

CHAPTER 8

Conclusions

The monopoly situation

8.1. We are required by our terms of reference to investigate and report on the questions whether a monopoly situation exists in relation to the supply in Great Britain of the services of managing greyhound tracks, and if so which provisions of sections 6 to 8 of the Fair Trading Act 1973 (the Act) apply and in whose favour the monopoly situation exists.

8.2. Section 7 of the Act is concerned with the supply of services and provides for what are usually described as scale and complex monopolies.

Scale monopoly

8.3. A scale monopoly under section 7(1)(a) or (b) may be found when at least one-quarter of the supply is by the same person or group of interconnected bodies corporate. We have shown in Chapter 2 the number of tracks, and the attendance and turnover at the tracks. No person or group owns a quarter of the tracks in Great Britain, but the GRA Group PLC (GRA) owns tracks which on our estimates in 1984 received more than a quarter of the revenue from track attendance and Tote turnover and might therefore be considered to satisfy the provisions of section 7(1)(b). However, as we have found that GRA tracks operate under the same rules and conditions as the other tracks in the larger group which is considered in the following paragraphs we have decided not to make any formal finding in relation to scale monopoly.

Complex monopoly

8.4. Under the provisions of section 7(1)(c) and (2) of the Act a monopoly situation of the type usually described as a complex monopoly may be found when at least one-quarter of the supply of services of a particular kind is provided by members of one and the same group consisting of two or more persons who 'so conduct their respective affairs as in any way to prevent, restrict or distort competition in connection with the supply of services of that description'.

8.5. There are thus three criteria which have to be satisfied before the existence of a complex monopoly can be established in this case. Taking them in logical order, the first is that there is a group of persons involved in the supply of the services of managing greyhound tracks. There are now 40 tracks (including the GRA tracks and one temporarily closed for renovation) which operate under the rules of the National Greyhound Racing Club Ltd (NGRC) and accept the services supplied by the NGRC stewards and officials in respect of the inspection and control of racing. All these tracks belong to the Racecourse Promoters Association (RPA) and are involved in the supply of the services of managing greyhound tracks. They are members of a group within the meaning of section 7(1)(c) and (2).

8.6. On the question of whether the NGRC is also a member of the group and thus forms part of the complex monopoly, the NGRC put it to us that it did not

supply the services of managing greyhound racing tracks, and submitted that section 7(1)(c) requires all the members of the complex monopoly to be supplying the services.

8.7. This section, however, does not require that the group should consist solely of persons who supply the services. It requires only that those who supply at least a quarter of the total supply of the services shall be members of the group. This leaves the possibility that there may be others who do not themselves supply the services but are in some way closely enough connected with those who do, for all of them together to be regarded as a group.

8.8. Owners of tracks licensed by the NGRC and the NGRC itself are in our judgment so closely connected as to be regarded as a group. The connection between them is that the owners conduct their tracks in accordance with rules which are both made and enforced by the NGRC. If the effect of these rules is to prevent, restrict or distort competition, the body which makes and enforces them and those who accept them are both so conducting their respective affairs as to prevent, restrict or distort competition in connection with the supply of the services of managing greyhound tracks. If so, they constitute together a group within the meaning of section 7(1)(c) and the first of the three criteria is satisfied.

8.9. The second criterion is that members of the group supply at least one-quarter of the services of managing greyhound tracks. The NGRC tracks by number, attendance (see Table 2.1), revenue from attendance, and Tote turnover (see Table 2.6), satisfy this criterion.

8.10. The third criterion is that the members of the group, which we have identified in paragraphs 8.5 to 8.8, by their actions prevent, restrict or distort competition. Accordingly we have sought to determine whether observance and enforcement of the NGRC rules affect competition between those who accept the NGRC system and those outside it and restrict competition within the NGRC system.

8.11. Rule 174i prohibits all persons directly engaged within the NGRC sector and all greyhounds registered with the NGRC from any active participation in racing outside the NGRC system. To the extent that the rule is observed this prevents non-NGRC promoters from competing with NGRC tracks for the services of greyhounds registered with the NGRC and currently racing on NGRC tracks. The rule is also, in our view, a prime cause of the use of non-stud book names on independent tracks, which has an adverse effect on the commercial opportunities of these tracks and so restricts their competition with NGRC tracks (see paragraph 8.37).

