

# 9 Conclusions

## Introduction

9.1. We are required by our terms of reference (see Appendix 1.1) to investigate and to report on the questions whether a monopoly situation exists in relation to the supply in the United Kingdom of cinema advertising services (the reference services), and, if so:

- (a) by virtue of which provisions of sections 6 to 8 of the Fair Trading Act (the Act) that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or 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
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate, or may be expected to operate, against the public interest.

## Monopoly situations

9.2. We have shown in Table 3.5 that Rank Screen Advertising (RSA) supplies within the United Kingdom at least one-quarter of the reference services, and RSA accepts that this is the position.

9.3. Pearl & Dean Ltd (PD) has argued that a monopoly situation exists under section 7(1)(b) of the Act, because other members of the group of inter-connected bodies corporate to which RSA belongs the Rank Group were also involved in the supply of reference services as well as RSA. We therefore considered whether a monopoly situation existed under section 7(1)(b) of the Act before examining whether such a situation existed under section 7(1)(a) in favour of RSA alone.

9.4. The bodies corporate which PD suggested to us might be so involved, and which we have considered, were:

- (a) The Rank Organisation Plc (Rank), the owner of RSA; and
- (b) Rank Theatres Ltd (Odeon), a subsidiary of Rank.

9.5. The matters which we took into account were:

- (a) whether or not solely through RSA, the Rank group supplies at least one-quarter of the United Kingdom market for the reference services;

- (b) as is common with holding companies, Rank closely supervises the business of RSA; the Managing Director of the Film and Television Services Division, which includes RSA, is a member both of Rank's and RSA's Boards; expenditure required to modernise RSA's computerised booking system for advertisements has to be approved by Rank; the Rank Board has delegated authority for approval of expenditure of this size to the Managing Director of its Film and Television Services Division; Rank also provides treasury services to the Rank Group;
- (c) Odeon has always used RSA (or its predecessor organisations within the Rank Group) as its screen advertising contractor; Odeon provided 239 out of the 1,115 screens whose screen advertising space was sold in December 1989 by RSA; in October 1986, when RSA had some 40 per cent of all screen advertising, Odeon provided 192 screens of the 519 screens for which RSA then acted as a cinema advertising contractor; RSA's ability to count on continued 'captive' business from Odeon enabled RSA to compete more strongly for outside business; and
- (d) payments from RSA to Odeon represented some 30 per cent of Odeon's pre-tax profits for the year to 31 October 1988 (see paragraph 5.9).

9.6. RSA argued (see paragraph 8.2) that it did not form part of a scale monopoly with Rank. Rank acted as a normal holding company. Nor did RSA accept that its business was closely supervised by Rank's Film and Television Services Division.

9.7. Rank further argued (see paragraph 8.4) that it was not open to the Commission to conclude that Odeon formed part of a section 7(1)(b) monopoly situation as Odeon did not benefit from RSA's monopoly situation. The Commission could not, therefore, properly conclude that a monopoly situation existed in favour of Odeon.

9.8. We consider that the proper approach to section 7(1)(b) of the Act is to determine whether Rank or Odeon are suppliers of reference services. Since Odeon is not a supplier we conclude that Odeon does not form part of a monopoly situation under section 7(1)(b).

9.9. We do not accept Rank's argument. The form of section 7(1)(b) itself postulates that the process of supply may be shared among several bodies corporate within the same group and which may perform different functions. While a group holding company may not, by virtue of that status alone, necessarily be regarded as sharing in the process, a holding company which is closely involved in the direction or control of the business of an undoubted supplier, such as RSA, may reasonably be so regarded. This is consistent with a view adopted previously by the Commission<sup>1</sup> and with Rank's position and conduct, as described in paragraph 9.5(b). We therefore conclude that a monopoly situation exists in favour of Rank and RSA, by virtue of section 7(1)(b) of the Act.

