7 Conclusions

The monopoly situation

7.1. Under the reference dated 21 May 1991, full details of which are set out in Appendix 1.1, we are required to consider whether a monopoly situation exists in relation to the supply in the United Kingdom of matches and disposable cigarette lighters for retail sale. For the reasons which we explain in paragraph 7.13, we see these as closely substitutable products and as one market, although there are differences in the way both supply and competition have developed. In our terms of reference `disposable cigarette lighters' are stated to include semi-disposable cigarette lighters.

7.2. Under section 6 of the Fair Trading Act 1973 (the Act) a monopoly situation in relation to the supply of goods of any description in the United Kingdom shall be taken to exist under section 6(1)*(a)* when at least one-quarter of the supply is by or to the same person. The only United Kingdom manufacturer of matches is Bryant & May Ltd (Bryant & May), a subsidiary of Swedish Match Group BV (Swedish Match). There are five other main suppliers of matches to the United Kingdom market, as shown in Tables 3.7 and 3.8. Of the total sales *by value* of matches in 1990 of £28 million, Bryant & May's sales accounted for 86 per cent. *By volume* its share was 78 per cent. The available evidence suggests that Bryant & May's share of match sales in 1991 may be somewhat higher than that for 1990.

7.3. Disposable lighters are not manufactured in the United Kingdom. There are eight significant suppliers in the United Kingdom, as shown in Tables 3.9 and 3.10, with Bryant & May being by far the largest. Bryant & May supplies disposable lighters manufactured by three companies: by its parent company, Swedish Match; by Yaka Feudor KK (Yaka Feudor) (in which Swedish Match has a shareholding interest); and by Flamagas SA (Flamagas).

7.4. There is excise duty on lighters (50p on each lighter), which may amount to about 50 per cent of the final retail price (and a much higher proportion of the wholesale price). This has led to the smuggling of lighters into the United Kingdom. We were told that such smuggling has increased significantly since the Republic of Ireland ended duty on lighters in January 1990. Bryant & May told us that smuggling was not a significant feature in 1990, but increased markedly in the early months of 1991. The other main suppliers considered that smuggling was already significant in 1990. Extrapolation of the trends of legitimate sales of matches and disposable lighters confirms this view, as shown in Appendix 3.2. The estimates provided to us by the main suppliers together with the evidence on extrapolation of past trends suggest that smuggled lighters might have amounted to between 10 and 20 million lighters in 1990, that is between 36 and 53 per cent *by volume* of the total market. All parties agreed that smuggling increased further in 1991.

7.5. We cannot accurately assess the amount of smuggling or, in particular, the relative quantities of different makes of lighters which are smuggled. It is also arguable whether it is appropriate for us to take estimates of smuggling into account in assessing whether a monopoly situation exists. As there is no doubt, however, that smuggling has been taking place, and as the volumes may be significant, we clearly have to consider its effect on the market we are considering. Bryant & May's share of legitimate sales in 1990 was 63 per cent *by value*, 48 per cent *by volume*. Simply taking Bryant & May's sales as a proportion of the total market (*including* an estimate of smuggled lighters) would give a market share of between 30 and 41 per cent *by value*, 23 and 31 per cent *by volume*. We do not have full figures for 1991, but we estimate that Bryant & May's share in 1991 of the total market (*including* smuggled lighters) *by volume* was between 17 and 22 per cent.

7.6. Bryant & May considered that value was not an appropriate method for calculating market share for either matches or lighters (see paragraph 6.2). In considering the relative competitive position of different suppliers, however, value as well as volume is relevant since the price achieved by the seller reflects differences, for example, in the quality, brand value and type of product which a simple aggregation of volumes cannot. Moreover, there are difficulties, as described in paragraph 7.7, in converting volume figures for matches and lighters on to a common basis, when considering shares of the combined market. We have therefore looked at market shares on the basis of both value and volume.

7.7. Bryant & May's share of the combined market for matches and disposable lighters (*excluding* smuggled lighters) was 82 per cent *by value* in 1990 (see Table 3.13). To consider volume shares, it is necessary to convert the figures on to a common basis, namely the number of lights provided. This is not a straightforward exercise as a semi-disposable lighter may be refilled one or more times and a lighter may be discarded before it is completely empty. Lighters can produce a very large number of lights, but Bryant & May suggested that the average number of lights actually obtained in practice from a lighter was 800. Using this figure gives a market share for Bryant & May of 70 per cent in 1990 *in volume terms* of the combined market of legitimate sales. Taking Bryant & May's sales as a proportion of the estimated total market (*including* smuggled lighters) would give a share of sales of matches and disposable lighters of 69 to 75 per cent *by value*, 53 to 60 per cent *by volume* (using a figure of 800 lights for each lighter) in 1990. If a figure of 1,000 lights for each lighter had been used, Bryant & May's share *by volume* would have been between 50 and 58 per cent.

7.8. It is clear that in 1990 Bryant & May supplied over 25 per cent of sales of matches and disposable lighters taken together, *by both value and volume*. We note that Bryant & May also supplied over 25 per cent of sales of matches *by value* and *by volume* and over 25 per cent of sales of disposable lighters *by value*, and probably also *by volume*. This is the case on the basis of legitimate sales, but from the information available it appears that it would also be the case if smuggled lighters were taken into account. We therefore conclude that a monopoly situation exists in relation to the supply of matches and disposable lighters for retail sale by virtue of section 6(1)*(a)* of the Act. As noted in paragraph 7.2, Bryant & May's current share of match sales is probably somewhat higher than that for 1990. Bryant & May estimates that its current market share on disposable lighters is higher than 25 per cent *in value terms* but lower than 25 per cent *in volume terms*. It is, however, clear that it still supplies well over 25 per cent of sales of matches and disposable lighters taken together, *by both value and volume.*

7.9. We are required to consider in favour of what person or persons the monopoly situation which we have identified exists. Bryant & May is a wholly-owned subsidiary of Bryant & May (Holdings) Ltd, itself a wholly-owned subsidiary of Larchgreen Ltd, which is a wholly-owned subsidiary of Swedish Match International BV. Swedish Match International BV is wholly-owned by Swedish Match. Thus the ultimate parent company of Bryant & May is Swedish Match (see Appendix 2.2). Chapter 2 explained the current management structure of the group and the relationship between the five companies. It was accepted by the companies that if a monopoly situation existed (as discussed above) it existed in favour of each of these companies. We therefore conclude that the monopoly situation which we have identified exists in favour of each of these companies, namely Bryant & May, Bryant & May (Holdings) Ltd, Larchgreen Ltd, Swedish Match International BV and Swedish Match.

Bryant & May

7.10. Bryant & May has been selling matches in the United Kingdom since the 1850s. By the early 1920s, Bryant & May's major competitor in the United Kingdom was J John Masters Ltd (Masters), a company controlled by Swedish Match AB (a significant match manufacturer). Bryant & May and Masters were brought under the same ownership in 1927. A brief chronology of the numerous changes in ownership which took place then and subsequently is given in Appendix 2.1. By 1987 Masters and Bryant & May were both owned by Allegheny International Inc, operating as separate companies but with strong technical and commercial links. Masters acted as the United Kingdom distributor for Swedish Match AB's products. Both businesses were then acquired by Swedish Match AB (which was cleared by an MMC inquiry, as discussed further in paragraphs 7.40 to 7.42[1]).