8.12. We have also considered the effect of another NGRC rule which affects competition within the NGRC system. Rule 64*b* provides that at all NGRC full-licence tracks greyhounds for graded races may be selected only from those in the charge of licensed Professional Trainers and Owner Trainers attached to the individual full-licence track. The NGRC has told us that this rule is necessary in order to define graded races and to provide the full-licence tracks with a regular selection of greyhounds for their graded races. However, for Permit tracks the rule simply specifies that graded races may be made up from greyhounds in the care of any class of trainer, though we understand that in practice Permit tracks tend to 'attach' trainers in an informal way.

8.13. If the rule for full-licence tracks allowed any Professional and Owner Trainer to offer greyhounds we believe that the full-licence tracks would still be able to find enough greyhounds for their graded races and would indeed have a wider field from which to choose. In its present form, therefore, Rule 64*b* restricts unnecessarily the selection of greyhounds at full-licence tracks and so the ability of full-licence tracks to compete with each other. It follows that it restricts competition in connection with the supply of the reference services.

8.14. Hence we find that the third of the criteria necessary to establish the existence of a complex monopoly is also fulfilled in that two of the NGRC rules, 174*i* and 64*b*, have the effect of restricting competition. We therefore conclude that a complex monopoly within the meaning of section 7(1)(c) and (2) of the Act exists in favour of a group of persons consisting of the NGRC full-licence and Permit track promoters and the NGRC who so conduct their respective affairs as to prevent, restrict or distort competition in relation to the supply of the services of managing greyhound tracks. Members of this group supply over one-quarter of the services of managing greyhound tracks in Great Britain. Before we go on to explain our conclusions in relation to the public interest it is necessary to set out our findings on the organisation and operation of greyhound racing in Great Britain.

Greyhound racing in Great Britain

8.15. We have described in Chapter 2 how greyhound racing was introduced to Great Britain 60 years ago as a spectator sport which provided cash betting facilities. There is little doubt that it was the availability of these betting facilities, at a time when most of the population had no lawful access to cash betting, which led to the popularity and rapid expansion of greyhound racing.

8.16. Initially there was no central direction or control of what soon became a highly profitable and expanding activity and there were, we have been told, many opportunities for the unscrupulous to take advantage of the lack of any system of racing standards and the availability of betting facilities.

8.17. Some of those involved in the business of promoting greyhound races soon came to recognise the need for an organisation which would maintain standards and enable the promoters and others concerned in greyhound racing to represent their interests to central and local government. As we have explained in Chapters 2 and 3, an organisation was therefore set up with the object of providing these standards and establishing a form of control over all aspects of greyhound racing. Not all those who were then promoting greyhound racing were prepared to accept the constraints of the new controlling body and this situation has persisted to the present time.

8.18. This controlling body, the NGRC, has passed through a number of reorganisations but has continued to set the standards and rules for all the greyhound tracks which accept its regime. These include all the largest stadiums and a significant proportion of the medium-sized ones. A number of the medium-sized tracks and all the smaller ones have remained outside the NGRC system and are known as independent tracks or colloquially as 'flapping'¹ tracks.

¹The term 'flapping' is derived from the nature of the lure at certain small tracks which is sometimes merely a piece of flapping cloth rather than a representation of a hare.

8.19. The Betting and Lotteries Act 1934 imposed stringent controls on the frequency of racing and required all greyhound tracks to be licensed by local authorities. Despite this and further serious restrictions imposed during the 1939–45 war, greyhound racing generally flourished and the immediate aftermath of the war saw a great resurgence though this was short lived; in the years 1947 to 1949 gates fell back to pre-war levels having been seriously affected by restrictions imposed in the fuel crisis of 1947, and in 1948 by a pool betting duty imposed on bets placed through greyhound totalisators.

8.20. The Betting and Gaming Act of 1960, which legalised betting shops, was another severe blow to the industry as the local greyhound track was no longer the only readily accessible place where cash betting was allowed. Attendances at greyhound tracks have been falling steadily as other attractions have taken their toll and, in built-up areas particularly, the high values of many greyhound tracks as redevelopment properties have led to closures.

8.21. Throughout this cycle of economic success and decline the separation of greyhound racing between the NGRC tracks and the independent tracks has continued. The evidence we have received from all sources indicates that there is unfortunately a mutual distrust and antipathy between those concerned in the management of the NGRC and those concerned with independent tracks.

The NGRC

8.22. The NGRC sector is governed by two closely linked bodies. First is the British Greyhound Racing Board (BGRB) (see paragraphs 3.13 to 3.18) whose membership (identical with that of its General Committee) consists of an independent chairman, the Senior Steward of the NGRC, two representatives appointed by the RPA, with one representative of the NGRC Professional Trainers, one of owners and one of greyhound breeders. The Consultative Body of the BGRB includes additional representatives of these and other related interests, but none from the independent sector.

