7 Views of third parties

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Introduction

7.1. We invited views from competitors, customers, associations and other interested parties. This chapter summarizes the evidence we received. Oral hearings were held with Premier, Serco, Securicor, UKDS, the IND, HM Prison Service, the YJB and Land Securities Trillium.

Competitors

Chubb plc

7.2. Chubb plc (Chubb) told us that it provided a range of fire protection and security services including electronic security, monitoring and response, security personnel and fire protection and detection.

7.3. It said that it had not previously bid for custodial guarding or escort contracts for two reasons: first, because there were a number of established contract providers in the market who had the advantage of relevant experience and reduced costs of formulating a bid; and second, because the substantial costs associated with submitting a credible bid as a new entrant were prohibitive. However, Chubb stated that if more contracts became available it would consider the investment requirements associated with making a bid.

7.4. Chubb said that as long as the market remained relatively small with an established set of service providers, the merger would have little effect on its decision of whether or not to bid for contracts for the provision of custodial guarding and escort services.

Cornell Companies Inc

7.5. Cornell, a US company, told us that it was a leading private provider of corrections treatment and educational services to government agencies. It provided correctional services to about 11,000 adults and 5,000 juveniles each day in 69 facilities. It offered a variety of services ranging from the design, construction and operation of new correctional facilities to the management of existing programmes.

7.6. With regard to the UK market, Cornell said that it had expressed an interest in bidding for future projects to HM Prison Service Contracts and Competition Group and the YJB and had received responses from both organizations encouraging it to participate in future competitions. Cornell was currently exploring potential business opportunities in other countries but was particularly interested in providing services in the UK, which were similar to those it offered in the USA. It was particularly interested in expanding into prison construction and management, juvenile detention and STC construction and management, and IDC construction and management.

7.7. In referring to entry, Cornell said that increasing the number of UK private custodial contracts would make entry into the UK more attractive and would create synergies and efficiencies among the facilities. It added that increasing the number of facilities would enable Cornell to develop its relationship with the contracting agency. It believed there were advantages available to incumbent contract holders but said that it would not be deterred from submitting a bid purely for that reason. It had bid and been awarded several contracts that were previously operated by another company.

Correctional Services Corporation

7.8. CSC, a publicly traded US company, told us that it was a leading provider of correctional facilities and services for federal, state and local government agencies. It was involved in the design, finance, construction/renovation and operation of adult, juvenile and community correctional facilities. It operated 46 facilities (representing 8,900 correctional beds) throughout the USA and Puerto Rico.

7.9. CSC believed that increasing the number of private custodial and/or transportation contracts would provide an incentive for companies to enter the UK market. It understood that there were advantages in incumbency but said that it regularly competed against incumbents for projects that it found attractive.

7.10. CSC had previously tendered offers to finance, design, construct and operate adult and juvenile correctional facilities in the UK (including the women's facility at Onley, which it bid for at the request of the UK Government) and said that it would be interested in providing transport services for detainees in the UK, but had not considered competing for projects for several years. However, it would consider bidding on future projects if it felt contracts would be awarded on a competitive basis.

Land Securities Trillium

7.11. Land Securities Trillium (LST) told us that it was the property services division of the Land Securities Group. LST bought property and leased it fully serviced. The Land Securities Group had fixed assets of about £8.5 billion.

7.12. LST did not have any views either for or against the merger.

Reliance Secure Task Management Limited

7.13. Reliance Secure Task Management Limited said that it was a subsidiary of the Reliance Security Group plc. It was concerned that the merger would result in reduced competition. Its main areas of concern centred on the prisoner escort market and the provision of custody services to the police.

7.14. The prisoner escort market was contracted out by the prison service and was divided into eight areas covering the whole of England and Wales. These areas were split between G4F (four), Premier (two), Securicor (one) and Reliance (one). As a result of the merger G4F and Premier would have six areas between them and with it a dominant position in a market worth about £100 million. Reliance estimated G4F's and Premier's share of this market at £75 million.

