

## Conduct of the inquiry

1. On 4 February 1993 the Director General of Fair Trading sent the MMC the following reference:

The Director General of Fair Trading, in exercise of his powers under sections 47(1) and (2), 49(1) and 50(1) of the Fair Trading Act 1973 ('the Act'), hereby refers to the Monopolies And Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply in the United Kingdom of the service of calibrating and servicing gas analysing equipment ('reference services'). The Commission shall investigate and report on the questions whether a monopoly situation exists in relation to such supply and, if so:

- (a) by virtue of which provisions of sections 6 to 8 of the Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate, or may be expected to operate, against the public interest.

The Commission shall for the purpose of this reference limit consideration to agreements or practices which restrict owners or users of gas analysing equipment as to the persons from whom they may acquire reference services, whereby persons conduct their affairs as mentioned in section 7(2) of the Act.

In this reference:

'gas analysing equipment' means equipment used to analyse exhaust gas emissions from motor vehicles in connection with tests carried out pursuant to the Motor Vehicle (Tests) Regulations 1981.

The Commission shall report by 3 September 1993.

4 February 1993  
(Signed) BRYAN CARSBURG

*Director General of Fair Trading*

2. Formal answers to the questions in the reference are given in paragraph 9.88 and Appendix 9.2. The questions are answered more fully in the following paragraphs of the report:

whether a complex monopoly situation exists: paragraph 9.17;

- (a) paragraph 9.17;
- (b) paragraph 9.18;
- (c) paragraphs 9.56, 9.58 and 9.63;

(d) paragraph 9.67; and

(e) paragraph 9.86.

3. The composition of the group of members responsible for the inquiry and report is indicated in the list of members in the preface.

4. Notices inviting evidence were placed in:

*Financial Times*  
*Automotive Management*  
*Fleet News*  
*Motor Retailer*  
*Motor Trader.*

5. During the course of our inquiry members and staff of the MMC visited Sira Test & Certification Limited, at Chislehurst. Staff also visited Sun Electric UK Limited at King's Lynn and V L Churchill Ltd at Daventry.

6. Written and oral evidence was provided by independent EGA calibrators and those servicing garage equipment (Chapter 5); MOT stations, fleet operators, car manufacturers, trade and consumer associations, government departments, filter suppliers and other interested parties (Chapter 6); the VI, NAMAS and SIRA (Chapter 7) and EGA suppliers (Chapter 8). In addition a survey was carried out of a sample of the nation's 18,000 MOT stations, a summary of the results of which is shown at Appendix 3.4.

7. In May and June 1993, on the basis of the information made available to us in response to questionnaires, we informed V L Churchill Ltd, FKI Crypton Limited, FKI Transervice Limited, H Young (Operations) Limited (trading as Kamasa Tools), Lucas Service UK Ltd and Sun Electric UK Limited of our provisional finding that a complex monopoly situation, as defined in section 7(1)(c) of the Fair Trading Act 1973, existed in their favour. Each of these companies was advised of the issues which the MMC might have to consider in assessing the effect of the complex monopoly situation on the public interest and was invited to give its views on them. In response we received written submissions from each of them.

8. We invited all these parties to give oral evidence and held hearings with Churchill, FKI and Sun. Hearings were also held with Richard Oliver Limited and the Garage Equipment Maintenance Co Ltd, the RMIF, the SMMT, NAMAS, and with two independent calibrating companies, a distributor and a supplier of filters.

9. Some of the evidence submitted to us during the course of our inquiry was of a commercially confidential nature and our report contains only such information as we consider necessary for a proper understanding of our conclusions.

10. We should like to thank all those who assisted in our inquiry, particularly the companies and organizations principally involved.