[1] *Swedish Match AB and enterprises belonging to Allegheny International Inc: a report on the merger situation,* Cm 227, October 1987.

Following the merger, the activities and management of Masters were completely integrated into Bryant & May. The factory at Liverpool then became the manufacturing source for those matches which Masters had previously obtained from Sweden. After the merger, there were subsequently further changes in ownership, as described in Appendix 2.1. Throughout these changes the senior management of the match and disposable lighters business has consisted largely of the same people.

7.11. Bryant & May's turnover in 1990 was £36 million of which sales in the United Kingdom of matches amounted to £24 million and sales of disposable lighters to £4 million, together with exports of these products of £1 million (mainly to other companies in the Swedish Match group). Bryant & May's match production facilities are at Liverpool, where it currently has three lines producing matches in the standard box size, two lines in the smoker's box size, and one line in the household size. Bryant & May also distributes other smokers' products and confectionery, which in 1990 represented in turnover terms over £6 million and under £1 million respectively.

Swedish Match

7.12. Swedish Match, the ultimate parent company of Bryant & May, has match operations in various countries around the world, with its main European factories being in Tidaholm (Sweden), Liverpool (United Kingdom) and Oporto (Portugal) (see Appendix 2.6). Its headquarters are in Nyon (Switzerland). Swedish Match is the third largest world supplier of disposable lighters. It owns the Cricket and Chukka brands which Bryant & May distributes in the United Kingdom. We were told that Bryant & May's sales of the relevant products in 1990 accounted for about 16 per cent of the group's sales of matches, 8 per cent of its sales of lighters and 16 per cent of its total sales.

The market for matches and disposable lighters

7.13. Matches and disposable lighters are both used for the same purpose and we consider that they are close substitutes, particularly for smoking use. Over half of the match sales are estimated to be for use by smokers (see Table 3.1), as are most of the sales of disposable lighters. Disposable lighters are less likely to be used for domestic use. A disposable lighter can produce upwards of 1,000 lights and has a retail price of between 99p and £2.50. A standard box of matches contains about 40 matches and costs about 8p at the retail level. Matches and disposable lighters are usually sold through the same outlets and both are usually purchased as and when needed. For these reasons we consider that the supply of matches and disposable lighters forms one market, but there are differences in the way both supply and competition have developed and we therefore look at the products both separately and as part of a single market.

7.14. As discussed in paragraphs 3.2 and 3.3, there are alternative means of creating a light, such as automatic ignition devices and hand-held igniters of various kinds, but the evidence we received suggested that they are not important substitutes for matches and disposable lighters. Once purchased, gift lighters do serve the same purpose as matches and disposable lighters. They are, however, by their nature an occasional purchase. They are typically much more highly priced and purchased through different outlets (such as jewellers or specialist tobacconists rather than retail outlets selling tobacco). We consider therefore that gift lighters do not compete directly with matches and disposable lighters.

Matches

The products

7.15. There are two types of matches on sale in the United Kingdom: *safety matches*, which can only be struck against a special chemically-treated surface, and *strike-anywhere* matches, which, as the name implies, can be struck against any rough surface. Safety matches account for about 40 per cent of sales. There are regional preferences for these different types of matches with safety matches being sold to a greater extent in the South of England and strike-anywhere matches in the North of England and in Scotland.

7.16. Matches are sold in three main box sizes: the standard box, which can be carried in a pocket and which accounts for almost two-thirds of sales; the smoker's box, which is longer and has more matches than the standard box but is still small enough to be carried in the pocket (the main brand being Bryant & May's Swan Vestas); and the household box, which is mainly designed for use in the home.

7.17. Bryant & May supplied well over 90 per cent of sales *by volume* of matches in smoker's box and household box sizes in 1990. It also supplied 84 per cent *by volume* of strike-anywhere matches in standard boxes. It is in the supply of safety matches in standard boxes that Bryant & May faces most competition. On these products, its market share in 1990 *by volume* was 48 per cent. We do not have detailed figures *by value* for each category of match, but Bryant & May's shares on this basis would be higher, reflecting the higher prices at wholesale level for its products.

7.18. Bryant & May has a number of different brands of matches, the best known being Swan Vestas (a smoker's box brand), England's Glory, Scottish Bluebell (both standard box brands) and Cook's (a household box brand). Swan Vestas is, we were told, the only brand often asked for by name by consumers, but there is traditional brand loyalty for its other brands of matches, and wholesale and retail customers normally stock at least some Bryant & May brands.

7.19. Matches are also supplied to retailers and wholesalers under the customer's own brand name (which we refer to as own-label). Most of Bryant & May's main competitors do not have established match brands and rely on own-label sales (see Table 3.19). For the match market as a whole own-label products in 1990 accounted for 25 per cent of total sales *by volume*, but for only 14 per cent of Bryant & May's sales.

The main suppliers

7.20. The market shares in 1990 of the main suppliers of matches to wholesalers and retailers (which we refer to as customers) are shown in Table 7.1. As already noted, Bryant & May supplied 78 per cent *by volume* of sales of matches. The closest competitor was Samaco Ltd with a market share of just under 9 per cent. No other supplier had a market share of over 5 per cent. *By value* Bryant & May's share was higher, and that of each of its competitors lower, reflecting the higher price charged to customers by Bryant & May for its matches. Bryant & May's share has fallen compared with 1988, when it was 81 per cent *by volume* (88 per cent *by value*).

TABLE 7.1 **Main suppliers of matches to customers in the United Kingdom, 1990**

per cent

Company	*Volume*		*Value*
Bryant & May	78.1		85.6
Samaco	8.5		5.5
Cornish Match	4.7		3.6
Rizla	3.3		2.8
Zor	2.0		1.3
Amaranth	1.6		0.4
Other	1.8		0.8
Total	100.0		100.0
Total volume of matches	37.2m	Total value of matches	£28.0m

Source: MMC.

Note: In this and subsequent tables, percentage figures may not total to 100.0 because of rounding.

7.21. Although transport costs of matches are low, the match industry in Europe has tended to be nationally-based with the home producers supplying most or all of the matches sold. The main countries in Europe in which matches are manufactured are Czechoslovakia, Finland, France, Italy, the former Soviet Union, Spain, Sweden, Turkey and Yugoslavia. In 1987 imports from Eastern Europe, excluding Yugoslavia, accounted for 72 per cent of United Kingdom imports of safety matches. By 1990 this had declined to 34 per cent, because of a fall in imports from Czechoslovakia and the Soviet Union. We were told that in part this reflected concern about the quality and consistency of certain imported matches, which is important in this market, not least for safety reasons. By contrast, imports from Yugoslavia, Italy, Spain and Turkey increased significantly between 1987 and 1990. The net effect was that between 1987 and 1990 imports of safety matches slightly increased. There was also an increase in imports of strike-anywhere matches, albeit from a low level in 1987. Imports of both types of matches in aggregate increased from about 19 per cent by volume of the market in 1988 to 22 per cent in 1990. Figures on releases from bond for the first six months of 1991 suggest that imports have fallen in 1991.