7.15. The provision of custody services for the police was a newer market and contracts were just coming out to tender. Reliance told us that the Thames Valley tender bid, worth about £3 million a year, was being bid for by five bidders (G4F, Wackenhut Corrections (UK) Limited (WCUK), Premier, Securicor and Reliance), but effectively only by three companies, considering that G4F, WCUK and Premier were all constituents of the merged group.

7.16. Reliance also told us that there were currently only three privately run STCs, operated by G4F (two) and Premier (one).

Rentokil Initial plc

7.17. Rentokil Initial believed that the merger would not have any significant effect on competition issues in the UK.

Securicor Custodial Services Limited

7.18. Securicor Custodial Services Limited told us that it was part of the Securicor Group. It was primarily involved in the custodial market but also bid for court escort services and operated electronic monitoring services in the North of England. Last year the turnover of the Securicor Group was £1.5 billion; for Securicor Custodial Services Limited it was £56 million.

7.19. Securicor assessed that as a result of the merger G4F and Wackenhut had, through their subsidiaries and joint ventures, substantial market shares (by number of contracts) in private prisons operations (65 per cent), prisoner escorting (74 per cent), STCs (100 per cent), IDCs (67 per cent) and electronic monitoring (51 per cent). Securicor believed new entrants would be deterred from entering the market by the presence of an operator with a market share of 65 to 75 per cent, and which could spread its bidding costs across its current contracts. A new entrant with no revenue-earning contracts would have to go to great expense in the hope of competing with those companies already engaged in the market. A new entrant would also have to contend with the increasing specificity of Home Office contracts, which deterred innovation and acted as a barrier to entry.

7.20. Securicor was also concerned that G4F's existing competitors would find it difficult to compete for expensive bidding projects against a company with a substantial market share. Those competitors interested in bidding might become increasingly reluctant to continue bidding in a market in which there were a limited number of contracts available and in which they perceived they were at a disadvantage due to the size of their main rival. If competitors did leave the market there would not be a rush of alternative suppliers to fill the resultant vacuum, so the sole customer (the Home Office) could be left with a diminished source of supply.

7.21. Securicor said that the merger would result in a significant reduction in competition by reducing the number of companies with adequate expertise from four to three. Securicor believed, therefore, that the merger operated against the public interest. G4F was effectively in control of, and had a stranglehold on, the market. Even if G4F divested its majority and controlling interest in WCC, there would still be the possibility that it could control two tenders for any new business opportunity, thus effectively being in a position to manipulate the bidding process by a non-competitive pricing policy. This might lead to a situation where other potential bidders would not wish to devote resources in the bidding process when they thought opportunities to win would be seriously curtailed. However, if G4F divested its indirect interest in Premier, or Serco exercised its right to buy WCC's share in the company, then competition would be preserved.

7.22. Securicor believed that, as matters stood at present, the merger had the potential to damage permanently the private custodial market in the UK.

Securitas Security Services Limited

7.23. Securitas told us that it was a wholly-owned subsidiary of Securitas AB. It provided guarding, monitoring and response services throughout the UK. It acquired Burns International on 3 August 2000, which at the time provided security at Harmondsworth IDC.

7.24. Securitas said that Burns had decided not to tender for any further work due to the amount of time and effort involved in tendering and because it would need to form a consortium with a construction company, thus assuming some of the company's liabilities. Incumbents benefited from having a very detailed knowledge of requirements, operations and efficiencies, and a proven track record.

7.25. Securitas believed it should only be involved in security and said it was unlikely that it would wish to bid for non-security-specific projects in the future.

Serco Group plc

7.26. Serco told us that it provided support services and facilities management, mainly to central and local governments but also to the private sector. It operated in over 30 countries worldwide, though principally in Europe, the Middle East, Asia Pacific and North America. It entered the UK market for custodial services in 1992, forming Premier, a 50:50 joint venture with WCUK. Serco's worldwide turnover for the year ended 31 December 2001 was £1.1 billion, of which £794.2 million arose in the UK.

