

9 Conclusions

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Background

9.1. Our inquiry concerns the supply in the UK of text retrieval services which provide users with on-line access to databases containing business and financial information. For the purpose of the reference we are concerned with 'historical' on-line services: that is those which give access to archival information rather than providing continuously updated data (eg about share prices or currency rates) as they change. The latter are 'real-time' services.

9.2. The users of on-line database services include librarians and other information specialists who find information for the ultimate user, and also, increasingly, the individual researcher and businessman who will make use of the information themselves. They access the service from a personal computer or terminal in their offices via telecommunication links to the service provider's computer on which the databases are stored (or 'hosted').

9.3. Databases stored in this way cover a variety of information. In addition to general business and financial information there are databases covering scientific information, patents and legal texts as well as databases of interest to particular industries (for example, those listing building materials or pharmaceutical products).

9.4. We are concerned only with those services which provide business and financial information and, in particular, those which include in their databases material reproduced or summarized from daily and Sunday newspapers. There are two main suppliers (or 'hosts') providing such services from a UK base: FT Business Enterprises Limited (trading as FT Profile) and MAID Systems Limited (MAID). However, since a host's computers are accessed by telecommunication links they do not need to be based in the UK to provide services here. Subsidiaries of Knight-Ridder Inc provide the Data-Star service from computers located in Switzerland and the Dialog service from computers in the USA. Their UK office trades as Data-Star Dialog Europe (Data-Star Dialog). Mead Data Central International Inc (MDCI) provides its Lexis/Nexis service from computers in the USA. These are the four largest suppliers of such services in the UK.

9.5. The databases of information stored in the hosts' computers are sometimes compiled by them but are often obtained from 'information providers' who compile the data and make their electronic files available to a number of hosts in return for a royalty based on the extent to which the file is accessed by users. In the case of newspaper articles the electronic copy of articles from a particular newspaper is generally compiled by the publisher; for example, Newspaper Publishing plc prepares an electronic copy of *The Independent* each day and makes it available to those hosts with which it has contracts. Since the publisher generally holds the copyright in articles which appear in a newspaper the hosts need to be licensed by the publisher to store copies of the articles and make them available to users. Without such a licence the host would infringe the publisher's copyright.

9.6. Only one publisher of a UK newspaper has an associate company which operates a database service. Financial Times Group Limited is the parent company of both The Financial Times Limited, which publishes the *Financial Times*, and FT Business Enterprises Limited, which provides the FT Profile database service. We refer to these companies collectively as 'the FT'. Unlike other newspaper publishers, the FT does not make its daily newspaper generally available to hosts in electronic form. Its current practice is to license only its own host, FT Profile, to hold full-text copies of the *Financial Times*. This practice formed the main focus of our inquiry.

9.7. Two other important types of organizations involved in the industry are 'wholesale providers' and 'gateway operators'.

9.8. Wholesale providers are organizations which specialize in compiling files of information from a variety of sources and making them available to hosts. Thus Reuters Limited (Reuters) compiles a file called 'Textline' which contains news items from newspapers, journals and other sources. All of the hosts mentioned in paragraph 9.4 have access to Textline but, except when accessed by FT Profile, post-1991 editions of the *Financial Times* are not available. Previously Reuters had acted as a host and offered Textline directly to users. However, it withdrew its service in 1992 and now makes the Textline file available to other hosts who retail it to their customers. We therefore treat it as a wholesale provider. Another wholesale provider of a file containing articles from UK newspapers is Information Access Company/Predicasts which produces the Predicasts PROMT file. Under licence from the FT this contains abstracts of up to 60 per cent of the articles in the *Financial Times*, but they are not available until about seven days after publication of the newspaper.

9.9. Gateways give access to the services of one (or more) of the hosts. The gateway operators may themselves be hosts for other types of database or they may be communications companies that play no part in the market for database services other than to provide gateways linking users to a host. Thus some smaller specialist hosts have gateways which enable their customers to access FT Profile; and British Telecommunications plc (BT) Business Information Services (which is not a host) provides access over BT's telecommunication networks to the providers of a number of database services, not all of which provide business and financial information. Gateway arrangements offer advantages to both host and gateway operator. For the host whose services are accessed via a gateway the arrangement provides a convenient means of marketing its services to a distinct group of customers outside its main target market. For the gateway operator which is a specialist host the arrangement provides a way of offering the customers of its specialist services access to additional sources which they may sometimes want to use; customers of this specialist host are saved the need to subscribe directly to a second host outside their main field of interest. In the case of communications companies, operating a gateway offers the possibility of stimulating additional traffic on their networks.

