

APPENDIX 10.15

(referred to in paragraphs 2.110, 2.138, 2.159, 2.160, 3.110, 3.136, 3.157, 3.158, 4.110, 4.138, 4.140, 4.159, 4.160, 5.103, 5.131, 5.152, 6.9, 10.5, 10.40, 10.45, 10.47, 10.48, 10.56, 10.147 and 10.148)

Observations on the behaviour of suppliers of reference brown goods relating to the recommending or suggesting of retail prices

We received observations about the behaviour of suppliers of reference brown goods relating to the first complex monopoly situation (recommending or suggesting prices to be charged by dealers) from:

- (a)* comments made by multiple retailers (that is, those with five outlets or more), wholesalers, mail order companies, warehouse clubs, CIH and its local groups through the responses to the postal questionnaires and hearings with them;
- (b)* statements made to our interviewers during the survey of small retailers;¹
- (c)* further discussions with small retailers, following up (b);
- (d)* correspondence with the parties identified above; and
- (e)* through media reports.

We received a total of 355 observations: 103 in respect of televisions; 93 of VCRs; 93 of hi-fi systems and 66 of camcorders. We did not pursue 296 of them, either because they lacked sufficient detailed evidence for us to pursue them further or because the points made were outside our terms of reference.

Twenty-one observations relating to televisions, 10 to VCRs, 16 to hi-fi systems, and 8 to camcorders-and suppliers' comments on them-are set out here. In some cases the supplier did not accept the facts as presented by the dealer and gave us a different account of events. In such cases we went back to the dealer; and the dealer's response is recorded below the supplier's comments.

Some retailers requested that their identity should not be revealed to the suppliers concerned. In all such cases, and after careful consideration, we acceded to these requests (see paragraphs 6.7 and 6.8). We have identified these observations by the use of a code number (for example, SRS 123). We sought comments from the suppliers concerned but in most cases they declined to respond without being presented with a full account of the case, including the dealer's identity. In some cases we asked retailers to reconsider their requests for anonymity. None were willing to forgo it.

We have not reached conclusions on any of the 21 observations in which the dealer has not been named, nor in 18 other cases where there was a conflict of evidence between the dealer and the supplier which we were unable to resolve.

In 16 of the cases set out in this Appendix-nine relating to televisions, two to VCRs, four to hi-fi systems and one to camcorders-we accepted the dealer's account. Such cases are denoted here by an asterisk following the name of the dealer. In addition, we reached conclusions on two cases which are dealt with separately. The first case concerned Pioneer and Sonics Hi-Fi (in respect of televisions and hi-fi systems-see paragraphs 10.41 and 10.42), and the second case, Sanyo and Comet (in respect of televisions and VCRs-see paragraph 10.55).

¹See paragraph 6.11.

Televisions

B&O

A1 *Amadeus Sound and Vision**

(a) Dealer's observation

Mr J de Bono of Amadeus Sound and Vision, Sutton Coldfield, told us that B&O would have been concerned if it had found that he was discounting televisions (although he did so very rarely).

(b) Supplier's response

B&O told us that it had had a very real concern that Mr de Bono should retain sufficient margins to adequately finance his dealership.

A2 *Mr R Alberg*

(a) Member of the public's observation

Mr R Alberg of Acton, London, told us that in 1995 he had sought to purchase B&O domestic audio-visual equipment which he knew would cost approximately £10,000. As he knew exactly the equipment he required he had asked the dealers to compete to offer him the best price in return for his order. In each instance he had been informed by the dealer that it could not offer a discount outside of the specific packages offered by B&O as it would lose its dealership were B&O to hear of the discounting.

He had visited Selfridges of Oxford Street, London W1, and Hi-Fi Experience in Tottenham Court Road in early September 1995 and London Sound & Vision Ltd, of South Molton Street, London W1, a couple of months previously. All three retailers had told him that unauthorized discounting would incur severe penalties from B&O. Selfridges would not discount B&O equipment other than an item which had been out of its box and was thus sold as nearly new, but Selfridges also offered to match competitors' prices.

(b) Dealers' responses

(i) Sound and Vision Group plc told us that it had purchased the London Sound & Vision South Molton Street showroom from B&O in December 1994. When the showroom was run by B&O the staff had not been allowed to discount as other dealers in London were upset enough with B&O retailing, let alone if it had started cutting prices. That would have been unfair competition as the supplier, working on bigger margins than the retailer, could have more easily afforded the loss of profit. The staff had been instructed therefore by B&O not to discount the product to maintain their relationship with the other retailers in London.

It had always been Sound & Vision Group's policy to maintain prices and margins-in fact it made extra charges, for example for delivery to be able to give its customers a quality service. The only way that B&O dictated its prices was by setting the trade price. London Sound & Vision did not compete on price with other dealers but that was its decision on how to run its business, and no-one else's. Its experience was that to go along the route of volume and lower price on B&O's sophisticated equipment was financial suicide. London Sound & Vision competed only on the quality of its service. There was no substance to the allegation that B&O would be taking away its dealership if London Sound & Vision were to discount. It was B&O's largest dealer in the UK.

(ii) Hi-Fi Experience told us that it had received no directive from B&O concerning the discounting of its products.

However, because of the very tight margin which B&O allowed, Hi-Fi Experience had directed its staff that they should not give more than 3 per cent discount to any customer. Hi-Fi Experience needed to limit discounting as it offered its customers other incentives, for example extended guarantee periods, interest-free credit and free delivery.

Hi-Fi Experience was concerned that the reason given by its staff to Mr Alberg concerning his request for a discount was that it might lose its agency if it were to offer a discount over and above specific packages offered by B&O. This was a misinterpretation by staff and Hi-Fi Experience had now taken steps to ensure that this statement was not repeated.

- (iii) Selfridges told us that B&O operated as a concession in the store; B&O set the selling price of its products. B&O had a clear policy that it would not devalue its brand by discounting the price of its product; 'discounting' to B&O included giving interest-free credit and joining in Selfridges' discount days for its Gold Account customers. In the case of Mr Alberg the cost of the interest-free credit would have been borne by Selfridges and not, as is the norm, by the concession. With regard to the price promise on B&O goods, Selfridges understood that, as all retailers appeared not to 'discount' the products, the prices would be identical in all outlets.

(c) Supplier's response

B&O told us that the observations of this member of the public did not indicate any anti-competitive objective or effect.

B&O recommended resale prices to dealers but it did not dictate the prices at which its products were sold by its dealers. Each dealer was free to set his own prices. A statement to that effect was included in B&O's Distribution Agreement. A Memorandum re-emphasizing dealers' freedom to fix their own prices had been sent out to all its dealers in January 1996.

B&O said that its products had qualities that appealed to a specific customer base. For the majority of its customers price was not the prime consideration. Customers were far more interested in purchasing products that fulfilled their audio-visual needs, had the prestige of the B&O brand, and were from a dealer that could provide a first class pre- and post-sales service.

The question of whether or not to offer discounts was a commercial decision to be taken by individual dealers. Dealers generally recognized that whilst a discounting policy might generate higher sales in the short term, in the long term it would lead to financial ruin.

Mr Alberg had stated that he knew exactly which products he wished to purchase and therefore expected a discount. Expecting something and being entitled to something were two completely different concepts. Mr Alberg was not entitled to a discount. He was perfectly at liberty not to purchase B&O products. However, Mr Alberg had decided that B&O products were what he wanted. It was not unreasonable, therefore, that he should pay the price specified by the dealer.