9.10. We also considered whether a complex monopoly situation existed under section 7(1)(c) and 7(2) of the Act in favour of a group composed of RSA and the other supplier of screen advertising services, PD (the group), because:

- (a) the supply of reference services in the United Kingdom was, to the extent of at least one-quarter, supplied by the group, as its members are the only two suppliers of these services; and
- (b) it appeared to us that RSA and PD so conducted their respective affairs as to restrict competition in connection with the supply of reference services in the manner described in the following paragraph.

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<sup>1</sup>Postal Franking Machines, Cmnd 9747, paragraph 9.80.

9.11. In considering whether or not the members of the group conducted their respective affairs so as to restrict competition, we examined the following matters:

- (a) the offer of similar terms to cinema exhibitors, in particular exclusive dealing;
- (b) the negotiation of long-term contracts which had the effect of closing the market to competition for extended periods;
- (c) the use of contract terms which sought to bind not only the cinema exhibitor's existing cinemas but those which later he either acquired or had sold to a third party; and
- (d) the offer of similar prices to advertisers and their agents.

9.12. RSA and PD put forward a number of arguments in response and these are summarised, respectively, in paragraphs 8.5 to 8.14, 8.17 to 8.20 and in paragraphs 7.5 to 7.13 and 7.15 to 7.23. RSA argued that it did not form part of a complex monopoly because, to the extent that there were similarities in the terms offered to exhibitors by RSA and PD these similarities did not prevent, restrict or distort competition. These similarities were the result of competitive pressures. As to prices to advertising agencies and advertisers RSA argued that although the published rates for the audience delivery plan and line by line methods of purchase were similar to those of PD these rates were subject to discounts negotiated individually with purchasers. PD, on the other hand, accepted that it was a party to a complex monopoly, but further considered that with a share of only 22 per cent of the market (compared with 78 per cent enjoyed by RSA) it was not independently able to 'prevent, restrict or distort competition' as provided by section 7(2) in any meaningful economic sense.

9.13. We conclude that a monopoly situation exists in favour of RSA and PD, who supply over a quarter of the reference services, and who conduct their respective affairs so as to restrict competition in connection with the supply of reference services by the offer of similar terms to cinema exhibitors, which involves exclusive dealing. Exclusive dealing contracts, and contracts for the supply of services on an exclusive basis, will normally involve as a necessary consequence the restriction of competition.<sup>1</sup>

9.14. We were invited by PD to consider whether Cannon Cinemas Ltd (Cannon) should be regarded as a scale monopolist under the provisions of section 7(1)(a) of the Act (see paragraph 7.3), on the ground that Cannon was a person for whom reference services are either provided or by whom they are supplied. We do not accept PD's arguments, because we do not consider that Cannon supplies, or is supplied with, reference services. Cannon, like Odeon (see paragraph 9.8), is a cinema exhibitor, not a cinema advertising contractor, and reference services, as defined, are provided by advertising contractors to advertisers and their agents.

## **A separate market for reference services**

9.15. Advertising agencies wishing to use an audio-visual medium have a choice between television and the cinema. The criteria which they use when deciding whether to choose the cinema include the following:

- (a) cinema audiences of which 80 per cent are in the age range 15 to 34 are younger than the average television audience;
- (b) cinema audiences include a high proportion of the A, B and C1 social groups;

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<sup>1</sup>A similar interpretation has been placed by the European Commission on the phrase 'prevention restriction or distortion of competition' in Article 85(1) of the Treaty of Rome. BP Kemi/DSDF. OJ 1979, L282/32. [1979] 684 3CMLR.

- (c) cinema audiences are a more 'captive' audience, in that they see advertising in surroundings which encourage them to be more receptive to (or to escape less easily from) advertising than are television audiences; and
- (d) certain products spirits, and, after 1991, cigars and pipe tobacco cannot be advertised on television but may be advertised on cinema screens.

