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The abolition of resale price maintenance in Britain in 1964: a turning point for British manufacturers?

'God made the wicked grocer as a mystery and a sign....' (G.K.Chesterton)

The Resale Prices Act of 1964 banned RPM.[1] This Act was very fiercely contested within the Conservative Party, for opponents of the Bill feared that the numbers of independent retailers would dwindle so undermining traditional areas of support for the Party. While the fears within the Conservative Party were well-grounded - the Act helped the long-standing process of concentration within the retailing sector - this paper argues that to view the effect of the Act only in relation to the competitive struggle between large and small retailers seriously underestimates the long-term significance of the Act. It argues that the effect of the Act was to give legal acknowledgment to the growing powers of multiple retailers, not only over smaller retailers, but more importantly over manufacturers. In turn the Act opened up a period in which, by the 1980's the shift in the balance of power between retailers and manufacturers was known, marked and the subject of academic and government enquiry as to its effects on consumer welfare.[2]

The paper has four parts. It begins with an outline of the extent of rpm and a brief description of the complex legislation which lead up to the final ban. Three points are

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[1] The Act made any condition or agreement between supplier and dealer concerning minimum resale prices void, unless the Restrictive Practices Court specifically allowed such an agreement to continue. It made it unlawful to withhold supplies on the grounds that the dealer sold at prices below the published price, with the specific exclusion of goods used as 'lossleaders'.

[2] G. Akehurst `Concentration in Retail Distribution: Measurement and Significance' in G. Akehurst and N. Alexander *Retail Structure* London:Cass (1995). e.g. R.Grant 'Manufacturer-Retailer Relationships: The Shifting Balance of Power' in G. Johnson (ed) *Business Strategy and Retailing* Chichester: John Wiley (1987), pp.43-58. Monopolies and Mergers Commission (MMC) *Discounts to Retailers* H.C.311 London: HMSO (1981); Office of Fair Trading *Competition and Retailing* London: OFT (1985).

then developed. First, that the backbone of rpm derived from manufacturers, although supported by independent retailers, and that this tendency was actually increasing up to 1964. Secondly, the paper outlines the ways in which retailer dominance was asserted as a result of 1964, especially through the growth of retailer brands. Finally the paper argues that the government's decision to abolish rpm was therefore a deliberate siding with large retailers in the competitive struggle, and involved a vital shift in the distribution of property rights between manufacturers and retailers.

Part 1: The extent of rpm, 1956-64

Resale price maintenance (hereafter rpm), or vertical price-fixing, is: 'a practice by which suppliers of goods designate the prices at which goods they sell shall be resold by distributors'.[3] The manufacturer retains the rights over his products, as regards pricing, even once they have been sold on to the wholesaler or retailers. Rpm took two forms. Either resale prices were determined or upheld or both, by groups of manufacturers and/or retailers, a form called 'collective rpm'. Under this a trade association could implement a boycott, adhered to by all members of the association, against firms selling below the stipulated resale price. A second method was individual rpm, that is individual enforcement of rpm. This took the form either of agreements between a manufacturer and retailers and/or wholesalers, making observance of the fixed price contractual and enforceable through the use of boycott or refusal to grant discounts; or an individual supplier might simply recommend prices and margins for distributors. Again a firm could refuse to supply retailers/wholesalers selling below (or above) the fixed price. The fixing of the price meant also fixing retail margins. These could vary, although 33.3% was very common. The retail margin represented an arithmetical measurement of the balance of competitive power between the various actors: manufacturers, wholesalers and retailers.

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[3] Corwin D.Edwards *Control of Cartels and Monopolies. An International Comparison* New York: Oceana (1967) p.101.

Often the multiples could secure higher margins, of up to 40%, while on the other hand some manufacturers could squeeze retail margins -Heinz gave a margin of 16% in 1949[4].

Rpm first became significant in the 1890's and is strongly associated with the development of mass-produced branded goods. By 1938 about 30% of consumer expenditure was on price-maintained goods.[5] The war and post-war period greatly strengthened the practice and the influence of retail trade associations, while manufacturer branding and advertising increased. By 1956 an upper figure gave 55% of all consumer expenditure being on price-maintained goods, while another estimate put it at 34% on goods and services, and 44% on goods alone.[6]

Rpm began to break down between 1956 and 1964 partly as a result of the 1956 Restrictive Trade Practices Act. This banned collective discrimination to enforce rpm, a practice which perhaps affected 13% of consumer expenditure in 1956[7]. It thus removed the key prop in those trades where collective rpm was important - notably groceries, tyres and some toiletries. However, the Act strengthened 'individual' rpm: prices arrived at individually by the manufacturer could be enforced on retailers through the courts, and trade associations could be used as the agent of a manufacturer to enforce price conditions. Indeed, the Act allowed a manufacturer to enforce his resale prices on third parties: that is someone with whom he did not have a contractual arrangement as to resale prices must still, if he had had due notice of them, stick to the fixed prices. As a result, while rpm probably decreased overall, it actually showed signs of strengthening

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[4] PRO BT64/257 RPM(E)46 evidence of H.J.Heinz to the Committee on Resale Price Maintenance, 1948.

[5] J.F.Pickering *Resale Price Maintenance in Practice* London: Allen & Unwin, 1966, p.45.

[6] Pickering *Price Maintenance* p.48, and citing Mark Abrams *The Times* 22 January 1955.

[7] Pickering *Price Maintenance* p. 48.

elsewhere. Indeed, it was only once individual rpm became enforceable in 1956 that many manufacturers began to prescribe fixed resale prices: hence rpm spread in the hardware trade, footwear, electrical appliances, furniture, stationery and branded textiles.[8] In 1960 the government set up a confidential and internal committee of enquiry, whose report emphasised that market forces alone would not bring about its demise: the practice was firmly entrenched and required tough, unequivocal legislation[9].

Hence by 1960-64 rpm - that is rpm where the prices were decided by the manufacturer and enforced by his own efforts - was still extensive. Table 1 shows the wide variety of calculations made, but some agreement as to the general extent is evident: about 30-40% of consumer expenditure was on price-maintained goods. Table 2 isolates the key areas affected. The extent of rpm was, however, even greater than any of these figures would imply. The collection of figures was based on the government's view that rpm was a question of retailing restrictions which reduced competition and raised prices to the consumer. Hence the figures ignored those areas where rpm governed relationships between manufacturers and their industrial or public authority consumers. Evidence to the Board of Trade enquiry brought to light many such cases of rpm: in machine tools and machine tool equipment, office equipment, engineering tools, dentists' equipment, surgical instruments, medical equipment, scientific and laboratory instruments and equipment, fertilisers, tractors, combine harvesters and their replacement parts.[10] Later, when rpm was banned, manufacturers had to register their rpm agreements with the Registrar of Restrictive Trading Agreements: at this stage many more such cases came to light of goods not bought by the public but by firms or public authorities. For instance some of the goods covered were: cement, carbon paper, filing cabinets, compressed air

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[8] Pickering *Price Maintenance* p.154.

[9] PRO BT258/1187 'Report of the Board of Trade Committee into Resale Price Maintenance' 2 October 1961, para.234. There were three members of this committee - R.W.A.Speed, R.F.Bretherton and J.Stafford.

