

# 6 Conclusions

## THE MERGER SITUATION

6.1. On 22 November 1989 William Cook plc (Cook) purchased from Lake & Elliot Industries Ltd (Lake & Elliot) assets of the Paramount Steel Foundry located at Braintree for £1,350,000. On 17 January 1990 Cook acquired Lloyds (Burton) Ltd (Lloyds (Burton)) from F H Lloyd Holdings plc (F H Lloyd) (a subsidiary of Triplex Lloyd Plc) for £5,700,000. On 9 March 1990 Cook contracted to acquire assets of the Armadale works of North British Steel Group Ltd (NBSG) from Australian National Industries Ltd (ANI) for £650,000.

6.2. Under a reference dated 3 May 1990 (see Appendix 1.1) we are required to investigate and report whether each of these three acquisitions has created a merger situation qualifying for investigation, in that enterprises carried on by or under the control of Lake & Elliot, Lloyds (Burton) and ANI, respectively, have within the six months preceding the date of the reference ceased to be distinct from enterprises carried on by or under the control of Cook.

6.3. The reference was made on the basis of section 64(1)(a) of the Fair Trading Act 1973 (the Act), in that it appeared that, as a result of such enterprises having ceased to be distinct, the condition specified in section 64(2) of the Act prevailed, or did so to a greater extent, with respect to the supply in the United Kingdom of steel castings. This is generally known as the 'market share' test. If this test were satisfied, the alternative ('assets') test was to be excluded.

6.4. Cook accepted that the enterprises carried on by Lake & Elliot and Lloyds (Burton) had ceased to be distinct from the enterprises carried on by Cook. It disputed that a merger situation qualifying for investigation, ie one within the MMC's jurisdiction, had been created by its Armadale acquisition. We have considered carefully the arguments put forward by Cook, the principal argument being that the 'enterprise' had ceased at Armadale before Cook acquired the Armadale assets. Thus no enterprise existed which could, as a result of the acquisition, cease to be distinct from the enterprises carried on by Cook.

6.5. A number of factors appear to us to be relevant to this question. We noted that at Cook's request an agreed letter was sent from NBSG to customers of Armadale on 9 March 1990. This letter referred to the sale by NBSG of 'the assets and goodwill of our Armadale factory'. Further, the letter stated that as from that date 'orders placed on us by you will be forwarded to Hi-Tec Integrity Castings' (Hi-Tec, a subsidiary of Cook). We have also noted that the Cook Annual Report for the year ended 31 March 1990 refers to 'the acquisition of North British Armadale Works' and to the additional sales which will 'benefit Hi-Tec Integrity Castings following the closure of Armadale Foundry'. The sale agreement<sup>1</sup> dated 9 March 1990 between NBSG and Cook refers specifically to the sale of the know-how, the goodwill of the business and the right of the purchaser to represent itself as carrying on the business in succession to the vendor as well as to tangible assets.

6.6. In addition, evidence given to us by ANI (the owner of NBSG) referred to uncertainty amongst Armadale customers caused in ANI's view by delays in selling Armadale. We have noted that until 5 March 1990 ANI was actively exploring sale options which would have allowed Armadale to continue as a going concern. In June 1990 ANI was still carrying out rectification work on castings at the Armadale site. It was also intended as part of the terms of sale that Cook would take over the custody of the patterns belonging to Armadale customers. Finally Cook had already made its first

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<sup>1</sup>Samuel Osborne & Company Ltd (another subsidiary of ANI) was also a party to this agreement as the vendor of the site at Armadale.

offer to ANI before the closure of Armadale was announced. Having, therefore, had regard to the arguments put forward by Cook and the circumstances set out above, we are satisfied that 'enterprise' at Armadale was still in being at the time of the acquisition by Cook. Consequently, it was then an enterprise capable of ceasing to be distinct and which ceased to be distinct from enterprises carried on by Cook.

6.7. We concluded in each of the three cases that enterprises previously distinct from Cook's had as a result of the acquisitions ceased to be distinct.