A3 SRS 636

(a) Dealer's observation

This retailer (SRS 636) told us that the B&O sales representative had suggested to dealers in its locality that they should come to an agreement over prices and not undercut each other on sales of televisions by more than 5 per cent. Another local dealer had complained to B&O that this retailer had been undercutting but the B&O representative had agreed that the retailer had not exceeded the 5 per cent limit. The retailer stated that he wished to remain anonymous; he had not understood when interviewed that the MMC might wish to use his name.

(b) Supplier's response

B&O told us that it did not have any direct knowledge of such behaviour by any of its local sales representatives. B&O had never sought to encourage dealers to form any kind of price cartel.

Hitachi

Savacentre*

(a) Dealer's observations (3)

Savacentre told us that:

A4 in December 1994 Hitachi had complained to Savacentre about the discounted price that Savacentre was charging for Hitachi televisions;

A5 Hitachi had implied that adherence to its RRP's was a condition of continued supply of televisions; and

A6 in April 1993, and again in December 1994, Hitachi had spoken to Savacentre about its advertising of Hitachi televisions at promotional prices.

(b) Supplier's response

Hitachi told us that the Sales Manager who dealt with Savacentre had left Hitachi in March 1996 and it had not been able to check with him what had occurred. Hitachi had no knowledge of his discussions with Savacentre. However, the Sales Manager would have had no authority to interfere with the supply of products to Savacentre, or to any other dealer, and he had no authority to make any threat to that effect. Hitachi did not believe that Savacentre would have taken any such threat by Hitachi's Sales Manager seriously without raising it with more senior management.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Hitachi to substantiate these views.

LG

A7 *Savacentre**

(a) Dealer's observation

Savacentre told us that in April 1993 Goldstar (now LG) had complained to it about the discounted price Savacentre was charging for a 34 cm (14 inch) Goldstar television.

(b) Supplier's response

LG told us that it could find no evidence of any such formal complaint. It had requested information from Savacentre about its offer so that LG would be better prepared to answer questions that might arise from other retailers. LG's intention had not been to influence the pricing, or in any way restrict supply to Savacentre, as evidenced by the fact that Savacentre had subsequently purchased other stock from LG.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from LG to substantiate these views.

Mitsubishi

A8 *Chris Jenkins Radio & TV**

(a) Dealer's observation

Mr Jenkins of Chris Jenkins Radio & TV, Merthyr Tydfil, told us that, in 1993, Comet had advertised a Mitsubishi television for £249.00. This was an end-of-model sell-off. At that time Mr Jenkins had approximately ten left in stock for which he had paid Mitsubishi over £249.00 each. He had complained to Mitsubishi, which compensated him with an advertising allowance.

(b) Supplier's response

Mitsubishi told us that in 1993 Comet had opened a new large store in Merthyr Tydfil. Comet had highly competitive advertised promotional offers at the store to support its opening. Mr Jenkins had complained to Mitsubishi regarding the serious prejudice to the viability of his business created by Comet's opening, with a promotional offer of Mitsubishi 51 cm (21 inch) colour televisions for £249.00. In view of Mitsubishi's concern at the potential prejudice to Mr Jenkins' business, and taking account of the stocks of that product held by Mr Jenkins, Mitsubishi had agreed to provide additional financial support in the form of a credit note as 'co-operative' advertising allowance. It was clear at all times that Mr Jenkins had discretion how to apply that additional financial support. Mitsubishi said that there had been no pressure on Mr Jenkins to sell his stock of this model at £249.00; he was free to set his price for that model as he saw fit at all times. It was entirely a matter for him whether he decided to compete on price with Comet or to sell the stock at a higher price, but with the benefit of that additional financial support. Mitsubishi did not know the price at which Mr Jenkins sold out his stock to consumers.

Panasonic

A9 *Mr J Fishlock**

(a) Dealer's observation

Mr J Fishlock of Oldfield Park, Bath, told us that rather more than two years ago Panasonic's (named) representative had told him that Panasonic did not wish him to advertise its televisions at discounted prices.

(b) Supplier's response

Panasonic told us that Mr Fishlock had asked its Area Sales Manager for guidelines about advertising Panasonic products. The Area Sales Manager had commented that advertising low prices might prompt local competitors to undercut any discounts that Mr Fishlock might advertise. This was because of the widespread practice operated by retailers of offering price promises. At no time had Panasonic required Mr Fishlock to advertise Panasonic products at a particular price.

(c) Dealer's response

Mr Fishlock said that he stood by his original statement that Panasonic had told him that it did not want him advertising products at discounted prices.

A10 *MRI*

(a) Dealer's observation

A multiple retailer (MRI) told us it understood that Panasonic was unhappy if retailers made offers of interest-free credit for certain categories of products for a fixed period. The retailer also understood that Panasonic had threatened to reduce margin support for such of its products as were covered by the generic offers. The retailer said that disclosure of its identity would be highly detrimental to its relations with Panasonic, and added later that its observations had been based on impression rather than documented incidents.

(b) Supplier's response

Panasonic told us that since it did not know who this retailer was, it was unable to investigate the background to this observation or to make any detailed response. Panasonic considered that, in these circumstances, it would be inappropriate for us to rely on this observation.

A11 **O1**

(a) Dealer's observation

This retailer (O1) said that Panasonic had told him not to advertise televisions at prices below their RRP. He believed that if he did not comply Panasonic would tell him that particular models he wished to order would be out of stock. Since having been told at a trade fair three years previously by Panasonic representatives that if he advertised Panasonic goods at less than their RRP Panasonic would not supply him, this retailer had avoided such a possibility by adhering strictly to the RRP in all cases. The retailer did not wish his identity to be divulged to Panasonic since he thought this would not best serve his interests.

(b) Supplier's response

Panasonic told us that since it did not know who this retailer was, it was unable to investigate the background to this observation or to make any detailed response. Panasonic considered that in these circumstances it would be inappropriate for us to rely on this observation.

A12 **Man 2**

(a) Dealer's observation

In December 1996 a BBC television programme, *Panorama*, was broadcast in which a dealer in an electrical goods shop (identified in the transcript of the programme as Man 2) was interviewed by a *Panorama* presenter, with the use of a hidden camera, posing as a customer seeking a bargain. The dealer said: 'If I give you 2 per cent off, they're [Panasonic] not going to argue about that. If I give you maybe 10 per cent all the time, they would look for another dealer.'

(b) Supplier's response

Panasonic said that the quoted conversation had been the subject of considerable editing. Therefore Panasonic was left without any knowledge of, and therefore the ability to comment on, the context in which it was made. Panasonic added that it was apparent from the transcript that the parties were talking about a transaction price, not an advertised price; Panasonic wondered why the narrator had not enquired of Man 2 how exactly Panasonic would get to know that Man 2 had gone below the supposed 2 per cent threshold.

Following receipt of a letter from us inviting comment on the references to Panasonic in the programme, Panasonic had identified and talked to the retailer concerned, who operated two retail outlets and whose company bought reference goods from Panasonic centrally (that is, no negotiation, on supply or any other matter, was undertaken between Panasonic and the retail shops). The outlet shown in the *Panorama* programme was in the Tottenham Court Road area of London, an area characterized by the incidence of electrical retailers dealing at fiercely competitive retail prices. The programme transcript had stated that 'this retailer is one of the several we spoke to'. The clear implication of this statement was that 'Man 2' was the owner or manager of the business, or was in some way authorized by the owner or manager of the business to make such statements. Panasonic had been advised by the retailer that not only was Man 2 not authorized by him in any way, he was not even the shop manager but a shop assistant. The retailer had also told Panasonic that not only had it never been intimated to him that he should not discount below a particular level, but also that the retailer had not suggested to his staff that Panasonic had ever so intimated. Because of the retailer's central buying, there would have been no realistic possibility of the kind of hypothetical conversation identified in the transcript occurring: there would be no point, as the pricing policies operated by the shop were laid down by the retailer's central management and no-one in the shop would have had the authority to vary them.

