Editorial

Competition Policy: Half a Review

The review of competition policy announced by Paul Channon on June 5 is not all that it is cracked up to be. Built-in restrictions mean it can only ever be half a review at best, for the 1980 Competition Act is deemed too young to be subjected to scrutiny.

Indeed, "Liesner Mark II" (the review will be conducted under the chairmanship of the same Civil Servant as the last such exercise, in 1977–79) will be virtually indentical in scope to the Mark I version. If the only legislation in the field since then is excluded from the terms of reference, why the repeat performance?

The answer, of course, is that merger mania has in recent times left the Government without even a figleaf of policy to hid its nakedness. A properly though out approach to such activity is urgently required.

Less clear is the need for a review of restrictive trade practices policy only seven years after the Liesner I Report (Cmnd 7512). Not that business won't welcome it; the mystery is how the Government justifies it.

The existing law treats differently restrictive agreements, anticompetitive practices, dominance and mergers; additionally, the Treaty of Rome introduces further complications. The Restrictive Trade Practices Acts are unduly formalistic, not to say imcomprehensible, and new legislation based on efficiency and competition rather than on the form of agreements would be welcomed.

The Restrictive Practices Court has shown that a judicial tribunal is the wrong body to judge questions of public interest. The House of Lords judgment in *BL v Armstrong* earlier this year further demonstrated the problems of letting the judiciary interfere. The Monopolies and Mergers Commission should play a greater role, but must be made more effective; it presently takes far too long to wheel it into position, its aim is erratic, and when the ammunition boxes are opened they are often found to be empty.

Which brings us back to the Competition Act. Designed by Liesner I to fill a gap in competition policy, it has succeeded mainly in causing unparalleled aggravation for industry. A review of its procedures would be timely — surely, six years is a reasonable age for a little fine tuning.

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If the result of the new review is a properly thought out, well-integrated new law of competition, which meshes properly with the EEC system (so that beneficiaries of group or individual exemptions don't find they still need to register under domestic legislation), then it will have achieved something. If as seems likely, the result falls short of this, why bother?