6.8. On the assumptions about imports made in Chapter 2, Cook's United Kingdom market share was at least 35 per cent. Since each of the three acquisitions increased Cook's market share, we concluded that in each case the market share test was satisfied.

6.9. We further concluded that in each of the three cases a merger situation qualifying for investigation had been created. We have therefore in each case (having regard where appropriate to the other mergers) to investigate and report on whether the creation of that situation operates, or may be expected to operate, against the public interest.

### **The United Kingdom market for steel castings**

6.10. The production of steel castings consists of pouring molten steel or steel alloy into a mould of the desired shape. The basic process is described in some detail in paragraphs 2.7 to 2.10 and Appendix 2.1. There are many types of castings, differing in size, quality and complexity. The material used can be mild steel or one or many different specialised alloys, and the product can be subject to various levels of testing from simple visual inspection to high energy X-ray testing. The castings vary from large one-off high integrity castings weighing many tonnes requiring extensive testing and rectification to small pieces produced in batches of thousands and requiring only visual inspection. There is a vast range of end uses in all branches of engineering. These uses extend from small components in electronic equipment to castings weighing hundreds of tonnes such as housings for steel mills or casings for power generation turbines. Normally steel castings are components to be incorporated into a machine or piece of engineering plant or equipment. They are consequently made to order to customers' designs.

6.11. Chapter 2 relates the sad history of the decline of the United Kingdom steel castings industry in the last 15 years. The adjustment to a lower level of demand has been a slow and painful process. Many of the leading participants in the industry have now departed including F H Lloyd, British Steel Corporation, and the original owners of Lake & Elliot. A large number of foundries has closed. We consider, however, that there is probably still overcapacity in the United Kingdom steel castings industry.

6.12. Total domestic deliveries of steel castings by United Kingdom foundries fell from 239,000 tonnes in 1975 to 93,000 tonnes in 1989 (see Table 2.2). This overstates the decline in the United Kingdom steel castings market because imports are thought to have increased by at least 13,000 tonnes over this period. The fall in domestic deliveries does, however, illustrate the crisis that occurred in the steel castings industry as the fortunes of its customers in the United Kingdom engineering industry declined and as substitute products and processes took over parts of the steel castings market.

6.13. We have considered the United Kingdom market for steel castings as a whole after excluding two very specialised product areas, namely centrifugal castings and rolling mill rolls (see paragraph 2.48). As we note in paragraph 6.10, there is a very wide range of cast steel products within this market. We have found, however, that no group of these remaining products constitutes a well defined separate market segment. Rather, each foundry has a range of product capabilities resulting from its physical equipment, its know-how and skills, and its portfolio of customers. While many foundries may be unique in terms of their product mix, they will nevertheless have a number of competitors for each of their products. For example, according to information provided by the Steel Castings Research and Trade Association (SCRATA), before the mergers some 15 United Kingdom foundries (including four in Cook) could produce medium-weight castings of high integrity quality. Some types of very heavy high integrity castings, and other particularly specialised types of castings, can be made by only a small number of foundries. We are aware, however, of only one group of

products for which, following the acquisitions, there are no competing United Kingdom suppliers to Cook, namely tank tracks and some other specialised castings for tanks.

6.14. Imports are moreover established and increasing as a major force accounting in 1989 for between 20 per cent and 33 per cent of the United Kingdom market. Several European countries have strong foundry industries that compete internationally: Portugal, Belgium, Spain, France, West Germany and Italy all export substantial tonnages to the United Kingdom.

6.15. Taking France as an example, there are some ten French foundries that export at least 40 per cent of their output, and ten more export between 25 and 40 per cent. The French industry is able to supply all types of castings in terms of size, of quality and of alloy. About eight French foundries supply large (ie over six tonnes) castings and around five foundries can supply high alloy products. The numbers of competing foundries are larger in the more standard products. As there do not appear to be any effective barriers to trade in the form of differing technical standards or significant transport costs we have no reason to believe that French foundries do not provide strong competition to those in the United Kingdom. We consider that the same conclusion may be drawn in respect of foundries in other European countries and in other parts of the world. We therefore judge that even though many customers in the United Kingdom may prefer domestic sources as long as this is practicable and economic, overseas sources of supply, particularly foundries in the rest of Europe, are both readily available and well known to a wide range of customers.