7.27. Serco said that the market for custodial services could be divided into five main segments: prison operation and maintenance services; the operation and maintenance of STCs; the operation and maintenance of IDCs; electronic monitoring of offenders; and court escort services and prisoner transportation. Premier and G4F operated in all five segments in the UK. Serco considered that there was a distinction between residential custodial services, which involved running an institution for inmates (operation and maintenance of prisons, STCs and immigration centres), on the one hand, and the other segments (electronic monitoring and court escort services). Serco contended that the market for residential custodial services was highly concentrated and was set to grow substantially in the coming years. This growth meant it was important that there was a satisfactory choice of suitable suppliers.

7.28. Commenting on barriers to entry, Serco said that an operator required experienced staff and a proven track record in providing residential custodial services in order to be regarded as a credible bidder. Entry was made more difficult by the fact that new entrants had to compete for the small number of long-term contracts with operators of multiple facilities to whom economies of scale were available. Serco said that it would find it difficult, if not impossible, to enter the market on its own without access to the expertise and track record of Premier. Expertise and a proven track record were also important to attract members of staff with the necessary experience in providing residential custodial services. However, Serco believed entry was possible in the long term and would be most likely to occur in the market for electronic tagging and escort services, where barriers to entry were low. A number of competitors had entered this sector, including companies such as Reliance, which specialized in electronic monitoring and escort services only. As operators gained experience they would be granted contracts to run smaller detention centres, then progress to bigger centres, and ultimately, to running prisons and STCs. Serco estimated that the lead time for entry for a new competitor without a track record in the business was in the order of five years.

7.29. Serco said that the merger would substantially reduce or eliminate competition between G4F and Premier. It did not believe that the assurances provided by G4F and its associates in the 'ring-fencing agreement' would be effective because:

(a) None of the parties to the agreement would have any incentive to take enforcement action against any party committing a breach.

(b) Serco was not aware that the assurances would be enforceable by third parties. Even if they were, Serco would not have access to the material necessary to determine whether a breach had occurred.

(c) There was no restriction on the movement of personnel between Premier and G4F. Such movement could result in the flow of commercially sensitive material from Premier to G4F.

(d) The appointment of independent directors to the board of WCC was not adequate to ensure that G4F competed independently with WCUK.

(e) G4F would have a strong incentive to favour its wholly-owned business at the expense of Premier in which it had an economic interest of only 28.5 per cent.

(f) The provisions concerning confidentiality were inadequate. The potential flow of confidential information from Premier to G4F was controlled solely by a confidentiality agreement entered into by the two G4F directors who had been appointed to the WCC board. Moreover it did not cover corporate strategy and did not apply to the WCC directors.

7.30. In addition, G4F had not provided any commitment to Serco that it would not seek to exercise its rights as a shareholder in Premier under the 1999 Shareholders' Agreement. Serco was concerned that G4F and Premier would be treated as a single supplier and that public authorities might seek to award future contracts to alternative suppliers. This would result in a public interest detriment, as alternative suppliers might be chosen purely because they were neither G4F nor Premier.

7.31. Serco maintained that the merger had created very high combined market shares (by number of beds) in prisons, STCs and detention centres and left the merged group with a very high degree of market power. It had also reduced the number of credible bidders from three to two (excluding Securicor who last won a contract in 1995 for HMP Parc) at a time when an increase in the extent of private supply was planned. In the absence of adequate competition, the reduction in costs brought about by the involvement of the private sector and identified in the Carter report would be likely to cease.

7.32. Serco believed that the merger had already substantially lessened competition and would continue to do so. As a consequence, Serco considered the merger operated against the public interest. Serco believed the detriments identified could only be resolved by requiring G4F to dispose of WCC's 50 per cent share in Premier. Serco was seeking to acquire WCC's interest in Premier under a right of pre-emption in the 1999 Shareholders' Agreement. WCC disputed the applicability of the right of pre-emption. The fact that G4F and Serco were in dispute raised further question marks over whether Premier would be able to continue to operate effectively in the market as a joint venture for the future.