7.22. One factor which may have inhibited a greater increase in imports is the threat to manufacturers of retaliation in their home markets. During the MMC's 1987 inquiry, Swedish Match AB told us that it had been inhibited from seeking to increase its market share in the United Kingdom because it did not wish to risk retaliatory action by Wilkinson Match Ltd or later Allegheny International Inc in other parts of the world. During this inquiry we received evidence that in 1988 Swedish Match AB had itself put pressure on a competitor to restrict supplies to the United Kingdom or risk retaliation in its home market. Swedish Match told us that it was willing to assume that some dialogue may have taken place but that it had no specific knowledge of it. Moreover no such understanding now applied. This is discussed further in paragraph 7.73.

7.23. Apart from the Société Nationale d'Exploitation Industrielle des Tabacs et des Allumettes SA of France, all the other major European match manufacturers are selling matches in the United Kingdom. Match sales throughout Europe are in decline. This suggests that there is unlikely to be any new entry to manufacturing in Europe, but it also means that major manufacturers are likely to have spare capacity.

7.24. Swedish Match is the main manufacturer of matchmaking machinery in Europe and many of its competitors use its machinery. Swedish Match told us that it sold the machinery on an arm's length basis. We received no complaints about Swedish Match's practices in this respect.

Disposable lighters

The products

7.25. Disposable lighters were first sold in the United Kingdom in the 1970s. There are two main types-ones that can be refilled and ones that cannot. We refer to disposable lighters that can be refilled as semi-disposable. In other respects there are not major differences in the types of lighters sold. There are no strong brand loyalties for lighters. Bryant & May is the largest United Kingdom supplier of both disposable and semi-disposable lighters. Most of its competitors just supply disposable lighters, as shown in Table 3.25. There is only one other sizeable supplier of semi-disposable lighters and nearly all the sales of semi-disposable lighters in the United Kingdom are by Bryant & May. The best-selling brand of semi-disposable lighter is Clipper, which is made by Flamagas and distributed by Bryant & May.

The main suppliers

7.26. Transport costs for lighters are not significant. There are three main world manufacturers of lighters, Tokai Seiki, Société Bic SA (Société Bic) and Swedish Match. According to market estimates provided by Swedish Match, these suppliers account for 86 per cent of world production, with world market shares of 39 per cent, 33 per cent and 14 per cent respectively. In most European countries either Tokai Seiki or Société Bic have the highest market share, although in the United Kingdom, as shown in

Table 7.2, Tokai Seiki's and Société Bic's shares of sales are below that of Swedish Match. Biro Bic Ltd (Bic), the United Kingdom subsidiary of Société Bic, told us that while excise duty remained, sales of lighters in the United Kingdom were not sufficiently profitable for it to try to increase its share. We were told that as excise duty raises the price of all disposable lighters, the relative price difference between disposable and semi-disposable lighters is reduced, making semi-disposable lighters (of which Bryant & May is by far the largest supplier) relatively more attractive. The largest United Kingdom share held by a manufacturer is that of Flamagas, which manufactures the Clipper semi-disposable lighter.

TABLE 7.2 **Share of legitimate sales by lighter manufacturers, by volume, 1990**

Manufacturer	*Supplier*	*Share* %
Flamagas	Bryant & May	23.4
Swedish Match	Bryant & May	20.1
Tokai Seiki	Rizla/Imperial Tobacco/Zor	16.3
Société Bic	Bic	13.4
Iwax	Iwax	6.7
Sibjet	Kitsfern	5.0
Fosforera	Zor	4.5
Yaka Feudor	Bryant & May	4.3
Other		6.2
Total		100.0

Source: MMC.

7.27. The lighters produced by these various manufacturers are sold in the United Kingdom by the suppliers shown in Table 7.3. Bryant & May had a share of legitimate sales of 48 per cent *by volume*, 63 per cent *by value* in 1990. Its higher share by value mainly reflects Bryant & May's high sales of semi-disposable lighters, which are more highly priced than other lighters. Both Bic and Rizla Ltd (Rizla) had market shares of about 13 per cent *by volume.* In *value* terms, Rizla's share was 10 per cent against that of Bic of 8 per cent. IWAX UK Ltd (Iwax) had a share of 7 per cent *by volume*, 3 per cent *by value*. No other supplier accounted for more than a 5 per cent share by either value or volume.

TABLE 7.3 **Main suppliers of disposable lighters to customers in the United Kingdom: legitimate sales, 1990**

per cent

Company	*Volume*	*Value*
Bryant & May	47.8	63.4
Bic	13.4	8.3
Rizla	12.5	9.9
Iwax	6.7	2.5
Kitsfern	5.0	4.0
Zor	4.5	3.0
Ronson	3.8	2.0
Imperial Tobacco	3.8	4.3
Other	2.4	2.7
Total legitimate sales	100.0	100.0

Total volume of legitimate sales 17.9m   Total value of legitimate sales £5.6m

Source: MMC.

7.28. As discussed in paragraph 7.4, the evidence suggests that while there may have been some smuggling of lighters in the past, this has recently increased very markedly, and may have amounted to between 10 million and 20 million lighters in 1990, that is between 36 and 53 per cent *by volume* of the total market in 1990, increasing during 1991. No estimates are available of the particular makes of lighters smuggled.

Demand for matches and disposable lighters

7.29. During the period 1987 to 1990, volume sales of matches declined by about 25 per cent. During the same period legitimate sales of disposable lighters increased in volume terms by 25 per cent. Over this period, retail prices of matches remained roughly constant in real terms, while retail prices of disposable lighters fell in real terms by 23 per cent. The fall in demand for matches reflected partly the increase in the use of disposable lighters, but also an increase in integral ignition devices as part of appliances and a decline in smoking. Demand for matches is expected to continue to fall.

Excise duty

7.30. Excise duty is relatively higher on lighters than on matches. On a standard box of matches, excise duty amounts to about 8 per cent of the final selling price (ie about 0.6p on a box selling to consumers at 8p). In the case of lighters, excise duty of 50p amounts to between 20 and 50 per cent of the final selling price. Moreover, VAT is paid on the excise duty and wholesalers' and retailers' margins may also take account of the duty. Thus a product which, in the case of the best-selling lighters, can be purchased by an importer for a cost of 7p to 18p is sold at retail level from about £1 to over £2. Bryant & May's purchase price (including import costs) for the Chukka and Clipper lighters was 14p and 21p respectively.

7.31. Customs and Excise told us that smuggling of lighters had increased and that the introduction of the single European market would make the excise duties more difficult to administer. Bryant & May told us that it expected that excise duties would be ended in the 1992 Budget. We have therefore considered the consequences of any such decision to end excise duties.

7.32. If excise duties were removed, it is clear that there would be a significant effect on the retail price of lighters. Bic, for example, suggested that the cheapest lighter would sell in retail stores for as little as 30p. It was expected by all the parties who gave us evidence that this would have a dramatic effect on sales, as lighters would be purchased instead of matches, particularly by smokers. Smuggling to evade duty would cease, leading to some increase in legitimate sales. In the Republic of Ireland removal of excise duty in January 1990 led to an increase in sales of disposable lighters of 25 per cent in that year.