8.23. The second body, the NGRC, is controlled by a Disciplinary and Management Committee whose members are known as Stewards (at present there are five) one of whom as Senior Steward acts as Chairman. The Stewards are appointed by the General Committee of the BGRB, subject to nomination by the Senior Steward and the approval of the Chairmen of the RPA and the BGRB. The two organisations share the same Secretary and Chief Executive.

8.24. The NGRC (subject to the approval of the BGRB—see paragraph 3.25) promulgates the Rules of Racing. There are 185 rules at present plus two codes of practice and a series of Stewards' directions. These are administered in the field by six area Stipendiary Stewards and local Stewards appointed from track personnel.

Security of greyhound racing

8.25. All greyhound racing is closely associated with gambling whether at the large stadiums which cater mainly for spectators who have no direct connection with the greyhounds, or at those NGRC Permit tracks and the smaller independent tracks where most owner trainers race their greyhounds. The existence of gambling makes the security and the fairness of racing of paramount concern.

8.26. All tracks provide for on-course bookmakers. All the NGRC tracks and about 40 per cent of the independent tracks also own and operate totalisators, which provide part of the track's income. However, most greyhound betting takes place off the course at betting shops and credit bookmakers, although there is practically no off-course betting on racing at independent tracks. A large proportion of off-course betting is on daytime races run by certain NGRC tracks under contracts with Bookmakers' Afternoon Greyhound Services (BAGS—see paragraph 2.81). BAGS has a particular importance as it allows the betting shops to continue in business when bad weather restricts horse racing.

8.27. There are no official statistics for gambling on greyhound racing. Estimates by Mintel from Customs and Excise returns (see Table 2.7) suggest that a total of some £887 million was gambled in 1984, £654 million of it in off-course betting, £168 million in on-course betting with bookmakers and £65 million on the Tote.

Main types of races

8.28. In Great Britain there are two basic kinds of race. For a graded race (which make up over 90 per cent of all racing) the Racing Manager selects five or six greyhounds which on past form in races or trials seem likely to provide a close finish. For 'open' races the greyhounds are entered by their trainers or owners; where the entry is large some may be eliminated by selection, for the rest there are heats and a final. Prizes can be substantial and, particularly at independent tracks, may be made up largely of the entry fees.

NGRC racing

8.29. The NGRC system covers practically every aspect of racing and is particularly concerned with the security of racing and safeguarding the interest of spectators and those who bet at and off the track. It also seeks to promote the general welfare of the racing greyhounds by specifying kennel standards and veterinary inspections, providing for the retirement of greyhounds, and in other ways.

8.30. Every individual directly involved with the racing and training must be licensed by the NGRC and pay a fee. Before it can enter NGRC racing every greyhound must be registered by the NGRC and be provided with an identity book in which all its race and trial results on NGRC tracks and other particulars are recorded. Its owner must also be registered.

8.31. The NGRC specifies that all greyhounds must run in their stud book names (see paragraph 2.71). The greyhounds' NGRC Identity Books are kept by the tracks and are not allowed into the custody of the owners or trainers. Rules 49ii and 64ib provide that all greyhounds racing at full-licence tracks must be in the care of a Professional Trainer or Owner Trainer for at least seven days before the race and for graded races may be selected only from trainers 'attached' to the track. Eighteen full-licence tracks have routine drug tests before racing and Rule 113 specifies pre-race identification and weighing by a licensed official, inspection by a veterinary surgeon and confinement in secure kennels up to the time of the race.

¹ In Scotland and parts of Northern England many independent tracks provide staggered starts to their graded races to provide the close finish.

8.32. The NGRC disciplinary procedures are complex. They include provision, depending on the circumstances, for formal Preliminary Investigations by the Local Stewards, Local Inquiries by the area Stipendiary Steward and NGRC Inquiries by the NGRC Stewards. The latter may be ordered whether or not any complaint or report on a specific offence or breach of the rules has been made. Offences specified in the rules include a greyhound not performing in a race to the satisfaction of the Local Stewards and matters such as the administration of drugs, bribery and conspiracy to take part in corrupt or fraudulent practices. Penalties for those found guilty of transgressions range from a caution or reprimand, through fines, to the ultimate penalty—banning from any participation in any NGRC activity. While the NGRC Stewards have discretion to reopen an inquiry if they think the circumstances warrant it, there is no appeal from their decisions.