6.16. We conducted a survey of the 50 largest customers of Cook, Paramount Foundry (Paramount), Lloyds (Burton) and Armadale. Although the survey showed a degree of concern about the level of competition in the industry there was a lack of agreement about the precise nature of the concern. Several customers stated that there would be no realistic United Kingdom alternative to Cook as a supplier for their requirements. Some were prepared to source from overseas as a result. Some customers expressed concern about the industry's ability to meet delivery dates, as a result of the contraction in United Kingdom foundry capacity.

6.17. Certain customers accepted that price increases such as those required by Cook after previous mergers were unavoidable. Others, however, said that past increases were too high and out of line with others in the industry and expressed concern about future price levels.

## **William Cook plc**

6.18. When Andrew Cook became Chairman of Cook in 1981/82 the company had sales of £4 million and a workforce of 239. This compares with a turnover in 1985/86, when its acquisition programme began, of £10 million and a workforce of 276. In 1989/90 sales were £112 million and the workforce was 2,977. The three acquisitions which are the subject of our investigation will, it is estimated, increase Cook's share of United Kingdom production from 44 to 55 per cent. These figures are equivalent to market shares of at least 35 and 46 per cent respectively. After Cook the largest share of the United Kingdom market is held by imports which taken as a whole were equivalent to at least 45 per cent of Cook's production in 1989 (or as much as 80 per cent on the higher estimate of imports). Excluding rolling mill rolls and centrifugal castings, the largest share of United Kingdom production contributed by any individual non-Cook company after these mergers is about 3 per cent.

6.19. Cook's intentions regarding the three mergers are best understood in the context of the group's overall strategy. The introductory text of Cook's 1990 Annual Report explains its objectives including 'achieving an adequate level of fundamental profitability for the steel castings industry in the United Kingdom'. It says also: 'the persistence of William Cook will ensure that the steel castings industry in Britain and Europe enters the 21st century strong and stable'. We accept the sincerity and strength of intention behind these words.

## **The acquisitions**

6.20. Three acquisitions were referred to us. We considered a number of competition issues. It seemed to us that of these issues the most important was the availability of alternative sources of supply of steel castings, from the United Kingdom and abroad. We consider this question separately for each of the three acquisitions. The other issues affect each acquisition in much the same way, and are thus in our view dealt with more appropriately for the three acquisitions taken together. These are: the effect of the mergers on prices, barriers to entry and exit, and expenditure on the development and introduction of new technology. We examined employment in the specific context of Armadale (paragraph 6.48).

## **Paramount**

6.21. Before the acquisition the Paramount foundry at Braintree, Essex, was a specialist producer of high integrity alloy castings weighing up to 1 tonne with an average piece weight of 15 kilograms. It had not been financially successful for several years and was mainly known as a producer of castings for valves. Paramount, then known as the Braintree foundry, was originally one of two foundries owned by Lake & Elliot plc, which were acquired in 1985 by Suter Plc, an industrial holding company. Lake & Elliot plc was subsequently acquired by Mr Martyn Meade from Suter Plc in 1987. Mr Meade then strengthened the existing foundry at Braintree by transferring assets from the former APV Holdings Paramount Foundry at Crawley which had produced castings for the petrochemical industry and tube fittings. The name was then changed to Paramount. Despite the merger, the Paramount/Braintree business continued to lose money and by 1989 Mr Meade had decided to dispose of it and to concentrate on developing his more successful spun pipe foundry at Billingham.

6.22. Cook's purpose in acquiring and closing the Paramount foundry was to provide a more regular flow of work to each of its existing high integrity foundries by transferring orders, and in particular to improve asset utilisation at Holbrook Precision Castings Ltd (Holbrook). The acquisition would also enable Cook to gain experience of manufacturing products for the petrochemical industry by transferring the related assets to Lloyds (Burton), purchased some two months later.

