STATUTORY INSTRUMENTS

1988 No. 1017

MONOPOLIES AND MERGERS

The Restriction on Conduct (Specialist Advertising Services) Order 1988

Made - - - -	*9th June 1988*
Laid before Parliament	*15th June 1988*
Coming into force	*6th July 1988*

Whereas the Secretary of State, in accordance with section 91(2) of the Fair Trading Act 1973(**a**), published on 29 January 1988 a notice stating his intention to make this Order, indicating the nature of the provisions to be embodied in it and stating that any person whose interests were likely to be affected by it and who was desirous of making representations in respect of it should do so in writing before 7th March 1988;

And whereas the Secretary of State has considered the representations duly made to him in accordance with that notice;

Now, therefore, the Secretary of State, being the appropriate Minister within the meaning of section 56 of the said Act, in exercise of the powers conferred by sections 56(2) and 90(2) of, and paragraphs 4, 6 and 7 of Schedule 8 to, the said Act and for the purpose of remedying or preventing adverse effects specified in a report of the Monopolies and Mergers Commission entitled "A report on the matter of the existence or possible existence of a monopoly situation in relation to the supply in the United Kingdom of the services of accepting advertisements for publication in specialised magazines intended for campers, climbers and walkers"(**b**), hereby makes the following Order:

1. This Order may be cited as the Restriction on Conduct (Specialist Advertising Services) Order 1988 and shall come into force on 6th July 1988.

2. In this Order–

"price-bearing advertisement" means an advertisement containing information as to the price of the goods to be advertised;

"specialist advertising services" means the services of accepting advertisements for goods for publication in a magazine primarily intended for campers, climbers or walkers; and

"specialist publisher" means a person who publishes a magazine primarily intended for campers, climbers or walkers.

3.—(1) Except in the circumstances described in paragraph (2) of this article, it shall be unlawful for a specialist publisher to withhold or to agree to withhold or to threaten to withhold specialist advertising services from any person who gives an order to place a price-bearing advertisement.

(2) The circumstances referred to in paragraph (1) of this article are those where specialist advertising services are withheld, or would be if an agreement or threat to

(**a**) 1973 c.41. (**b**) Cm 280.

withhold were carried out, for a reason which could have lead a reasonable specialist publisher to withhold such services, such reason not being–

(a) the fact that it is a price-bearing advertisement or

(b) the fact that the specialist publisher believes or suspects that a person will withhold orders for specialist advertising services or for any magazine intended primarily for campers, climbers or walkers published by the specialist publisher if price-bearing advertisements are accepted by the specialist publisher.

4.—(1) It shall be unlawful for any specialist publisher–

(a) to discriminate in the manner specified in paragraph (2) of this article in the prices charged for specialist advertising services between persons who give orders to place advertisements; or

(b) to do the thing specified in paragraph (3) of this article being a thing which appears to the Secretary of State to amount to discrimination in the prices charged for such services.

(2) The manner referred to in paragraph (1)(a) of this article is by treating a person who gives an order to place a price-bearing advertisement, as regards prices charged, in a manner significantly less favourable than he normally treats persons who give orders to place other advertisements in similar circumstances.

(3) The thing referred to in paragraph (1)(b) of this article is treating a person who gives an order to place a price-bearing advertisement, as regards terms or conditions as to credit or discount, in a manner significantly less favourable than he normally treats persons who give orders to place other advertisements in similar circumstances.

5.—(1) It shall be unlawful for a specialist publisher to give or agree to give such preference in respect of the supply of specialist advertising services as is specified in paragraph (2) of this article.

(2) The preference referred to in paragraph (1) of this article is treating a person who gives an order to place an advertisement not containing information as to the price of the goods to be advertised in a manner significantly more favourable with regard to the terms or conditions on which the services are supplied (other than those as to price, credit or discount), promptness of publication, location of the advertisement or any other matter arising in the execution of the order than that in which he normally treats persons who give orders to place price-bearing advertisements in similar circumstances.

Francis Maude
Parliamentary Under-Secretary of State,
Department of Trade and Industry

9th June 1988

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to publishers of magazines intended for campers, climbers or walkers ("specialist publishers"). It makes it unlawful, except in specified circumstances, for specialist publishers to withhold advertising services from persons seeking to place advertisements containing information relating to the price of goods advertised. It also makes it unlawful for specialist advertisers to discriminate in the prices charged for advertising services or terms as to credit or discount, between persons placing orders for advertisements containing such information and others, or to give other preferential treatment to persons placing orders for advertisements not containing such information.

Copies of the report of the Monopolies and Mergers Commission on which the Order is based (Cm 280) may be obtained from Her Majesty's Stationery Office.