[10] PRO BT258/1187 'RPM' pp.53-8.

motors, typewriters, microphones, mercury, flocs, industrial gloves, steel ventilators for strongrooms, permanent magnets, surveying, hydrographic and navigational instruments, engineers' revolution counters.[11]

Hence we may conclude that by 1964 individual rpm was a very prevalent practice penetrating deep into the heart of British manufacturing. Nor was it to disappear easily. The 1964 Act banned all fixed prices, although a manufacturer could recommend a maximum price. Those parties who wished to have their rpm conditions exempted had to register with the Registrar and these cases were then judged in batches by the Restrictive Practices Court. Only two cases were allowed - books and medicaments, and elsewhere rpm gradually broke down between 1964 and 1969 when the last of the batches was decided by the Court. However, rpm was widely replaced by recommended resale prices, which in turn became the subject of government enquiry. A Monopolies Commission report found recommended resale prices were especially prevalent in cars and parts, domestic electrical appliances, photographic goods, groceries wines and spirits and branded textiles. However, wide-spread cutting of recommended resale prices was notable in some case: groceries and electrical appliances (see Table 3).

Part II: Manufacturers and rpm: the position in 1964

By the 1960's, it is very clear that manufacturers in the area concerned kept a tenacious grip on the system of rpm. Between 1956 and 1964 manufacturers were empowered to enforce their prices through the courts. This power was used extensively as Table 4 shows. These figures do not give a full picture as it was clear a court action was the last resort and simply the threat achieved the same ends: 90% of all cases where the manufacturer started to take action over reported price-cutting were settled before reaching court, by the trader giving the manufacturer undertakings. It was, indeed, mainly

[11] This was the list selected by B.S.Yamey 'United Kingdom' in B.S.Yamey (ed.) *Resale Price Maintenance* London: Weidenfeld and Nicholson, 1966, p.276.

the large manufacturers who took the legal route: a few large manufacturers obtained 10 or more of the injunctions: the Beecham group lead the way with 18.[12]

Evidence to two government enquiries supports this picture of manufacturer adherence to rpm. Manufacturers' associations formed the single most important group providing evidence to the confidential Board of Trade enquiry into rpm of 1960. After the Act was passed those parties who wished to register their resale price conditions could do so within three months and these were then judged in groups by the Restrictive Practices Court. Most of these cases were not allowed, and the vast of bulk of them were not even contested. But in three cases a challenge was made and long judgments given - confectionery, footwear and medicaments: in all three cases the case was made by the manufacturers - in particular the leading manufacturers, and although their arguments involved the concerns of small retailers the thrust of their evidence was the effect on the decisions of and strategies of manufacturers.[13]

As has already been shown, rpm was speedily replaced after 1964 by recommended resale prices. When this was investigated in 1968 the evidence given to the Monopolies Commission showed that recommended resale prices largely replaced rpm and manufacturers were the backbone of the system. Retailers' organisations - the National Chamber of Trade and the Association of Engineering Distributors favoured the practice while the Federation of Wholesalers' Organisations found it 'useful'. But in all the specific trades covered by the Commission, manufacturers provided firm and independent evidence in favour.[14]

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[12] Pickering *Price Maintenance* p.84

[13] BPP (1968-9) *Restrictive Trading Agreements. Report of the Registrar, 1 July 1966 to 30 June 1969* Vol.18, Cmnd 4303, pp. 27-31.

[14] Monopolies Commission *Recommended Resale Prices* BPP (1968-9) Vol.40.

The Board of Trade's internal enquiry of 1960 is an especially enlightening source for the opinion of manufacturers. The general tenor of remarks is well sumarised in the remarks of the Branded Textiles Group:

> The full advantages of large scale production....cannot be obtained and consequently cannot be passed on to the public unless reasonably long uninterrupted production runs can be guaranteed and these, in turn, depend on wide distribution and steady demand....By providing the retailer with a small though adequate profit margin and protecting him against loss-leading and price cutting, manufacturers are able to maintain the wide distribution network on which the whole system depends'.[15]

The perceived need for rpm varied across sectors. RPM allowed for specific conditions to prevail in certain sectors. In tobacco and confectionery where manufacturers believed 'impulse buying' to be important rpm allowed for a proliferation of outlets.[16] In many areas, such as car accessories, books and electrical appliances rpm covered those retailers - often specialists - who stocked slow-selling brands. In turn this, it was argued, provided stable markets to allow mass production runs even for such slow-selling and relatively more expensive items[17]. In electrical goods and spare parts for cars, rpm and fixed margins were a means to compensate the retailer for after and pre-sales service and so ensure that quality and performance matched the promise of national advertising. Hence rpm was one aspect of the conditions favouring large-scale production for mass markets.[18]

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[15] PRO BT258/1088 RPM(60) Brief 21 'Textile Industry' Annex 1 'Memorandum on RPM' by The Branded Textiles group.

[16] PRO BT258/1087 'Report on rpm' p.59.

[17] PRO BT258/1088 Booksellers Association 'Submission to the Board of Trade enquiry into RPM'.

[18] PRO BT258/1088 RPM(60) Brief for discussions with SMMT and BMTA and

(continued...)

Rpm was perceived as being an important supplement to branding, as one manufacturer of branded textiles explained: 'if price wars start it is always the branded line that is used'.[19] Finally, BEAMA - the British Electrical and Allied Manufacturers' Association made a case for rpm as a means to create stable conditions at home to foster extended exports. The industry faced strong foreign competition at home, abolition would 'completely disrupt' the home trade, bring no benefit to the public and place an extra burden on British manufacturers[20].

The case of those areas where rpm was practised which were not included in the Board of Trade's final assessment - where the relationship was one between manufacturers and their industrial or public authority customers - showed especially how rpm allowed for economies in distribution and accounting to be made by the manufacturer. The information which was made available to the Board of Trade in these commodities indicates that the 'retailers' were distributors - combining the role of the retailer and wholesaler. The Association of Engineering Distributors described their members as neither wholesalers nor retailers but 'a specialist in the supply of engineering tools and equipment mainly to industrial users'.[21] Such goods would normally be branded and be nationally advertised in the trade and specialist press. What appears to be the common strand in all these trades are fairly limited numbers of producers of products facing a very large array of customers buying expensive and technical equipment requiring specialist pre and after-sales service. The distributor was the link between customer and manufacturer. Again the AED described its role as providing for the manufacturer, 'a

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[18](...continued)
RPM(60) Summary 1 'Evidence from motor and allied manufacturers'.

[19] PRO BT258/1088 RPM(60) 21st meeting, 16 December 1960; RPM(60) Brief 21 'Textile Industry'.

[20] PRO BT258/1088 RPM(60) Brief 19, 8 December 1960 summarising 'Statement on individual enforcement of resale prices' by BEAMA, 7 December 1960.