6.23. The Paramount foundry had a share of about 1 per cent of the United Kingdom steel castings market before its acquisition. Within its range of small and medium weight high integrity castings it was, however, a significant specialist producer for valve manufacturers and the petrochemical plant industry.

6.24. Paramount's customer list and product range showed little overlap with those of the pre-merger Cook Group. The merger of Paramount with Lloyds (Burton) does, however, result in the loss of a significant competitor in the supply of castings for valves. Holbrook is likely to benefit significantly from the transfer of business previously carried out at Paramount when this foundry closes.

6.25. Many of Paramount's customers were small to medium-sized suppliers of petrochemical plant and producers of valves. There are several alternative United Kingdom suppliers for these castings outside the Cook Group including Goodwin Steel Castings Ltd, Glencast Ltd, Mather & Platt Machinery (UK) Ltd, Hopkinsons Ltd, Willan Metals Ltd, Wilsons Foundry, Dewramet Ltd and Darwins Alloy Castings Ltd. Lake & Elliot is still a customer for castings from Paramount but will shortly have the capability to produce its own requirements at Billingham. Several foundries in the rest of Europe have the capability of supplying orders previously produced by Paramount including Aciéries Hachette et Driout (which has a capacity of about 10,000 tonnes per annum) in France and Cometna (which has an annual capacity of between 5,000 and 10,000 tonnes) in Portugal.

6.26. We conclude that following the Paramount acquisition, customers will have adequate alternative sources of supply, in part from the United Kingdom and particularly from abroad.

6.27. We have considered what could reasonably be expected to have happened to competition if Cook had not acquired Paramount. This foundry was at best marginally profitable and had an ageing workforce because recruiting foundry staff in Essex was found to be difficult in competition with alternative types of employment. Although Paramount could have continued to operate for a period, we consider that Lake & Elliot's assessment of the position is broadly correct: Cook was probably the only potential purchaser and the foundry probably had no long-term future in its present location in view of the value of its site for alternative uses.

## **Lloyds (Burton)**

6.28. As late as 1975 F H Lloyd Ltd accounted for 23 per cent of the turnover of the United Kingdom steel castings industry. However, at the time of its acquisition by Cook the Lloyds foundry at Burton-on-Trent was the only steel foundry remaining in the merged Triplex Lloyd Group. After changes in the group's strategy it was low in their priorities and received little investment finance. Lloyds (Burton) still produced 9,000 tonnes of products per year at the date of its acquisition and was the largest United Kingdom steel foundry outside Cook. It produced a wide range of commercial and medium integrity alloy and non-alloy castings in piece weights of up to 15 tonnes. Lloyds (Burton) consequently had an extensive customer list including producers of crushing equipment, valves, draglines and other construction equipment, tanks, mining and tunnelling equipment, and petrochemical and process plant. Despite the low level of investment by its previous owners, Lloyds (Burton) remained viable and profitable. The low level of investment raised doubts, however, about its long-term viability.

6.29. Cook acquired Lloyds (Burton) with the intention of continuing it as a going concern. It had a number of facilities which Cook wanted and which would enable Cook to extend its range of products. Cook was particularly interested in the access that Lloyds (Burton) offered to customers in the rock-crushing industry, as well as its capability to produce castings for tank turrets and complex custom-built parts. A substantial part of the Lloyds (Burton) business was, however, similar to Cook activities; for example, tank tracks were produced at Catton & Company Ltd (Catton) and George Blair Ltd as well as at Lloyds (Burton). Cook intended that this part of the business should eventually be rationalised to allow for more specialisation and longer production runs.

6.30. In terms of market share, the acquisition of Lloyds (Burton) is the most significant of these three acquisitions. With 6 to 8 per cent of the United Kingdom steel castings market, Lloyds (Burton) was the largest remaining commercial castings producer in the United Kingdom outside Cook. It was capable of competing across a very wide range of the market in terms of size, product quality and product complexity. Over much of its product range Lloyds (Burton) was complementary to Cook rather than competitive. As an independent foundry it did, however, have the potential to challenge Cook in some of Cook's established markets and provided actual competition in the supply of tank tracks.