Panasonic said that it was not clear whether Man 2 was meant to typify the responses from other retailers to whom the reporter had allegedly spoken, and if so whether the responses related to the supposed activity of Panasonic, either exclusively or at all. Panasonic considered that if we were to rely on any material from the *Panorama* programme, then Panasonic should be allowed access to all relevant material so as to give us informed comment. Panasonic acknowledged the considerable difficulties that we had faced in seeking to obtain reliable and accurate information. But Panasonic considered that any reliance placed on that part of the *Panorama* programme set out in the transcript as being indicative of anything would clearly be misplaced. Panasonic said that even if the dishonestly obtained recording had correctly set out the views of the targeted sales person, such views were unlikely to have been expressed other than as a means of securing a sale and were unlikely to have been genuine or to have reflected any statement or intimation given to the shop assistant or his employer by Panasonic.

Philips

Savacentre

(a) Dealer's observations (3)

A13 Savacentre told us that in January 1993 Philips had complained to it about its advertisements for Philips' televisions at promotional prices;

A14 in September 1995 Philips had complained to Savacentre about the price it was charging for a 34 cm (14 inch) Philips television; and

A15 in September 1995 Philips had complained to Savacentre about its discounted prices for Philips televisions.

(b) Supplier's response

Philips told us that the observations concerned Philips' plans to introduce new products and the need to dispose of stocks of the existing model. Savacentre had been prepared to take some of this stock and had indicated a retail price to Philips. On the basis of that price, Savacentre had sought additional financial support to meet its minimum margin requirement. In the event, Savacentre had sold the products at a lower retail price. On the assumption that it had maintained its minimum margin requirement, Philips' complaints had not been about the retail price but the fact that Philips had been misled into giving Savacentre support when it was not necessary or justified.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Philips to substantiate these views.

Sanyo

A16 ***Comet****

(a) Dealer's observation

Comet told us that in a letter of 8 December 1993 Sanyo had said that it wanted to see Comet's advertisements for televisions before contributing to the advertising cost: Sanyo had told Comet that only agreed marketing activity was acceptable.

(b) Supplier's response

Sanyo said that the 8 December 1993 letter had related to a one-off contribution of £20,000 which it had made to Comet in addition to the usual advertising and promotion allowance. Sanyo had agreed to make the additional contribution to Comet since it was running an advertising campaign which dealt only with Sanyo products (both reference and non-reference goods). In this context, Sanyo did not consider it unreasonable that it should have been able to see the advertising and sales literature for which it was paying. The reference to 'only agreed marketing activity was acceptable' related to this. It was only if the advertisement actually harmed the brand name in some way that Sanyo would object. Sanyo's comments were made in connection with its Approved Dealership Agreement which stated that approved dealers must 'comply with any reasonable requirements of [Sanyo] as to the form and content of your sales literature and advertising where this mentions the brand name of the [Sanyo] products. You will not repeat any advertisement or other promotional material relating to [Sanyo] products to which [Sanyo] has made a formal objection.'

Sharp

A17 Savacentre

(a) Dealer's observation

Savacentre told us that Sharp had implied that adherence to Sharp's RRP's was a condition of continued supply of televisions.

(b) Supplier's response

Sharp told us that it did not have a policy of requiring its dealers to adhere to RRP's and, indeed, to Sharp's knowledge Savacentre did sell Sharp reference goods below the RRP's. Sharp could therefore only assume that there must have been some misunderstanding.

(c) Dealer's response

Savacentre responded by saying that the comments it had made were impressions and views. There was nothing in writing from Sharp to substantiate these views.

Sony

Comet* (Note: We have accepted the dealer's account in one of the two cases which follow, case A18. We reached no conclusion about case A19.)

(a) Dealer's observation (2)

Comet told us that:

A18 * On 11 November 1993 Sony had requested that if Comet were to offer a customer an inducement to buy a Sony television, the value of the inducement should be limited to 10 per cent of the value of the first purchase, and that the customer should contribute at least 10 per cent of the imputed value of the inducement. Sony had said that it would regard any greater inducement as detrimental to the value of the Sony brand.

A19 It was aware that Sony was unhappy with offers of interest-free credit for a fixed period, and had threatened to reduce margin support for televisions subject to such offers.

(b) Supplier's response

Commenting on the case at A18 above Sony told us that it did not encourage dealers to use Sony goods as promotional inducements where it considered that to do so might harm the high-quality brand image of its products. In light of this, in 1993 it had requested Comet to limit the value of any inducement to purchase a Sony product to 10 per cent of the value of the first purchase and that the customer should contribute at least 10 per cent of the imputed value of the inducement.

Sony's response to case A19 was to say that this observation was surprising given that Sony did not offer any dealers 'margin support'. Prior to December 1993, Sony had not directly supported dealers offering interest-free credit. At that time, and in response to major interest-free credit promotions by most of its competitors, and a drop in Sony's market share, Sony had introduced an interest-free promotion. In April 1995 it had begun advertising interest-free credit offers direct to consumers. It might be that Comet's observation, in so far as it related to Sony's view of interest-free credit generally, referred to the period before December 1993.

(c) Dealer's response

Comet said that it did not have further tangible evidence regarding observation A19. Nor was it able to identify specific dates on which its impressions had been received. Comet said that suppliers tended to convey their displeasure by telephone, rather than in writing. Its references to 'margin support' were not necessarily linked to formal compensatory arrangements. Comet's concern was that suppliers would question the need for the retention of margins at existing levels if promotional price activity (by way of interest-free credit or otherwise) was undertaken. From that perspective it was irrelevant that Sony did not offer formal margin support. The fact that Sony itself had introduced interest-free schemes hardly triggered an automatic conclusion that it was relaxed, from December 1993 onwards, towards generic schemes offered by retailers across several brands.

(d) Supplier's further comment

Sony later told us that advertisements for interest-free credit now commonly stated words to the effect that it is 'available on selected items', and did not specifically exclude products from particular suppliers. Where advertisements had specifically excluded all or certain Sony models that was, Sony suspected, where the retailer was running an advertisement where interest-free credit was the key marketing message and where Sony had refused to finance the retailers' interest-free credit offer. Alternatively, it could be where Sony was running its own generic interest-free credit campaign but on different terms from those being offered by the retailer, or on different models, and where the retailer concerned was not prepared to meet the costs of interest-free credit itself. Sony told us that it did not understand Comet's comment regarding suppliers questioning the need for retention of margins if promotional price activity was taken; Sony said that it did not do anything to control margins and Comet's comment was not supported by the evidence.

A20 **Savacentre**

(a) Dealer's observation

Savacentre told us that Sony had implied that adherence to its RRP's was a condition of continued supply of televisions.

(b) Supplier's response

Sony told us that its sales representative had not told Savacentre that adherence to Sony's RRP's was a condition of continued supply of televisions. Nor did he recall having said anything that could have implied this. Sony would have expected Savacentre to have been aware that Sony's Dealer Agreement, which Savacentre had signed, made it clear that Savacentre was free to set its own resale prices; there was widespread advertisement of Sony reference goods by retailers at prices which were below the RRP's; and imposing such a condition would be illegal, and not supported by Sony.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Sony to substantiate these views.

