

Retail's heavy-handed regulation



So farewell to both the Office of Fair Trading and the Competition Commission.

Both have been consigned to the great filing cabinet of history, unlamented, I suspect, by anyone in retail.

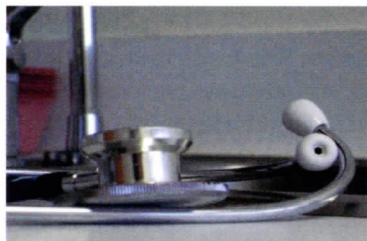
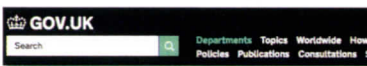
They follow their imaginatively named predecessors the Monopolies and Restrictive Practices Commission, the Monopolies Commission, and the Monopolies and Mergers Commission.

These organisations have always tended to sit uncomfortably between two forces. On the one hand, they are quasi-judicial, quasi-academic bodies investigating commercial activities.

On the other, they feel they have to respond to politicians and media in their periodic fits of moral outrage. For example, in the late 1990s a press campaign decried 'Rip-off Britain' and the regulators duly responded by instigating an OFT and then a Competition Commission inquiry into the grocery industry. This lasted two years, cost many millions of pounds and produced very little.

I remember being confronted by a Competition Commission panel with the information that Sainsbury's fish counters operated at a loss. Yes, I admitted ruefully, as the finance director, this was something I much regretted, but we believed that customers wouldn't take a superstore seriously in fresh food without a proper fresh fish offering.

We were of course working to reduce waste and improve performance. No, they said, that's not what you're doing. You are deliberately



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losing money in order to drive smaller grocers out of business.

Then we tried to explain some of the economics of retailing, for example that larger stores have certain economies of scale, such as having one management team across more staff.

The Competition Commission wouldn't accept this. They knew better. Staff costs were similar across all store sizes, they said triumphantly.

But that's because we used economies of scale to allow us to afford to put more services, such as service counters and coffee shops, into larger stores. Ah, they said, and that just goes to show that you are using your market position to squeeze your competitors.

The Competition Commission was staffed by full-time employees, but the inquiries were governed by panels of 'non-executives'.

They would typically include an academic economist, someone with some business experience, perhaps a lawyer, an ex-regulator, a commentator or an ex-accountant.

They would usually not include anyone who knew anything about retailing. Everything that you took for granted about how retail worked could be challenged based on preconceptions and little knowledge.

The OFT and the Competition Commission have now been replaced by the Competition and Markets Authority. However, the clarion calls of politicians and media for penal regulatory inquiries have not changed, as the energy industry will attest.

I wonder if the tradition of interminable investigation followed by inconsequential recommendation will change? The King is dead, long live the King.