6.31. Because Lloyds (Burton) has an exceptionally wide range of products, many different foundries provide customers with alternative sources of supply in different parts of this product range. The alternative United Kingdom suppliers outside Cook are individually much smaller and lack the broad product capability of Lloyds (Burton). Producers which are capable of supplying the main range of commercial castings include ASI Castings Ltd, Bonds Foundry, Firth Brown Castings Ltd and Mech Cast Ltd. Many continental foundries offer customers a choice for the broad range of commercial castings. Amongst these Aciéries et Fonderies de L'Est and Hachette et Driout of France, and Cometna of Portugal are actively seeking orders in the United Kingdom.

6.32. In one group of products there will, however, be no United Kingdom alternative supplier to Cook. The Ministry of Defence and Vickers PLC will lose their present choice of suppliers for tank tracks as all the approved foundries are now in the Cook group (Lloyds (Burton), Catton and George Blair). We have been told that other United Kingdom producers will be encouraged to enter the market. Diehl in Germany is able to supply a wide range of military vehicle track and has an advanced design capability.

6.33. We agree with Cook that with an adequate level of investment Lloyds (Burton) is a viable foundry which should be able to continue to play a role in the steel castings market. If Cook had not acquired this foundry it could reasonably have been expected that Triplex Lloyd would have looked for alternative buyers either in the United Kingdom, or more likely, given its size, overseas.

6.34. Although Lloyds (Burton) as an independent foundry, or one purchased by a non-Cook company, would have provided competition to Cook, we believe that following its merger with Cook customers have adequate alternative sources of supply, in part from the United Kingdom and particularly from abroad.

## **Armadale**

6.35. The Armadale foundry was part of NBSG and a specialist producer of large high integrity castings weighing up to 28 tonnes. NBSG was acquired by Aurora Plc in August 1988 and it transferred its track work casting business to Armadale from the Edgar Allen foundry which was due for closure. In December 1988 Aurora was in turn acquired by ANI. Armadale had therefore suffered a number of changes in control before ANI finally decided to close it or dispose of it in October 1989. It had been trading at a substantial loss for a number of years. In contrast with the long runs of small and medium-sized pieces produced by Lloyds (Burton), the castings produced at Armadale were often large one-off pieces for major capital projects such as power station turbines. Such castings require high energy X-ray testing and may need careful rectification work over a period of months.

6.36. In Cook's view Armadale would never have been viable as a going concern. A number of items of plant and equipment were, however, of interest to Cook and it therefore made the acquisition with the intention of relocating them at Hi-Tec. By relocating the 25-tonne electric arc furnace from Armadale at Hi-Tec Cook considered that it could extend the maximum piece weight at that foundry from 15 tonnes to 25 tonnes. The other equipment necessary to process very heavy castings would also be relocated at Hi-Tec. Not only would this extend the product range of the Cook Group but it would also enable it to increase the throughput at Hi-Tec and secure the future of that foundry.

6.37. Cook argued that even if in theory the closure of Armadale might have affected competition, in reality the foundry had no significant United Kingdom customers. The manufacture of railway crossing blocks had been transferred by NBSG from Armadale to its Bathgate foundry and the only other significant business carried on at the date of acquisition was the supply of certain castings for pumps and electrical generating equipment to customers in India, the USA and Norway. The only United Kingdom customers supplied were the Dewrance division of Dresser Corporation and Anderson Strathclyde which between them purchased castings worth approximately £350,000 in the calendar year 1989.

6.38. According to our analysis Armadale had a low share of the total United Kingdom steel castings market. A significant part of its product range (the railway crossing blocks) was retained by ANI and transferred to the Bathgate foundry. The part of the business which was subject to the acquisition by Cook accounted for no more than 1 per cent of the United Kingdom market. Armadale did, however, occupy a particular position in the market as a supplier of very large high integrity castings often for major capital projects, although in recent years its customers for these products had been chiefly located overseas including the United States and India.