[21] PRO BT258/1088, RPM(60) Brief 20, 13 December 1960.

steady succession of orders from a comparatively small number of distributors, instead of being inconvenienced by a large number of small accounts'.[22]

What emerges is a picture of the development of strong inter-firm relationships between retailers and suppliers, held together through the mutual support provided by rpm. This may have been especially the case for small retailers and their manufacturer suppliers, but a similar picture emerges when we turn to the relationship between manufacturers and larger retailers.

The view that all large 'efficient' retailers opposed rpm is seriously flawed. Three significant cases can be cited. Currys, a multiple retailer of electrical goods and bicycles, was clearly not unduly concerned about rpm, and was actually worried lest the abolition of rpm promote the discount house and cut into their margins. The official history expressed disquiet that the abolition of rpm and the growth of own brands prompted a flood of imports and 'doomed many well-known British manufacturers'.[23] In pharmaceuticals and stationery, the two leading multiple retailers opposed abolition: Boots and WH Smith. Boots' position was outlined by the General Sales Manager, W.K.Oliver, that while the company enjoyed passing on to customers price reductions based on lower manufacturing and distribution methods, 'we do support those manufacturers who make use of their right to maintain a standard price for a nationally advertised, branded product'[24]. When Sales Manager for WH Smith, Oliver expressed the same strong views, and with the Managing Director, Peter Bennett - later Managing Director of EMI - played an active part in the Resale Price Maintenance Co-ordinating

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[22] PRO BT258/1088, Brief 20.

[23] H.Lerner (1984) *Currys: the first 100 years* Cambridge: Woodhead Faulkner, pp.72-4.

[24] WH Smith archive (WHS) 487/1, speech given at the conference of the Incorporated Sales Managers' Associations, May 1959, W.K.Oliver, General Sales Manager, Boots.

Committee - the major lobbyist for rpm with Government..[25] WH Smith's position may be understood by the fact that over half of their turnover was actually derived from their wholesale business. Moreover, their heavy investment in small stalls - especially at railway stations - gave them perhaps some of the concerns of the smaller retailer[26]. In the case of WH Smith strong social as well as economic networks may be observed in the relationship between manufacturers and retailers, in the career of Peter Bennett.

Through rpm firms were 'embedded' in a set of economic relationships which provided mutual support.[27] Not only were some large retailers in favour of retention, and enjoyed the mutual support between retailers and manufacturers that rpm symbolised, but the key backbone of support by the late 1950's and early 1960's for the practice came from manufacturers.

Part III: manufacturers and RPM - the theoretical debate

Manufacturer opinion was strong and their arguments raised serious questions relating to planning production, economies of scale in manufacturing, and the costs of advertising, storage and warehousing. These arguments were given little or no credence by the economists and civil servants and politicians who favoured abolition, who were convinced that rpm emerged from retailers' desire to protect themselves against price-cutting by large and 'efficient' multiple retailers and so 'to live a more comfortable life'.[28]

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[25] WHS 487/3, internal memo, 14 January 1964, and WHS 487/1-4 generally.

[26] Charles W. Wilson *First with the News. The History of W.H.Smith 1792-1972* London: Cape, 1985 for the main areas of Smith's profitability.

[27] On the concept of 'embeddedness' see, for instance H.Hakansson and J.Johanson 'The network as a governance structure' in G.Grabher (ed.) *The embedded firm. On the socioeconomics of industrial networks* London: Routledge, 1993 pp.35-51.

[28] PRO BT258/1089 RPM(61) Report paper by H.Osborne (Secretary to the Departmental committee on RPM), ud.

Ministers and civil servants, and especially the government's confidential committee of enquiry of 1960, frequently asserted that there was little dispute among economists: opinion overwhelmingly saw rpm as a restrictive practice in retailing. In fact the government deliberately ignored economists who gave theoretical support to the manufacturers' position and who emphasised that rpm encouraged competition in production.

Central to the debates of the time was the work of Basil Yamey whose I.E.A. pamphlet 'Shoppers' Choice' played a significant role in securing abolition.[29] For him, rpm had its origin among small retailers experiencing reductions in profit and turnover in the second half of the 19th century. The growth of branding meant standardised goods, the price of which in different shops could be easily compared. The rise of the large retailers who could sell these cheaply threatened small retailers who 'turned to organisation to protect their interests':

> 'Associations of traditional retailers pressed their claims on the manufacturers of branded goods and urged them to introduce r.p.m. ....Resale price maintenance historically, was not the indispensable complement to the successful introduction and marketing of branded goods by manufacturers: it was, rather, a consequence of conditions in retailing to which the success of branded goods had contributed.'[30]

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[29] B.S. Yamey *Resale price maintenance and Shoppers' Choice* I.E.A. (1960)

[30] B S Yamey 'United Kingdom' in Yamey *Price Maintenance* p.251. His other important accounts of the history of rpm are 'The Origins of Price Maintenance in Three Branches of Retailing' and 'Price Maintenance in the Chemist and Grocery Trades, 1890 to 1939' both in B.S.Yamey *The Economics of Resale Price Maintenance* London: Pitman, 1954. See also 'Retail Price Competition and the Origins of the Net Book Agreement' in Russi Jal Taraporevala *Competition and its control in the British book trade, 1850-1939* London: Pitman, 1973.

In addition to Yamey's assertions about the historical origins of rpm, he provided some the of the key arguments for the view that rpm promoted inefficient allocation of labour and capital. 'Resale price maintenance is a restrictive business practice: it restricts or eliminates price competition in the distributive trades affected'. Competition through independent decisions on pricing would eliminate the less efficient and aid the expansion and establishment of more efficient firms, as well as the provision of consumer choice if price and services. 'It therefore keeps distributive margins and resale prices higher than they would otherwise be and involves more resources in distribution'.[31]

But Yamey's view was seriously challenged and his ideas became the pivot of a series of debates. On the historical evidence J.B.Jefferys had argued that the growth of branded goods and rpm was part of a process by which manufacturers gained control over the distribution system, not only from the retailers but also from the wholesaler. Hence the effect of rpm for manufacturers was that, in the words of J B Jefferys:

> 'the problems of marketing for manufacturers became better defined and therefore more susceptible of solution, the flow of goods became smoother and the market for them more stable, and the quality and standard of the product could be more readily guaranteed.'[32]

It must be noted that manufacturers, early derived much benefit. Evidence by the PATA, which operated rpm in chemists' goods, to the 1960 enquiry indicates that quite speedily manufacturers became aware of the problem of substitution: a branded article would be subject to price-cutting, giving retailers an incentive to persuade customers to buy a more expensive substitute, not subject to price-cutting. Hence 'the Manufacturer who has spent,

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[31] B S Yamey 'Introduction: the main economic issues' in Yamey *Price Maintenance* pp.3-4; for a very similar view see, for instance, W.G.McClelland *Costs and Competition in Retailing* New York: St.Martin's (1966).