(a) Dealer's observation

This retailer (SRS 541) told us that it was well understood between him and the Sony area representative that the retailer did not advertise or ticket Sony televisions at discounted prices. The retailer said that attribution of this observation could cause severe difficulties with the supplier.

(b) Supplier's response

Sony told us that it found this observation surprising given that:

- (i) its Dealer Agreement R29A clearly stated (in Article 11): 'Nothing ... shall restrict the Dealer's right to determine the resale price of the products at his discretion.'
- (ii) The terms of Dealer Support Discount, which, until very recently, was available to all categories of 'independent' dealer stocking the reference brown goods, expressly stated in respect of dealer advertisements: 'Retail prices may be included in advertising and of course they are established freely by the dealer with their level not being relevant to Sony's review of style or image'.
- (iii) Sony televisions were widely advertised at discounted prices.
- (iv) All Sony sales representatives were trained to make them aware of Sony's policies regarding compliance with competition law.

Sony said that it could not comment further on this observation without more information.

VCRs

B&O

B1 *Mr R Alberg*

(a) Member of the public's observation

Mr R Alberg of Acton, London, told us that in 1995 he had sought to purchase B&O domestic audio-visual equipment which he knew would cost approximately £10,000. As he knew exactly the equipment he required he had asked the dealers to compete to offer him the best price in return for his order. In each instance he had been informed by the dealer that it could not offer a discount outside of the specific packages offered by B&O as it would lose its dealership were B&O to hear of the discounting.

He had visited Selfridges of Oxford Street, London W1, and Hi-Fi Experience in Tottenham Court Road in early September 1995 and London Sound & Vision Ltd, of South Molton Street, London W1, a couple of months previously. All three retailers had told him that unauthorized discounting would incur severe penalties from B&O. Selfridges would not discount B&O equipment other than an item which had been out of its box and was thus sold as nearly new, but Selfridges also offered to match competitors' prices.

(b) Dealers' responses

(i) Sound and Vision Group plc told us that it had purchased the London Sound & Vision South Molton Street showroom from B&O in December 1994. When the showroom was run by B&O the staff had not been allowed to discount as other dealers in London were upset enough with B&O retailing, let alone if it had started cutting prices. That would have been unfair competition as the supplier, working on bigger margins than the retailer, could have more easily afforded the loss of profit. The staff had been instructed therefore by B&O not to discount the product to maintain their relationship with the other retailers in London.

It had always been Sound & Vision Group's policy to maintain prices and margins-in fact it made extra charges, for example for delivery to be able to give its customers a quality service. The only way that B&O dictated its prices was by setting the trade price. London Sound & Vision did not compete on price with other dealers but that was its decision on how to run its business, and no-one else's. Its experience was that to go along the route of volume and lower price on B&O's sophisticated equipment was financial suicide. London Sound & Vision competed only on the quality of its service. There was no substance to the allegation that B&O would be taking away its dealership if London Sound & Vision were to discount. It was B&O's largest dealer in the UK.

(ii) Hi-Fi Experience told us that it had received no directive from B&O concerning the discounting of its products.

However, because of the very tight margin which B&O allowed, Hi-Fi Experience had directed its staff that they should not give more than 3 per cent discount to any customer. Hi-Fi Experience needed to limit discounting as it offered its customers other incentives, for example extended guarantee periods, interest-free credit and free delivery.

Hi-Fi Experience was concerned that the reason given by its staff to Mr Alberg concerning his request for a discount was that it might lose its agency if it were to offer a discount over and above specific packages offered by B&O. This was a misinterpretation by staff and Hi-Fi Experience had now taken steps to ensure that this statement was not repeated.

(iii) Selfridges told us that B&O operated as a concession in the store; B&O set the selling price of its products. B&O had a clear policy that it would not devalue its brand by discounting the price of its product; 'discounting' to B&O included giving interest-free credit and joining in Selfridges' discount days for its Gold Account customers. In the case of Mr Alberg the cost of the interest-free credit would have been borne by Selfridges and not, as is the norm, by the concession. With regard to the price promise on B&O goods, Selfridges understood that, as all retailers appeared not to 'discount' the products, the prices would be identical in all outlets.

(c) Supplier's response

B&O told us that the observations of this member of the public did not indicate any anti-competitive objective or effect.

B&O recommended resale prices to dealers but it did not dictate the prices at which its products were sold by its dealers. Each dealer was free to set his own prices. A statement to that effect was included in B&O's Distribution Agreement. A Memorandum re-emphasizing dealers' freedom to fix their own prices had been sent out to all its dealers in January 1996.

B&O said that its products had qualities that appealed to a specific customer base. For the majority of its customers price was not the prime consideration. Customers were far more interested in purchasing products that fulfilled their audio-visual needs, had the prestige of the B&O brand, and were from a dealer that could provide a first class pre- and post-sales service.

The question of whether or not to offer discounts was a commercial decision to be taken by individual dealers. Dealers generally recognized that whilst a discounting policy might generate higher sales in the short term, in the long term it would lead to financial ruin.

Mr Alberg had stated that he knew exactly which products he wished to purchase and therefore expected a discount. Expecting something and being entitled to something were two completely different concepts. Mr Alberg was not entitled to a discount. He was perfectly at liberty not to purchase B&O products. However, Mr Alberg had decided that B&O products were what he wanted. It was not unreasonable, therefore, that he should pay the price specified by the dealer.

Hitachi

B2 Savacentre*

(a) Dealer's observation

Savacentre told us that Hitachi had implied that adherence to its RRP's was a condition of continued supply of VCRs.

(b) Supplier's response

Hitachi told us that the Sales Manager who dealt with Savacentre had left Hitachi in March 1996 and it had not been able to check with him what had occurred. Hitachi had no knowledge of his discussions with Savacentre. However, the Sales Manager would have had no authority to interfere with the supply of products to Savacentre, or to any other dealer, and he had no authority to make any threat to that effect. Hitachi did not believe that Savacentre would have taken any such threat by Hitachi's Sales Manager seriously without raising it with more senior management.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Hitachi to substantiate these views.

B3 SRS 143

(a) Dealer's observation

This retailer (SRS 143) said that in 1993 the Hitachi representative had warned him that his advertising support would be withdrawn and supplies might become difficult if he continued to advertise Hitachi VCRs at discounted prices. The retailer stated that he wished to remain anonymous in view of 'possible reaction by suppliers'.

(b) Supplier's response

Hitachi told us that it could make no comment, as it was unable to trace the incident from the information given.

(c) Dealer's response

The retailer said that he had nothing in writing from Hitachi. Since the MMC inquiry had begun pricing was no longer such a sensitive issue with suppliers.

Panasonic

B4 Mr J Fishlock*

(a) Dealer's observation

Mr J Fishlock of Oldfield Park, Bath, told us that rather more than two years ago Panasonic's (named) representative had told him that Panasonic did not wish him to advertise its VCRs at discounted prices.

(b) Supplier's response

Panasonic told us that Mr Fishlock had asked its Area Sales Manager for guidelines about advertising Panasonic products. The Area Sales Manager had commented that advertising low prices might prompt local competitors to undercut any discounts that Mr Fishlock might advertise. This was because of the widespread practice operated by retailers of offering price promises. At no time had Panasonic required Mr Fishlock to advertise Panasonic products at a particular price.