7.33. Serco did not consider that the remedies listed in the CC's Remedies Statement (other than the proposal that WCUK dispose of its 50 per cent share in Premier) were appropriate. It did not believe that the sale of GSL (in the absence of a sale of the interest in Premier) was an adequate remedy because G4F would have an incentive to use its corporate powers to weaken Premier thereby increasing the consideration received on a sale of GSL. Serco did not believe that the divestiture of WUK (in the absence of a sale of the interest in Premier) would be sufficient to address the concerns identified in terms of this merger substantially reducing or eliminating competition between G4F and Premier. Serco thought the sale of WCUK would not be viable because it and G4F were in dispute about whether Serco had a contractual right to buy the outstanding 50 per cent stake in Premier. While litigation was ongoing it would be impossible or virtually impossible for G4F to sell WCUK because a large part of WCUK's value lay in its shareholding in Premier and mergers and acquisitions were notoriously averse to uncertainty. Serco also believed it would be disproportionate in that it would involve the divestiture of an interest in the parent company, whereas the concerns identified arose in relation to Premier's ownership and conduct in the marketplace. Serco did not believe that any behavioural remedy would provide adequate safeguards against the risk of confidential information passing from Premier to G4F. Breaches of behavioural undertakings were hard to detect and difficult to remedy.

UK Detention Services Limited

7.34. UKDS told us that it had been formed in 1987 by a consortium of two construction companies, Mowlem and McAlpine, together with the largest private sector provider of custodial services in the world, CCA. Mowlem sold its shares equally to CCA and Sir Robert McAlpine, who in 1997 sold its 50 per cent share to Sodexho, a French company. In November 2000 Sodexho bought out CCA's 50 per cent stake in UKDS giving it sole ownership of the company.

7.35. UKDS said that the private custodial market in the UK was characterized by a small number of government customers within the Home Office, namely the YJB, HM Prison Service and the IND. These were serviced by a small number of providers.

7.36. In the UK, G4F and Premier operated in four distinct markets: regional prisoner transport, STCs, young offenders' institutions, prisons, and IDCs. As a result of the merger G4F and WCC were dominant in the DCMF prison market (55 per cent market share by number of contracts) and in STCs (100 per cent market share by number of contracts). UKDS believed that the UK Government would increasingly depend on private sector suppliers to assist them in both expanding and modernizing what were new markets.

7.37. UKDS believed strongly that the merger would harm the government customers and that it was not in the public interest. UKDS objected to the merger because it would result in diminished competition in the UK, market domination by G4F/WCC and create the potential for predatory pricing by the merged entity. Its main concern was that the prison service might allow two companies from the same group to bid, which could result in distorted bidding. If the market were reduced to one client and one supplier, many of the incentives for the development of risk transfer and innovation would be nullified. The potential impact of the merger on both existing competitors and new entrants would be to bias the market conditions adversely. With the high costs of bidding for contracts being widely recognized as sunk costs, the presence of such a dominant player as G4F/WCC might substantially reduce the appeal of entering or remaining in the market.

7.38. UKDS did not that believe that the Safeguards Agreement would prevent the transfer of information between Group 4 and Premier. It did not believe the merger should be allowed.

Customers

HM Prison Service

7.39. HM Prison Service told us that private sector prison management started in the early 1990s with the award of three contracts to Group 4, Premier and UKDS under competitive tendering. Initially there was no market at all; it had to be developed. The Government introduced the PFI initiative three or four years later, which the Prison Service adopted in response to the growing prison population and partly due to the successful delivery of private sector prison management. It was no longer a definite Home Office or Prison Service policy that PFI schemes for DCMF would be used for new prisons, although it was probably still Treasury policy.