8.33. The NGRC group told us they considered that their system provided the only fair racing in Great Britain and although accepting that there are some very well run independent tracks they expressed grave doubts about the integrity of racing outside the NGRC system. The NGRC said that it was in order to maintain the integrity of its system that its rules attempt to maintain a complete separation between NGRC and independent racing.

Racing on independent tracks

8.34. There is no organisation in the independent sector which corresponds to the NGRC. About half of the independent tracks are members of the Independent Track Promoters Association (ITPA), a rather loose grouping which represents the views of its members to the Government and bodies such as the MMC. The ITPA does recommend a short form of 18 racing rules to its members (see Appendix 5), but it does not enforce the rules and makes no attempt to offer any system of control such as is provided by the NGRC. Indeed, if it did so it is unlikely that any such control would be acceptable to its members. Most of the independent track promoters who gave evidence to us stressed their wish to remain independent of the NGRC and of any other similar type of non-statutory control.

8.35. There are at present 58 independent tracks. They are situated throughout Great Britain but, while there are few in the South of England where the NGRC tracks are mostly located, independent tracks predominate in South Wales, Scotland and the North of England (see Appendix 7). In comparison with many NGRC tracks most independent tracks are smaller and have more limited spectator facilities, although the largest independent tracks are bigger than some NGRC Permit tracks and have similar facilities. All the tracks time races and have some form of mechanical hare.

8.36. A significant difference between independent and NGRC racing is that the independent tracks do not insist on the use of stud book names and greyhounds may and often do run in different names at different tracks, although the practice appears to be for each track to insist on a greyhound always using the same name in graded races at that track (graded races are, on average, over 90 per cent of the total). As a result each independent track has to maintain its own records of the greyhounds which run in its graded races and a greyhound which has not raced previously at the track must run a trial or trials so that it can be marked up and graded.

8.37. This non-use of stud book names by independent tracks goes back to the initial division of the sport. More recently the Royal Commission on Gambling in 1978 recommended that the use of stud book names should be made compulsory. While this was welcomed by the NGRC it was opposed by the independent tracks on the grounds that if they used stud book names it would enable the NGRC to identify any NGRC greyhounds racing there in contravention of Rule 174i and so impose its disciplinary system on their owners and trainers and put an end to the practice. Compulsory use of stud book names would thus impose an additional restriction on the commercial position of the independent tracks unless, at the same time, the NGRC withdrew its prohibition on the racing of NGRC greyhounds on independent tracks.

8.38. The importance of this argument depends partly on the extent to which NGRC greyhounds are being raced by their owners or trainers on independent tracks. We have received and obtained from our questionnaires and by interview much evidence on this point. It is generally agreed by all that despite the barriers put up by the NGRC it does happen. The NGRC itself accepts that some NGRC greyhounds and owners and a few trainers may be participating in racing at independent tracks, but holds strongly to the view that the volume is not significant, even at independent tracks where the promoters have told us that it is substantial. This view has also been supported by some witnesses chiefly from within the NGRC sector. But most other witnesses believed that the proportion of NGRC greyhounds racing at independent tracks is significantly higher than 10 per cent at some tracks and in some races may be very high.

8.39. All these views must be carefully weighed as they may be affected by self-interest or genuine misunderstanding. However, in the light of the evidence available to us it is clear that some NGRC greyhounds are raced on independent tracks and, while the extent of this cannot be estimated with any certainty, we believe that its level lies above 10 per cent but below the 50 per cent suggested by some independent promoters. Moreover the fact that there is a widely held belief that this usage of NGRC greyhounds is substantial is of equal importance in relation to the use of non-stud book names and must influence the actions of the independent promoters.

8.40. The use of non-stud book names (and of different names at different tracks) means that the information available to the patrons at an independent track is limited to the trials and recent races by the greyhounds at that particular track. This can be a serious restriction of the information necessary to assess the form of the greyhound. Moreover the use of non-stud book names, despite the efforts of individual promoters, may provide the unscrupulous owner or trainer with additional opportunity for deceit. It is a major factor in the absence of off-course betting on independent races and we understand it affects the size of bets that will be accepted at independent tracks and the odds that are available.

8.41. NGRC tracks are also affected. To the extent that greyhounds racing at a particular NGRC track are also being raced clandestinely elsewhere, the racecard that is provided for patrons at the NGRC track will not contain a complete record of the most recent form of the animals concerned.