(c) Dealer's response

Mr Fishlock said that he stood by his original statement that Panasonic had told him that it did not want him advertising products at discounted prices.

B5 O1

(a) Dealer's observation

This retailer (O1) said that Panasonic had told him not to advertise VCRs at prices below their RRP. He believed that if he did not comply Panasonic would tell him that particular models he wished to order would be out of stock. Since having been told at a trade fair three years previously by Panasonic representatives that if he advertised Panasonic goods at less than their RRP Panasonic would not supply him, this retailer had avoided such a possibility by adhering strictly to the RRP in all cases. The retailer did not wish his identity to be divulged to Panasonic since he thought this would not best serve his interests.

(b) Supplier's response

Panasonic told us that since it did not know who this retailer was, it was unable to investigate the background to this observation or to make any detailed response. Panasonic considered that in these circumstances it would be inappropriate for us to rely on this observation.

B6 *Man 2*

(a) Dealer's observation

In December 1996 a BBC television programme, *Panorama*, was broadcast in which a dealer in an electrical goods shop (identified in the transcript of the programme as Man 2) was interviewed by a Panorama presenter, with the use of a hidden camera, posing as a customer seeking a bargain. The dealer said: 'If I give you 2 per cent off, they're [Panasonic] not going to argue about that. If I give you maybe 10 per cent all the time, they would look for another dealer.'

(b) Supplier's response

Panasonic said that the quoted conversation had been the subject of considerable editing. Therefore Panasonic was left without any knowledge of, and therefore the ability to comment on, the context in which it was made. Panasonic added that it was apparent from the transcript that the parties were talking about a transaction price, not an advertised price; Panasonic wondered why the narrator had not enquired of Man 2 how exactly Panasonic would get to know that Man 2 had gone below the supposed 2 per cent threshold.

Following receipt of a letter from us inviting comment on the references to Panasonic in the programme, Panasonic had identified and talked to the retailer concerned, who operated two retail outlets and whose company bought reference goods from Panasonic centrally (that is, no negotiation, on supply or any other matter, was undertaken between Panasonic and the retail shops). The outlet shown in the *Panorama* programme was in the Tottenham Court Road area of London, an area characterized by the incidence of electrical retailers dealing at fiercely competitive retail prices. The programme transcript had stated that 'this retailer is one of the several we spoke to'. The clear implication of this statement was that 'Man 2' was the owner or manager of the business, or was in some way authorized by the owner or manager of the business to make such statements. Panasonic had been advised by the retailer that not only was Man 2 not authorized by him in any way, he was not even the shop manager but a shop assistant. The retailer had also told Panasonic that not only had it never been intimated to him that he should not discount below a particular level, but also that the retailer had not suggested to his staff that Panasonic had ever so intimated. Because of the retailer's central buying, there would have been no realistic possibility of the kind of hypothetical conversation identified in the transcript occurring: there would be no point, as the pricing policies operated by the shop were laid down by the retailer's central management and no-one in the shop would have had the authority to vary them.

Panasonic said that it was not clear whether Man 2 was meant to typify the responses from other retailers to whom the reporter had allegedly spoken, and if so whether the responses related to the supposed activity of Panasonic, either exclusively or at all. Panasonic considered that if we were to rely on any material from the *Panorama* programme, then Panasonic should be allowed access to all relevant material so as to give us informed comment. Panasonic acknowledged the considerable difficulties that we had faced in seeking to obtain reliable and accurate information. But Panasonic considered that any reliance placed on that part of the *Panorama* programme set out in the transcript as being indicative of anything would clearly be misplaced. Panasonic said that even if the dishonestly obtained recording had correctly set out the views of the targeted sales person, such views were unlikely to have been expressed other than as a means of securing a sale and were unlikely to have been genuine or to have reflected any statement or intimation given to the shop assistant or his employer by Panasonic.

Philips

B7 *Savacentre*

(a) Dealer's observation

Savacentre told us that in 1993, and again in August 1994, Philips had complained to Savacentre about its advertisements for Philips' VCRs at promotional prices.

(b) Supplier's response

Philips told us that Savacentre's observation about an episode in 1993 concerned Philips' plans to introduce

new products and the need to dispose of stocks of the existing model. Savacentre had been prepared to take some of this surplus stock and had indicated a retail price to Philips. On the basis of that price, Savacentre had sought additional financial support to meet its minimum margin requirement. In the event, Savacentre had sold the products at a lower retail price. On the assumption that it had maintained its minimum margin requirement, Philips' complaint had not been about the retail price but the fact that Philips had been misled into giving Savacentre support when it was not necessary or justified. Philips did not understand what Savacentre had meant in its observation about VCR prices in August 1994. Philips' enquiry had been merely to ensure that the period of advertising the product coincided with the period during which the stocks of the product would be sold prior to the introduction of a new model.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Philips to substantiate these views.

Sharp

B8 Savacentre

(a) Dealer's observation

Savacentre told us that Sharp had implied that adherence to Sharp's RRP's was a condition of continued supply of VCRs.

(b) Supplier's response

Sharp told us that it did not have a policy of requiring its dealers to adhere to RRP's and, indeed, to Sharp's knowledge Savacentre did sell Sharp reference goods below the RRP's. Sharp could therefore only assume that there must have been some misunderstanding.

(c) Retailer's response

Savacentre responded by saying that the comments it had made were impressions and views. There was nothing in writing from Sharp to substantiate these views.

Sony

B9 Savacentre

(a) Dealer's observation

Savacentre told us that Sony had implied that adherence to its RRP's was a condition of continued supply of VCRs.

(b) Supplier's response

Sony told us that its sales representative had not told Savacentre that adherence to Sony's RRP's was a condition of continued supply of VCRs. Nor did he recall having said anything that could have implied this. Sony would have expected Savacentre to have been aware that Sony's Dealer Agreement, which Savacentre had signed, made it clear that Savacentre was free to set its own resale prices; there was widespread advertisement of Sony reference goods by retailers at prices which were below the RRP's; and imposing such a condition would be illegal, and not supported by Sony.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Sony to substantiate these views.

B10 SRS 541

(a) Dealer's observation

This retailer (SRS 541) told us that it was well understood between him and the Sony area representative that the retailer did not advertise or ticket Sony VCRs at discounted prices. The retailer said that attribution of this observation could cause severe difficulties with the supplier.

(b) Supplier's response

Sony told us that it found this observation surprising given that:

- (i) its Dealer Agreement R29A clearly stated (in Article 11): 'Nothing ... shall restrict the Dealer's right to determine the resale price of the products at his discretion.'
- (ii) The terms of Dealer Support Discount, which, until very recently, was available to all categories of 'independent' dealer stocking the reference brown goods, expressly stated in respect of dealer advertisements: 'Retail prices may be included in advertising and of course they are established freely by the dealer with their level not being relevant to Sony's review of style or image'.
- (iii) Sony VCRs were widely advertised at discounted prices.
- (iv) All Sony sales representatives were trained to make them aware of Sony's policies regarding compliance with competition law.

Sony said that it could not comment further on this observation without more information.

Hi-fi systems

Aiwa

C1 **Savacentre**

(a) Dealer's observation

Savacentre told us that Aiwa had implied that Savacentre should adhere to the prices given in Aiwa's retail price guide and that this was a condition of supply of its hi-fi systems.