The monopoly situations

9.10. Under the terms of the reference made by the Director General of Fair Trading on 5 April 1993 we are required to investigate and report on whether a monopoly situation exists in relation to the supply in the United Kingdom of text retrieval services consisting in the provision of access to historical on-line databases containing archival business and financial information and, if so, by virtue of which provisions of sections 6 to 8 of the Fair Trading Act 1973 (the Act) the monopoly situation is to be taken to exist and in whose favour it exists.

9.11. Our terms of reference define 'historical on-line database' as meaning a collection of works:

- (a) which includes works reproduced or summarized from daily and Sunday newspapers circulating generally in the United Kingdom, and
- (b) which is arranged and indexed electronically, stored in a remote computer and retrieved by the user by means of one or more telecommunication links.

Thus the terms of reference relate to those providers of database services whose databases include newspaper articles. We use the expression 'direct newspaper host' to refer to the host which stores such a database on its computers and to distinguish it from a host which is acting as a gateway operator.

Provisional conclusions

9.12. On the basis of a preliminary assessment of the market shares of the direct newspaper hosts we formed the provisional view that two monopoly situations existed: one in respect of FT Business Enterprises Limited (trading as FT Profile), and the other in respect of Knight-Ridder Inc and its subsidiaries (trading as Dialog and Data-Star).

9.13. In the case of FT Business Enterprises Limited we provisionally found that the monopoly situation existed by virtue of section 7(1)(a) of the Act in that one company supplied at least one-quarter of the services defined in our terms of reference; we found this monopoly situation to exist in favour of FT Business Enterprises Limited, The Financial Times Limited and Financial Times Group Limited. In the case of Knight-Ridder Inc and its subsidiaries we provisionally found that the monopoly situation existed by virtue of section 7(1)(b) of the Act in that at least one-quarter of such services were supplied by members of a group of interconnected bodies corporate; we found this monopoly situation to exist in favour of Knight-Ridder Inc, Dialog Information Services Inc, Dialog Information Europe Inc and Radio-Suisse Ltd (the company which operates the Data-Star service in Switzerland).

9.14. We wrote to the two suppliers notifying them of our provisional findings and inviting their views on them. In the case of FT Profile we also sent a list of issues arising from our provisional findings which we wished to discuss at a hearing (see Appendix 5.1), a list of possible remedies (see Appendix 5.2), notes detailing our preliminary understanding of the market, on which our findings were based, and a summary of the complaints and criticisms we had received in evidence from other parties.

9.15. In the case of Data-Star Dialog we did not raise any specific issues but invited views generally on our findings.

The reference services

9.16. In its response to our letter the FT argued that a monopoly situation did not exist in relation to FT Profile because, in the FT's view, our terms of reference included not only the services provided by the direct newspaper hosts identified by the MMC (Data-Star, Dialog, FT Profile, MAID, MDCI and Perfect Information) but also all the services provided by a number of other hosts and by organizations having gateways to the direct newspaper hosts. The FT's arguments are set out in paragraphs 5.2 to 5.5. On the basis of this view of the services covered by the reference the FT contended that the total market was much larger and that its share of the relevant supply was only about 16 per cent, which is below the 25 per cent necessary for a monopoly situation to exist.

9.17. We have carefully considered the arguments advanced by the FT. The providers of database services which it considers to be embraced in our terms of reference (listed in Table 5.1) include three separate categories. First, there are five direct newspaper hosts which are additional to those we had initially identified (Dow Jones News/Retrieval, Harvest, I/Plus Direct, Leatherhead Food Research Associates (Leatherhead) and Telesystems Questel). Second, there are ten hosts whose databases do not include newspapers but which have gateways via which their customers can gain access to one of the direct newspaper hosts (CompuServe, ESA/IRS, GBI, Genios, Infocheck/Globalscan, InfoPro Technologies,

Manchester Host, OCLC, Prodigy and Westlaw). And third, there are two communications companies which do not act as hosts at all but instead provide gateways to one or more of the direct newspaper hosts (BT Business Information Services and Mercury Link). We consider these categories in turn.

