

## **Notice pursuant to section 91(2) of the Fair Trading Act 1973 Revocation of The Films (Exclusivity Agreements) Order 1989**

The Secretary of State intends to make an Order (“the revocation Order”) to revoke the Films (Exclusivity Agreements) Order 1989 (“the 1989 Order”). Before she makes the revocation Order she is required under section 91(2) of the Fair Trading Act 1973 (“the Act”), to publish a notice so that anyone with an interest in the matter may make representations to her.

### **The nature of the proposed provisions**

The revocation Order would revoke the 1989 Order. The 1989 Order was made for the purpose of remedying or preventing the adverse effects specified in the Monopolies and Mergers Commission report entitled: *Films: a report on the supply of films for exhibition in cinemas*, (Cm 8858) which found that a system of “barring” existed within the film distribution and exhibition market and operated against the public interest. The 1989 Order makes it unlawful for supply agreements between distributors and exhibitors to include exclusivity terms applying to more than one film or for exhibitors not to exhibit a film on the basis that exclusivity terms for other films had not been agreed. The Office of Fair Trading has recommended that the Secretary of State revoke the 1989 Order. They have not found any evidence that a system of barring operates today. They consider that the considerable change in the structure of exhibition, both in terms of the emergence of more national chains and in the increase of screen numbers, makes it most unlikely that there would be a return to a system of barring if the 1989 Order were revoked. This is because greater competition between exhibitors makes it more difficult to impose barring and distributors face little incentive to accept such a system.

Copies of the draft revocation Order may be obtained on the DTI website at <http://www.dti.gov.uk/ccp/topics2/monopolies.htm> or from [Philip.martin@dti.gsi.gov.uk](mailto:Philip.martin@dti.gsi.gov.uk)

### **Representations**

Any person whose interests are likely to be affected by the revocation Order, and who would like to make representations about it, should do so in writing to Philip Martin, room 613, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (e-mail: [Philip.martin@dti.gsi.gov.uk](mailto:Philip.martin@dti.gsi.gov.uk)).

You should state what your interest in the matter is and the grounds on which you wish to make representations.

Your representations must be received by 21 January 2005.