7.33. By contrast, removal of excise duties would not have such a significant effect on the price of matches, as the duty is relatively lower. There would, however, be likely to be a significant adverse effect on sales, particularly of matches in standard and smokers' boxes, as some consumers would be likely to switch to buying lighters, particularly for smoking use (as indeed occurred in the Republic of Ireland in 1990). To a certain extent, these effects are already being seen in the market, through the impact on the market of smuggled lighters, which has no doubt contributed to the recent sharper decline in the sales of matches.

7.34. The reduced demand for matches as a result of the ending of duty could threaten levels of employment at Bryant & May's Liverpool factory, where 203 people are currently employed. We note that Swedish Match told us that if sales of matches in the United Kingdom were to drop significantly, the outcome for the Liverpool factory would depend on its efficiency and the overall scenario in Europe. Swedish Match's views on this point are given in paragraphs 6.62 to 6.69. Swedish Match is an international company with major factories in Sweden and Portugal as well as the United Kingdom. There has to be a risk in these circumstances that the Liverpool factory would be closed. Given the declining demand for matches, this is already a possibility, but removal of excise duty would bring forward the risk of closure. We consider, however, that there will continue to be a demand in the United Kingdom for matches even if excise duty is ended and it is by no means clear that the Liverpool factory could not remain viable. We regard the continuation of production at the Liverpool factory as a factor to be taken into account in our inquiry.

Channels of distribution

7.35. The suppliers of matches and disposable lighters sell to wholesalers, cash-and-carry outlets and direct to some retailers. Most customers buy both matches and disposable lighters. In 1990, about 60 per cent of Bryant & May's sales were to wholesalers and cash-and-carry outlets. Multiple grocers and confectioners, tobacconists and newsagents accounted for over 20 per cent of sales. Bryant & May had about 1,000 customers, but its 20 largest customers accounted for 85 per cent of its sales (for matches its 20 largest customers accounted for 84 per cent of its sales and for disposable lighters 86 per cent). The sales of other suppliers of matches were even more concentrated on a small number of large customers.

7.36. The majority of the major retailers which we consulted purchased matches from only one company. Twenty out of the 26 retailers in our survey which bought direct from match suppliers purchased matches from only one source. Thus at the retail level a wide range of brands is not usually available in any one outlet. Wholesalers tended to buy from more than one supplier. As regards switching of supplier, five companies out of 47 had switched supplier for branded matches, although more had considered switching. There was more switching for own-label. Nine out of the 27 wholesalers and retailers which bought own-label matches had changed their supplier in the last two years (in most cases for quality reasons). Thus the evidence suggests that there is some switching of suppliers by wholesale and retail buyers.

Price competition

7.37. There is little price competition on matches between retail outlets, with prices being set at or above the prices recommended by Bryant & May, the market leader. The evidence we received suggested that at current price levels there is very little sensitivity to match prices by ultimate consumers. A standard box of matches costs less than one cigarette. Disposable lighters can be more economic than a box of matches, as a lighter can produce over 800 lights, but the unit price is, however, considerably higher, varying from just under £1 to over £2. There is greater price competition between retail outlets for disposable lighters and there would seem to be somewhat more sensitivity to price for lighters than for matches, with some multiple retailers, for example, having a policy of stocking a disposable lighter at under £1 to encourage sales. Disposable lighters are nonetheless, like matches, an ancillary purchase, frequently bought with cigarettes when needed.

7.38. At current price levels, factors such as consumer preference and convenience may be as important as relative price in determining the relative sales of matches and disposable lighters. Over time there has been a shift from use of matches to disposable lighters, as the retail price of lighters in real terms has reduced while that of matches has remained constant. If duty on lighters were removed, however, there would be likely to be a very marked change, as discussed in paragraphs 7.32 and 7.33, as the retail price of lighters would fall significantly, leading to a much more marked switch from use of matches to disposable lighters, particularly for smoking.

7.39. At the wholesale level there is greater sensitivity to price in the case of both matches and disposable lighters, but for most wholesalers and retailers which purchase direct from suppliers these goods are not a significant proportion of their turnover and a number of wholesalers and retailers emphasised this point to us. A majority of the wholesalers and retailers we consulted said that their bargaining strength was low on matches, because of the lack of alternative suppliers. On lighters, however, a majority regarded their bargaining strength with suppliers as reasonable or good.

MMC 1987 report

7.40. As was mentioned in paragraph 7.10, in 1987 the MMC considered the acquisition by Swedish Match AB of various businesses including Bryant & May and Masters (the United Kingdom distributor for Swedish Match AB's own products). The MMC found that there had been a close relationship between Bryant & May and Swedish Match AB for some 60 years and, although there had been some competition between the two companies, in practice the competition on price had been muted.

The combined group would supply 82 per cent of matches and at least 42 per cent of disposable lighters in the United Kingdom. There were, however, some factors which the MMC believed would act as constraints on the merged company increasing wholesale prices of matches significantly. In particular, smokers could substitute lighters for matches, other match manufacturers (such as those based in Italy and Spain) might enter, and additional imports could be encouraged by the largest customers.

7.41. The MMC also considered that the use of matches would continue to reduce and this decline could accelerate rapidly if excise duty on lighters were to be reduced or removed. The MMC believed that by leading to a transfer of production to the Liverpool factory, the merger would provide a greater degree of job security and secure production in the United Kingdom for a longer period than might otherwise be the case. Balancing all the various factors, the MMC concluded that the merger would not be expected to operate against the public interest.

7.42. During the course of the 1987 inquiry, Swedish Match AB assured the MMC that following the merger:

(a) Average price increases for branded matches in the United Kingdom would continue to be contained within the Retail Price Index (RPI) unless there were factors outside Swedish Match AB's control which led to cost increases significantly in excess of the increase in the RPI.

(b) Swedish Match AB would supply directly or through third parties all the strike-anywhere brands currently supplied in the United Kingdom by Bryant & May and Masters, save the `Punch' brand, and would continue to supply directly or through third parties each such brand for so long as consumer and trade demand for the brand was sufficient to make it economic to do so.

(c) In so far as Masters had delivered to customers in drop sizes below Bryant & May's minimum (of £250 or the equivalent of five cases), Swedish Match AB would continue to make such deliveries available to those customers for so long as they were required. Bryant & May would continue to maintain its minimum drop size in volume terms.

Swedish Match told us that since 1987 it had adhered to the above and it was willing to continue to do so.

The public interest

7.43. We now consider whether any steps are being taken by Bryant & May or any of the other companies in the Swedish Match group in whose favour we have found the monopoly situation to exist, for the purpose of exploiting or maintaining the monopoly situation, and whether any actions or omissions on their part are attributable to the existence of the monopoly situation and, further, whether any facts found by us in pursuance of our investigations operate, or may be expected to operate, against the public interest. We look first at specific pricing and trading practices by Bryant & May, then at the recommendation of retail prices by Bryant & May and then at the level of Bryant & May's prices and profits on matches and disposable lighters. Finally we consider whether any matters arise in relation to the companies other than Bryant & May in whose favour we have found the monopoly situation to exist.