9.18. So far as the first category is concerned, with the exception of Dow Jones News/Retrieval the additional direct newspaper hosts specialize in particular fields; for example, Leatherhead carries only information of interest to the food industry. However, we consider that the information in the databases of all five of these additional direct newspaper hosts constitutes 'business and financial information', and since it includes articles or abstracts from UK newspapers we accept that the services supplied in the UK by these hosts are within our terms of reference. In practice, Telesystems Questel supplies no relevant services in the UK and does not affect the calculation. In the case of some of the other hosts we have found that the value of the services supplied in the UK is lower than the estimates provided by the FT (see Table 5.1), and in a few cases substantially lower.

9.19. The second and third categories can be considered together. Both comprise organizations which have gateways via which their customers can gain access to one of the direct newspaper hosts. A feature of these gateway arrangements is that they produce very little business through the gateway. Although FT Profile is available through the gateways provided by eight operators the total revenue which it derives from its gateway arrangements is only £[*], some [*] per cent of its total sales. It is also a feature of the gateway arrangements that the gateway operator is not a direct competitor to the direct newspaper host. This lends weight to the view that hosts use gateways to extend the reach of their services.

9.20. The FT contends that the whole of the services provided by these gateway operators, not just those provided through the gateway, should be included as services covered by our terms of reference. We agree that the services supplied by the direct newspaper host through the gateway are within our terms of reference. However, the supplier in that case is the direct newspaper host and not the gateway operator. The function of a gateway operator is to put the user in communication with the direct newspaper host who is the supplier of the 'text retrieval services' specified in our terms of reference. The gateway operator does not control the content, arrangement or indexing of the databases included in the direct newspaper host's services and so does not, in our view, supply those services within the meaning of our terms of reference. Thus we interpret our terms of reference as excluding the services of the gateway operators.

9.21. Using the interpretations discussed in the preceding paragraphs we estimate the total value of the services covered by our terms of reference (the reference services) supplied in the UK in 1992 to be £28.1 million. The market shares of the various suppliers are shown in Table 9.1.

TABLE 9.1 Market shares of the suppliers of the reference services, 1992

<i>Supplier/service</i>	<i>Market share</i> %
Data-Star Dialog	33
FT Profile	38
MAID	8
MDCI (Lexis/Nexis)	5
Reuter Textline*	11
Others†	<u>5</u>
Total	100

Source: Information provided by the companies.

*Direct sales by Reuters ceased during the course of 1993 as existing contracts finished.

†Dow Jones News/Retrieval, Harvest, I/Plus Direct, Leatherhead and Perfect Information.

*Figures omitted. See note on page iv.

FT Profile

9.22. For the reasons set out in paragraphs 9.16 to 9.21 we conclude that a monopoly situation exists in that FT Profile supplies more than one-quarter of the reference services. We confirm our preliminary finding that the monopoly situation exists by virtue of section 7(1)(a) of the Act and that the persons in whose favour it exists are FT Business Enterprises Limited, The Financial Times Limited and Financial Times Group Limited.

Data-Star Dialog

9.23. As Table 9.1 indicates, Data-Star Dialog also supplies more than one-quarter of the reference services and we therefore conclude that a second monopoly situation exists. In this case the monopoly situation exists by virtue of section 7(1)(b) of the Act because supply is not by a single firm but by members of a group of interconnected bodies corporate. We conclude that the situation exists in favour of Knight-Ridder Inc, Dialog Information Services Inc, Dialog Information Europe Inc and Radio-Suisse Ltd, being the companies that provide the services and their parent companies which benefit from the profits.

The public interest issues

9.24. With regard to the FT, two principal issues were raised in evidence to us. The first is the FT's practice of not licensing hosts other than FT Profile to hold articles from the *Financial Times*. Competitors to FT Profile say that this licensing practice gives it an unfair advantage in the market which operates against the public interest. Furthermore some users have said that having the FT available on only one host creates inconvenience and extra cost for them.

9.25. The second issue concerns information brokers, a particular group of users of database services who argue that FT Profile is exploiting its monopoly situation by imposing a 10 per cent surcharge on them; they also object to a contract condition which requires them to supply details of their clients to FT Profile on request.

9.26. With regard to the separate monopoly situation in favour of Knight-Ridder Inc and its subsidiaries, we were made aware of some general concern that, following the merger of Data-Star and Dialog, further concentration among suppliers could have adverse consequences for users. However, we received no complaints of anti-competitive behaviour on the part of Knight-Ridder Inc or its subsidiaries.