[32] J B Jefferys Retail Trading in Britain 1850-1950 Cambridge: CUP (1954) p. 55.

it may be, large sums of money in advertising his article and had induced the public to go to the Retailer and ask for it found that his money had been wasted, since the Retailer, in many cases, succeeded in substituting another article on which he could make a profit'.[33]

A second dispute in which Yamey was involved was with a fellow supporter of abolition - Nicholas Kaldor, again around the relative importance of rpm to retailers and to manufacturers. Kaldor wrote to *The Times* correctly noting that 'The real strength of the opposition to Mr. Heath's Bill comes from powerful manufacturing interests, not the small retailer'. He argued they favoured rpm as 'the only sure guarantee against price wars'. With fixed prices manufacturers could easily ascertain whether manufacturers were departing from manufacturers' price agreements - whether explicit or informal. Hence for Kaldor, the key advantage in the abolition of rpm was variable prices which would encourage price wars among manufacturers and so eliminate inefficient firms and release labour.[34] Yamey accepted the role of rpm in bolstering collective agreements among manufacturers. Indeed, this had been one of the central conclusions of an earlier enquiry into rpm - that of the Lloyd Jacob committee in 1949 which condemned collective rpm for turning 'price maintenance from a reasonable means of preventing damage to well-known quality brands...into a comprehensive system for regulating and policing entire industries'.[35] However, he disputed Kaldor's view that 'the really important issue is not price competition in retailing, but price competition among manufacturers'.[36]

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[33] PRO, BT258/1176 'Conditions that led to the formation of the PATA'.

[34] N. Kaldor letter to The Times 17 March 1964.

[35] BPP (1948-49) Report of the Committee on Resale Price Maintenance vol.xx Cmd 7696, p.30.

[36] B. Yamey

On the whole, however, it was those economists who supported rpm who tended to emphasise the value of rpm as a rational and efficient strategy by manufacturers of mass produced goods, and as one which encouraged price competition among manufacturers. Yamey was involved in debates on this score with two British economists - P.W.S. Andrews and Frank Friday and with a representative of the Chicago school - Robert Bork. The views of Robert Bork and P.W.S.Andrews may be said to contain some overlap in that both rejected the notion that the large business enterprise was uncompetitive and monopolistic and detrimental to economic growth.[37]

Frank Friday was, at the time of the government enquiry, an economist working for EMI Ltd, one of the vociferous supporters of rpm, and had been dismissed as tainted by Board of Trade report on this account.[38] He had written a pamphlet, in answer to Yamey's I.E.A. pamphlet of 1960 with P.W.S. Andrews - *Fair Trade*. Andrews was a Fellow of Nuffield College, was pursuing his theories of competitive oligopoly, and his contribution to *Fair Trade* was an important stage in the development of his ideas.[39] Andrews was later to assert that, for both himself and Friday (who died in 1963) the key question was always whether rpm brought 'positive competitive advantage': they both agreed that if it did not it could not be allowed to persist. They then argued that rpm actually encouraged competition.[40]

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[37] On Andrews see W.Young and F.S.Lee *Oxford Economics and Oxford Economists* London : Macmillan (1993)pp. 198, 202-3.

[38] PRO BT258/1187 'Report on RPM' p. 3.

[39] Young and Lee *Oxford Economics* p.197.

[40] WH Smith archive, Milton Hill, 487/3 'Some comments on rpm' by PWS Andrews, ud, c.January 1964. A copy of extracts from a letter from Andrews to an MP in response to a request for more information. This extract was circulated to members of the Resale Price Maintenance Co-ordinating Committee by its chairman Leonard Pagliero.

The Andrews and Friday approach was to look at how rpm restricted competition and how it allowed it and encouraged it. Andrews started with a proposition similar to Yamey's that rpm was a restriction on competition among retailers, but pointed out how it sustained competition among manufacturers. Because 'distribution does its job relatively well' gains could be made in manufacturing. He argued that competition between brands aided standardisation in mass production, and that, where brands were price maintained, 'the rule stands that standard goods will have to have standard prices if demand is to run steadily at the level justified by their real qualities in the view of the consumer and, withal, the levels at which prices are standardised must be such that each is fully competitive with other goods'.[41] The manufacturer had to set the retail price to be competitive with retailers' brands and with the rpm brands of other manufacturers. He argued that as well as giving after-sales services (which Yamey and others dismissed as something which the consumer may or may not want) rpm allowed for a vital pre-sales service - having stock and a choice of stock for customers to buy. In this way rpm could enable manufacturers of branded goods to produce in large quantities - because they could be assured of large stocks being carried - and hence reap lower costs. Moreover, rpm made it easier for the smaller manufacturer to compete and grow: 'large scale price cutting retailers will not want to bother with minor brands' - a prediction which was to come true, as we shall see.[42] Thus, overall, 'to the extent to which a general ban on rpm weakens the thrust from manufacturers' brands, the whole competitiveness of retail trade will in the long run itself be weakened; such a ban... must itself reduce an important influence keeping prices in general down'.[43] He argued, moreover, that rpm was not an obstacle to the development of the more 'efficient' retailer, for the selling involved in a price-maintained, branded good was in itself a more 'standard operation', hence reducing

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[41] P.W.S.Andrews and Frank Friday *Fair Trade. Resale Price Maintenance Re-examined* London: Macmillan (1960) p.61-2.

[42] WH Smith archive 487/3, letter from Andrews, and see P.W.S. Andrews and Frank Friday *Fair Trade.*

[43] Andrews and Friday *Fair Trade* p.62.

any differences in the costs of different retailers of selling a particular product. That if such differences in cost did exist for the more 'efficient' retailer, this provided a great competitive potential for their own brands: 'If they cannot drive out the rival brand, surely the critics are mistaken'.[44]

Their key conclusion was that a ban on rpm was likely to reduce the competitive pressures in retailing and manufacturing. Together they argued that these considerations militated against any price reductions as a result of abolition. In addition, Andrews and Friday stressed that rpm had to be seen as having the same rationale as direct price maintenance, a system whereby a multiple retailer charged standard prices for goods in all shops throughout the country. Friday was the only economist who had separated out the two elements (see Table 1). Andrews argued that 'Large retailers obey this rule (of standard prices) for their "brands" by having standard prices at their various branches'. Indeed, the Board of Trade explicitly excused rpm on these grounds, arguing that it:

'is not a restrictive practice but is a form of trading said to be essential to the method of doing business employed by a large multiple concern where management is centralised and costing and accounting are done on a group basis'.[45]

Andrews and Friday saw no difference between this and the justification for rpm.

A final approach to the issue came from the Chicago school. Their ideas as regards rpm had been developed in the 1950's by Aaron Director whose basic approach was that manufacturers would not be acting rationally to impose rpm if it simply gave retailers monopoly profits. Its rationale was seen to stem from the way the prevention of price competition among retailers encouraged them to provide services which enhanced the

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[44] Andrews and Friday *Fair Trade* p.63.

[45] PRO BT258/1187 'Resale price Maintenance' p.9 para.62

value of the manufacturer's product to consumers. From this and other points the Chicago school developed a position on antitrust policy which sought to exclude from its jurisdiction unilateral action by businessmen.[46] The position was developed by Robert Bork:

> 'No manufacturer will desire r.p.m. for the mere purpose of giving his resellers a greater than competitive return.....What he gets is usually increased activity by the reseller in providing information, promotional services and the like. These are means of increasing distributive efficiency and should be permitted on grounds of efficient resource allocation. The case is no different than if the manufacturer owned the resellers and required his reseller employees to perform the same functions. R.p.m. is simply a partial integration and is often more efficient than full integration by ownership or contract'.[47]

Here is a proto-Chandlerian defence of rpm - the internalisation of retailing decisions without forward integration into retailing itself. We may conclude that effectively, the manufacturers of branded, price-maintained goods collectively supported retailers. Rpm acted not only as partial or quasi vertical integration, but also shared integration: manufacturers and retailers of specific products or product areas operated a mutually supportive network. Here, then, another economist supported manufacturers' positive view of the efficiencies available through networks of support.