### **The genesis of the inquiry**

9.16. Our conduct of the inquiry took account of PD's complaint to the Office of Fair Trading, which had preceded the reference, that it had lost business to RSA as a result of unfair competition (see paragraphs 2.2 and 7.1). PD's complaints covered a number of matters. The most important were the following. RSA had the advantage over PD in that RSA could count on the captive business of Odeon. RSA's contracts with Cannon removed a major share of the market from competition for the remainder of the century. RSA had gained business by offering exhibitors unrealistically high guaranteed minimum payments.

### **The state of the industry**

9.17. In our examination of the public interest we were struck by the extent to which the structure of the cinema exhibition market to a great extent determined the shape of the cinema advertising market, because the two major cinema chains, Cannon and Odeon, each used only one contractor, and, since 1986, had both employed the same contractor, RSA. At the end of 1989 Cannon owned 27 per cent of the cinema screens taking advertising and Odeon 17 per cent.

9.18. We have also made our assessment of the public interest in the light of the following considerations. RSA supplies over two-thirds of the market and its market share has increased markedly in recent years at the expense of the only other supplier, PD. Prospects for the entry of new suppliers are limited. Both RSA and PD offer similar prices, subject to discounts, to advertisers and their agents.

9.19. Both PD and RSA are part of groups with other media interests (for details see paragraphs 4.7 and 5.3). Although we consider that cinema advertising forms a separate market, it is a very small market, responsible for less than half of 1 per cent of display advertising expenditure (see paragraph 3.3). While it is regarded by some advertisers as a valuable medium, most could turn to other media for most of their products if prices moved significantly out of line. The main purchasers of cinema advertising, in particular the leading advertising agencies, have significant buying power.

### **The public interest**

9.20. We have now to examine whether any steps are being taken by RSA (and Rank) and PD for the purpose of exploiting or maintaining the monopoly situation, and whether any act or omission on their part is attributable to the existence of the monopoly situations. We also have to consider whether any facts found in our investigations operate, or may be expected to operate, against the public interest.

9.21. The aspects of the public interest which we address are as follows:

- (a) whether the profitability of RSA's reference services has been higher than would have been obtainable in a more competitive market and, if so, whether this level of profitability had been achieved at the expense of advertisers and/or of cinema exhibitors;
- (b) whether the terms offered by RSA and PD to cinema exhibitors are similar, in particular as regards exclusive dealing;
- (c) whether the proportion of net advertising revenue paid to cinema exhibitors has been lower than would have been obtainable in a more competitive market;

- (d) whether RSA has given more favourable terms to Odeon than to some other cinema exhibitors;
- (e) whether the profitability of RSA's reference services, when combined with its membership of a major cinema group and its predominant share of the market, has enabled it to offer particularly attractive terms in order to obtain strategic contracts;
- (f) whether RSA's links with Rank's film distribution interests have put pressure on exhibitors to chose RSA in preference to PD;
- (g) whether long-term contracts between cinema advertising contractors and exhibitors, which have removed a major proportion of screens from competition for many years, have discouraged the entry of new suppliers of the reference services and generally restricted competition;
- (h) whether RSA's contracts covering 78 per cent of United Kingdom cinema screens taking advertising (which earned 82 per cent of admission revenue), including contracts covering 92 per cent of screens and 91 per cent of admissions in London, have distorted the market for cinema advertising, because any advertiser wishing to mount a nation-wide campaign has, in effect, had no choice but to book at least a substantial part of his cinema advertising through RSA;
- (i) whether, in view of the offer by RSA and PD of similar prices to advertisers and their agents, the prices charged have been higher than would have been obtained in a more competitive market; and
- (j) whether and, if so, to what extent RSA has offered discounts to advertisers and advertising agencies if they placed all their cinema advertising through RSA.

## **Profitability**

9.22. After losses in 1985 and 1986, RSA's returns on capital from its screen advertising business were 45 per cent, 123 per cent and 114 per cent in 1987, 1988 and 1989 (see Table 5.1). These returns were well above the average for business generally. RSA argued, however, by reference to the level of profitability earned, for example, by advertising agencies, that return on capital employed was not the most appropriate measure to use when assessing profitability of a service industry with a low capital base.