7.40. The continuing growth of the prison population meant that there was an urgent need for new capacity. The Treasury would have great influence as to how that capacity was developed and whether it was publicly funded, privately funded, PFI or a mixture of private finance and public management. The Prison Service did not believe it would be possible for the public sector to compete in terms of design and construction but considered that it could be competitive in providing management. The Prison Service thought it might move into a mixed market for future projects, with some contracts being fully private along the lines of the PFI programme and others being a combination of private finance, design and construction under public sector management. If the DCF model occurred, the merger would not have any impact because the market would be opened up to a wider range of companies, which would be bidding for the design, construction and maintenance of a building but not the management of the prisons.

7.41. The Prison Service said that it had tried three of the procurement models as set out in the Carter report, namely the public sector option, MO and PFI or DCMF. Each time it invited companies to tender, it developed what was known as a public sector comparator (ie what it would cost if it were to undertake the service in the public sector). It evaluated bids for DCMF contracts in terms of the whole life cost and risk transfer.

7.42. The Prison Service said that it had selected tenders for Ashford and Peterborough prisons, which it perceived represented the best combination of deliverability, quality, innovation and risk transfer on the one hand and cost on the other. Operational assessment was based on a marking system against a matrix of functional elements. The scoring system provided a method of weighting the scores for different criteria to take account of their relative importance. The lowest cost did not achieve value for money if the operational proposals were considered undeliverable. During the evaluation process the Prison Service also considered the existing market share of the respective bidders as part of its overall strategy of building a strong supplier base to meet the needs of the developing custodial service market. In the event this consideration did not come into play because the outcome of the competition was that UKDS was chosen on bid terms as preferred bidder for both prisons, bringing it to a comparable level to G4F and Premier.

7.43. In commenting on the merger, the Prison Service said that G4F and Premier dominated the custodial market in the UK. Between them they jointly held seven of the nine contracts for the management of prisons (including five of the seven constructed under the PFI initiative) and seven of the nine contracts for escorting prisoners to and from court. The Prison Service was concerned that there were only a very limited number of companies worldwide that could provide the full custodial service. About 90 per cent of the worldwide market was dominated by five companies, four of which the Prison Service dealt with. It was concerned that the merger might reduce the extent of future competition (rather than the effect on current contracts) in what was a very specialized and restricted market. The specialized nature of the contracts and the high costs of bidding, combined with the advantages (in terms of information and experience) enjoyed by incumbents presented substantial barriers to entry. New entrants also needed to consider the possible risk to their reputation. Outside the five contractors currently operating prison and escort contracts there were only two other major organizations worldwide (both in the USA) capable of bidding for its contracts. One had already unsuccessfully bid on two separate occasions and was unlikely to return to the market in the near future; the other had not recently shown any interest in entering the UK market. The Prison Service said that it would have a clearer indication as to whether there would be new entry in the escort market when it retendered its contracts in September 2002. It considered that the minimum number of bidders acceptable was three.

7.44. Prior to the merger the Prison Service had been concerned that it might lose one of its bidders. It did not have that many contracts to offer and it was expensive to bid. [

Details omitted. See note on page iv.

] The Prison Service believed there was a reasonable level of competition (four providers across 11 contracts). This meant that no one organization was likely to have a monopoly.

7.45. The Prison Service said that it had been provided with a number of documents by G4F, WCC and Premier which sought to reassure it that the businesses of G4F and Premier would be kept separate by the operation of Chinese walls. However, the Prison Service was concerned that the proposed Chinese walls would not sufficiently protect its interest in maintaining a competitive market and might result in one less bidder because Premier might be instructed not to bid or might decide not to bid at all. The Prison Service thought it would probably have to be much more prescriptive in terms of forming a barrier between G4F and Premier to ensure that they were completely separate and were competing effectively as individual companies. However, it said that the divestment by G4F of its majority shareholding in WCC, or the sale of WCC's stake in Premier to another company, would allay its concerns.

Immigration and Nationality Directorate

7.46. The IND told us that it provided secure places for immigrant detainees and the escort services to transport them around the country. It owned nine facilities, three of which were operated by the prison service and six of which were contracted out (respectively) to G4F (Oakington, Campsfield House and Yarlswood), WUK (Tinsley House), Premier (Dungavel in Scotland) and UKDS (Harmondsworth). It also had escort contracts with WUK, which dealt with the transport of detainees within the UK, and with Loss Prevention International, which dealt with removals outside the UK.