7.44. We note that in certain past cases the MMC have considered high levels of prices and profits. Bryant & May's legal advisers commented on these at our request (see paragraphs 6.48 and 6.49). In looking at the various matters related to pricing we recognise that there are a variety of practices which a firm may employ to gain a competitive advantage. It is not the nature of the practice itself but its effect on competition that is the crucial factor in determining whether it is against the public interest. Practices that may be acceptable in one market where competition is strong may be unacceptable in another where there is less competitive activity. Where a company enjoys substantial market power, its pricing policy can have a major effect on competition. This may give cause for concern if the effect of such a policy is to weaken or exclude competitors from the market.

Bryant & May's pricing and trading practices

7.45. As described in Appendix 3.3, Bryant & May has a price list for its customers, with prices varying according to the size of the order. The majority of Bryant & May's customers receive the lowest level of prices. A number of the largest customers also receive further discounts. This may be given through a reduction in the invoice price or can take the form of an overrider (that is a cash rebate given at the end of a specified period based on the total value of sales of particular products). Bryant & May said that while some of its customers preferred to pay negotiated net prices, which appeared on their invoices, with others it negotiated discounts and allowances, which varied according to the individual customer's negotiating strength and skill. It is the terms on which such discounts may be provided on which we now focus. Bryant & May's senior management initially told us that it did not negotiate joint discounts or link agreements across product groups, have sole supply agreements or link the promotional supply of any product to the supply or sales value of any other product, or otherwise limit the customer's purchase of products supplied by other companies. After further inquiries at our request Bryant & May later acknowledged that some such provisions in agreements did exist. The agreements in question currently remain in force, but Bryant & May stated that it intended to issue new instructions to its sales personnel that such provisions were not to be used in future (see Appendix 6.1). We looked in detail at the agreements with each of Bryant & May's 20 largest customers, representing over 85 per cent of Bryant & May's total sales.

7.46. One of the top 20 customers (a wholesaler/retailer) received an overrider which was related in the case of branded matches and in the case of branded lighters to the total value of sales within that product group. The discount given was retrospective, calculated over a one-year period, so that if sales passed the threshold for a higher discount, that discount applied to all sales within the product group. The additional discounts ranged from 1 to 2 per cent. (For the sake of completeness we note that similar arrangements applied for smokers' requisites and cigarette papers.) Bryant & May did not suggest that these levels of discounts could be justified by relation to cost, but it pointed out that such levels of discount were not high in relation to those given by some of its competitors and had little or no exclusionary or inhibiting effect. In our view, this form of discount, retrospective over a significant period, encourages a customer which already buys a certain amount of product to switch further custom to Bryant & May. The retrospective nature of the discount means that the effective price of further orders as the period progresses are below those that would normally be quoted for extra amounts since the discount applies to all purchasers over the period. This reduces the ability of other suppliers to compete on normal terms. This would not be of concern if Bryant & May had little market power. In the case of matches and disposable lighters, however, Bryant & May has a high market share with a prominent brand image for some of its branded matches, and many buyers will need to buy at least some of Bryant & May's products. We note that in order to achieve the maximum discount, an increase of 7.5 per cent in sales of matches and 20 per cent in sales of lighters had to be achieved. The effect of the discount is in this case likely in our view to make it more difficult for competitors to supply and thus to compete. For the reasons stated above, we consider that giving such a discount is thus a step taken by way of uncompetitive practice on the part of Bryant & May for the purpose of maintaining the monopoly situation.

7.47. Three of Bryant & May's major customers (a buying group, and two major retailers) received discounts linked across product groups (matches, disposable lighters and smokers' requisites and cigarette papers), which increased with the combined value of purchases. These were retrospective and paid either quarterly or annually. The discounts offered ranged from a maximum of 1.5 per cent to a maximum of 2.25 per cent, as described in Appendix 3.3. Bryant & May considered that competitors might be unfairly disadvantaged by progressive overriders aggregated within and across products groups, but noted that these three cases did not account for a large part of its total sales and probably had little exclusionary or inhibiting effect. In our view, however, these discounts are likely to have the effect of making it more difficult for other suppliers of matches and disposable lighters to compete, and are also likely to increase Bryant & May's sales of other products covered by the agreements, namely smokers' requisites and cigarette papers. We note in this context that Bryant & May's sales of smokers' requisites and cigarette papers have been increasing in both turnover and profitability as shown by Table 4.20. We therefore consider that the provision of such discounts is a step by way of uncompetitive practice taken by Bryant & May for the purpose of maintaining and exploiting the monopoly situation.

7.48. The agreement with one major customer was marked `solus'. Bryant & May told us that this meant that the customer (which was a buying group) would not participate as a group in promotions of matches and disposable lighters other than those of Bryant & May, although other brands of matches and lighters could be stocked and sold by members. Our view is that such a provision could have an anti-competitive effect, because promotions for competitors' products by that group would be restricted. In another case, the agreement was marked `solus' in respect of matches and disposable lighters. Bryant & May told us that the agreement had no restrictive implications. Bryant & May also told us that there had been occasions when wholesalers and particularly retailers had told Bryant & May that they wished to stock only one brand and had asked for a quotation on that basis. Where it is a provision of an agreement that supply is on a `solus' basis this could clearly have a restrictive effect on competition, given Bryant & May's high market share. We consider that entering into `solus' agreements in relation to either promotions or sales of matches and disposable lighters is an action by Bryant & May attributable to its monopoly situation, because its high market share enables it to negotiate such provisions, and is a step taken by way of uncompetitive practice for the purpose of maintaining the monopoly situation.

7.49. Four of Bryant & May's agreements (one of which was with a customer referred to in paragraph 7.47 and one with one of the customers referred to in paragraph 7.48) specify minimum requirements as regards the number of Bryant & May's match and disposable lighter brands to be stocked. In one case, for example, which was with a cash-and-carry, the agreement stated a `must stock' range covering a large number of match and disposable lighter brands and also smokers' requisites and cigarette papers, as described in Appendix 3.3. In this case, information provided by the customer showed that in practice it purchased only one other type of match (an own-label product) from another supplier. We consider that given Bryant & May's market position as already discussed, such a provision is likely to make it more difficult for Bryant & May's competitors to supply such a customer as, if a certain number of products have to be stocked, there is likely to be less shelf space available for competitors' products, particularly as matches and disposable lighters tend to be a small proportion of customers' turnover. We thus consider that entering into an agreement providing for minimum stocking requirements is an action by Bryant & May attributable to the monopoly situation because its high market share enables it to negotiate such a provision and a step taken by way of uncompetitive practice for the purpose of maintaining and exploiting that situation.

