the Reference, any person mentioned in the Reference was following, in relation to the goods or services specified, the named course of conduct or any course of conduct which appears to be similar in form and effect. If they find that this was so, they then have to determine whether the person was during that period engaging in an anti-competitive practice; and, if the practice was anti-competitive, whether it operated, or might be expected to operate, against the public interest.

1.7. If the Commission conclude that a person has been following a course of conduct which is anti-competitive and which operated or might be expected to operate against the public interest, they must also say what are, or are likely to be, the effects of the practice adverse to the public interest. They must also consider, and may make recommendations about, what action (if any) should be taken to remedy or prevent those adverse effects.

1.8. In the course of our inquiry under this Reference, we had before us copies of the OFT report and also a dossier of evidence submitted to OFT by organisations, firms and individuals in the course of the Director General's investigation under section 3 of the Act.

1.9. Of the two companies specified in the Reference, one—TI Raleigh Limited—is a manufacturing subsidiary of the other, TI Raleigh Industries Limited which is itself a subsidiary of Tube Investments Limited. (A brief general description of these companies is given in paragraphs 2.1 to 2.6 of the OFT report.) In this report, TI Raleigh Industries Limited and TI Raleigh Limited are referred to jointly as 'Raleigh'.

1.10. It is clear from paragraphs 4.28 and 6.8 of the OFT report that one result of Raleigh's distribution policy has been refusal of applications for

¹ Copies of the OFT report are available from the Office of Fair Trading, Room F 5, Field House, Bream's Buildings, London EC4A 1PR.

supplies of its bicycles from 'such multiple retailers as Argos Distributors Limited (Argos), Asda Stores Limited (Asda), Comet Radiovision Services Limited (Comet), House of Holland Limited (House of Holland), Tesco Group of Companies (Tesco) and F W Woolworth & Co Limited (Woolworth)'. These multiples include some who are frequently referred to as 'discount stores' but not every one of them would be usually so described. For brevity and convenience, we refer to them collectively in this report as 'discount stores', or, in Chapter 4, as 'the retailers' when this is unambiguous in the context.

1.11. Notices inviting interested parties to submit evidence to the Commission in relation to the Reference were placed in:

The Times
Financial Times
The Guardian
The Telegraph

The London Gazette
The Motor Cycle and Cycle Trader
Harpers Sports

1.12. We sought evidence from the Department of Transport, the Trades Union Congress and the Confederation of British Industry as well as from Raleigh. We also invited, or received spontaneously, evidence from others including the National Consumer Council, cyclists' organisations, the Bicycle Association of Great Britain Limited, the National Association of Cycle and Motor Cycle Traders Ltd (the 'National Association'), the Managerial Administrative Technical and Supervisory Association, the Radio, Electrical and Television Retailers' Association (RETRA) Ltd, bicycle retailers and other businesses concerned with the bicycle trade, as well as bodies concerned with vehicle and road safety. We took oral evidence from Raleigh, the National Association and certain large retail organisations.

1.13. The question of the roadworthiness of bicycles in the state in which they are received by customers from various categories of retail outlet was raised with us in the course of the inquiry. We therefore commissioned the Consumers' Association to inspect and report to us on the condition of one hundred bicycles of a variety of makes and models as purchased from a range of retail outlets (excluding mail order). A note on the Consumers' Association report is at Appendix 1.

1.14. Some of the information obtained in the course of the inquiry was of a commercially confidential nature; our report contains only such information as we consider necessary for an understanding of our conclusions.

1.15. We wish to express our thanks to all those who helped us with our inquiry and particularly to the companies and organisations principally concerned, upon whom we made heavy demands for evidence.