8.42. Another difference between NGRC and independent racing is that at an independent track if a greyhound finds or loses an appreciable amount of time (ie performs significantly better or worse) compared with its previous form ' the red

light' may be shown. This means that the result of that race is declared void and all bets are off. Discipline in these circumstances can be immediate with the owner in question being warned off the track or, in very serious circumstances, reported to the police. Under the NGRC procedure described in paragraph 8.32 the bets normally stand and no-one can be disciplined unless an inquiry is held.

8.43. At all the independent tracks we visited there was pre-race examination of the animals (though not by a veterinary surgeon) to check their identification and to ensure that as far as could be seen they were fit for racing and that there was no obvious sign that they had been drugged. Although some independent tracks provided kennels there was no compulsion on the greyhound owners to use them and the pre-race parading was carried out by the owners or their representatives and not by staff employed by the tracks.

8.44. It is clear that at the full-licence tracks the NGRC system does provide a high degree of security. There are practices, however, against which no system can give protection. The NGRC themselves told us that trainers are adept at 'producing an average performance in trials and then producing a supreme performance in a race' without the results of this 'adjustment' of form being sufficient to give rise to inquiries. This must affect racing at all tracks, both NGRC and independent. We have also noted that under the system of attached trainers at NGRC full-licence tracks it is not unusual for two greyhounds from the same trainer to be included in one graded race, and occasionally there may be more.

8.45. The independent tracks do not attempt to administer comprehensive rules. Many of them command only limited resources, and in present circumstances the NGRC's Rule 174i obliges them, as they see it, to allow the use of non-stud book names. We are satisfied, nevertheless, that a number of independent tracks set themselves standards of integrity and fairness which they endeavour to maintain.

8.46. On balance, we do not regard the NGRC's claim to provide the only fair greyhound racing in Great Britain as fully justified.

The public interest

8.47. Having established that a monopoly exists we are required under the terms of our reference to determine whether any steps (by way of uncompetitive practices or otherwise) are being taken by the persons in whose favour the monopoly situation has been found to exist for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way; whether any action or omission on the part of those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and whether any facts found in pursuance of our investigation operate or may be expected to operate against the public interest.

The provisions of the Fair Trading Act 1973 and greyhound racing

8.48. We considered whether the public interest provisions of the Fair Trading Act 1973 are appropriate to greyhound racing in the light of claims that it should be regarded as a sport. We doubt whether it would be proper to apply the Act to those aspects of the control of a sport which involve the rules governing

competition between the competitors themselves while engaged in the sporting activity or to their disciplining if they transgress these rules. However, we consider that it is entirely admissible to apply the Act to any features of the sport which have the nature of a business and which affect the commercial interests of those concerned.

8.49. As regards the present reference our view is that management of greyhound racing is a business; a business whose primary purpose is to provide an entertainment and the opportunity to gamble for spectators and greyhound owners, who, one way or another, pay to attend. To the extent, therefore, that the actions of the NGRC track promoters and the NGRC itself affect the commercial interests of other track promoters and of those who own, train or breed greyhounds, we consider that the public interest provisions of the Act clearly apply. At the same time we should add that greyhound racing can be differentiated from other sports or sporting businesses in that it offers what appears to be a unique combination of a large spectator element, a very important and indispensable betting component and the absence of direct human involvement in the races where the animals compete with each other.

Rule 174i

8.50. We have found that Rule 174i restricts competition between promoters of greyhound tracks (paragraph 8.11). It also has other undesirable effects. In our view it prevents any independent promoters who might otherwise like to do so from insisting on the use of stud book names. Whatever the actual extent of the running of NGRC greyhounds on independent tracks, independent promoters undoubtedly believe that this frequently happens, and they therefore feel obliged to protect the owners and trainers of these greyhounds by allowing non-stud book names to be used. This has the further consequence of restricting the information which can be given of a greyhound's form. No information can be given at an independent track of its performances on NGRC tracks, nor on an NGRC track of its performances on independent tracks.

8.51. Rule 174i also restricts the activities of licensed Professional Trainers and Owner Trainers. Such trainers, if not attached to an NGRC track, are sometimes unable to get enough races for their greyhounds on NGRC tracks, and the rule, if observed, prevents them from taking the greyhounds to independent tracks. A further consequence of the rule is that licensed owners, trainers and breeders are prevented from taking advantage by publicity of any successes their greyhounds may have in open races on independent tracks. Success in some of these races can confer considerable prestige.