(b) Supplier's response

Aiwa told us that it had no recollection of implying that Savacentre would need to sell at Aiwa's TGP¹ if it were to obtain a direct account. For Aiwa's representative to have done so would have been wholly contrary to Aiwa's policy. In fact Aiwa had opened an account with Savacentre, and Savacentre was selling below Aiwa's TGPs.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Aiwa to substantiate these views.

C2 **SRS 143**

(a) Dealer's observation

This retailer (SRS 143) said that two years previously the Aiwa representative had told him not to advertise its hi-fi systems at discounted prices and that failure to comply might result in difficulties in obtaining supplies. The retailer said that he wished to remain anonymous in view of 'possible reaction by suppliers'.

(b) Supplier's response

Aiwa told us that it had never been its policy to seek to influence the prices at which retailers advertised Aiwa products. There were innumerable examples of Aiwa retailers advertising products at well below its TGP.

(c) Dealer's response

The retailer said that he had nothing in writing from Aiwa. Since the MMC inquiry had begun pricing was no longer such a sensitive issue with suppliers.

B&O

C3 **Amadeus Sound and Vision***

(a) Dealer's observation

Mr J de Bono of Amadeus Sound and Vision, Sutton Coldfield, told us that B&O would have been concerned if it had found he was discounting hi-fi systems (although he did so very rarely).

(b) Supplier's response

B&O told us that it had had a very real concern that Mr de Bono should retain sufficient margins to adequately finance his dealership.

¹See paragraph 13.82.

C4 *Mr R Alberg*

(a) Member of the public's observation

Mr R Alberg of Acton, London, told us that in 1995 he had sought to purchase B&O domestic audio-visual equipment which he knew would cost approximately £10,000. As he knew exactly the equipment he required he had asked the dealers to compete to offer him the best price in return for his order. In each instance he had been informed by the dealer that it could not offer a discount outside of the specific packages offered by B&O as it would lose its dealership were B&O to hear of the discounting.

He had visited Selfridges of Oxford Street, London W1, and Hi-Fi Experience in Tottenham Court Road in early September 1995 and London Sound & Vision Ltd, of South Molton Street, London W1, a couple of months previously. All three retailers had told him that unauthorized discounting would incur severe penalties from B&O. Selfridges would not discount B&O equipment other than an item which had been out of its box and was thus sold as nearly new, but Selfridges also offered to match competitors' prices.

(b) Dealers' responses

- (i) Sound and Vision Group plc told us that it had purchased the London Sound & Vision South Molton Street showroom from B&O in December 1994. When the showroom was run by B&O the staff had not been allowed to discount as other dealers in London were upset enough with B&O retailing, let alone if it had started cutting prices. That would have been unfair competition as the supplier, working on bigger margins than the retailer, could have more easily afforded the loss of profit. The staff had been instructed therefore by B&O not to discount the product to maintain their relationship with the other retailers in London.

It had always been Sound & Vision Group's policy to maintain prices and margins-in fact it made extra charges, for example for delivery to be able to give its customers a quality service. The only way that B&O dictated its prices was by setting the trade price. London Sound & Vision did not compete on price with other dealers but that was its decision on how to run its business, and no-one else's. Its experience was that to go along the route of volume and lower price on B&O's sophisticated equipment was financial suicide. London Sound & Vision competed only on the quality of its service. There was no substance to the allegation that B&O would be taking away its dealership if London Sound & Vision were to discount. It was B&O's largest dealer in the UK.

- (ii) Hi-Fi Experience told us that it had received no directive from B&O concerning the discounting of its products.

However, because of the very tight margin which B&O allowed, Hi-Fi Experience had directed its staff that they should not give more than 3 per cent discount to any customer. Hi-Fi Experience needed to limit discounting as it offered its customers other incentives, for example extended guarantee periods, interest-free credit and free delivery.

Hi-Fi Experience was concerned that the reason given by its staff to Mr Alberg concerning his request for a discount was that it might lose its agency if it were to offer a discount over and above specific packages offered by B&O. This was a misinterpretation by staff and Hi-Fi Experience had now taken steps to ensure that this statement was not repeated.

- (iii) Selfridges told us that B&O operated as a concession in the store; B&O set the selling price of its products. B&O had a clear policy that it would not devalue its brand by discounting the price of its product; 'discounting' to B&O included giving interest-free credit and joining in Selfridges' discount days for its Gold Account customers. In the case of Mr Alberg the cost of the interest-free credit would have been borne by Selfridges and not, as is the norm, by the concession. With regard to the price promise on B&O goods, Selfridges understood that, as all retailers appeared not to 'discount' the products, the prices would be identical in all outlets.

(c) Supplier's response

B&O told us that the observations of this member of the public did not indicate any anti-competitive

objective or effect.

B&O recommended resale prices to dealers but it did not dictate the prices at which its products were sold by its dealers. Each dealer was free to set his own prices. A statement to that effect was included in B&O's Distribution Agreement. A Memorandum re-emphasizing dealers' freedom to fix their own prices had been sent out to all its dealers in January 1996.

B&O said that its products had qualities that appealed to a specific customer base. For the majority of its customers price was not the prime consideration. Customers were far more interested in purchasing products that fulfilled their audio-visual needs, had the prestige of the B&O brand, and were from a dealer that could provide a first class pre- and post-sales service.

The question of whether or not to offer discounts was a commercial decision to be taken by individual dealers. Dealers generally recognized that whilst a discounting policy might generate higher sales in the short term, in the long term it would lead to financial ruin.

Mr Alberg had stated that he knew exactly which products he wished to purchase and therefore expected a discount. Expecting something and being entitled to something were two completely different concepts. Mr Alberg was not entitled to a discount. He was perfectly at liberty not to purchase B&O products. However, Mr Alberg had decided that B&O products were what he wanted. It was not unreasonable, therefore, that he should pay the price specified by the dealer.

C5 *SRS 636*

(a) Dealer's observation

This retailer (SRS 636) told us that the B&O sales representative had suggested to dealers in its locality that they should come to an agreement over prices and not undercut each other on sales of hi-fi systems by more than 5 per cent. Another local dealer had complained to B&O that this retailer had been undercutting but the B&O representative had agreed that the retailer had not exceeded the 5 per cent limit. The retailer stated that he wished to remain anonymous; he had not understood when interviewed that the MMC might wish to use his name.

(b) Supplier's response

B&O told us that it did not have any direct knowledge of such behaviour by any of its local sales representatives. B&O had never sought to encourage dealers to form any kind of price cartel.

Hitachi

C6 *Savacentre**

(a) Dealer's observation

Savacentre told us that Hitachi had implied that Savacentre should adhere to the prices listed in Hitachi's retail price guide for hi-fi systems, and that this was a condition of continued supply.

(b) Supplier's response

Hitachi told us that the Sales Manager who dealt with Savacentre left Hitachi in March 1996 and it had not been able to check with him what had occurred. Hitachi had no knowledge of his discussions with Savacentre. The Sales Manager would have had no authority to interfere with the supply of products to Savacentre, or to any other dealer, and he had no authority to make any threat to that effect. Hitachi did not believe that Savacentre would have taken any such threat by Hitachi's Sales Manager seriously without raising it with more senior management.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Hitachi to substantiate those views.

Kenwood

C7 SRS 143

(a) Dealer's observation

This retailer (SRS 143) said that in December 1994 the Kenwood representative had warned him that his advertising support would be withdrawn and supplies of Kenwood hi-fi systems might become difficult if he continued to advertise below the RRP.