9.27. Central to an analysis of these issues is an understanding of the relevant economic market and the degree of competition among its participants.

The relevant market

9.28. As described earlier in this chapter, the electronic information industry provides a wide range of services to many different kinds of user. We first consider the extent to which competition exists between different types of service in the light of user requirements.

9.29. The view that has been put to us by the FT is that competition should be seen as taking place within a 'market for information' that includes the traditional hard copy form as well as the electronic and is international in its geographical scope. According to this view the historical on-line database services that are the subject of this reference constitute one of many products in the market along with newspapers and many other forms of business and financial information. While we accept that all the information products and services forming this wide sector may constitute the arena within which the FT and other companies conduct their corporate strategies, we regard the sector as comprising a number of separate markets in that different products and services are designed for different purposes and in many cases have a different range of users. Thus the nature and level of competition may vary between these separate markets.

9.30. In order to assist us in identifying the appropriate market for the purpose of this inquiry we carried out a survey of the main users of historical on-line database services, most of whom also used other information sources, some electronic and some not (see paragraphs 3.57 to 3.59 and Appendix 3.2). From the views provided by these users we conclude that the demand for information in the hard copy form (for example, newspapers, journals and press cuttings) should be seen as separate from demand for electronic information. Furthermore within that category of electronic information the views of users lead us to the conclusion that the demands for real-time services and historical services are largely separate. This latter distinction has been confirmed to us by other evidence from suppliers, user representatives and independent experts. Thus, while it may well be the case that users of each of these two types of electronic information may be found in the same company, often in the financial sector, the use for which the information is needed is largely different. Very broadly, real-time services are used for trading, particularly of different types of securities, and historical services are used for research.

9.31. The main form in which historical services are delivered is by on-line link from a remote computer, but there is also the alternative of the CD-ROM. The views of users on the substitutability of these two forms is less clear-cut than in the case of the distinction between real-time and historical services. However, half of the users in the survey said that they required more recent information than is generally included on CD-ROM (which may be updated as infrequently as every three months). On balance we see this form of historical service as at present complementary to on-line database services rather than competitive with them.

9.32. In sum we regard historical on-line database services as a separate market for competition purposes. This market amounted to about £290 million in 1992 (see paragraphs 3.11 to 3.13).

9.33. The users of historical on-line database services do, however, have varied requirements, and suppliers, ie hosts, also vary considerably in regard to the range of databases that they choose to offer. Newspapers provide a particular source of information for searches in the business and financial sector. There are a number of hosts that include newspaper databases within their own service, as well as other hosts that concentrate on other sources and types of information but provide access via gateways to newspaper databases. FT Profile and Data-Star Dialog are two of the hosts in that former group. For researchers in the financial and business sector, newspapers have the special advantage that they collect together recent information drawn from a number of primary sources and also that they provide an element of comment on the information. Newspaper databases thus satisfy a distinct need for which databases containing financial information on companies or newswire information do not provide a full substitute. Within the market for historical on-line database services we therefore see services which include newspaper databases as forming a distinct segment. This segment corresponds to the services supplied by the direct newspaper hosts which constitute the reference services. Their value was £28.1 million in 1992 (see paragraph 9.21).

Competition

9.34. Competition between the direct newspaper hosts is mainly in terms of data coverage and back-up services-and more generally the quality of service-provided by each host. Ease of use and price are also factors that have competitive significance.

9.35. Current suppliers in this market segment have also to take into account the possibility of entry by other companies in the electronic information industry. Entry is easiest for companies which are already hosts of on-line databases and would only have to add newspaper databases to their service. There is no obstacle to doing so-apart from the limitation of the FT's licensing practice (which we return to later). The providers of newspaper databases are (with that one exception) prepared to license their use to reputable hosts and entry into this segment of the market would mainly be a matter of setting up the technical framework and carrying out a marketing operation. One of the four main direct newspaper hosts (MAID) did in fact enter this way in 1992, when it extended the range of its historical databases to include newspapers and other sources of business and financial news. Similarly, Data-Star (now part of Data-Star Dialog) was originally a host of scientific and technical databases and extended its scope to include business and financial ones.

9.36. The range of possible entrants to this segment of the market is not limited to companies which are already hosts of historical on-line services on offer in the UK. There are also companies that supply real-time services (which are technologically more sophisticated) as well as companies that host newspaper databases in other countries but do not yet offer their services in the UK. The views we have had from companies in the industry have all been to the effect that it would take only a few months for a supplier who wished to do so to enter the UK market for historical on-line databases.