8.52. These disadvantages of Rule 174i have to be balanced against certain suggested benefits. It certainly plays some part in the maintenance of the NGRC system, and we received evidence, particularly from representatives of bookmaking interests, that this system provides the basis of most of the business of gambling on greyhound racing. Furthermore, many people engaged in greyhound racing believe that complete abrogation of Rule 174i would make it impossible to maintain proper standards of integrity. We cannot fully accept that belief, but we recognise that complete abrogation would introduce risk and uncertainty in a sport particularly exposed to malpractice, and the rule once abrogated might be very difficult to reintroduce.

8.53. It seemed to us that Rule 174i, short of complete abrogation, might be modified in a way which would obviate the disadvantages set out in paragraphs 8.50 and 8.51 without leading to any new prejudice. It might be possible for NGRC greyhounds to run at any independent track which insisted on the use of stud book names and kept accurate records of performance. We discussed with the NGRC and representatives of the RPA, and also with representatives of the ITPA, some proposals for modification of Rule 174i in this way. The NGRC and the RPA were not prepared to accept our proposals fully, but did seem ready to agree to most of the essential points. The ITPA showed some interest in the proposals.

8.54. These discussions encouraged us to give further thought to our proposals, and the revised scheme which we have formulated appears in Appendix 6.

8.55. It would obviously be necessary for the assurance of the public to provide some means of verification by a third party of compliance with the scheme by the independent tracks. The Greyhound Stud Book seemed to us eminently suitable for the nomination of persons to carry out this verification and we are glad to say that it has told us that it would undertake this responsibility if asked to do so. We do not think that any further supervision, eg by Stipendiary Stewards of the NGRC, would be necessary.

8.56. We think the proper vehicle for the transmission of greyhound performance details between what we have called SBN tracks (SBN: Stud Book Name) or between SBN and NGRC tracks is the Greyhound Stud Book (or ICC) Identity Card. But separate notification of the details by the SBN track to the appropriate NGRC track as a check might be a useful precaution, at least in the initial stages.

8.57. The main costs of the scheme would be the fees and expenses of the verification inspectors; they should impose no undue burden and we think they should be borne in equal shares by the SBN tracks concerned and the NGRC. The other costs should be minimal and should be borne where they fall.

8.58. We regard this scheme as holding a fair balance between the concerns of the NGRC to protect the detailed control of racing which typifies the NGRC sector and the desire of the independent tracks to have the maximum authority to manage their own affairs. A scheme on these lines would enable those independent track promoters prepared to guarantee to operate on the basis outlined in paragraph 1 of Appendix 6 to do so and at the same time would provide the NGRC with sufficient safeguards to ensure the integrity of their system. We accept that, in view of the long-standing distrust between the NGRC and independent track promoters, goodwill will be necessary in order to establish and implement such arrangements, but providing that a scheme on these lines can be established and made available to independent tracks, even if at first few participate, we believe that many of the problems we have outlined in relation to Rule 174i can be successfully overcome.

8.59. If Rule 174i were modified in this way, and independent tracks were to take advantage of the modification, the following benefits would result:

- (a) It would enable those who attend at those tracks to know for sure which greyhounds were participating and to be given much more information about their previous performances.

- (b) It would reduce the opportunities, which may exist at present while greyhounds run in different names at different tracks, for the unscrupulous to conceal true form for the purpose of perpetrating betting coups.
- (c) It would improve the commercial opportunities of independent tracks by encouraging the attendance of spectators who are at present deterred by not being given the full form of the greyhounds and by enabling the tracks to attract those who would come if it could be made known through the media that notable NGRC greyhounds were racing there.

8.60. Whatever the position may have been in the past, the relation of Rule 174i to the public interest must now be judged in the light of the possibility and the availability of this scheme. We believe that considerations of integrity would be fully protected if Rule 174i were to be modified as we propose. The rule in its present form, therefore, cannot now be said to be essential to the integrity of racing. We consider that the maintenance of Rule 174i may be expected to operate against the public interest, unless the rule is modified as suggested in Appendix 6 or in some other way approved by the Director General of Fair Trading which would produce a like result.

8.61. We conclude as follows:

- (a) the maintenance by the NGRC of Rule 174i and the observance of that rule by the promoters of tracks licensed by the NGRC are steps taken by the NGRC and the promoters respectively to exploit the monopoly situation by restricting competition as set out in paragraph 8.11; and
- (b) the facts set out in sub-paragraph (a) may be expected to operate against the public interest in the manner set out in paragraphs 8.50 and 8.51 unless within a reasonable time the NGRC modifies Rule 174i in accordance with paragraph 1 of Appendix 6.

