

"Too many legal decisions in recent years have been founded upon unsound, outdated economic theories. Too many unsound cases have been settled just to avoid the uncertainty and expense of litigation -- even where the underlying legal theory is dubious or counterproductive to procompetitive forces. As part of our effort to further competition in the real world of commerce, we believe that every effort must be made to raise legal doctrine to the state of the art in assessing economic reality. We will therefore seek leave to participate as amicus or to intervene in selected private actions when our participation could positively influence the development of law. Through such participation, we hope to persuade courts to eliminate anticompetitive doctrines that have found their way into law, and to make less likely the adoption of such doctrines in the future...

"We will also undertake a broad reassessment of our antitrust enforcement practices concerning international commerce -- and especially joint ventures by American businesses that are not likely to have anticompetitive effects on domestic markets. The federal government should not -- and rational antitrust enforcement need not -- impede American firms' efforts to compete internationally.

"In addition, we are studying those serious problems caused by the extra-territorial reach of our antitrust laws. Too mechanical an extraterritorial application of those laws fails adequately to take account of our own commercial interest as well as the legitimate interests of our trading partners."

## **DEVELOPMENTS IN THE UNITED KINGDOM**

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The Office of Fair Trading has brought to light three more sets of unregistered agreements. On June 29 a secret price fixing agreement among six manufacturers of gas-fired central heating boilers was disclosed. On August 10, three hitherto secret agreements of a registrable kind involving British Steel Corporation were placed upon the register. Last December, British Steel was fined £ 50,000 for collusion and undertook to check if it was involved in any more agreements; that check brought the other agreements to light. On August

17, the existence of two secret price fixing agreements among manufacturers of steel rolls was brought to light. All the foregoing agreements are to be challenged by the Director of Fair Trading before the Restrictive Practices Court.

In May, 1981, the Monopolies and Mergers Commission issued its report on non-cost justified discounts to retailers, principally the retail food chains. While the Commission confirmed the existence of such discounts to the large chains, it found that many of the savings had been passed on to consumers and the practice had had pro-competitive effects. While it warned that future mergers in the distributive trades could be matters of concern, it did not recommend any new legislation to deal with price discrimination at present. Cases of price discrimination can be investigated under the Fair Trading Act of 1973 and the Competition Act of 1980.

In July, acting upon a report from the Monopolies and Mergers Commission, Trade Secretary John Biffen announced that the acquisition of The Observer by the Lonrho organization would be permitted subject to certain conditions. One of the conditions recommended by the Commission is that six independent directors be appointed to the board of The Observer to protect its editorial independence.

#### OECD RELEASES REPORT ON BUYING POWER

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The Organization for Economic Co-operation and Development in Paris has published a report entitled "Buying Power: The Exercise of Market Power by Dominant Buyers".

The report, which was prepared by a working party of the Committee of Experts on Restrictive Business Practices, is based largely upon replies by Member Countries to a questionnaire. It includes an analysis of the economic effects of buying power and a summary of approaches taken by Member Countries. There is an appendix of 80 pages describing the relevant laws in most Member Countries.

The concluding chapter emphasizes the ambivalent nature of buying power. For example, the development of large firms in the distributive sector has intensified competition to the benefit of consumers while at the same time creating competition problems associated with increased concentration and vertical integration. The principal measures cited for dealing with the harmful