9.37. Apart from the possibility of entry, suppliers of database services generally are aware of the commercial implications for their products of technological change. Historical on-line databases are themselves a relatively new market; recent developments of CD-ROM technology have now made that medium more attractive; and there is a general expectation in the industry that technological change will continue to be rapid for the foreseeable future. Suppliers are not therefore able to rely on any market opportunity or market niche remaining available to them for very long. It is, moreover, widely perceived that the financial and technological resources of some of the main participants in the industry (eg Reuters or Knight-Ridder) are so large that a wide range of strategic choices is open to them. Furthermore other very significant groups, such as Nikkei in Japan and international media groups such as News International, are among the potential entrants. Thus the whole market for historical on-line database services is characterized by low barriers to entry and the threat of new forms of competition, and the industry is one in which there are several players of major, and international, stature.

9.38. In sum we see the commercial context in which FT Profile and Data-Star Dialog operate as a highly competitive one in which the threat of new entry is a constant deterrent to any attempt to exercise market power. Some users have expressed to us concern that their interests might be harmed by a growing concentration of suppliers in this market segment, but we would not at present see such concerns as justified because of the ease of entry, the constant technological change, and the presence of major firms in related markets.

9.39. It is within this context that we now consider the position of FT Profile and Data-Star Dialog.

Data-Star Dialog

9.40. To take Data-Star Dialog first, we note that both Data-Star (with a 16 per cent market share in the UK) and Dialog (with 17 per cent) are profitable services, though it has not been possible, especially in the case of Data-Star, to obtain a detailed estimate of profitability for the UK operation separately. To judge from the information on net margins that is available, we have no reason to think that the level of profitability is particularly high. Nor have we received any complaints that Data-Star Dialog has engaged in anti-competitive practices. Given the view just expressed on the nature of the market and competition in it we do not believe that Data-Star Dialog is in a position to exert market power as a result of its control over two of the main newspaper database services.

FT Profile

Position in the market

9.41. Turning to FT Profile, we first consider how far it has advantages over other direct newspaper hosts and then look at the evidence relating to prices and profits in order to assess its performance.

9.42. FT Profile is one of the four main direct newspaper hosts (see Table 9.1); it supplies nearly 40 per cent of the reference services. However, the main reason in the view of competitors for the strength of FT Profile in this market segment is that it is the only host that has access to the *Financial Times* (as a result of the FT's licensing practice).

9.43. It has been argued to us that the *Financial Times* enjoys a special position as a newspaper because of the standing in which it is held. Because of its high reputation for accuracy, reports and articles are likely to be seen by users as particularly authoritative. On the other hand there is little in the *Financial Times* that is exclusive to it, in the sense that most of the information (as opposed to the comment) is generally available

from other sources, whether they are other newspapers or the primary sources used by journalists (eg the Stock Exchange's Regulatory News Service, the newswires or databases containing company accounts). The only exclusive material in that sense is in the leading articles, in columns such as Lex, and to a lesser degree comment incorporated in news articles. Moreover, the *Financial Times* is itself operating in a competitive market and has to compete with other newspapers, for example for financial and business journalists.

9.44. While therefore we acknowledge that the *Financial Times* is perceived as a product of high value and that sole access to the newspaper confers on FT Profile an advantage in some measure over other hosts, we do not see this as an unassailable advantage by any means. FT Profile has no monopoly of sources other than the full-text *Financial Times* and, furthermore, data coverage is only one of the competitive features of an on-line database service. Customers tend to use more than one service: our user survey revealed that while 90 per cent of users subscribe to FT Profile, 75 per cent subscribe to Dialog and 69 per cent to Data-Star (which is still being operated as a separate service). Our view of the significance of the *Financial Times* as part of FT Profile's database service is reinforced by the evidence of the City Information Group, which represents many of the largest users of newspaper hosts. It told us that while it had seen the *Financial Times* as essential at the time (just over a year ago) when FT Profile became the only host offering an up-to-date full text of the newspaper, now, after experience of using other services, it did not see the *Financial Times* as being so important.