8.62. If the NGRC fails within a reasonable time to modify Rule 174i in accordance with paragraph 1 of Appendix 6 or in some other way approved by the Director General of Fair Trading which would produce a like result, we recommend that the NGRC and the promoters of tracks licensed by the NGRC be required to abrogate Rule 174i in so far as it applies to any independent track accepting the scheme set out in Appendix 6.

Rule 64ib

8.63. We have also considered the circumstances in which Rule 64ib restricts the selection of greyhounds for graded races at full-licence NGRC tracks to those in the charge of the Professional and Owner Trainers who are attached to the track. The arrangements through which full-licence tracks have maintained a supply of greyhounds for their graded races have changed in recent years. Prior to, and for a long period after the war, many larger tracks owned their own kennels at which they often employed trainers on a salaried basis. Some of the greyhounds came from individual owners but in other cases were owned by the stadium itself. However, it is now rare for tracks to own greyhounds; most of them have sold their kennels and few any longer directly employ their trainers, instead having formal contracts with individual Professional Trainers (or in few cases with Owner Trainers) for the provision of greyhounds for selection. The contracts may restrict the trainer's right to provide greyhounds for racing at

other tracks, without the 'home' track's permission. The results of this system are that the two-thirds of the Professional Trainers (and the very much smaller proportion of Owner Trainers) who are fortunate enough to be able to secure attachment to a full-licence track have the exclusive right to supply greyhounds for over 90 per cent of the races at the 30 full-licence tracks. The 100 or so Professional Trainers and the 230 Owner Trainers who are not so attached have to compete with the attached trainers for entry in the 8 per cent of races which are open and with some 1,000 Permit Trainers for races at the nine Permit tracks. This seems to us to be anti-competitive.

8.64. The track promoters and the NGRC have explained to us that the rule guarantees a sufficient supply of greyhounds for the graded races, makes it easier for the Racing Manager to make up his races and is necessary in order to define graded races at full-licence tracks. However, in the case of Permit tracks Rule 64*b* permits graded races to be made up from greyhounds in the charge of any category of trainer (ie not necessarily attached trainers).

8.65. We have also taken into account that, as we have explained previously, at full-licence tracks graded races often contain two and sometimes more greyhounds from the same Professional Trainer. It is not necessary to impugn the undoubted integrity of the vast majority of Professional Trainers to draw attention to the opportunities to which this gives rise and it is accepted, generally and by the NGRC, to be an unsatisfactory practice: but it appears to be unavoidable because of the necessarily limited range of greyhounds that are available from the attached trainers at a track.

8.66. We conclude that:

- (a) the maintenance by the NGRC of Rule 64*b* and the observance of that rule by the promoters of tracks licensed by the NGRC are steps taken by the NGRC and the promoters respectively to exploit the monopoly situation by restricting competition as set out in paragraph 8.63; and
- (b) the facts set out in sub-paragraph (a) and the possible encouragement of doubt about the integrity of racing as explained in paragraph 8.65 may be expected to operate against the public interest in the manner set out in paragraphs 8.63 and 8.65 unless:
 - (i) the NGRC modifies Rule 64*b* so as to remove any requirement that greyhounds for graded races at full-licence tracks should be limited to those in the charge of trainers who are attached to the tracks and to provide only that they should be selected from those in the care of any licensed Professional or Owner Trainer; and
 - (ii) any tracks continuing to have a number of Professional Trainers under contract in order to guarantee the availability of a pool of greyhounds:
 - (a) do not unreasonably prohibit contracted trainers from supplying greyhounds to other tracks (NGRC or SBN) so long as that can be done without prejudice to their commitment to supply greyhounds to the track to which they are contracted; and
 - (b) do allow other licensed Professional and Owner Trainers also to offer greyhounds and are prepared on occasion to select some of these greyhounds for graded races, providing they are of a suitable standard.

8.67. If the NGRC fails to modify Rule 64*ib* in accordance with paragraph 8.66(*b*) and the promoters of tracks licensed by the NGRC fail to adapt their arrangements in accordance with that paragraph we recommend that the NGRC be required to modify Rule 64*ib* as set out in paragraph 8.66(*b*) and the promoters to adopt the arrangements set out in that paragraph.