7.50. We have thus identified in paragraphs 7.46, 7.47, 7.48 and 7.49 certain steps and actions by Bryant & May to maintain or to maintain and exploit the monopoly situation and, in two cases, are also actions attributable to it. In our view the existence of such provisions in agreements in each case restricts and distorts competition, as customers are likely to buy less matches and disposable lighters from Bryant & May's competitors than they would do otherwise, and, in the case of the provisions referred to in paragraphs 7.47 and 7.49, less of the other (non-reference) products covered by the agreements. This would, we expect, in each case lead to the adverse effects that competition from other suppliers of matches and disposable lighters would be weakened, as it would be more difficult for existing competitors to make headway or for new entrants to become established, leading, over time, to higher prices for reference products than would otherwise be the case and also to a reduction in choice for customers and consumers. The adverse consequences of the arrangements are thus not for the particular customer with whom the agreement is made but for Bryant & May's competitors and thus for competition in the market. In the case of the particular agreements mentioned in paragraphs 7.47 and 7.49, we also consider that Bryant & May's sales of the other products covered by the agreements, namely smokers' requisites and cigarette papers, would be higher than they would otherwise be, with the adverse effect that competition in this market would thereby be distorted. We see no benefits arising from any of these provisions. The 20 largest agreements we considered represented over 85 per cent of Bryant & May's sales. Eight agreements included one or more of the provisions we have discussed. Sales under these eight particular agreements account for 29 per cent of Bryant & May's sales of reference goods. We consider that the provisions we have identified are a significant feature of Bryant & May's trading and, for the reasons already given, may be expected to be detrimental to competition, given Bryant & May's significant market strength. We conclude that the foregoing are facts found in the course of our investigation which operate against the public interest.

Recommended retail prices

7.51. We next considered whether Bryant & May's practice of publishing a recommended retail price (RRP) had an adverse effect on competition. In the case of matches, we found that the retail price of a standard box of matches sold singly is usually at or above Bryant & May's RRP (currently 8p-including excise duty and VAT). A survey (as described in paragraph 3.59) showed a close correlation between Bryant & May's RRP and the average price charged by retailers. The evidence suggested that while larger retailers followed Bryant & May's RRP, higher prices were frequently charged by independent grocers and convenience stores. Other suppliers based their RRPs on those of Bryant & May, and the retail price of their products followed those for Bryant & May products, but with a lag. In the case of multi-packs of matches, retail prices are sometimes below the RRP. Bryant & May argued that if there were no RRP the retail trade would lose its bench-mark for retail prices and as a result prices would be higher, not lower. On the other hand, wholesalers might well choose to give indicative retail prices, as retailers find these a convenience even if they do not always observe them. We have already noted that there is little sensitivity to price by consumers and both matches and disposable lighters are usually an ancillary purchase. In the light of these factors we do not see the recommendation of retail prices as giving rise to concern.

7.52. As regards lighters, we were told that retailers often priced below the RRP and the evidence did not suggest that the recommendation of retail prices was inhibiting price competition at the retail level.

Other trading practices

7.53. We received certain allegations from competitors of Bryant & May that it had sought to prevent them gaining new business, by making unfair suggestions to customers, trading standards officers or the trade press that their products were unsafe or of poor quality. Bryant & May strongly denied that it had made any unfair suggestions about the quality or safety of competitors' products. It gave us details of the circumstances in which it had raised matters regarding competitors' products with trading standards authorities or made remarks to the press, as described in paragraphs 6.29 and 6.30. Having considered the evidence, we did not find that allegations of unfair practices had been established and we do not consider that adverse effects for the public interest arise in respect of these matters.

Level of prices and profits

Matches

7.54. We then considered the level of Bryant & May's prices in the context of the existence of its monopoly situation and with regard to the public interest. We considered the nature of price competition between different suppliers. Bryant & May's prices to its customers are significantly above those of its competitors. Table 3.23 showed that the average price per box of 40 matches for Bryant & May's branded matches was 4.4p and for own-label was 3.5p. The prices of most other suppliers were much lower. These supplied mainly own-label products, with prices ranging from 1.5p to 2.6p. One supplier had significant branded sales at an average price of 3.2p.

7.55. As paragraph 7.18 stated, Bryant & May is the only company which has well-established match brands, and particularly the Swan Vestas brand. Brand loyalty may not be as great as for some other products, but it does appear sufficient to allow Bryant & May to achieve a premium on its branded products. Table 3.23 showed that Bryant & May gave much lower net prices on own-label than on branded matches. Own-label account for about 12 per cent *by value* of Bryant & May's sales. In paragraphs 4.21 and 4.22, Bryant & May's turnover and profits for branded and own-label products were considered. As shown in Table 4.10, while own-label products had higher factory costs (because of more complex printing requirements and generally shorter production runs), branded had higher advertising and marketing costs. The total costs were almost the same. Bryant & May has, however, been securing higher profits on branded than on own-label products, as shown in Table 4.9. The profitability on own-label has, however, been improving and amounted to 22 per cent return on turnover in 1990, compared with 29 per cent on branded matches.

7.56. We also looked at Bryant & May's pricing of safety and strike-anywhere matches as there are fewer competitors supplying strike-anywhere matches. Although safety matches are in competition with strike-anywhere matches, there are regional preferences for the two types of matches, as paragraph 7.15 explained. The evidence suggested that there was little difference in the rates of gross profit earned by the branded strike-anywhere and branded safety. In the case of own-label, discounts offered were higher, particularly for safety matches (where Bryant & May faces greater competition). As shown in Table 4.11, gross profit on safety was somewhat lower than that on strike-anywhere matches.

7.57. Bryant & May's prices are above those of its competitors, as shown in Table 3.62. The evidence is not such as to suggest that Bryant & May has been pricing in a fashion designed to drive competitors out of the market (overall profitability on own-label in 1990 being good). It does, however, suggest that it has been able to offer higher prices where it faces less competition. In particular, its prices have been kept higher for its branded products, which are its main sales. It has also achieved somewhat higher prices for strike-anywhere, on which it faces less direct competition, than for safety matches.

7.58. We considered the reasons for imports not increasing to a greater extent. As already discussed, the cost of transporting matches is low and most manufacturers, we were told, have spare capacity. The ability of imports to compete may, however, have been reduced by the quality problems experienced in the case of some suppliers. We were told that this had deterred some customers from sourcing from overseas suppliers, even those whose quality had not given rise to problems. Bryant & May, on the other hand, has, we were told, a good reputation for quality and service. We also note that for most wholesalers and retailers which purchase direct from suppliers the goods are a very small part of their turnover. The evidence suggested that if excise duty on lighters were ended, match sales would fall further. The uncertainty regarding whether excise duty was to be retained, together with the long-term trend of declining demand, may have deterred importers from being more active. For all these reasons we consider that imports have not and are not likely to act as a sufficient constraint to prevent high pricing by Bryant & May.

7.59. We now consider what profits Bryant & May has been achieving, to see if the prices it has charged have led to high profits. Since the merger with Masters in 1987 the profits earned by Bryant & May on its match operations have shown a significant improvement. The return on capital employed (ROCE) was 96 per cent in 1988, 245 per cent in 1989 and 343 per cent in 1990. Bryant & May's most recent (October 1991) forecasts of the results for 1991 show a return on capital for matches of 159 per cent. In assessing these figures in public interest terms, we have, however, to take into account the circumstances which affect the calculation of capital employed.