6.39. There was a significant overlap in the type of business carried out by Armadale and that being developed by Cook at Hi-Tec. Although Armadale had the ability to supply larger castings and Hi-Tec had superior X-ray testing equipment, the two foundries were in direct competition over much of their product range.

6.40. Customers for large high integrity castings have a number of alternative suppliers in the United Kingdom including Clyde Shaw Ltd which can produce high integrity castings weighing up to 40 tonnes and is equipped with high powered X-ray non-destructive testing equipment; the River Don Foundry of Sheffield Forgemasters Ltd which can produce the heaviest high integrity castings made in the United Kingdom; and Weardale Steel. There are also a number of highly rated suppliers in other parts of Europe including Georg Fischer of Switzerland and Manoir Industries of France.

6.41. We conclude that following the Armadale acquisition, customers will have adequate alternative sources of supply, in part from the United Kingdom and particularly from abroad.

6.42. We have considered what could reasonably be expected to have happened if Cook had not acquired Armadale. We noted that Armadale had recently been very unprofitable. There had been an attempted management buy-out but this had subsequently been abandoned. There was, however, also another potential buyer in the Harris/Menzies partnership (Harris/Menzies). Harris/Menzies were unable to produce a firm bid within the time-scale required by ANI but had succeeded in attracting the interest of a number of serious financial backers. Harris/Menzies stated that they could have had some chance of securing sufficient financial backing to support their conditional bid. However, several independent witnesses told us that they did not consider Armadale to be viable. Armadale's history does, indeed, suggest that any purchaser would have experienced considerable problems in turning around the performance of the foundry.

### **Other aspects of competition**

6.43. We considered a number of other issues affecting competition. Some of Cook's customers expressed concern about price increases which, based on Cook's practices following previous acquisitions, might follow the mergers. Cook argued that prices previously charged to customers had not in general provided an adequate margin to finance the investment needed in the industry and had in some instances been significantly below the cost of production. In these general and specific situations price increases were essential. Seeing the need for such increases did not, however, mean that Cook could easily achieve them. Paragraphs 2.81 to 2.83 show that we were not able from the evidence on prices which we examined to discern any consistent pattern of price movements. Overall we concluded that the availability of alternative sources of supply to customers, from the United Kingdom and abroad, would act as a constraint on any inappropriate price increases by Cook. If either the price or quality of service offered by Cook were inadequate, the customer could move his business elsewhere, or in certain circumstances would arrange for his product to be manufactured by a completely different process such as forging or fabrication.

6.44. In our view the three acquisitions taken individually or as a whole do not materially increase the barriers to entry to the United Kingdom steel casting industry. Any such increase is in our view balanced by the improved industry attractiveness which results from Cook's efforts in 'rationalising' the United Kingdom industry, in reducing overcapacity and in increasing profitability. If Cook succeeds in obtaining the price increases it regards as necessary, this may even encourage new entry, strengthen some of the existing competitive foundries and enable them to increase production. Some marginal foundries may also become viable. We received conflicting evidence about the availability of other companies that might buy foundries. To put it no higher, we do not think that a case has been proved that there are no competitors to Cook in this respect.

6.45. Substantial closure costs including redundancy payments result in some unprofitable foundries experiencing difficulty in leaving the industry. This is particularly true in the case of single plant undiversified companies whose management is often unwilling even to consider the possibility of closure. This can result in continuing excess capacity. We consider that Cook's merger activities may previously have contributed towards alleviating this problem.

6.46. There is evidence that in the last, say, ten years expenditure on research and development and on the development and introduction of new products and processes has been very limited in the United Kingdom steel castings industry. While it might be argued that a dominant (in the United Kingdom) Cook might have less incentive to respond to customer demand for new or improved products, we believe that threats from competitive technologies and from foreign suppliers, as well as from the remaining United Kingdom foundries, would continue to encourage Cook to develop improved products and processes assisted by better profitability. In this context we noted Cook's statement that in the short term emphasis would be placed on import substitution.