7.47. The IND said that its current policy was that all its new institutions should be contracted out. It believed DCM contracts were easier and more straightforward than PFI to implement. This was particularly important because the IND was under a great deal of pressure to open places quickly. However, this gave it very little room to manoeuvre on price.

7.48. With regard to its decision-making, the IND was in the process of centralizing the process to enable it to use its places more efficiently and aid the consistency of its detention decisions. Recent changes to the law meant that civil servants had the same legal authority as immigration officers to detain individuals on behalf of the Secretary of State.

7.49. The IND said that it was working towards an estate of 4,000 immigration removal places. This estimate was based upon the amount of detention capacity needed to achieve the 30,000 a year removals target. The closure of the detention centre at Yarlswood due to fire had reduced the number of places available and had also raised questions concerning the effectiveness of risk transfer to the private sector. The IND required all its contractors to obtain insurance; however, the current risks of riot and malicious damage could not now be totally covered and the central Government assumed some risk.

7.50. The IND did not see any signs of new entry. If anything, it saw signs of contraction in the market, partly brought about by the merger. The main barriers to entry were finding personnel who understood the custody aspects of the business (most of whom were employed in the public sector) and breaking into a market in which the other players were already established. The IND believed it would be quite difficult and expensive for new entrants to bid. To be considered a credible bidder, a company would need a sufficient depth of resources. The IND had not been particularly proactive in trying to broaden the market.

7.51. The IND was concerned that G4F, which had about 65 per cent of its business, was very dominant and might abuse its position. Unlike the IND's institutional contracts, which were limited in size, its escort contract business was growing all the time and was much more difficult to monitor. It was now worth £30 million a year (five times larger than when it started), the same as all G4F's institutional contracts with the IND.

7.52. On the issue of safeguards, the IND commented that Chinese walls would not necessarily be effective in preventing the transfer of information within G4F because of the likelihood of networking.

7.53. As regards remedies, the IND said that the sale of G4F/WCC's stake in Premier would reassure it to some extent.

Scottish Prison Service

7.54. The Scottish Prison Service told us that G4F and Premier were currently the main players in the UK market for custodial and escort services. It believed that the recent purchase by G4F of TWC was likely to have the long-term effect of reducing the level of competition in the market for custodial and escort services.

7.55. Although there was only one privately-managed prison in Scotland, operated by Premier, there were proposals for a further three. [*Details omitted. See note on page iv.*] The Scottish Prison Service was currently considering a request from Premier under the contractual provisions in connection with the G4F acquisition.

7.56. It said that it had been assured by Premier that the acquisition by G4F would have no impact upon the business of Premier and that WCC and G4F were committed to remaining totally independent operating and competitive entities. This would depend to a great extent on the creation and operation of Chinese walls at the level of TWC. The Scottish Prison Service had severe reservations about the effectiveness of such artificial divisions and the likelihood of them remaining relevant in the long term. It did not believe that these measures would sufficiently maintain a competitive market in the business of custodial services and of transporting prisoners.

7.57. Overall the Scottish Prison Service was concerned about the reduction in competition in what was a specialized market. The specialized nature of the contracts and the high costs of bidding, particularly for PFI contracts, presented substantial barriers to entry.

Youth Justice Board

7.58. The YJB told us that it was a non-departmental public body affiliated to the Home Office. It dealt with persistent juvenile offenders, aged between 12 and 17, in its three privately-run STCs.

7.59. The YJB said that the STC market was small and specialized with few credible bidders. Group 4 and Premier operated the three STCs in the UK (two and one respectively) and as such dominated the STC business. As a result of the merger G4F effectively controlled all three STCs. The YJB was keen to widen the bidding market for future STC contracts to increase the level of competition but believed the merger would only serve to reinforce G4F's dominant position and further reduce competition for future contracts.