An 'open kennel' system

8.68. We should explain that suggestions have been made to us from many quarters that if greyhound racing in Great Britain adopted an 'open kennel' system such as is in operation in Ireland, Australia and other countries, and Rule 174*i* was abolished by the NGRC, the universal use of stud book names could easily be achieved. We have considered these views very carefully in reaching our conclusions but it is quite clear that the open kennel systems in the countries concerned depend for their enforcement on statutory control. In absence of such statutory control in Great Britain and having regard to the distrust which at present unfortunately exists between the two sectors of greyhound racing, we do not believe a fully open kennel system is feasible and it is for this reason that we have formulated the conditional system that we set out in Appendix 6.

The future

8.69. We should like to take the opportunity to express our view that without change the decline of greyhound racing is likely to continue. One such change would be the progressive breakdown of the barriers between the NGRC and the independent sectors. This, if achieved in the way we have suggested with the wider use of stud book names and improved availability of form details would, we believe undoubtedly enhance the reputation of greyhound racing. We would, therefore, urge all those concerned with the future prosperity of the sport to balance very carefully the benefits which could flow from the adoption of a scheme such as we have recommended against what we believe would be the comparatively modest concessions that it would require.

Summary of conclusions and recommendations

8.70. A complex monopoly situation exists by virtue of section 7(1)(*c*) and (2) of the Act in respect of the supply in Great Britain of the services of managing greyhound tracks (see paragraph 8.14).

8.71. The monopoly situation exists in favour of a group of persons consisting of the NGRC full-licence and Permit track promoters and the NGRC who so conduct their respective affairs as to prevent, restrict or distort competition in relation to the supply in Great Britain of the services of managing greyhound tracks (see paragraph 8.14).

8.72. (a) The maintenance by the NGRC of Rule 174*i* and the observance of that rule by the promoters of tracks licensed by the NGRC are steps taken by the NGRC and the promoters respectively to exploit the monopoly situation by restricting competition as set out in paragraph 8.11; and

- (b) The facts set out in sub-paragraph (a) may be expected to operate against the public interest in the manner set out in paragraphs 8.50 and 8.51 unless within a reasonable time the NGRC modifies Rule 174i in accordance with paragraph 1 of Appendix 6. (See paragraph 8.61.)

8.73. If the NGRC fails within a reasonable time to modify Rule 174i in accordance with paragraph 1 of Appendix 6 or in some other way approved by the Director General of Fair Trading which would produce a like result, we recommend that the NGRC and the promoters of tracks licensed by the NGRC be required to abrogate Rule 174i in so far as it applies to any independent track accepting the scheme set out in Appendix 6. (See paragraph 8.62.)

- 8.74. (a) The maintenance by the NGRC of Rule 64ib and the observance of that rule by the promoters of tracks licensed by the NGRC are steps taken by the NGRC and the promoters respectively to exploit the monopoly situation by restricting competition as set out in paragraph 8.63; and

- (b) The facts set out in sub-paragraph (a) and the possible encouragement of doubt about the integrity of racing as explained in paragraph 8.65 may be expected to operate against the public interest in the manner set out in paragraphs 8.63 and 8.65 unless:

- (i) the NGRC modifies Rule 64ib so as to remove any requirement that greyhounds for graded races at full-licence tracks should be limited to those in the charge of trainers who are attached to the tracks and provide only that they should be selected from those in the care of any licensed Professional or Owner Trainer (see paragraph 8.66); and

- (ii) any tracks continuing to have a number of Professional Trainers under contract in order to guarantee the availability of a pool of greyhounds:

- (a) do not unreasonably prohibit their contracted trainers from supplying greyhounds to other tracks (NGRC or SBN) so long as that can be done without prejudice to their commitment to supply greyhounds to the track to which they are contracted; and

- (b) do allow other licensed Professional and Owner Trainers also to offer greyhounds and are prepared on occasion to select some of these greyhounds for graded races, providing they are of a suitable standard. (See paragraph 8.66.)

8.75. If the NGRC fails to modify Rule 64ib in accordance with paragraph 8.66(b) and the promoters of tracks licensed by the NGRC fail to adapt their arrangements in accordance with that paragraph we recommend that the NGRC be required to modify Rule 64ib as set out in paragraph 8.66(b) and the promoters to adopt the arrangements set out in that paragraph. (See paragraph 8.67.)

J G LE QUESNE (*Chairman*)

J G ACKERS

K S CARMICHAEL

L A MILLS

N L SALMON

R SWAYNE

S N BURBRIDGE (*Secretary*)

5 June 1986