9.45. A second factor that has been alleged in support of the contention that FT Profile has a particularly strong market position is its relationship with Reuters. While Reuters' database Textline is now available to several hosts, there was a period in 1992, after Reuters withdrew from the market as a host in its own right, when the database was only available on the FT Profile service. It may be the case that this conferred an advantage on FT Profile at the time, but an inspection of the market share statistics suggests that FT Profile was very far from being able to take over and retain the whole of the share of the market that Reuters had enjoyed. In addition, the terms on which FT Profile gained access to Textline were onerous. It would not in any case appear that any special advantage remains to FT Profile from its relationship with Reuters, and indeed in one respect FT Profile is at a disadvantage compared with other hosts, as access to Textline for users of the FT Profile service is still via the less convenient means of a gateway, whereas other hosts have incorporated Textline directly into their services. We do not therefore think that the present position of FT Profile is strengthened by the relationship it has, or had, with Reuters. It appears, moreover, that Reuters will once again be a direct competitor of FT Profile with the launch of its new Business Briefing database service aimed directly at the business executive, which many in the industry believe to be a part of the market with strong growth potential.

9.46. We now turn to FT Profile's pricing policy and its profitability.

9.47. Some users have complained to us that FT Profile is more expensive than other hosts; others have said that the prices are unfair to smaller users; and others again that the pricing structure makes it difficult to assess in advance the cost of using the database service. We have compared the pricing structures and the prices (both before and after discounts) of FT Profile with those of the other main direct hosts. We have found that in all cases pricing structures are complex, as well as different from each other, and that the cost of using the services varies according to the volume and frequency of usage. We have not found, however, that the level of prices (either before or after discounts) of FT Profile is systematically higher (or indeed lower) than those of its competitors. For any one user with a particular pattern of usage it may well be the case that prices vary substantially between hosts, but this does not appear to be the case overall. We do not therefore think that the pricing practices of FT Profile, whether in respect of the level or the complexity of charges, can be said to be substantially different from those of the other hosts. We have not therefore found anything in the pricing policy of FT Profile that could be seen as evidence of, or exploitation of, a dominant market position.

9.48. As for profitability, we have not been able to estimate return on capital employed for the hosts because of the particular circumstances of this type of service and the market in which it operates (see paragraph 4.2). In order to compare the financial performance of the direct newspaper hosts we have therefore sought estimates of net margins on turnover. In the case of FT Profile that margin was negative in 1991 and 1992 and a small positive margin is forecast for 1993. The profitability of FT Profile, as measured on this basis, offers no evidence of the exploitation of a dominant position. Since we have received no complaints that the company's pricing policy had been to undercut its competitors, the negative net margin cannot either be interpreted as evidence of a predatory approach to pricing.

9.49. We therefore conclude, having considered the advantage conferred on FT Profile by sole access to the database containing the *Financial Times*, FT Profile's relationship with Reuters, its pricing policy and its performance in terms of profits, that FT Profile does not have any significant degree of market power in historical on-line database services.

The FT's licensing practice

9.50. It is in the light of the preceding discussion on the nature of the market and FT Profile's position and performance in that market that we consider the FT's licensing practice. Unlike other newspaper publishers the FT is willing to license the inclusion of its daily newspaper, the *Financial Times*, in the databases of only one host, which is in fact one of its own group of companies.¹ The effects of this practice have been said by some users to be that:

- (a) they were unable to choose their preferred hosts on the basis of cost, ease of use and other quality factors;
- (b) the need to use more than one database service made searching less efficient;
- (c) the need to use more than one service increased costs; and
- (d) having to use more than one supplier was inconvenient and meant learning another search language.

In addition, competing hosts said that their revenues were damaged by the FT's licensing practice. We were also told that it made entry into the market more difficult.

9.51. Users choose database services on the basis of a number of quality and cost criteria-of which one is the range of sources available on the host. There is evidence for this in the finding of our user survey that nearly three-quarters of users said that they would still use FT Profile even if the *Financial Times* was available on other hosts' services. Moreover, as mentioned earlier, a substantial majority of users of FT Profile also subscribed both to Data-Star and to Dialog services, while around a quarter subscribed to MAID and a quarter to Lexis/Nexis. We would see the concerns of users (as mentioned in paragraph 9.50) as reflecting the different approaches to the market by suppliers and we do not see the differences between competing services as other than consistent with a market which is highly competitive.

