

CONFIDENTIAL

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10 DOWNING STREET

From the Private Secretary

28 August, 1984

bc M. Owen

cc: D/Fn ✓ FSec's of  
 ✓ D OE HMT  
 ✓ DHSS ✓ M/S, M/D  
 ✓ DTI ✓ Pass, DTI  
 (Mr Fletcher)  
 ✓ EDLO ✓ Leo  
 ✓ D/Emo ✓ SO  
 ✓ MAFF ✓ LOD  
 ✓ D/Transp. ✓ CO

The Prime Minister has now seen the Chancellor's minute of 7 August reporting on the first meeting of the Ministerial Sub-Committee on Competition Policy (E(CP)). She endorses the general approach proposed by E(CP) and in particular, welcomes its recognition of the competition dimension and the agreement that the onus of proof should lie with Departments wishing to retain anti-competitive arrangements. She further hopes that Departments which initially stood aside from the action programme can begin to make a contribution to the initiative.

On presentation, the Prime Minister hopes that the momentum of the Government's policy can be maintained and that, if at all possible, a regular flow of announcements with wide consumer appeal should be kept up. In this context, the Prime Minister agrees with the approach which the Chancellor suggests to the Committee's discussion of presentation at its next meeting.

On detailed points, the Prime Minister has noted that E(CP) instigated consideration of the possibility of legislation to build on the common law provision against restraints of trade. She hopes this consideration bears fruit but, in the event that there is difficulty with this approach, she wonders whether appropriate amendments to the Fair Trading Act, 1973 might be an alternative. The Prime Minister has also noted that the Committee considered car price differentials in Europe. She hopes that, as part of its future programme of work, E(CP) can consider the review by the Department of Trade and Industry of VRAs and in due course monitor progress in reducing car price differentials.

I am sending a copy of this letter to Private Secretaries to members of E(CP) and to the Lord Chancellor, Secretary of State for Scotland, Attorney General and Sir Robert Armstrong.

TIMOTHY FLESHER

Miss Margaret O'Mara,  
H.M. Treasury

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copy 1



Prime Minister:

*Yes* (i) Agree to general lines of the Chancellor's approach

Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

PRIME MINISTER

ii) agree the individual

COMPETITION POLICY

*Yes* points made in the Policy Unit note flagged at A

The Ministerial Sub-Committee on Competition Policy (E(CP)) met for the first time on 26 July under my chairmanship, to consider:

*JA 13/8*

*attached*

- (i) an Action Programme for fostering competition policy;
- (ii) initiatives for promoting competition;
- (iii) the presentation of our policies on competition.

**Action Programme**

2. The Secretary of State for Trade and Industry, to whom you gave a general co-ordinating responsibility for promoting competition policy, put to the Sub-Committee a draft Action Programme (Annex B to E(CP)(84)2) prepared following consultations with colleagues and bilateral discussions between the Parliamentary Under Secretary of State for Corporate and Consumer Affairs and the Ministers chiefly concerned. We broadly agreed on the inclusion of the items in the draft, subject to changes to clarify where matters stand on Wages Councils and certain Marketing Boards. The Secretary of State will circulate a revised version, taking account of a wide discussion which also covered energy, the environment, employment, training and further education, agriculture and health.

**New and Extended Initiatives**

3. The Sub-Committee discussed a number of further ways of promoting competition. I should particularly draw the following to your attention.

- (i) We should seek to ensure that the onus of proof in collective discussion is on those whose proposals would be likely to restrict competition, and not on those whose proposals would tend to liberalise it.





(ii) It was noted that a more flexible and constructive policy towards contract terms and procedures in the public sector could contribute to increased competition.

(iii) Nationalised industries should be encouraged, and where possible required, to foster improved competition by all appropriate means, including contracting out. The ideas being pursued by the Secretary of State for the Environment for more extensive contracting out by local authorities might be capable of application to the nationalised industries.

(iv) E(CP) might appropriately consider proposals for the abolition of mandatory scale fees (where they existed) in the professions, and initiation for the introduction of full-cost charging for services provided by one public sector body for another.

4. In addition, the Chancellor of the Duchy of Lancaster suggested that it might be possible for the Government to legislate generally to improve competition by reducing restrictive practices in the professions, industry and in other fields. He envisaged that such legislation might build on the common law principle that action in restraint of trade was unlawful unless justified by either necessity or the public interest. He suggested that giving individuals affected by restrictive practices a right of action in the Courts based on this principle might offer a way of achieving a major enhancement of competition without the need for detailed legislative provisions, quasi-governmental monitoring and enforcement agencies or criminal sanctions. The Sub-Committee invited the Secretary of State for Trade and Industry to consider the possibility further, consulting the Lord Chancellor, the Chancellor of the Duchy of Lancaster, and the Attorney General.

#### Presentation

5. Discussion of the issues above left little time to discuss presentation of the Government's policies. We propose to do so at our next meeting. In the meantime, we agreed that Ministers in their speeches and public statements should put the most positive construction on the Government's policies towards competition, placing particular stress on measures likely to bear fruit within the lifetime of the present





Parliament and which could be persuasively presented as enhancing freedom of choice, improved services and reducing prices.

**Future work**

6. In general, the Sub-Committee intends to meet regularly and to pursue an active role. We shall need to focus on key issues, with clear economic and political benefits. We shall also discuss any issues which may arise where competition is the predominant question.

7. Members of E(CP) will provide the Secretary of State for Trade and Industry with the information necessary for him to keep the Action Programme up-to-date and to add to it as appropriate. He will issue a revised version at six-monthly intervals as a basis for discussion in the Sub-Committee. We can also see some specific issues ahead. E(CP) agreed that car price differentials was one such issue. It is of some complexity, but with great political attraction.

8. I am copying this minute to other members of E(CP), to the Lord Chancellor, the Secretary of State for Scotland and the Attorney General and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'N.L.' with a flourish.

N.L.

7 August 1984





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