(b) Supplier's response

Kenwood told us that without any further information, it was not possible for it to provide any explanation of the comment made by this retailer. The allegation was not consistent with Kenwood policy and was not reflected in any documents it held.

(c) Dealer's response

The retailer responded by saying that he had nothing in writing from Kenwood and since the MMC inquiry had begun pricing was no longer such a sensitive issue with suppliers. He wished to remain anonymous in view of 'possible reaction by suppliers'.

Panasonic

C8 Mr J Fishlock*

(a) Dealer's observation

Mr J Fishlock of Oldfield Park, Bath, told us that rather more than two years ago Panasonic's (named) representative had told him that Panasonic did not wish him to advertise its hi-fi systems at discounted prices.

(b) Supplier's response

Panasonic told us that Mr Fishlock had asked its Area Sales Manager for guidelines about advertising Panasonic products. The Area Sales Manager had commented that advertising low prices might prompt local competitors to undercut any discounts that Mr Fishlock might advertise. This was because of the widespread practice operated by retailers of offering price promises. At no time had Panasonic required Mr Fishlock to advertise Panasonic products at a particular price.

(c) Retailer's response

Mr Fishlock said that he stood by his original statement that Panasonic had told him that it did not want him advertising products at discounted prices.

C9 O1

(a) Dealer's observation

This retailer (O1) said that Panasonic had told him not to advertise hi-fi systems at prices below their RRP. He believed that if he did not comply Panasonic would tell him that particular models he wished to

order would be out of stock. Since having been told at a trade fair three years previously by Panasonic representatives that if he advertised Panasonic goods at less than their RRP Panasonic would not supply him, this retailer had avoided such a possibility by adhering strictly to the RRP in all cases. The retailer did not wish his identity to be divulged to Panasonic since he thought this would not best serve his interests.

(b) Supplier's response

Panasonic told us that since it did not know who this retailer was, it was unable to investigate the background to this observation or to make any detailed response. Panasonic considered that in these circumstances it would be inappropriate for us to rely on this observation.

Panasonic (Technics)

C10 *SRS 381*

(a) Dealer's observation

This retailer (SRS 381) said that in 1994 the Technics representative told him that supplies of Technics hi-fi systems could be withdrawn if he were to continue discounting after two warnings had been given. The retailer requested anonymity because he was concerned for his business.

(b) Supplier's response

Panasonic said that since it did not know who this retailer was, it was unable to investigate the background to this observation or to make any detailed response. Panasonic considered that in these circumstances it would be inappropriate for us to rely on this observation.

C11 *Man 2*

(a) Dealer's observation

In December 1996 a BBC television programme, *Panorama*, was broadcast in which a dealer in an electrical goods shop (identified in the transcript of the programme as Man 2) was interviewed by a *Panorama* presenter, with the use of a hidden camera, posing as a customer seeking a bargain. The dealer said: 'If I give you 2 per cent off, they're [Panasonic] not going to argue about that. If I give you maybe 10 per cent all the time, they would look for another dealer.'

(b) Supplier's response

Panasonic said that the quoted conversation had been the subject of considerable editing. Therefore Panasonic was left without any knowledge of, and therefore the ability to comment on, the context in which it was made. Panasonic added that it was apparent from the transcript that the parties were talking about a transaction price, not an advertised price; Panasonic wondered why the narrator had not enquired of Man 2 how exactly Panasonic would get to know that Man 2 had gone below the supposed 2 per cent threshold.

Following receipt of a letter from us inviting comment on the references to Panasonic in the programme, Panasonic had identified and talked to the retailer concerned, who operated two retail outlets and whose company bought reference goods from Panasonic centrally (that is, no negotiation, on supply or any other matter, was undertaken between Panasonic and the retail shops). The outlet shown in the *Panorama* programme was in the Tottenham Court Road area of London, an area characterized by the incidence of electrical retailers dealing at fiercely competitive retail prices. The programme transcript had stated that 'this retailer is one of the several we spoke to'. The clear implication of this statement was that 'Man 2' was the owner or manager of the business, or was in some way authorized by the owner or manager of the business to make such statements. Panasonic had been advised by the retailer that not only was Man 2 not authorized by him in any way, he was not even the shop manager but a shop assistant. The retailer had also told Panasonic that not only had it never been intimated to him that he should not discount below a particular level, but also that the retailer had not suggested to his staff that Panasonic had ever so intimated. Because of the retailer's central buying, there would have been no realistic possibility of the kind of

hypothetical conversation identified in the transcript occurring: there would be no point, as the pricing policies operated by the shop were laid down by the retailer's central management and no-one in the shop would have had the authority to vary them.

Panasonic said that it was not clear whether Man 2 was meant to typify the responses from other retailers to whom the reporter had allegedly spoken, and if so whether the responses related to the supposed activity of Panasonic, either exclusively or at all. Panasonic considered that if we were to rely on any material from the *Panorama* programme, then Panasonic should be allowed access to all relevant material so as to give us informed comment. Panasonic acknowledged the considerable difficulties that we had faced in seeking to obtain reliable and accurate information. But Panasonic considered that any reliance placed on that part of the *Panorama* programme set out in the transcript as being indicative of anything would clearly be misplaced. Panasonic said that even if the dishonestly obtained recording had correctly set out the views of the targeted sales person, such views were unlikely to have been expressed other than as a means of securing a sale and were unlikely to have been genuine or to have reflected any statement or intimation given to the shop assistant or his employer by Panasonic.

Philips

C12 *Savacentre*

(a) Dealer's observation

Savacentre told us that in December 1993 when it had advertised Philips hi-fi systems at a promotional price, Philips had asked when Savacentre would be ending its promotion.

(b) Supplier's response

Philips told us that it had no recollection of the episode.

(c) Retailer's response

Savacentre responded by saying that the comments it had made were impressions and views. There was nothing in writing from Philips to substantiate these views.

Samsung

C13 *GUS**

(a) Dealer's observation

GUS told us that in autumn 1994 it had complained to Samsung that another mail order company was selling the same model of a hi-fi system at £10 below the price Samsung recommended to mail order companies. Samsung had agreed to reduce the price at which it sold the item to GUS to a level that would allow GUS to reduce its selling price to match that of its competitor.

(b) Supplier's response

Samsung told us that it had adjusted the price at which it sold the particular model of hi-fi system to a level that allowed GUS to match its competitor's price. This situation had arisen because mail order pricing was reviewed and negotiated three to six months prior to the catalogue being published. In this case negotiations with GUS's competitor had been conducted after the negotiations with GUS and Samsung's prices had reflected the market-place at that time. GUS had pointed out the difference in price as soon as the catalogue was printed. Samsung reacted immediately to GUS and renegotiated the price.

Sharp

C14 Savacentre

(a) Dealer's observation

Savacentre told us that Sharp had implied that adherence to Sharp's RRPs was a condition of continued supply of hi-fi systems.

(b) Supplier's response

Sharp told us that it did not have a policy of requiring its dealers to adhere to RRPs and, indeed, to Sharp's knowledge Savacentre did sell Sharp reference goods below the RRPs. Sharp could therefore only assume that there must have been some misunderstanding.

(c) Dealer's response

Savacentre responded by saying that the comments it had made were impressions and views. There was nothing in writing from Sharp to substantiate these views.

Sony

C15 Savacentre

(a) Dealer's observation

Savacentre told us that Sony had implied that adherence to its RRPs was a condition of continued supply of hi-fi systems.

