

TIMES NEWSPAPERS PURCHASE AVOIDS
MONOPOLIES PROBE

The U.K. Minister of State for Trade announced on January 27, 1981 that the purchase of Times Newspapers by Mr. Rupert Murdoch had been approved subject to eight conditions and that he would not refer it to the Monopolies and Mergers Commission.

The Fair Trading Act of 1973 makes an ownership transfer involving large newspapers unlawful without the consent of the Trade Secretary. Moreover, such consent may not be granted without a report by the Monopolies and Mergers Commission except when the newspaper concerned is not economic as a going concern and as a separate newspaper. The Commission must report "whether the transfer in question may be expected to operate against the public interest, taking into account all matters which appear in the circumstances to be relevant and, in particular, the need for accurate presentation of news and free expression of opinion."

In effect, the Trade Secretary based his decision against a reference upon the need for quick action and the failing firm argument, although there was some evidence that the Sunday Times was a viable operation. According to the Financial Times of January 28, the eight conditions upon which approval of the transfer was granted are:

- The newspapers are to be published as separate newspapers
- Future disposals are to be subject to the consent of a majority of the independent national directors of Times Newspapers Holdings
- The number of these independent directors is to be increased from four to six, and the appointment of any more is not to be made without the approval of the existing independent national directors
- Editors shall not be appointed or dismissed without the approval of the majority of the independent national directors
- The editor of each newspaper shall retain control over any political comment published in his newspaper, and in particular, shall not be subject to any restraint or inhibition in expressing opinion or in reporting news that might directly or indirectly conflict with the opinions or interests of any of the newspaper proprietors

- Instructions to journalists shall be given only by the Editor or those to whom he has delegated authority
- The Editor shall retain control over the appointment, disposition and dismissal of journalists on his newspaper and of all other content of his newspaper, subject only to any annual budget for editorial space and expenditure
- Disputes between the Editors and the directors of the companies are to be settled by the independent national directors

BREACH OF UNDERTAKINGS TO U.K.
RESTRICTIVE PRACTICES COURT
MAY LEAD TO IMPRISONMENT

Mr. Gordon Borrie, U.K. Director General of Fair Trading, has warned that defiance of orders of the Restrictive Practices Court could lead to imprisonment of company directors.

The Restrictive Trade Practices Act requires registration of restrictive agreements and for their discontinuation if the Court so orders. Failure to observe such an order constitutes contempt. Mr. Borrie stated on October 24, 1980:

"Company directors may also face fines and imprisonment if they defy orders of the Restrictive Practices Court. This summer I challenged a prices agreement by certain pipe manufacturers. They were found guilty of contempt and fined £186,000. In his summing up Mr. Justice Mocatta indicated strongly that in future I should consider proceeding in such cases not only against the companies but against individual directors. Clearly this is something I shall have to investigate in any future case and the penalties might well in future not only be company fines but fines on or imprisonment of directors."

On December 17, 1980, British Steel Corporation was fined £50,000 for breach of the same undertaking, which was not to fix prices or tender collusively in the manufacture of concrete pipes. According to the Financial Times of December 18, the Chairman of British Steel informed the Court that British Steel may have been involved in other unlawful agreements, and he undertook to register such agreements. Failure to register does not in itself bring criminal penalties although the agreement becomes void in law. As reported in the Record of December, 1980, the U.K. Government is considering whether criminal sanctions should be introduced for collusive tendering. Such agreements would be unlikely to be registered because they would normally be disallowed by the Restrictive Practices Court.