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[46] See Richard A. Posner 'The Chicago School of Antitrust Analysis' *University of Pennsylvania Law Review* 127, 4 (April, 1979) p.926-8, reprinted in G.Burgess (ed.) *Regulation and Antitrust* Aldershot: Elgar 1992..

[47] Robert H. Bork 'A Reply to Professors Gould and Yamey' *Yale Law Journal* 76,4 (March 1967) p.731.

This section has shown considerable economists' support for the case of manufacturers and for the fears they expressed concerning the increased powers of retailers. We now turn to the actual outcomes.

Part IV: the competitive struggle between large retailers and manufacturers

The end of rpm saw the further development of the multiple retailer, further erosion of the position of the independent retailer and further concentration in the retailing sector. In 1950, when the first Census of Distribution was taken there were 400,000 retail businesses covering half a million outlets: by the early 1980's there were 230,000 businesses with one third of a million outlets.[48] In groceries in 1960 80% of the grocery market was controlled by 1621 buying points, in 1970 by 647.[49] Electrical goods was hard hit by abolition which prompted heavy price-cutting and the arrival of discount stores such as Comet and Trident. Here multiples increased their share of retail sales from 19.5% in 1961 to 24.8% in 1966 to 37% by 1979.[50] This represented the reassertion of a trend which had stagnated under the strong influence of rpm in the war and post-war period. It must, however be added that rpm had not stifled the growth of large stores, many of whom were able to use rpm multiple businesses to increase their profits and use these as a basis for future expansion.[51] Given that rpm was actually showing signs of increase, the role of the 1964 Act was not to promote a new development, but to stop the further development of rpm and to ensure the continuation and reassertion of a long-standing process - the increasing significance of multiple shops.

[48] N.Alexander 'Contemporary Perspectives in Retail Development' in G.Akehurst and N.Alexander (eds.) *Retail Structure* London: Cass (1995) p.3.

[49] EIU *Retail Business* 166 (Dec.1971) p.32

[50] N. R.Eassie and P.Robertson *British Retailing. Facts and Trends 1980* Mintel, 1980 p.82.

[51] Yamey 'Introduction'; C.J.Morelli *The Making of the Market* unpublished thesis, LSE, 1996 pp.260-2.

Where the abolition of rpm did produce a qualitatively new trend was in the pressure retailers were now able to exert over manufacturers of branded goods. The most important weapon in the struggle became the private brand. In 1968 the Economist Intelligence Unit saw the growth of own brands as the most far-reaching development in retailing, as one which had seen considerable growth in the past 5 years - that is shortly before the abolition of RPM. It commented:

> 'Own branding is a major factor at work in the evolution of the power relationship between manufacturer, distributor and consumer. Indeed, it can take the credit for knitting together these logically inseparable functions, not merely linearly but a as cyclical situation in which feedback from consumer to manufacturer is at last becoming a practicable reality'.[52]

An own brand is a retailer's own label, rarely made by the retailer, and often made by smaller manufacturers, although large manufacturers have increasingly been forced to produce own brands.[53] Retailers found own brands useful not only in their competitive struggle with other retailers, especially through its ability to give a corporate image and encourage customer loyalty, but also because it provided better margins, it allowed the store to control the product range and price, it allowed the retailer to reduce the influence of manufacturers advertised brands through direct competition from own brands, and in turn this allowed retailers to squeeze manufacturers' for extra margins. Finally, own brands protected the retailer when competition between manufacturers forces lower retail margins. Moreover, the development of own brands is a relatively cheap strategy, for all the costs and risks of investment in R&D and plant are borne by the manufacturer.[54]

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[52] EIU *Retail Business* 128 (October, 1968) p.12.

[53] Euromonitor *The Own Brands Report* London: Euromonitor (2nd ed., 1986) p.3.

[54] Euromonitor *Own Brands* pp. 19-20.

Own brands were not new having shown strong growth up to 1939, when in groceries 10-15% of total sales of the multiples were own brands[55]. However, they appeared to have suffered a reverse in the war and post-war period, and this is not unconnected with the fact the rpm became more thoroughly enforced. An indication of the growing strength of retailer brands was the formation in 1970 of the Private Label Manufacturers' Association and the 1970's saw particularly string development. By 1986 own brands took 22.3% of the total retail sales, although the process was uneven across the retailing sector. Hence 60% of Sainsbury's total sales in 1985 was represented by own brands, 40% of Tesco's, 32% of Boots, 18% of Currys.[56] By 1996 retailer brands took 36.7% of retail sales.

The abolition, or the expectation of the abolition of RPM was a mighty factor causing an increase, as many manufacturers feared. All retailers began to practice it. Multiple retailers, especially in groceries and electrical appliances are the best known examples. Department stores saw an increase in private branding from 1956 onwards, for instance John Lewis developed its 'Jonelle' trademark on range of goods - cosmetics, glassware and refrigerators. Mail order houses had increased their use of manufacturer brands to 40% by 1964. Manufacturers began to notice a change in the attitude of mail order houses from about 1963, when anticipating the abolition of rpm they accentuated private brands, for instance in swimwear and refrigerators. Finally, small shopkeepers in voluntary chains also became involved in the practice. This is well known in groceries, but also occurred increasingly in chemists goods. Unichem, for instance, was a voluntary chain of 2,000 retailer chemist members. In particular Unichem began to supply medicines already made up which chemists had previously compounded in their own shops[57].

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[55] EIU *Retail Business* 88 (June 1965) p.11.

[56] Euromonitor *Own Brands* p,11

[57] EIU *Retail Business* 89, (July, 1965) 12-14.

But the extent of own brands in different sectors and for different products was very much the outcome of the balance of forces between retailer and manufacturer. Those areas where competition among manufacturers was strong were very sensitive to own brands: in groceries by 1971, own label products accounted for 20% of the turnover of packaged goods. The policies of multiples here was to carry a couple of nationally advertised leading manufacturer brands but to rationalise the secondary brands by providing their own. One report showed that in 10 product classes sold by multiple grocers, 75% of the private label progress had been made at the expense of the minor brands.[58] It was not until the 1990's that Heinz finally gave way and began to make own brands, while Kellogg's is still able to resist the pressure.