7.60. The ROCE achieved on Bryant & May's match operations reflects, in part, the low and declining levels of capital employed up to 1990. Factors which contribute to this are:

(a) the use of a 1977 valuation for the land and buildings at Liverpool;

(b) only a low level of investment in new plant has been required in recent years, and by 1990 the net book value of plant and machinery on a historic cost basis (after normal depreciation) included in capital employed was only £1.9 million;

(c) reduction in levels of stock and debtors due to more efficient management;

(d) the rising level of profits earned between 1989 and 1990 resulted in increases in the amounts of corporation tax payable at the end of each financial year, which had the effect of reducing the capital employed.[1]

7.61. In the particular circumstances of this case, a more appropriate way of measuring profitability is return on turnover, which was 18 per cent in 1988, 26 per cent in 1989 and 28 per cent in 1990. For 1991, the return on turnover is forecast to be 24 per cent. The increased rates of profit on turnover since 1988 result mainly from increased throughput following the merger with Swedish Match AB and the integration of Masters, which increased volumes at the Liverpool factory by about 30 per cent and decreased unit costs. It appears that Bryant & May has been able to retain the benefit of the reduced unit costs, and has not

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[1]Bryant & May forecast that there would be no tax liability at 31 December 1991, for the reasons explained in paragraph 4.18. This had the effect of increasing the capital employed at that date and caused a reduction in ROCE for 1991 compared with earlier years.

had to pass it on in the form of lower prices. Overall it has raised its prices on branded matches in line with inflation (within the terms of the assurance expressed to the MMC in 1987). Thus, as Table 4.13 showed, its average revenue in real terms has remained broadly constant while its average costs have fallen.

7.62. The rates of profit on turnover have been higher than those achieved by companies in other industrial sectors, as Table 4.23 showed. Bryant & May said that in its view the tobacco industry was the sector which was most closely comparable. Two major companies operating in this sector are BAT Industries plc (BAT) and Rothmans International plc (Rothmans). In the last three years their returns on tobacco turnover have ranged between 10 and 12 per cent for BAT, and between 16 and 19 per cent for Rothmans, as shown in Table 4.23. The profit achieved by Bryant & May has also been much higher than that of Swedish Match's other European subsidiaries, as shown in Appendix 4.5, although there are difficulties in making direct comparisons.

7.63. Bryant & May acknowledged that its match business had been very profitable, but emphasised that it did not consider the profits to be excessive. Its views are given in paragraphs 6.16 to 6.19. It said that the reasons for its profitability included its efficiency, the decision to move some production to the United Kingdom together with the rationalisation of the Bryant & May and Masters businesses, and the reputation and quality of its supply operations. It also pointed out that its capital employed was low for the reasons already discussed. Moreover, it said that it expected that the profitability of its match business would decline as the United Kingdom market decreased in size. If excise duty were removed, the decline would be more rapid. Bryant & May therefore expected its return on capital employed on matches to fall substantially in 1992 and dramatically thereafter.

7.64. We recognise that the productivity improvements following the merger may have already been substantially realised and that demand for matches is likely to continue to fall, whether or not excise duties are removed. Bryant & May may for these reasons find it harder to secure such high profits in future. In a declining market, however, some of the competitors may withdraw rather than intensify their activities. If excise duty on lighters is ended, this may be expected to reduce sales in particular for standard and smokers' boxes of matches. This may make it harder for some of Bryant & May's competitors to stay in the market.

7.65. We also recognise that there are a number of factors contributing to Bryant & May's low capital employed, and that Bryant & May's improved profitability has arisen in part from rationalisation and efficiency improvements. In a more competitive market, however, we would expect such benefits to be largely passed on in the form of lower price rises to customers.

7.66. Considering the evidence on both pricing and profitability, we conclude that Bryant & May's prices for matches, and particularly its branded matches, to its customers are higher than would prevail in more competitive conditions. An important reason why Bryant & May has been able to achieve such prices is its very high market share in the match market and the fact that its competitors in this market have only small shares. We also note that although the market is declining it is relatively low risk. Whichever basis of measuring profitability is used it is clear that Bryant & May has achieved exceptionally high profits.

7.67. We conclude that Bryant & May's pricing policy is an action attributable to the monopoly situation, in that it could not have achieved such prices without its high market share, which has led to excessive profits. We also conclude that this fact operates against the public interest, with the adverse effect being that its prices to customers for matches are higher than they would be otherwise, leading to higher prices for consumers.

Disposable lighters

7.68. As regards pricing of disposable lighters, there is a wide variation in prices at both wholesale and retail level. The cost price for the best-selling lighters to the United Kingdom importer ranges from 7p to 18p. There appears to be strong price competition between the various manufacturers of lighters. Once the supplier's margin and duty is added, the prices charged to wholesalers range from about 65p to 90p. Retail prices range from just under £1 to over £2. Although the main suppliers give RRPs and these may act as a general guide for retailers, several charge significantly below and there is a wide range of prices.

7.69. Retail prices of disposable lighters have remained almost unchanged since 1987. We were told that the volume of smuggled lighters had been affecting competition at both wholesale and retail levels.

7.70. The profit from disposable lighters has been falling, from £721,000 in 1988 to £698,000 in 1990. Over the same period the ROCE for the disposable lighters business fell from 401 per cent to 165 per cent. The high level of ROCE reflects the small amount of capital employed in the disposable lighters activities, which is a distribution business requiring little plant and machinery (its distribution depots and vehicles being leased). For these reasons we consider that return on turnover is a more meaningful measure of profitability in this case. The return on turnover on disposable lighters was 21 per cent in 1988 and 1989 and 20 per cent in 1990. It is forecast to fall to 10 per cent in 1991, mainly because of the effect of smuggled lighters on legitimate sales.

7.71. We consider that Bryant & May has benefited from being able to use one distribution network for both matches and lighters (with frequent and regular delivery patterns of convenience to customers). This not only reduces its costs of both distribution and marketing, but means that it can use its customer base for matches for promoting sales of lighters. In some cases the discount structure links sales of the different products, as has already been discussed. Even in the absence of such policies, however, we consider that Bryant & May would have an advantage from this network over many of its competitors.

7.72. Although Bryant & May's profits on disposable lighters have been high, they have fallen in 1991 to much lower levels and are likely to continue to fall even if excise duty remains because of the impact on legitimate sales of smuggling. Moreover Bryant & May's market share is considerably smaller for disposable lighters than for matches. We do not consider that the level of its prices or profits on disposable lighters gives rise to an adverse effect for the public interest.

Actions by other companies within the Swedish Match group

7.73. We considered whether there were any steps taken by any of the other companies, in favour of which we concluded that the monopoly situation existed, as described in paragraph 7.9, for the purpose of exploiting or maintaining the monopoly situation and whether any action or omission on their part was attributable to the monopoly situation. The only matter raised in evidence to us was the suggestion that in 1988 Swedish Match AB had put pressure on a competitor to restrict supplies to the United Kingdom, as discussed in paragraph 7.22. The evidence was not sufficient for us to conclude that it was such a step, action or omission. We received no evidence of any other relevant steps, actions or omissions by the other companies.

Remedies

7.74. We now consider what action should be taken for the purpose of remedying or preventing the adverse effects that we have identified.