## **The Armadale acquisition**

6.47. In paragraphs 6.35 to 6.42 we examined competition issues specifically relating to Armadale and other issues more generally in subsequent paragraphs. Another matter was, however, drawn to our attention. The Armadale acquisition became a matter of public concern in Scotland and was the subject both of debate in the House of Commons and a petition in the High Court. It was widely felt that alternative buyers had not been given an equal opportunity to purchase Armadale. We, therefore, paid particular attention to the claim by some parties that at least the manner in which the Armadale assets were sold by ANI was a matter of public concern.

6.48. As we began our inquiry it seemed that there was considerable disagreement about the sequence of events leading up to March 1990, when Cook's offer for the Armadale assets was accepted by ANI. Following our detailed inquiries, however, substantial agreement has been reached amongst the parties on what in fact happened (see Appendix 3.4). Although there may at times have been some failure of communications between ANI and some of the interested parties, we do not think that ANI's behaviour was unreasonable given the commercial context. Nor has any evidence emerged that Cook was involved in any unacceptable foreshortening by ANI of the time given to third parties to assemble a bid for Armadale. We have also noted that the firm bid already received from Cook was higher than the alternative offer which was conditional on financing. It is possible that a properly financed alternative bid could have been assembled. If that had happened West Lothian might have been saved the unemployment which resulted from the closing of Armadale. But while the saving of Armadale (albeit on a reduced scale) might, if the enterprise had prospered, have contributed to the maintenance of a balanced distribution in the United Kingdom of industry and employment, we have to take into account the serious doubts which have been expressed to us, from several sources, about the long-term viability of the enterprise.

## **General conclusions**

6.49. We have examined the competition issues arising from three acquisitions which increased Cook's market share by up to 8 per cent, about 1 per cent and about 1 per cent. We have had regard to the special circumstances of the steel castings industry.

6.50. Though it is not part of our remit to endorse a particular strategy for an industry, it is equally not our role unless there is a specific detriment to stand in the way of the market forces that are inexorably shaping the future of that industry. The steel castings industry has gone through a period of substantial decline and retrenchment which has resulted in the closure of many foundries and a lack of investment in the remaining ones. We noted that in the early/mid-1970s the industry was dominated by four firms (paragraph 2.26), each of which has now either left the industry or seen its market share reduced to a fraction of what it was. Thus the process of retrenchment may have worked to Cook's advantage as some of these companies, with their wider interests, concentrated their attentions in other industries.

6.51. But part of Cook's success must also be attributable to its achievements in strengthening the management of the companies it acquired, and significantly improving productivity at its foundries. Andrew Cook, Chairman of Cook since 1981/82, has been described as 'a man with a mission'. In our opinion he is the person who grasped the realities of the industry and decided to put his company on a modern and viable footing often with second-hand plant. If the attempt at rationalisation of the industry had not been made we are convinced that there would be fewer steel castings made in the United Kingdom, less investment, and ultimately less choice for consumers.

6.52. Nevertheless, measured by its share of United Kingdom production, Cook has a dominant position, and the three acquisitions have increased this dominance as a producer. Such dominance can, if it is not counteracted in some way, lead to higher prices, longer delivery times, and other detriments to customers. This seems inevitable when a producer does not face active and effective competition.

6.53. But there is clear evidence that import competition has increased significantly in the last ten years and that a significant number of Cook's customers clearly see further imports as an alternative should Cook's behaviour become in their view unacceptable. Moreover, even though Cook is dominant within the United Kingdom industry there is a large number of albeit very much smaller competing foundries with the capability between them of competing across the whole range of products. We noted that a majority of customers who responded to our questionnaire had changed suppliers in recent years, showing that (although these changes have their costs) most customers have been able to move on if they are not satisfied.

## **Conclusions**

6.54. We conclude that the merger situation between Cook and Paramount does not operate, and may be expected not to operate, against the public interest.

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6.56. We conclude that the merger situation between Cook and Armadale does not operate, and may be expected not to operate, against the public interest.

L A MILLS (*Chairman*)

A G ARMSTRONG

C C BAILLIEU

K S CARMICHAEL

S N BURBRIDGE (*Secretary*)

3 August 1990