9.23. The Commission, in a number of previous inquiries<sup>1</sup> concerned with service industries, where the capital employed was relatively low, have themselves taken the view that return on capital was not the most appropriate, or the only, basis for comparison. We have therefore paid more regard to RSA's returns on turnover, ie its net profit expressed as a percentage of the net revenues received from advertisers and advertising agents.

9.24. After losses in 1985 and 1986 RSA's return on turnover (see Table 5.1) improved to 8.4 per cent, 21.6 per cent and 21.3 per cent respectively in 1987, 1988 and 1989. PD's return on turnover (see Table 4.1) fluctuated between 4.8 per cent and 13.4 per cent in the five years to 30 June 1989. It was on a declining trend in the most recent three years.

9.25. RSA's profitability from screen advertising services was high in 1988 and 1989. We consider, however, that its ability to maintain this level of profitability is a matter of considerable uncertainty. It will depend on the share of total display advertising secured by screen advertising, the share of screen advertising obtained by RSA, the rise or fall in cinema attendances, and whether new restrictions are introduced prohibiting the advertising of certain products on cinema screens. Moreover, at the beginning of this year demand for cinema advertising appeared to be weak, with a considerable amount of unsold time (see paragraph 3.29).

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<sup>1</sup>Estate Agents (1969); Fire Insurance (1972); Roadside Advertising Services (1981); and Pest Control Services (1988).

9.26. The question also arises as to whether RSA's high profitability in 1988 and 1989 was attributable to its operating in conditions of other than normal competition. We first consider how much of its profits in these years arose from its association with Odeon cinemas, which is of long standing and dates back to before the time when RSA became the major supplier of screen advertising services. In 1989, according to our calculations (see Table 5.2), RSA's profit from its contract with Odeon cinemas amounted to over a quarter of its total gross profits on screen advertising services.

9.27. RSA did not become the major supplier until it won the Star and Classic advertising from PD, which until then had possessed the larger share of the market. RSA's current profits from cinema advertising therefore have their origin in a contract obtained, in the face of strong competition, from a competitor who at the relevant time had the larger market share.

9.28. In the light of the facts described above we conclude that RSA's high profitability in 1988 and 1989 was largely the result of in a marked increase in the level of demand for cinema advertising. This followed RSA's success in securing the major contracts with Cannon, the first of which was gained when its market share was substantially lower than that of PD. We do not, therefore, find that RSA's profitability has been higher than would have obtained in a more competitive market and that RSA's profitability has been achieved at the expense of advertisers or cinema exhibitors. We therefore conclude that RSA's level of profitability is not a fact which operates against the public interest.

### **Similarity of terms (exclusive dealing)**

9.29. RSA and PD engage in various forms of exclusive dealing with cinema exhibitors. In particular, their standard forms of contract provide that they should be entitled to handle all the screen advertising of a particular cinema. Moreover they normally make efforts to secure all the screen advertising rights of all the cinemas managed by the same chain (see paragraphs 3.39, 3.40, 7.10, 8.9 and 8.11).

9.30. We note the arguments that RSA has put to us (see paragraphs 8.9 and 8.10) that the administrative tasks of arranging bookings of screen advertising time, and of supplying weekly the necessary films to over 1,400 screens which carry advertising, make exclusive dealing arrangements generally attractive to the industry. We also accept that in selling advertising time at a particular cinema, a cinema advertising contractor may need to be able to confirm to advertising agents and advertisers that the cinema will devote no more than a specified maximum amount of time per performance to advertisements, on the ground that too much time devoted to advertisements is unacceptable to audiences. Contractors may also need to be able to state at which stage of the programme of advertisements an advertisement will be shown (see paragraph 8.10). A further consideration is that advertising agents may wish to book space for a number of weeks ahead and, as a result, a cinema which sells advertising time for alternate weeks, through different contractors, may lose business.

