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PRIME MINISTER

British Gas Corporation: Retailing of Gas Appliances
(E(81) 68 and 69)

BACKGROUND

In their report of July 1980, the Monopolies and Mergers Commission (MMC) conclude that the British Gas Corporation's (BGC) domination of the gas appliances market acts against the public interest; BGC account for over 90 per cent of retail sales of gas cookers, fires and water heaters. The Commission allege that the arrangements inhibit competition in the retail trade and remove competitive pressure from the manufacturers.

2. When this issue was discussed by the Sub-Committee on Disposal of Public Sector Assets (E(DL)), Ministers agreed on the need to tackle the problems identified by the MMC but not on the best method of doing so - the Secretary of State for Industry's report to you of their discussion has been circulated under cover of E(81) 68. The Secretary of State for Energy's own views and proposals have been circulated as E(81) 69. The main alternatives so far identified are:-

- (i) The proposal by the Minister of State, Department of Trade (Mrs. Oppenheim) that BGC should be required to withdraw from gas retailing over 5 years, disposing of half of its 931 showrooms within 2 years, a quarter in the following year, and the remaining quarter in the final 2 years.
- (ii) The Secretary of State for Energy's alternative proposal is that BGC should hive off the retail sale of gas appliances into a separate subsidiary; that BGC should continue to buy gas appliances wholesale, but should sell them to reputable private retailers and its own subsidiary on the same terms; and that the retailing subsidiary should be sold to the private sector when practicable.

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3. As the Secretary of State for Energy points out in E(81) 69, both the manufacturers and the various consumer organisations are opposed to forcing BGC out of the business. They fear that, if retailers were to fail to respond to the challenge, the result would be increased imports at the expense of British manufacturers and of jobs; that consumers could suffer if safety regulations were inadequate; and that they would be inconvenienced by the disposal of showrooms which also serve as sources of advice and centres for the payment of gas bills. A majority of Ministers at the E(DL) meeting were, nevertheless, disposed to support Mrs. Oppenheim's proposal on the grounds that it was phased over 5 years, to give manufacturers and retailers time to respond, and could be operated flexibly. They were not convinced that the Secretary of State for Energy's proposals would stimulate private sector and retail activity: BGC's continuing presence in this market could deter private sector retailers from taking the risks of moving in; there would be difficulties in supervising and policing BGC's role to ensure that they were operating as intended - and the Office of Fair Trading could not take this on without increasing its manpower.

4. There are, as yet, no reliable estimates of the disposals value of the showrooms. Figures from £30 to £50 million have been suggested, but much turns on how much accommodation BGC would have to retain for dealing with consumer advice, bill paying and so on. E(DL)'s view was that, while disposals receipts would be useful, this was a less important factor than that of ensuring open competition in this market.

5. Although the majority of E(DL) were sympathetic to Mrs. Oppenheim's proposals, they recognised that these would involve a number of practical problems, in part real and in part whipped up by the campaign against radical changes which both the Corporation itself and the gas unions were conducting. In summary these difficulties are:-

- (i) Safety: public opinion would need to be satisfied that the installation and maintenance of gas appliances under any new arrangements would be safe and not vulnerable to fly-by-night operators; legislation could be necessary.



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- (ii) Industrial action by the gas unions: however deplorable, the risks of damaging and disruptive action cannot be ignored.
- (iii) Legislation: this problem derives from the Corporation's opposition to the proposals since, if they could successfully argue that a direction would be ultra vires, primary legislation would be necessary.

6. The problems of legislation are set out in the Annex to the Secretary of State for Energy's paper E(81) 69. As the Secretary of State explains, a final view cannot be taken until BGC have themselves formally stated their arguments. It seems probable, however, that to force BGC to sell their showrooms, without risk of challenge in the courts, will need new primary legislation. The Secretary of State for Energy also argues that new legislation will be necessary to deal with safety regulations, both for standards of gas appliances and for standards of installation and servicing. His own proposals would not require early legislation.

7. The Gas (Industrial and Commercial Supplies) Bill provides a possible vehicle for this in the 1981-82 Legislative Programme. When Cabinet discussed the legislative programme on 11th June, they were seriously concerned that this Bill would not be ready for introduction before February, and decided that its place in the programme would have to be looked at again unless it could be introduced considerably earlier. (CC(81) 22nd Conclusions, Minute 4). Even if this problem could be met, and Cabinet were to approve inclusion of the Bill in the programme, there would be difficulties in extending it to deal with the disposal of showrooms. There is no doubt that the measures would be contentious and that their inclusion would add to the problems of introducing the Bill and getting it through in good time.

HANDLING

8. You might invite the Secretary of State for Energy to introduce his paper first, and then ask Mrs. Oppenheim to put her counter proposals, (the Secretary of State for Trade is in Luxembourg). You might then ask the

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Secretary of State for Industry to speak, as Chairman of E(DL) and to advise the Committee on the implications of the alternatives for the manufacturers. The Chancellor of the Exchequer has a particular interest in the potential receipts from disposals; and the Secretaries of State for Scotland and for Wales on the implications for showrooms in their countries. The Attorney General can advise the Committee on how probable is the need for legislation (although he will be unable to give definitive advice until BGC have been formally consulted). The Chancellor of the Duchy of Lancaster will want to comment on the impact on the legislative programme, if legislation is necessary, and the Lord President of the Council on any problems in the passage of the Bill through the Lords.

9. In discussion the main points which you will need to cover seem to be:

- (i) Why is the experience of the gas and electricity industries so different? Electricity Boards have a similar network of showrooms to gas but face a vigorous and competitive private sector and handle only a small fraction of total sales of electrical appliances. Are there any clues to policy here?
- (ii) Assuming that the alternatives identified in the papers are the only ones available, which is likely to serve best the interests of consumers and manufacturers - with the answer turning largely on a judgment of how the retailers would be likely to respond to the challenge?
- (iii) How best to deal with the problems, real and otherwise, of safety under any new regime.
- (iv) The weight, if any, to be given to the threat of industrial action if the more radical option is adopted.
- (v) The problem of legislation.

10. If the Committee prefers Mrs. Oppenheim's proposal you will want to ask the Secretary of State for Energy to consult BGC urgently and formally with a view to establishing whether legislation is necessary; it seems that, in the meantime, the working assumption should be that it would be necessary and that the 1981-82 Legislative Programme would have to accommodate the measures.



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11. If the Committee prefers the Secretary of State for Energy's solution, he will need to consult BGC urgently and consideration will have to be given to how the new organisation should be supervised - note the point in paragraph 3 above that the Office of Fair Trading could not do this without taking on additional manpower.

12. Either way, the Secretary of State for Trade, or Mrs. Oppenheim, will want to make a statement as soon as possible on the action which the Government intends to take in response to the MMC's report.

CONCLUSIONS

13. In the light of the discussion you will wish to record conclusions on whether the Committee supports the course proposed by Mrs. Oppenheim (paragraph 2(i) above) or that by the Secretary of State for Energy (paragraph 2(ii) above). Either way the Secretary of State for Energy will then need to consult urgently with the BGC (paragraphs 10 and 11 above) and, following that, the Secretary of State for Trade will need to make a statement on the Government's response to the MMC report. The Cabinet will need to take account of the outcome in their further discussion of the 1981-82 Legislative Programme.

Robert Armstrong

22nd June 1981

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