(b) Supplier's response

Sony told us that its sales representative had not told Savacentre that adherence to Sony's RRPs was a condition of continued supply of hi-fi systems. Nor did he recall having said anything that could have implied this. Sony would have expected Savacentre to have been aware that Sony's Dealer Agreement, which Savacentre had signed, made it clear that Savacentre was free to set its own resale prices; there was widespread advertisement of Sony reference goods by retailers at prices which were below the RRPs; and imposing such a condition would be illegal, and not supported by Sony.

(c) Dealer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Sony to substantiate these views.

C16 SRS 541

(a) Dealer's observation

This retailer (SRS 541) said that it was well understood between him and the Sony area representative that the retailer did not advertise or ticket Sony hi-fi systems at discounted prices. The retailer said that attribution of this observation could cause severe difficulties with the supplier.

(b) Supplier's response

Sony told us that it found this observation surprising given that:

- (i) its Dealer Agreement R29A clearly stated (in Article 11): 'Nothing ... shall restrict the Dealer's right to determine the resale price of the products at his discretion.'
- (ii) The terms of Dealer Support Discount, which, until very recently, was available to all categories of 'independent' dealer stocking the reference brown goods, expressly stated in respect of dealer advertisements: 'Retail prices may be included in advertising and of course they are established freely by the dealer with their level not being relevant to Sony's review of style or image'.
- (iii) Sony hi-fi systems were widely advertised at discounted prices.
- (iv) All Sony sales representatives were trained to make them aware of Sony's policies regarding compliance with competition law.

Sony said that it could not comment further on this observation without more information.

Camcorders

Canon

D1 *Francis Photographic*

(a) Dealer's observation

Mr Francis of Francis Photographic, Carmarthen, told us that he did not advertise prices of camcorders below the RRP because Canon would not like it. Mr Francis believed Canon would restrict supplies of Canon camcorders to him if he regularly advertised below the RRP.

(b) Supplier's response

Canon told us that its dealers frequently advertised Canon products at prices below the RRP and had never faced threats of refusal to supply. The sales representative responsible for Francis Photographic was no longer with Canon so direct evidence was impossible. Canon did not possess examples of Mr Francis' advertising so it could not comment upon his allegation of pressure placed upon him.

(c) Dealer's response

Mr Francis said that he stood by his original comments.

D2 *SRS 143*

(a) Dealer's observation

This retailer (SRS 143) said that when he had advertised Canon camcorders at discounted prices Canon had told him not to do so again or he might have difficulty in obtaining delivery of new models. The retailer stated that he wished to remain anonymous in view of 'possible reaction by suppliers'.

(b) Supplier's response

Canon told us that it believed there was no substance to the allegation made by this retailer. It was not Canon's practice to attempt to influence retailers' selling prices. It had not been able to investigate this matter as it did not know the identity of the retailer concerned.

(c) Dealer's response

The retailer responded by saying that he had nothing in writing from Canon and since the MMC inquiry had begun, pricing was no longer such a sensitive issue with suppliers.

JVC

D3 *SRS 143*

(a) Dealer's observation

This retailer (SRS 143) said that when he advertised JVC camcorders at discounted prices JVC had told him not to do so again or he might have difficulty in obtaining delivery of new models. The retailer stated that he wished to remain anonymous in view of 'possible reaction by suppliers'.

(b) Supplier's response

JVC told us that it was unable to confirm the accuracy of this complaint as it was anonymous. Extensive advertising of JVC products at below RRP took place and supplies were not refused or withheld from such dealers.

(c) Dealer's response

The retailer said that he had nothing in writing from JVC. Since the MMC inquiry had begun pricing was no longer such a sensitive issue with suppliers.

Panasonic

D4 **Mr J Fishlock***

(a) Dealer's observation

Mr J Fishlock of Oldfield Park, Bath, told us that rather more than two years ago Panasonic's (named) representative had told him that Panasonic did not wish him to advertise its camcorders at discounted prices.

(b) Supplier's response

Panasonic told us that Mr Fishlock had asked its Area Sales Manager for guidelines about advertising Panasonic products. The Area Sales Manager had commented that advertising low prices might prompt local competitors to undercut any discounts that Mr Fishlock might advertise. This was because of the widespread practice operated by retailers of offering price promises. At no time had Panasonic required Mr Fishlock to advertise Panasonic products at a particular price.

(c) Dealer's response

Mr Fishlock said that he stood by his original statement that Panasonic had told him that it did not want him advertising products at discounted prices.

D5 **SRS 551**

(a) Dealer's observation

This retailer (SRS 551) told us that he had advertised Panasonic camcorders at discounted prices in local newspapers. A senior Sales Manager from Panasonic had telephoned and asked that he should adopt Panasonic's guideline prices. The retailer had refused to comply. Almost immediately he began to experience difficulty in obtaining supply of the Panasonic camcorder models which he had advertised, and which he had ordered some months earlier (in accordance with Panasonic's regular forward-planning schedule). This had led to a meeting with Panasonic at which agreement had been reached: the retailer would continue to discount Panasonic camcorders but would not advertise the fact. The retailer's difficulties in securing supply of Panasonic camcorders had then ceased. The retailer requested anonymity, saying that he did not wish to sour relations with Panasonic.

(b) Supplier's response

Panasonic told us that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

D6 **SRS 485**

(a) Dealer's observation

This retailer (SRS 485) told us that Panasonic would supply him with camcorders only through a wholesaler. He first approached Panasonic requesting direct supply some years ago, and again in 1995. On this latter occasion Panasonic had told him that it expected him to keep to 'tidy pricing', which the retailer took to mean that he should not discount heavily and certainly should not advertise any discounted prices. The retailer requested anonymity. He was concerned that if his identity were revealed, it might jeopardize future business

relationships with Panasonic.

(b) Supplier's response

Panasonic told us that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

Sony

D7 **Savacentre**

(a) Dealer's observation

Savacentre told us that Sony had implied that adherence to its RRP's was a condition of continued supply of camcorders.

(b) Supplier's response

Sony told us that its sales representative had not told Savacentre that adherence to Sony's RRP's was a condition of continued supply of camcorders. Nor did he recall having said anything that could have implied this. Sony would have expected Savacentre to have been aware that Sony's Dealer Agreement, which Savacentre had signed, made it clear that Savacentre was free to set its own resale prices; there was widespread advertisement of Sony reference goods by retailers at prices which were below the RRP's; and imposing such a condition would be illegal, and not supported by Sony.

(c) Retailer's response

Savacentre said that the comments it had made were impressions and views. There was nothing in writing from Sony to substantiate these views.

D8 **SRS 541**

(a) Dealer's observation

This retailer (SRS 541) told us that it was well understood between him and the Sony area representative that the retailer did not advertise or ticket Sony camcorders at discounted prices. The retailer said that attribution of this complaint could cause severe difficulties with the supplier.

(b) Supplier's response

Sony told us that it found this observation surprising given that:

- (i) its Dealer Agreement R29A clearly stated (in Article 11): 'Nothing ... shall restrict the Dealer's right to determine the resale price of the products at his discretion.'
- (ii) The terms of Dealer Support Discount, which, until very recently, was available to all categories of 'independent' dealer stocking the reference brown goods, expressly stated in respect of dealer advertisements: 'Retail prices may be included in advertising and of course they are established freely by the dealer with their level not being relevant to Sony's review of style or image'.
- (iii) Sony camcorders were widely advertised at discounted prices.
- (iv) All Sony sales representatives were trained to make them aware of Sony's policies regarding compliance with competition law.

Sony said that it could not comment further on this observation without more information.