9.31. As to the other forms of exclusive dealing, they can also operate to the benefit of the exhibitor as well as the contractor. The contractor sells future advertising space, and it is clearly in the interest of exhibitors that it does so, in order to reduce the risk of having unsold advertising time. The contractor therefore needs to be certain that if the management of a cinema changes it will still have advertising time available to meet his commitments at that cinema. Where a contract covers any future cinemas to be acquired by an individual management, the extension of the contract to cover such cinemas may increase the bargaining power of the management concerned. We deal with the length of contracts in paragraphs 9.41 to 9.43.

9.32. As a result, we do not consider that in this instance these forms of exclusive dealing operate, or may be expected to operate, against the public interest. It is open to exhibitors who are not satisfied with the contractors' standard forms of contract to put forward instead the variations in terms under which they prefer to operate. We note, moreover, that a small number of independent exhibitors already divide their business between both contractors and that one exhibitor operating a single cinema also uses both contractors.

## **Payments to exhibitors**

9.33. Since 1986, from the time of the renegotiation of the Cannon contracts, there has been competition between RSA and PD to negotiate contracts with cinema exhibitors (see paragraphs 3.36 to 3.50). The effect has been to increase both the level of minimum guaranteed payments and the proportion of net advertising receipts payable to exhibitors. In addition, it is clear that exhibitors have been benefiting from increasing payments in recent years, in part the consequence of increasing expenditure on cinema advertising which has accompanied the recent rise in cinema admissions, and in part the result of the active promotion by RSA of cinema advertising.

9.34. It is difficult to predict the future trend of exhibitors' receipts. Much will depend on the amount spent on cinema advertising, which in turn largely depends on total advertising expenditure and the reactions of advertisers to changing trends in consumer demand. There could also be changes in the level of cinema attendance or in the composition of the audiences.

9.35. For the reasons explained in the immediately preceding paragraphs, we do not consider that the proportion of net advertising revenue paid to cinema exhibitors is lower than it would be in a more competitive market. We conclude, therefore, that the proportion of net advertising revenue payable to exhibitors is not a fact which operates, or may be expected to operate, against the public interest.

## **Preference for Odeon**

9.36. We find no evidence that RSA discriminates in favour of its fellow subsidiary, Odeon, either by making more generous payments for screen time or by diverting advertising to Odeon at the expense of RSA's other clients. We note Rank's assertion that its subsidiaries, such as RSA and Odeon, trade at arm's length (see paragraph 5.8). We also take account of RSA's arguments (see paragraph 8.31) that because of the way in which advertising agents place their cinema advertising campaigns it would not be practicable for RSA to divert advertisements to Odeon. As a result, our consideration of this matter has not revealed any facts which operate, or may be expected to operate, against the public interest.

## **Competition for contracts with cinemas**

9.37. RSA has explained (see paragraph 8.28) that it does not base its bids to cinema exhibitors, particularly those operating large chains of cinemas, on an average cost basis but rather according to the additional profit which the new business was expected to generate. In addition RSA clearly makes its sales projections on an optimistic basis. This has led to some highly competitive offers, although the subsequent buoyancy of the market for cinema advertising, in part reflecting the reversal of the decline in the number going to the cinema, has made these bids less risky, at least initially, than they probably appeared to be at the time when they were submitted. We recognise that a fall in the demand for cinema advertising could lead to guaranteed minimum payments exceeding the exhibitor's share of net advertising revenue in some years, but we find no grounds for assuming that losses are likely to be sustained over the whole life of these contracts.

9.38. In considering the effects in the future of RSA's methods of competing for contracts with cinema exhibitors we have also considered the risk that the ability of RSA, as the major supplier, to spread its overheads over a larger turnover gives it such an advantage that the eventual withdrawal of the smaller competitor can be expected to follow. We have noted the concern expressed by some exhibitors (see paragraphs 6.8 and 6.11) that they should continue to be able to have the choice between two contractors. As a result we have not disregarded the possibility that PD's new owner, Havas Avenir Media, might review its future. But this is a matter of speculation. Irrespective of changes in its ownership, there is at present no reason to expect PD, which has a well-established name and which is profitable (see Table 4.1), not to continue in business.

