



THE MONOPOLIES AND MERGERS COMMISSION

Ford Motor Company Limited

A report on the policy and practice of the
Ford Motor Company Limited of not granting licences
to manufacture or sell in the United Kingdom certain
replacement body parts for Ford vehicles

*Presented to Parliament
by the Secretary of State for Trade and Industry
by Command of Her Majesty
February 1985*

LONDON
HER MAJESTY'S STATIONERY OFFICE

£5.10 net

Cmnd. 9437

Note by the Department of Trade and Industry

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 figures in one of the appendices have been omitted. The omissions are indicated by asterisks in the appendix.

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* These members formed the group which was responsible for this inquiry (see paragraph 1.5).

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CHAPTER 1

Introduction

1.1. On 11 May 1984 the Director General of Fair Trading sent 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 Ford Motor Company Limited (' Ford ') 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 Ford 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 person whose activities are to be investigated by the Commission is Ford;
- (b) the goods to which the investigation is to extend are replacement body parts;
- (c) the course of conduct to be investigated is the pursuit by Ford of a policy and practice of not granting to any person (other than to persons supplying body parts to Ford) a licence to manufacture or sell in the United Kingdom any replacement body part where Ford claims to be entitled to prohibit such manufacture or sale by virtue of the copyright subsisting in the drawings or designs of body parts.¹

For the purposes of this reference :

' body part ' means any body panel fitted to a motor vehicle as standard equipment when sold new and ' replacement body part ' means any body panel sold as complete or partial replacement for a body part; ' copyright ' shall include copyright arising from the registration of a design under the Registered Designs Act 1949.²

A report on this reference is to be made within the period of six months beginning with the date hereof.

(Signed) GORDON BORRIE
Director General of Fair Trading
11 May 1984

¹ We give a summary of intellectual property rights affecting the reference goods at Appendix 1.

² We have used the expression ' registered design protection ' in respect of the protection given by the Registered Designs Act; see Appendix 1.

On 30 October 1984 the Secretary of State gave directions under section 7(6) of the Competition Act 1980 and section 70(1) of the Fair Trading Act 1973 allowing the Commission an extended period until 10 February 1985 for reporting on the reference.

1.2. The Director General's report mentioned in the reference was published on 21 March 1984.¹ In this report it is referred to as the 'OFT report' and the Office of Fair Trading is referred to as 'OFT'.

1.3. A report of the Director General under section 3(10) 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. Under section 2(1) of the Act, 'a person engages in an anti-competitive practice if, in the course of business, that person pursues a course of conduct which . . . has or is intended to have or is likely to have the effect of restricting, distorting or preventing competition in connection with the production, supply or acquisition of goods in the United Kingdom or any part of it . . . '.

1.4. If the Director General finds there to be an anti-competitive practice, section 3(10) of the Act requires him to specify in his report: the person concerned, the goods in question and whether the Director General considers it appropriate for the matters to be referred to the Commission, giving reasons for his opinion. The person specified in the reference is Ford Motor Company Limited.

1.5. On 14 May 1984 the Chairman of the Commission, acting under section 7(6) of the Competition Act 1980 and Part II of Schedule 3 to the Fair Trading Act 1973, directed that the functions of the Commission in relation to the reference should be discharged through a group of six members of the Commission; the composition of the group is indicated in the list of members prefacing this report.

1.6. Our terms of reference required us to investigate the Ford policy and practice of not licensing for manufacture or sale any replacement body part where Ford claims to be entitled to prohibit its manufacture or sale by virtue of ownership of copyright in the drawings or designs of such a body part. Our terms of reference did not require us to consider the validity of such claims and we have not done so.

1.7. In the course of our inquiry under this reference, we had before us copies of the OFT report and also evidence submitted to OFT by Ford and other firms and organisations in the course of the Director General's investigation under section 3 of the Competition Act.

1.8. Notices inviting interested parties to submit evidence to the Commission in relation to the reference were placed in:

<i>Autotrade</i>	<i>Financial Times</i>
<i>Body and Motor Management</i>	<i>Motor Trade Executive</i>
<i>British Business</i>	<i>Motor Trader</i>
<i>Car Parts and Accessories</i>	

¹ Copies of the OFT report are available from the Office of Fair Trading, Room 612, Chancery House, 53 Chancery Lane, London WC2A 1SP.

1.9. In addition to examining evidence given to OFT during the course of their investigation, we sought evidence from the Department of Trade and Industry, the Department of Transport, the Trades Union Congress and the Confederation of British Industry, as well as from Ford. We also invited evidence from others, including motoring organisations, consumers' associations, insurers' associations, and associations representing independent manufacturers and suppliers of body panels, motor parts factors and vehicle repairers. We wrote to the principal United Kingdom motor car manufacturers and importers to invite their comments on the reference and also to ask whether they followed a policy similar to Ford's. Oral hearings were held with Ford, some organisations and independent manufacturers or distributors. A list of those who provided written and oral evidence is at Appendix 2. Visits to Ford plants and to an independent manufacturer were made by members of the Group and by the Commission's staff.

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

1.11. We wish to express our thanks to all those who helped us with our inquiry, particularly to the companies and organisations principally concerned, certain overseas diplomatic posts, and especially to Ford.