But where a product was dominated by one or a few firms, own branding made little headway, for here the dominance of the nationally advertised product and the producer's own size in the market, made the introduction of own brands very risky. An interesting case of the differential impact is provided in the electrical appliances sector. Here up to 1964 RPM had been strongly enforced and own branding was unknown. When RPM was abandoned own branding appeared in those items where manufacturer competition was quite strong - such as refrigerators. Here own brands captured 22% of the market between 1964 and 1976. Own branding was initially less successful in automatic washing machines and vacuum cleaners where production was not so competitive and manufacturers could refuse to supply own brands. However, long-term this strategy had to give way primarily in the face of growing foreign competition. The share of imports in automatic washing machines, for instance grew from 5% in 1969 to 30% by 1975 of which one half went to private brand owners. Thus in 1975 Hoovers reversed its policy of refusing to supply and by 1976 the private brands share of the market stood at 17%. In electric cookers foreign competition was minimal due to the specific demands of British housewives and the Electricity Board's monopsony. However, this did not speedily encourage own branding because a spate of mergers occurred among producers

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[58] EIU *Retail Business* 166 (Dec.1971) pp.27-35.

in the mid to late 1960's. In turn, there were claims that producers acted collusively to refuse to supply a private brand to the Board and this position showed little sign of weakening in the 1970's.[59]

Hence in 1981, the MMC's investigation into discounts to retailers, gave a broad picture of the effect of the shake-up in distribution since the 1960's. The Commission expressed the view that pressure on suppliers by large buyers resulted in the elimination of excess production capacity among suppliers 'so that an unequal trading relationship tends to be redressed'[60] as mergers and takeovers occur in manufacturing. The indication was that the abolition of rpm had produced a situation of oligopolistic rivalry, a point endorsed by later surveys by market research reports. According to one, multiples have been unwilling to accept price rises despite rising production costs and manufacturers have hence 'had to absorb the losses internally'. Only large firms, like Proctor and Gamble had the resources to respond to own brands and introduce low cost ranges.[61]

Indeed, these surveys painted a gloomy future for manufacturers. Mintel's interviews with retailers and manufacturers in 1980 reported the striking 'dominance of the retailers both psychologically and in practice. Among manufacturers there seems to be something of a crisis of confidence, as though they had lost control over their destiny'. The situation in groceries was reported as particularly bad, manufacturers being caught between farmers and multiple retailers. One manufacturer complained that the leading retailers 'can kill off a brand regardless of intrinsic consumer demand and benefits'.[62] The same

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[59] C.W.F.Baden-Fuller 'The economics of private brands with special reference to the domestic electrical appliance industries of the U.K. and U.S.A.' unpublished thesis, LSE, 1980, pp.67, 158-164.

[60] MMC *Discounts* p.34.

[61] Keynote *Own Brands* , 1997, p.33.

[62] Eassie and Robertson *Retailing* pp.163, 216[6262]

report noted that two thirds of those interviewed felt co-operation between retailers and manufacturers had become strained. One electrical manufacturer said:

> Fifteen years ago manufacturers could dictate policy to the retail trade in the market place. Now the situation is reversed: large retail chains can dictate the terms of business to manufacturers'.[63]

This raises the notion that, dating primarily from 1964 manufacturers in may areas have taken on the role of sub-contractors to large retailers: production has become part of the strategy of retailers rather than retailing being the strategy of manufacturers. Marks and Spencer's relationships with suppliers is a prime example of the process. In the 1980's, government enquiries had a sanguine attitude to these development: but on the whole they are a proof of the prophecies of the opponents of government policy in 1964, not of its supporters.

Part IV: government's role in the competitive struggle

So far this article has shown that resale price maintenance was a strong and, in some areas, growing system. In the short-term, the abolition of rpm put pressure on the manufacturing sector in a way envisaged by its supporters and that, in the long-term the 1964 Act was a major catalyst in producing serious change in the balance of power between manufacturers and retailers. The government therefore decided to redistribute property rights over articles for sale away from manufacturers and towards retailers. The government was aware of the legal implications of the step. Although there was little opposition in Cabinet to the measure, the main critical voice was that of Lord Hailsham, then Lord President of the Council in Alex Douglas-Home's Cabinet. He argued that the change carried serious legal implications, for removing the manufacturer's right to stipulate a retail price 'would tend to undermine the law which in general supported

[63] Eassie and Robertson *Retailing* p.225.

contracts reached freely between parties'.[64] In the debate on the second reading Douglas Jay condemned the 1956 Act for coming in 'with a crash' on the side of the manufacturer, but saw the proposed Bill as a law based 'equally heavily against the manufacturer'[65].

In this regard the Act of 1964 represented a reversal of previous policies. Immediately prior to 1964 the trend of judgments in rpm cases showed an increasing willingness to uphold the right of the manufacturer to prevent price-cutting if he is opposed to it. The courts further upheld for manufacturers that coupons or trading stamps also constituted a breach of rpm. The decisions of the MC were equivocal: in three cases immediately before the Act individual rpm had been condoned in cigarettes and tobacco, but strongly condemned in electrical equipment for motor vehicles and wallpaper. However, the last general enquiry in 1949 had been very clear that a manufacturer had the legal right to stipulate conditions under which his goods were sold.[66]

We therefore have to enquire into the government's motives. In his speech on the Second Reading, Edward Heath gave three reasons. First, that abolition would encourage efficient retailing and allow the best allocation of resources, secondly that it would stimulate price competition among manufacturers, and thirdly, that as a result prices would go down. How reasonable were government expectations on these points?

If the government had expected abolition to intensify competition among manufacturers how would this have come about? One method would have been, as Kaldor argued, to render the policing of manufacturers' cartels harder. [67] But the second means could only

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[64] PRO CAB134/1693, EA(62)13th, 4 April 1962.

[65] Parl.Deb. (1963-4) vol.691 10 March 1964 col. 283-4.

[66] BPP (1948-49) Report of the Committee on Resale Price Maintenance Vol.20 Cmd. 7696 p.35.

[67] PRO BT258/1187 'Report on rpm' para.95

be through pressure on manufacturers' prices by the large-scale retailers, themselves encouraged by the abolition of rpm. In several places the Board of trade's internal report welcomed the removal over pricing decisions from the manufacturer: 'we dispute that the manufacturer is the best judge of the appropriate price of his goods to the consumer' and

> 'We believe that one reason why manufacturers prefer to have a large number of small retail outlets is that if retailing is concentrated in a few hands, distributors will be more powerful to exert pressure on the manufacturers. We do not think, however, that the retention of resale price maintenance would be justified on the ground that it protects manufacturers from retailers pressure, nor do we think....that the abolition of resale price maintenance would result in the emergence of powerful monopolies in the distribution trades'.[68]

The Board of Trade saw this switch in the balance of power, almost as a side effect of abolition: it was actually the most important effect and campaigns raged around precisely that question. Much discussion revolved around the question of who had the right to intervene in whose business decisions. Robert Bork argued strongly that it was improper for a court to supervise a manufacturer's decisions; Basil Yamey, J.R. Gould and McClelland fervently opposed the supervision of resellers' business decisions by the manufacturer.[69]

Hence, the government's internal enquiry welcomed the stimulus to manufacturer competition through pressure from retailers, downplayed the danger of retail monopolies,

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[68] PRO BT258/1187 'Report on rpm' para.128.