9.39. For the reasons explained in the immediately preceding paragraphs, we do not consider that the way in which RSA bids for contracts with cinemas is a fact which operates, or may be expected to operate, against the public interest.

### **RSA's link with film distribution**

9.40. The Rank Group includes a film distributor but the scale of its business, and its influence over the distribution of films to individual exhibitors, are not of great importance. The Society of Film Distributors estimated that Rank accounted for only 6 to 8 per cent of films distributed in 1989. In addition, Rank said that most of the films which it distributed were shown by other cinemas, as well as by Odeon's cinemas (see paragraph 2.12). As a result we do not regard RSA's connection with film distribution as a fact which operates, or may be expected to operate, against the public interest.

### **Long-term contracts**

9.41. The extent of competition in the cinema advertising market is affected by the number and value of contracts which come up for renewal during any year. The existence of substantial cinema chains, and in particular the share of the cinema market in the hands of Cannon, has resulted in there being a relatively small number of contracts to be won. The two Cannon contracts account for 388 screens, about 27 per cent of all screens which show advertising. The greater the length of these contracts the greater the period during which a substantial part of the market is closed to competition. In addition, the Odeon screens, which account for 17 per cent of screens which show advertising, have not been open to competition because Odeon has always used its fellow subsidiary, RSA (or its predecessor within the Rank Group), as its contractor. The absence of any new cinema contractors suggests that, despite the recent profitability of the major contractor, potential entrants are deterred by real or apparent barriers to entry.

9.42. RSA won its two contracts with Cannon as a result of competition and it has no reason to expect criticism for this achievement. Moreover, the length of these contracts was not the result of RSA's initiative but arose mainly from the wishes of Cannon and of RSA's competitor, PD, which, since its foundation in 1953, had succeeded in negotiating long contracts with the former ABC part of the present Cannon chain. Despite the loss of the Cannon contracts, PD remains in business.

9.43. It may be in the interests of exhibitors to be left free to negotiate long-term contracts, in order to obtain a guaranteed minimum level of future income, and as a means of obtaining advance payments which are, in effect, interest-free loans. While the length of the two Cannon contracts<sup>13½</sup> to 14 years is exceptional, contracts of five years or more are not uncommon.

9.44. We have already noted Rank's assertion that its subsidiaries trade with each other at arm's length (see paragraph 9.36). We also take into account the linkage between the remuneration of Odeon's management and its profitability, so that the management could suffer personally if they accepted terms which were too favourable to RSA (see paragraph 5.8).

9.45. While we recognise that RSA's long contracts with Cannon and RSA's relationship with Odeon limit the scope for any increase in PD's reference business, or the entry of new contractors, this is more a reflection of the importance of Cannon and Odeon in cinema exhibition than of RSA's dominance of cinema advertising. Nevertheless, there remains a segment of the market in which there is some scope for competition. Moreover, we have to balance the restrictions on competition created by long-term contracts, and those between associated companies, with the possible damage to the interests of exhibitors arising from any restrictions on their freedom to negotiate long-term contracts, or to combine exhibition with cinema advertising. Our conclusion is that neither the practice of negotiating long-term contracts nor RSA's relationship with Odeon are facts which operate, or may be expected to operate, against the public interest.

## Competition for advertising and prices to advertisers

9.46. RSA's share of the cinema advertising time on offer to advertising agents and advertisers, particularly in London and the South-East, is such that it is impracticable to mount a national or regional cinema advertising campaign without using RSA's services. RSA's above-average share of contracts for cinema screens in the London and the South-East<sup>1</sup> (92.2 and 84.4 per cent of screens and 91 and 89 per cent of admissions, as compared with 78.1 and 82 per cent for the United Kingdom as a whole) largely reflects the above-average number of screens, and the above average share of their admissions, which the Cannon and Odeon chains operate and obtain in the two regions, together with other important screens under the operation of other of RSA's clients, such as United Cinemas International (UK) Ltd. Even when the market shares of the two contractors were closer in size our understanding was that advertisers and advertising agents would normally use space sold by both contractors in order to secure adequate national and regional coverage.