7.75. We have identified in paragraphs 7.46, 7.47, 7.48 and 7.49 certain pricing and trading practices by Bryant & May which we consider will maintain, or maintain and exploit, the monopoly situation. In two cases, we found that the practices were also attributable to the monopoly situation. The adverse effects are, as described in paragraph 7.50, that competition from other suppliers of matches and disposable lighters would be weakened as it would be more difficult for existing competitors to make headway or for new entrants to become established, leading, over time, to higher prices for reference products than would otherwise be the case, and also to a reduction in choice for customers and consumers. We also found that an adverse effect of the agreements mentioned in paragraphs 7.47 and 7.49 is that competition in the supply of smokers' requisites and cigarette papers would be distorted. We consider that the correct remedy would be for Bryant & May not to include such provisions as are mentioned in those paragraphs in its agreements with customers in future. We therefore recommend that:

(a) for matches Bryant & May should not provide price incentives for the achievement over a period of a particular volume or turnover;

(b) discounts agreed by Bryant & May should relate to sales within a particular product group (such as branded matches or own-label matches or branded disposable lighters) and not be aggregated across product groups;

(c) Bryant & May should not provide for any terms of exclusivity in its agreements, in relation to sales or promotional activities of matches and disposable lighters; and

(d) Bryant & May should not provide any requirements as to the stocking of a minimum number of brands of particular products.

7.76. We note that Bryant & May has said that it intends to issue new instructions to its sales personnel on the basis on which negotiations with customers should be undertaken (as set out in Appendix 6.1). We consider that this is a helpful step and may be of use if the Secretary of State decides to proceed by way of undertakings.

7.77. We have also found that Bryant & May's prices for matches, and particularly its branded matches, to its customers are higher than would prevail in more competitive conditions (paragraph 7.66), and that this is an action attributable to the monopoly situation, in that it could not have achieved such prices without its high market share, which has led to excessive profits (paragraph 7.67). We have concluded that this fact operates against the public interest, with the adverse effect being that Bryant & May's prices for matches to customers are higher than they would be otherwise leading to higher prices for consumers (paragraph 7.67).

7.78. We have already noted that an important factor distorting the market for matches and disposable lighters is the existence of excise duty on matches and disposable lighters. The existence of excise duty has in our view, as discussed in paragraphs 7.32 and 7.33, increased sales of matches and decreased those of lighters, and in particular sales of disposable as against semi-disposable lighters. The uncertainty regarding the future of excise duty may also have had an inhibiting effect on competition. Bic, for example, told us that it would promote its products more actively in the absence of excise duty, and one can envisage that competitors might take a similar view.

7.79. As discussed in paragraphs 7.31 to 7.34, if excise duties were ended it would clearly affect competition in the market for matches and disposable lighters. Other factors are, however, also involved, including the revenue raised for the Exchequer, which in 1990/91 amounted to some £17 million. The question of whether the excise duties should be retained is for the Chancellor and ultimately for Parliament. In addition to the uncertainty regarding excise duty, there is also the additional factor of declining demand for matches.

7.80. We nonetheless consider that action is required to control the increase of Bryant & May's prices for matches, given its large market share and high level of profits. We asked Bryant & May for its comments on a remedy of price control. Bryant & May said that it expected that it would not be able to achieve such high profits in future and it did not agree that any such remedy was appropriate, although it was prepared to continue to comply with the assurance Swedish Match gave during the 1987 inquiry. It is, however, clear that average price increases for branded matches in line with the RPI have provided high profits for Bryant & May in the past and would be likely to continue to do so.

7.81. If there were to be a form of price control Bryant & May thought either the RPI or the PPI (Producer Price Index) was more appropriate than a sectoral index as the latter was unlikely to reflect movements in Bryant & May's costs. It suggested that the RPI was the best, as it was well-known, simple and related to what consumers actually paid. Taking into account the main elements of cost for Bryant & May, we consider that, in the absence of a directly relevant PPI, the RPI may provide the most appropriate reference index.

7.82. Bryant & May told us that it increased its RRPs only when this would provide for an increase of at least a penny. We note that its prices to its customers have kept broadly in line. Bryant & May increased its RRPs and its prices to customers in June 1988 and in July 1990, as noted in paragraph 3.58. If it were to continue to increase its RRPs and its prices in line with the RPI, we calculate that a further price increase on its standard boxes (which form the bulk of its sales) would be expected early in 1993.

7.83. We recommend therefore that Bryant & May should be required not to make any increases in the prices it currently charges to its customers for branded matches or in its RRPs for these products for two years. We believe this will have the effect of reducing Bryant & May's profitability towards a level more comparable with the return on turnover of other companies manufacturing products for the retail sector, examples of which are given in Chapter 4. Subsequent to that, control on its prices of its branded matches and on its RRPs should continue by reference to RPI minus a factor to give a continuing restriction on profitability, if and to the extent that Bryant & May's profits (in terms of return on turnover) remain excessive. The price freeze and subsequent control should apply separately to the average prices for each of household boxes, smokers' boxes and standard boxes.

7.84. If a decision is taken to remove excise duty, such a decision could have a marked effect on the competitiveness of the market. If the effect of duty removal does indeed lead to a marked shift away from matches such that Bryant & May's market power is substantially reduced, the need for a system of price control would need to be reconsidered once the effects have become clear. If duty is removed we would expect Bryant & May's prices to its customers (which currently include duty) to be adjusted downwards by the extent of the duty.

7.85. We considered whether this price control should apply only to branded, or should also apply to own-label products. We recognise that own-label contracts are separately negotiated and although there are some common cost factors, there may be differences. The anticipated volumes on which the prices are based may also not in fact be realised. There is also a question as to how new contracts would be priced. The evidence also suggests that Bryant & May is more subject to competition on own-label and this is reflected in its pricing on these products. In the light of these considerations we consider that the price control should apply only to branded matches.

7.86. We considered whether a system of price control on branded matches was likely to affect employment levels in Liverpool. We saw no reason to conclude that it would lead to lower sales levels for Bryant & May or would lead in itself to a transfer of production from Liverpool to other Swedish Match factories.

7.87. We also considered the effect on other suppliers in the market. We recognise that any system of price control will be likely to make it harder for competitors but we note that there is currently quite a wide differential in prices. Given Bryant & May's very high market share, we consider that any adverse effect on other suppliers will be outweighed by the benefits of restraining Bryant & May's prices.

7.88. Total sales of matches amounted to some £28 million in 1990. In total, expenditure on matches is thus not insignificant. We considered whether, if Bryant & May were required not to increase its prices and to maintain its RRP, the benefit would pass through to the end consumer. We recognise that there is low sensitivity to price on matches by end consumers, that matches are usually an ancillary purchase and that a box of matches is only a very small purchase for a consumer. We would expect, however, that RRPs would continue to be generally adhered to in prices offered to consumers. If it nonetheless emerged that this was not occurring, we recommend that consideration be given to requiring Bryant & May to state the RRP on its branded boxes of matches.

7.89. We considered whether Swedish Match should continue to adhere to the assurances regarding brands and drop sizes given to the MMC during their 1987 inquiry (as described in paragraph 7.42). We consider that it would be likely to be in Bryant & May's commercial interest to continue to offer particular brands if consumers and trade demand was such that it was economic to do so and to offer small drop sizes (which receive a lower level of discount). Moreover these matters do not relate to the particular adverse effects we have identified. We therefore make no recommendations as regards the continuance of these policies.

D G GOYDER *(Chairman)*

A G ARMSTRONG

F E BONNER

J D KEIR

K S CARMICHAEL, being a member of the Group, dissents from the conclusions for the reasons set out in the note of dissent included in this report.

S N BURBRIDGE *(Secretary)*

20 January 1992