9.52. So far as FT Profile's competitors are concerned, we would similarly see any lower revenues of the competing hosts as a reflection of the process of competition between products of different quality as perceived by users. Nor, as indicated earlier, would we agree that entry into the market is difficult. As we pointed out, both MDCI and MAID have made a successful entry into this market segment in the last few years and their revenues-and indeed market shares-are expected to grow in 1993. Furthermore, no one has suggested to us that Reuters will fail to be at least as successful in launching its new product. We were told that Perfect Information had been unable to enter the market successfully without access to the *Financial Times* (see paragraph 6.47), but we see its difficulties as partly attributable to the technological and cost implications of the particular service it wanted to launch. It is in any case a feature of competitive markets that some potential entrants may in fact draw back after an examination of the quality of the products already on offer and the likely profit margins available.

9.53. In sum, in the competitive market which we have described (paragraph 9.38), while the FT's licensing practice may have disadvantaged FT Profile's competitors and may initially have caused some inconvenience and cost to users, we regard it as a legitimate competitive action intended to differentiate FT Profile from its competitors. Users can choose from a range of services which compete on price, data coverage, ease of use and other quality factors. Furthermore, we have found no evidence of FT Profile's

¹There are two qualifications to this: Predicasts PROMT, a wholesale provider, is allowed to include as part of its package a limited form of the *Financial Times*; and FT Profile makes its databases available through gateways operated by hosts that specialize in other areas of information and by communications companies (eg BT Business Information Services).

prices being systematically higher than those of its competitors (paragraph 9.47). In our view competition is not impaired by the FT's licensing practice.

Information brokers

9.54. Two issues have been raised with us on behalf of information brokers: first, that FT Profile charges them a 10 per cent surcharge whilst other hosts normally give them a discount on the basis that they are large users, and secondly, that FT Profile's terms and conditions require them to supply details of their clients on request. Since FT Profile is a competitor for serving these clients this contract condition is potentially anti-competitive.

9.55. The FT has stated that its surcharge to brokers is justified by the superior service which it offers to brokers, compared with that of other hosts, which provides them with a legitimate way in which they can resell information to their clients (see paragraphs 5.48 and 5.49). It is unnecessary for us to take a view on whether this surcharge is reasonable since we have concluded that the market is competitive (see paragraph 9.38). We regard it as a manifestation of price differences in a competitive market: brokers who do not consider that FT Profile offers them value for money can switch their searches to other hosts.

9.56. So far as the requirement to disclose details of clients on request is concerned, the FT now recognizes the inappropriateness of the blanket requirement and has given notice of a change to the contract condition which will limit its right to ask for client details to circumstances in which it is investigating a suspected breach of copyright. This will narrow the ambit of the clause so that it operates only where the FT has a legitimate interest in obtaining the client information. Furthermore, the FT says that it has never exercised its rights under the existing clause, and we have received no evidence to the contrary. In the light of FT Profile's change to the clause, we did not consider it necessary to pursue this issue further.

The public interest-conclusions

9.57. Having established the existence of two monopoly situations, in respect of FT Profile (paragraph 9.22) and Data-Star Dialog (paragraph 9.23), we are required by our terms of reference to investigate and report on:

- (a) whether any steps (by way of uncompetitive practices or otherwise) are being taken by the persons in whose favour that situation exists for the purposes of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (b) whether any action or omission on the part of those persons is attributable to the existence of the monopoly situation and, if so, what action or omissions and in what way it is so attributable; and
- (c) whether any facts found by the Commission in pursuance of these investigations operate or may be expected to operate against the public interest.

9.58. We consider that the purpose of the FT's licensing practice is to enhance FT Profile's market share by offering users a combination of information sources which they find attractive. It therefore constitutes a step being taken by The Financial Times Limited (the holder of copyright in the *Financial Times*) for the purpose of maintaining the monopoly situation. As explained in paragraphs 9.51 to 9.53, competition is not impaired by the practice and we therefore conclude that it does not operate and may not be expected to operate against the public interest.

9.59. We have found no other steps which are being taken to maintain or exploit either of the monopoly situations, nor any actions or omissions which are attributable to their existence.

9.60. There is significant competition in the supply of the database services covered by our terms of reference. Further changes to the structure of the market are likely as a result of technological changes and through the development of improved products. The market provides a great deal of scope for future

competitive activity. We have not found any facts which operate or may be expected to operate against the public interest.

P H DEAN (*Chairman*)

A G ARMSTRONG

D J JENKINS

G C S MATHER

D MILLER

A J NIEDUSZYNSKI (*Secretary*)

17 December 1993