9.47. We also note that RSA's share of the market, either nationally or regionally, does not appear to be a matter of concern to advertising agents or advertisers. Advertising agents, in particular, see practical advantages in being able to book all the space they need from a few sources. It seems to us that they accept with relative equanimity the prospect that the administrative convenience arising from the existence of only two contractors, with one now having a far larger share of the market than the other, may be counterbalanced, at least to some extent, by the possibility of higher rates for cinema advertising being charged than would be the case in a more competitive market. It is therefore sensible to consider the existence of any possible detriments arising from the possible distortion of the market along with the present pricing policies of the two contractors.

9.48. In a market where one contractor controls some 78 per cent of the supply, it is his prices which are significant. We see no reason, however, for suggesting that RSA's prices have necessarily been unreasonable. The apparently high profitability of RSA which we have examined above (paragraphs 9.22 to 9.28) seems to have arisen more as a result of its ability to spread its overheads over a sizeable turnover than of any exploitation of advertisers. Despite an apparently high rate of recent price increase of the order of 35 per cent over the last two years we detected no evidence of any switch, on price grounds, to other media. Indeed we were also told, in the autumn of 1989, that there had been an unsatisfied demand for screen space in London and the South-East. We also accept as reasonable the argument put to us (see paragraph 8.24) that there was bound to be some increase in prices, relative to those of other media, as cinema admissions had begun to grow again after their long post-war decline.

9.49. There is a further reason for expecting RSA to be cautious about increasing prices unreasonably. It is a member of a group with extensive interests in the cinema business and, therefore, has a significant long-term interest in maintaining the reputation of screen advertising as a cost-effective medium.

9.50. Although the two contractors offer the same rates to advertising agencies, they both allow discounts. Moreover, both contractors have been concerned to improve the quality of the advertising material available to local advertisers (see paragraph 3.33).

9.51. We note PD's view (see paragraph 7.17) that it would not derive any advantage from keeping its list prices below those of RSA as any growth in business would be outweighed by an overall loss of revenue. The size of RSA's national coverage and its share of the London and South-East market means that any national user of screen advertising has to book space from RSA; PD's space is therefore supplementary.

9.52. Our conclusion is that the need for advertisers to use RSA if they wish to mount a national campaign, and the prices charged by RSA to advertisers, are not facts which operate, or may be expected to operate, against the public interest.

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<sup>1</sup>As defined in Regional Trends, CSO, 1989.

## **Loyalty discounts**

9.53. We note RSA's statement that, although trading conditions may lead it to give discounts on its standard prices to advertisers and advertising agencies, such discounts are not related to the exclusive purchasing of screen advertising through RSA. In the absence of any evidence to the contrary, we find no facts relating to discounts which operate, or may be expected to operate, against the public interest.

## **General assessment of market**

9.54. The main features of the market for cinema advertising services are:

- (a) the large share of cinema exhibition held by the two main cinema chains, Cannon and Odeon, both of which use the same cinema advertising contractor;
- (b) competition between the two cinema advertising contractors for space on cinema exhibitors' screen, which has led to major changes in market shares; for example, RSA's share has risen from 40 per cent in December 1984 of those screens which took advertising to just under 78 per cent in December 1989; and
- (c) any risk of abuse from the limited degree of competition between RSA and PD for the business of advertisers and advertising agents is kept in check by the ability of advertisers and advertising agents to use other forms of display advertising, in particular television.

## **Conclusions**

9.55. For the reasons explained in paragraphs 9.22 to 9.54 we find that neither of the monopoly situations which we have found to exist, nor any step taken for the purpose of exploiting or maintaining them, nor any action or omission attributable to them, operates, or may be expected to operate, against the public interest.

H H HUNT (Chairman)

L BRITZ

K S CARMICHAEL

B C OWENS

D P THOMSON

R YOUNG

S N BURBRIDGE (Secretary)

27 March 1990