[69] J.R. Gould and B.S. Yamey 'Professor Bork on Vertical Price Fixing', *Yale Law Journal*, 76,4 (March 1967); R. Bork 'A Reply to Professors Gould and Yamey' *Yale Law Journal*, 76,4 (March 1967); R. Bork 'Resale Price Maintenance and Consumer Welfare' *Yale Law Journal*, 77,5 (April, 1968); J.R. Gould and B.S. Yamey 'Professor Bork on Vertical Price Fixing: A Rejoinder, *Yale Law Journal*, 77,5 (April, 1968).

and ignored those economists who argued that rpm allowed for competition in manufacturing, through, for example, allowing the survival of smaller manufacturers. The government must have envisaged that the abolition of rpm would prompt a process of concentration in both retailing and manufacturing, and such hopes clearly fir well with the trend of government policies at the time towards the development of the large firm.[70]

On the question of the control of inflation, the government used estimates for price falls after abolition to urge their case, but the evidence was disputable. Basil Yamey predicted a fall in retail prices over the field affected of about 5% were rpm abolished. He described both his estimate of the extent of rpm as 'conservative' and his estimate of price reductions as 'cautious'. He further estimated this represented a saving to the consumer public of £180m. per annum.[71]

Contrary to the impression that the Board of Trade committee and government spokesmen liked to give[72], Yamey's predictions, although supported by some,[73] were widely challenged in economists' circles, both on theoretical and empirical grounds. Indeed of the four economists interviewed by the Board of Trade Committee - Yamey, Friday,

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[70] H.Mercer 'The state and British business since 1945' in M.W.Kirby and M.B.Rose (eds.) *Business enterprise in modern Britain* London: Routledge, 1994, pp.287-314.

[71] Yamey *Shoppers' Choice* pp.8, 15.

[72] The Board of Trade report was especially misleading on this question. Under the heading 'Economists' views' it commented: 'The bulk of the opinion in favour of abolishing resale prices maintenance has been provided by economists; but they are supported by a minority of returns from individual traders and suppliers and by some independent opinion obtained by us orally. The independent opinion was on the whole more carefully thought out and less emotional than the general run of commercial arguments submitted in favour of continuing resale price maintenance'. PRO BT258/1187 'Report on rpm' para 23

[73] J.F.Pickering 'Would Prices Rise without R.P.M.?' *Oxford Economic Papers* 21,2 (July, 1969) pp. 248-267; McClelland *Retailing* p.275, although he simply state that there is no reason to doubt the validity of Yamey's case, nor to doubt that argument in favour of rpm 'are almost completely specious'.

J.B.Heath and E.M.Hugh-Jones - only one (Yamey) gave any definite assurance on this point. Hugh-Jones, although in favour of abolition commented that 'price stability' could be efficient from the shopper's point of view if fully-stocked retail outlets were readily accessible everywhere'.[74] J.B.Heath thought Yamey's estimate 'as good a guess as any' but even so considered such savings 'insignificant'. He went on to argue that where rpm was used to cross-subsidise other, often specialist, goods the prices of these might rise. Hence he thought the market level of prices generally might be higher or lower but they would be higher on the periphery (in more remote areas) which would have social implications which the government could perhaps resolve by direct subsidy (presumably to shopkeepers in such areas). Heath also feared that a loss of after-sales service might result. While rpm might force the consumer to have services he did NOT choose, abolition might restrict choice if specialist products or services became unobtainable.[75] Indeed, in 1965, an article by J.R.Gould and L.E.Preston asserted that the view that rpm would raise prices was 'somewhat casually asserted' and delineated cases where rpm, where marginal costs for manufacturers were falling would be conducive to a fall in prices. Rpm might, on the other hand make prices more elastic by spreading customers' knowledge of prices, wider distribution networks, advertisement of prices and price uniformity.[76]

Frank Friday's position was of course the most opposed to any idea that retail prices would fall, on both empirical and theoretical grounds. The extent of rpm, he argued was actually lower than Yamey asserted, while the extent of reductions without rpm had been obtained by exaggerating the evidence from Canada. Friday found that Yamey had cited the five largest reductions on various products sold, and taken the average of these. He also cited other studies which found negligible price falls could be expected. Two

[74] BT258/1088 RPM(60) 10th, witness - Prof. Hugh-Jones, 28 October 1960.

[75] BT258/1088 RPM(60) 8th, witness - J.B.Heath, 15 August 1960.

[76] J.R.Gould and L.E.Preston 'Resale price Maintenance and Retail Outlets' *Economica* 32, 127 (August, 1965) pp.302-312.

American studies, one by the FTC, found few definite tendencies. One comparison of Illinois, where rpm was effective, and Missouri, where it had never applied, showed prices 0.5% higher in Illinois.[77]

The Board of Trade itself did not take Yamey's estimates seriously, although again they were ambiguous. In their internal discussion of Yamey's I.E.A. pamphlet the committee wondered whether £180m was a valid figure, given that Yamey accepted in the same paper that the abolition of rpm would lead to a higher price for specialist services, while increased competition would involve higher advertising costs.[78] Indeed, the committee took the issue of advertising seriously enough to call a firm of advertising consultants as witnesses. These argued that the end of rpm would mean more advertising by retailers and by larger manufacturers. The committee was to misquote their evidence reporting their views as being that any extra advertising by large retailers would be offset by a reduction in manufacturers' advertising.[79] However, a later Board of Trade committee on monopolies, which was set up to develop general policies on monopolies, mergers as well as rpm, argued quite decisively that few price reductions could be expected.

Looking forward, it is very doubtful if such price reductions were actually effected. In his 1966 book Yamey argued:

> 'The practice has little, if any, influence on total national money expenditure or on the availability of total national resources. It is relevant to the economy-wide issues of inflation mainly in so far as it effects the flexibility of particular prices.....price

[77] Andrews and Firday *Fair Trade* pp.30-35 and PRO BT259/1088 RPM(60) 11th - witness Frank Friday, 1 November 1960.

[78] PRO BT258/1088 RPM(60) Brief 2 for meeting with Prof. Yamey, 9 August 1960.

[79] PRO BT258/1089 RPM(61)2nd meeting with witnesses from Colman, Prentice and Varlet Ltd, 15 February 1961. And report on rpm para 113. In fact the response of larger manufacturers has seen increased product differentiation, brand promotion and advertising, see Grant 'Shifting Balance of Power' p.52.

reductions.... can be no more than a once-for-all possibility. One cannot abolish r.p.m. every few years. The real importance of r.p.m., or of its prohibition or reduction, lies in its effects on the prices of particular goods and the deployment of resources between different economic activities.'[80]

Yamey's figures had been widely cited during Cabinet discussions. In fact they were used by the government, when the basis for such predictions was actually weak.

Hence the government and the civil servants came down on one side of heavily-disputed points of law and economics, even moral rights! It is not possible to accept as given their public claims for the step. Instead the explanation for this is to be found in two main areas. First antipathy to anything that smacked of restrictionism was strongly in keeping with the tenor or government thinking of the time. Although the pro-competition elements of government policy at this stage are perhaps less well-known that the growing interest in planning, it was in fact of increasing importance. In addition, such views dovetailed with the need to gear Britain to entry into Europe: here the Treaty of Rome and individual countries were moving towards bans on rpm.

