

**Notice pursuant to section 91(2) of the Fair Trading Act 1973
Revocation of The Restriction on Conduct (Specialist Advertising
Services) Order 1988**

The Secretary of State intends to make an Order (“the revocation Order”) to revoke the Restriction on Conduct (Specialist Advertising Services) Order 1988 (“the 1988 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 1988 Order. The 1988 Order was made for the purpose of remedying or preventing the adverse effects specified in the Monopolies and Mergers Commission report entitled: *Specialist Advertising Services: A report on the existence or possible existence of a monopoly situation in relation to the supply in the United Kingdom of the services of accepting advertisements for publication in specialised magazines intended for campers, climbers and walkers*, (Cm 280) which found that that manufacturers and retailers of outdoor goods were concerned at the publication in specialist outdoor magazines of advertisements of certain mail order firms which advertised prices for goods which were significantly lower than prices in retail shops. Because manufacturers and retailers provided most of the advertising revenue for the magazines, and some retailers stocked the magazines in their outlets, they successfully exerted pressure on publishers to change their advertising policies.

The 1988 Order makes it unlawful, except in specified circumstances, for publishers of specialist magazines to withhold, or threaten or agree to withhold, advertising services from persons seeking to place advertisements containing information relating to the price of the goods being advertised. It also makes it unlawful for specialist advertisers to discriminate in the prices charged for advertising services or terms as to credit or discount, between persons placing orders for advertisements containing such information and others, or to give other preferential treatment to persons placing orders for advertisements not containing such information.

The Office of Fair Trading has recommended that the Secretary of State revoke the 1988 Order. The OFT have found that the number of mail order companies has increased from around 30 in the late 1980s to over 50 and that there is a trend of convergence between them and traditional retail outlets. A number of high street retailers, especially the larger ones, now have mail order or Internet order facilities. However, publishers consider that for specialist magazines the overall proportion of advertisements containing prices has not increased over the past decade. Nor has the proportion of specialist magazines sold in specialist retail shops. Publishers say this is currently around 11 per cent and similar to the level in 1986.

The OFT believe that prices are instead now advertised in a variety of different ways. For example, catalogues or brochures which are inserted into magazines commonly publish prices. The publishers that have responded to the OFT have said that it is unlikely that they would face pressure from retailers or manufacturers if the Order were revoked. Horizontal agreements between retailers and/or manufacturers to boycott or otherwise penalise magazine publishers who include price advertising in their magazines could be caught under the Competition Act 1998.

Copies of the draft revocation Order may be obtained on the DTI website at <http://www.dti.gov.uk/ccp/topics2/monoplies.htm> or from 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 416, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (e-mail: 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 13 May 2005.