7.60. Although there were prospects for growth in the STC market, there were only two other credible bidders at present: UKDS and Securicor. However, UKDS had withdrawn from the competition for a new STC project because it had recently been awarded two DCMF prison service contracts and was dedicating its resources to delivering these. Securicor, on the other hand, was a new entrant in the STC market and had no previous experience of building or running STCs. Until recently Premier had been an active player but had decided that it was not going to provide custodial services for either women or children and had withdrawn from the STC market. The YJB understood that Serco wanted to buy out WCC's 50 per cent stake in Premier and re-enter the STC market. If this occurred competition would be increased.

7.61. As a result of the acquisition G4F, Premier, WCC and TWC were effectively under joint control. The YJB did not feel that the safeguards intended to protect commercial confidentiality would be sufficient to allow G4F and Premier to compete independently and maintain free and fair competition when they bid for future STC contracts.

Associations

Prison Officers' Association

7.62. The Prison Officers' Association (POA) said that its principal concern relating to the merger was in respect of the current voluntary agreement between WUK and itself. This agreement, requested by WUK, allowed workers within this specialized area to have professional and responsive representation. The integrity of the agreement was important to both WUK and the POA.

7.63. The POA was also concerned that the merger could lead to G4F becoming the market leader in the private sector custodial system despite its poor reputation in the field.

The Howard League for Penal Reform

7.64. The Howard League for Penal Reform was concerned about the merger for the following reasons:

(a) If competition were significantly reduced, the consequent benefits to the state prisons would be negligible.

(b) The diversity of the prison estate would be drastically reduced as a result of the merger.

(c) The creation of a virtual commercial monopoly would increase costs to the taxpayer.

(d) Allowing one conglomerate to have a stranglehold on prisons holding children from the age of 12 was dangerous.

Others

HM Treasury

7.65. HM Treasury told us that its revised approach to public spending in the areas covered by our inquiry meant that it looked at broad policy proposals to see whether they offered value for money. The Treasury did not intervene in discussions between the criminal justice departments on detailed issues but always tested any proposals or plans against the position of the criminal justice system as a whole. Its interaction with the criminal justice departments was mainly achieved through its involvement in the committee structures of the criminal justice system and the customary Treasury role of challenging expenditure proposals. The Treasury explained that there were formal delegated limits to incur expenditure in specified circumstances, but departments were also still required to obtain Treasury approval for expenditure which was novel or contentious within the definitions set out in *Government Accounting*. The types of contract being considered by the CC would not, however, normally fall into this category.

7.66. Formal projections of the prison population were produced by the Home Office. There was a considerable degree of uncertainty about a possible upper limit because of the variety of factors (including the Government's sentencing policy) that influenced size. It was similarly difficult to predict with any degree of accuracy what the future number of asylum seekers would be because of a range of factors.

7.67. The SR 2002 spending plans underlined the Government's commitment to improving value for money in the Prison Service through a benchmarking programme and separate responsibilities for setting standards, contracting strategy and performance monitoring.

7.68. HM Treasury said that private sector involvement in prisons had created competition and led to a change in the way the prison service approached non-private contracts. There was now a greater focus in the Home Office on raising performance and taking some of the lessons that had been learned in the private sector into the public sector. The Treasury required the Prison Service and wider Home Office to seek advice from the Office of Government Commerce and Partnerships UK as to what was the best form of contractual arrangement to achieve the required outcome.

7.69. The Treasury explained that there was no overall policy favouring either publicly- or privately-run prisons. Cases would continue to be judged on their merits. However, the Treasury believed that the DCMF programme had offered good value for money and helped meet the Government's needs as driven by the prison population. The Treasury believed strongly that there was a great deal of value to be achieved from having a mixture of private contracts and publicly-run establishments in the prison service.

E J SEDDON *(Chairman)*

J BAILLIE

R D D BERTRAM

C WADDAMS

A M YOUNG

R FOSTER *(Secretary)*

26 September 2002