Secondly, there is strong evidence of pressure from some, very powerful retailing interests. Powerful associations of manufacturing and retailing interests were opposed to abolition. We know that some outstanding representatives of large-scale efficient retailing were also opposed - WH Smith, Boots and Curry's. Moreover, there was some dissension within some supporters of abolition. Edward Heath had introduced his Bill in January 1964 in order to pre-empt a similar private member's Bill put forward by John Stonehouse, a Co-op sponsored MP. While the Co-op had campaigned for long against rpm, by 1964 some serious questions were being asked about this position.

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[80] Yamey 'Introduction' in Yamey *Price Maintenance* p .3.

As usual in these cases we do not have a strong feeling of who favoured abolition. From the Board of Trade evidence was forthcoming from a few areas: among manufacturers the vertically integrated footwear sector, among retailers some department stores like John Lewis gave evidence. Chain stories like Mark and Spencer, Woolworths stood to gain, but not, in the case of M&S hugely, given that their reliance on direct price maintenance already gave them some independence from the whole issue. One hint is provided by the vigorous campaign in favour of trading stamps waged by a few grocery multiples from 1963. Trading stamps was a method of encouraging customer loyalty, the effect of which was to undermine rpm. This campaign and the enthusiasm for trading stamps among firms like Fine Fare and Tesco reflected intensifying competition in retailing. The importance of pre-packaged goods of uniform quality, especially in the grocery trade, destroyed the demarcations between retailers, a trend intensified by the increasingly general adoption of the self-service store - even by independents. At the same time the development of the superstore meant a rise in overhead costs relative to variable costs, and the need to operate with a minimum of excess capacity. In addition the multiples faced increasing competition from the incursion of non-food retailers into the food trade, like Marks and Spencer and Boots, intensified competition from voluntary chains, and in 1962-4 'for the first time' the large grocery multiples began to compete with each other, seeking to improve market share.[81]

While other retail multiples could afford to live with rpm, and even use the assured margins as a basis for further expansion, the grocery multiples needed to improve their relative market position, but sold products where expansion of demand was limited. Here the abolition of rpm became imperative, especially as it affected non-food areas into which they hoped to expand. Even so, Sainsbury's, while favouring the abolition of rpm in groceries was a key agent in the anti-stamp campaign, which in turn derived much of

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[81] C.Fulop *The role of trading stamps in retail competition* London: IEA (1964) pp.13-4; George Schwartz and W.R.Hunter *The Facts about Trading Stamps* London: Green Shield Ltd (1962) p.10.

its support from manufacturers who opposed trading stamps because they undermined rpm.

Hence, the strong blows in the corpse of resale price maintenance may be traced to two parties: discount houses and cut-price grocery firms; and a government increasingly concerned to promote competition in the British economy and to bring Britain into line with the EEC.

Conclusion

1964 was indeed a turning point or manufacturers in their relationship with retailers. This was an outcome envisaged and encouraged by a government with a zeal for competition, which correctly identified rpm as the fulcrum of a series of economic relationships covering wide swathes of British manufacturing. At the time these relationships seemed collusive and restrictive: modern analysis might be more willing to endorse the views of the minority of economists at the time who saw rpm as a form of vertical integration which encouraged efficiency and competition. Modern theories of inter-firm networks might see greater scope for the set of relationships cemented through rpm as factors in national competitiveness.

The shift in property rights contributed to a growing lack of confidence among British manufacturers, which became apparent with the growth of own brands in the 1970's. At the same time manufacturers faced spiralling costs, and, from 1973 the shake-up contingent on entry into Europe: rising wages costs and increased competitive pressures. In this light 1964 appears quite cataclysmic - removing an area of stability in an increasingly volatile and harsh competitive environment. Hence, an historical analogy presents itself: 1964 was for the relationship between manufacturers and retailers what 1846 was for the political dominance of manufacturing over landed interests. Like the abolition of the Corn Laws, the effects were delayed but anticipated.

The Abolition of resale price maintenance in 1964
Illustrative tables

Table 1: Estimates of the extent of resale price maintenance, 1960-64

Economist	Date referred to	Consumer expenditure on goods and services	Consumer expenditure on goods
Yamey	1960	25%[1]	33%[2]
Friday	1960	23% + 17% dpm	30%[3] + 10% dpm[4]
Board of Trade	1960		40%[5]
RPM Co-ordinating Committee	1964	20%[6]	
President of the Board of Trade	1964		38%[7]
Pickering	1964	26-28%	33-36%[8]

Sources

1. B.S.Yamey Resale Price Minatenance and Shoppers' Choice p.8
2. J.F.Pickering Resale Price Maintenance in Practice p.47
3. P.W.S.Andrews and Frank A.Friday *Fair Trade* p.7
4. Pickering *RPM* p.47
5. PRO BT258/1187, para 68 and Appendix 5.
6. Resale Price Maintenance Co-ordinating Committee *Resale price Maintenance and the Public Interest* (1964)
7. Edward Heath, Debate on the 2nd Reading, *Hansard* Vol.691 col.258.
8. Pickering *RPM* p.160.

Table 2: The extent of resale price maintenance by commodity, 1960

Commodity	Proportion of consumer expenditure considered as price maintained
Confectionery	80
Beverages	60
Other food	5
Total food	**12.5**
Alcoholic drink	75
Tobacco	100
Footwear	11
Men's and boys' wear	20
Women's, girls' and infants' wear	20
Total clothing	**18.4**
Motor cars and motor cycles (new)	100
Furniture and floor coverings	20
Radio, electrical and other durable goods	100
Total durable goods	**74.6**
Household textiles, soft furnishings, hardware	10
Matches, soap, other cleaning materials	10
Total other household goods	**10**
Sports goods, toys and games	50
Gramophone records	100
Total miscellaneous recreational goods	**38.5**
Jewellery and leather goods	25
Stationery	50
Total other miscellaneous goods	**31.1**
Spare parts for vehicles	100
Petrol	
Oil	
Total running costs of vehicles	**29.0**
Total percentage of consumer expenditure spent on price maintained goods	**38.8**

Source: PRO BT258/1187 'Report of the committee on resale price maintenance' p.52.

Table 3: Recommended resale prices	
Universal	
80% by turnover	motor cars and parts; domestic electrical appliances; photographic goods
25% by turnover	groceries; wines and spirits; petrol and paint; branded textiles
25% by turnover	carpets
10% by turnover	furniture
None	
fresh fruit; vegetables; meat and fish	
Shops which normally follow recommended resale prices wherever they exist	
chemists; ironmongers; women's clothing	
Widespread cutting of recommended resale prices	
grocers; electrical retailers	

Source: Monopolies Commission *Recommended Resale Prices* BPP (1968-69) vol.40 pp.1-2.

Table 4: Legal action to enforce rpm, 1956-64

Product group	Injunction or undertaking in court, approximate number
Food	10
Confectionery	3
Wines and Spirits	1
Tobacco	5
Paint etc.	8
Electrical appliances	30
Hardware	40
Clothing and draperies	3
Chemists goods	70
Other products	10

Source J.F.Pickering Resale Price Maintenance in Practice (1966)

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