



THE MONOPOLIES AND MERGERS COMMISSION

The British Broadcasting Corporation and Independent Television Publications Limited

A report on the policies and practices of the British Broadcasting Corporation and Independent Television Publications Limited of limiting the publication by others of advance programme information and of not granting licences which would allow others to publish such information beyond certain specified periods.

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

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**Members of the Monopolies and Mergers Commission
as at 17 July 1985**

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*These members formed the group which was responsible for this report (see paragraph 1.3).

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CHAPTER 1

Introduction

1.1. On 29 January 1985 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 in accordance with section 3(10) of the Act that a course of conduct pursued by the British Broadcasting Corporation ('BBC') 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 BBC 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 the BBC;
- (b) the goods to which the investigation is to extend are publications containing BBC programme schedules in whole or in part;
- (c) the course of conduct to be investigated is the pursuit by the BBC of a policy and practice of limiting the publication by others of advance programme information, including BBC programme schedules, and of not granting licences which would allow others to publish such information for periods in excess of those specified by the BBC.

For the purpose of this reference 'BBC programme schedule' means a guide as to the time and particulars of programmes to be broadcast by the BBC to all or any part of the UK during any specified period.

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

(Signed) GORDON BORRIE

Director General of Fair Trading

29 January 1985

1.2. On the same day the Director General of Fair Trading also sent 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 in accordance with section 3(10) of the Act that a course of conduct pursued by Independent Television Publications Limited ('ITP') 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 ITP 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 ITP;
- (b) the goods to which the investigation is to extend are publications containing IBA programme schedules in whole or in part;
- (c) the course of conduct to be investigated is the pursuit by ITP of a policy and practice of limiting the publication by others of advance programme information, including IBA programme schedules, and of not granting licences which would allow others to publish such information for periods in excess of those specified by ITP.

For the purpose of this reference 'IBA programme schedule' means a guide as to the time and particulars of programmes to be broadcast by the Independent Broadcasting Authority to all or any part of the UK during any specified period.

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

(Signed) GORDON BORRIE

Director General of Fair Trading

29 January 1985

1.3. On 30 January 1985 the Chairman of the Commission, in pursuance of the powers vested in him by virtue of 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 references should be discharged through a group 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. In this report 'OFT' means the Office of Fair Trading and 'the OFT report' is the report mentioned in the references to the Commission, which was published by the Director General of Fair Trading under section 3 of the Competition Act 1980 on 13 December 1984.¹

1.5. In the course of our inquiry under these references we had before us copies of the OFT report and also evidence submitted to the OFT by the BBC and ITP and other organisations, companies and individuals in the course of the Director General's investigation under section 3 of the Competition Act.

1.6. Notices inviting interested parties to submit evidence to the Commission in relation to the references were placed in:

The Daily Telegraph

The Guardian

The Times

The Sunday Times

AFN News

Campaign

Marketing

Marketing Week

UK Press Gazette

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

1.7. In addition to examining evidence given to the OFT during the course of its investigation we received direct evidence from both the BBC and ITP, and also from the Independent Broadcasting Authority, The Newspaper Society, The Newspaper Publishers Association, the Scottish Newspaper Proprietors' Association, the Association of Free Newspapers, the National Union of Journalists, the Association of Cinematograph Television and allied Technicians, the National Federation of Retail Newsagents, The Cable Television Association, the National Consumer Council, the Consumers' Association, individual publishers of newspapers and of magazines, a cable television company and some members of the public. We also invited the Home Office, the Confederation of British Industry, the Periodical Publishers Association and several other organisations to submit views but they did not wish to do so.

1.8. We held ten hearings: two each with the BBC and ITP and one each with representatives of the Association of Free Newspapers, the National Union of Journalists, The Newspaper Publishers Association, The Newspaper Society, Time Out Ltd, and a publishing company.

1.9. Some of the evidence collected during the course of our inquiry was of a commercially confidential nature, and our report contains only such information as we consider necessary for a proper understanding of our conclusions.

1.10. We thank all those who helped us with our inquiry, particularly the BBC and ITP on whom we made considerable demands for evidence.