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**DEPARTEMENT VAN
NYWERHEIDSWESE, HANDEL EN
TOERISME**

No. R. 36

9 Januarie 1981

**WET OP DIE HANDHAWING EN BEVORDERING
VAN MEDEDINGING, 1979**

**ONDERSOEK NA MONOPOLISTIESE TOESTANDE
BY DIE VERSKAFFING EN DISTRIBUSIE VAN MO-
TORVOERTUIGONDERDELE, -KOMPONENTE EN
-MATERIALE IN DIE REPUBLIEK VAN SUID-AFRIKA**

Ek, Dawid Jacobus de Villiers, Minister van Nywerheidswese, Handel en Toerisme, publiseer hiermee kragtens artikel 14 saamgelees met artikel 21 van die Wet op die Handhawing en Bevordering van Mededinging, 1979 (Wet 96 van 1979), Verslag 1929 (M), gedateer 2 Augustus 1979, van die Raad van Handel en Nywerheid in verband met 'n ondersoek na monopolistiese toestande by die verskaffing en distribusie van motorvoertuigonderdele, -komponente en -materiale in die Republiek van Suid-Afrika, soos in die Bylae hierby.

D. J. DE VILLIERS, Minister van Nywerheidswese,
Handel en Toerisme.

BYLAE

INHOUDSOPGAWE

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GOVERNMENT NOTICE

**DEPARTMENT OF INDUSTRIES,
COMMERCE AND TOURISM**

No. R. 36

9 January 1981

**MAINTENANCE AND PROMOTION OF
COMPETITION ACT, 1979**

**INVESTIGATION INTO MONOPOLISTIC
CONDITIONS IN THE SUPPLY AND DISTRIBUTION
OF MOTOR VEHICLE PARTS, COMPONENTS AND
MATERIALS IN THE REPUBLIC OF SOUTH AFRICA**

I, Dawid Jacobus de Villiers, Minister of Industries, Commerce and Tourism, do hereby publish in terms of section 14 read with section 21 of the Maintenance and Promotion of Competition Act, 1979 (Act 96 of 1979), Report 1929 (M) dated 2 August 1979, of the Board of Trade and Industries, in connection with an investigation into monopolistic conditions in the supply and distribution of motor vehicle parts, components and materials in the Republic of South Africa, as in the Schedule hereto.

D. J. DE VILLIERS, Minister of Industries, Commerce
and Tourism.

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REPUBLIEK VAN SUID-AFRIKA

RAAD VAN HANDEL EN NYWERHEID

VERSLAG 1929 (M)

ONDERSOEK NA MONOPOLISTIESE TOESTANDE BY DIE VERSKAFFING EN DISTRIBUSIE VAN MOTORVOERTUIGONDERDELE, -KOMPONENTE EN -MATERIALE IN DIE REPUBLIEK VAN SUID-AFRIKA

HOOFSTUK I

OPDRAG, OMVANG EN METODE VAN ONDERSOEK EN AGTERGRONDINLIGTING

Opdrag

1. Die Minister van Ekonomiese Sake het op 12 Julie 1976 ingevolge die bepalings van artikel 3 (1) (a) van die Wet op Reëling van Monopolistiese Toestande, No. 24 van 1955, die Raad opdrag gegee om ondersoek in te stel "ten einde te bepaal of 'n monopolistiese toestand by die verskaffing en distribusie van motorvoertuigonderdele, -komponente en -materiale in die Republiek van Suid-Afrika bestaan."

Omvang en metode van ondersoek

2. Ooreenkomstig artikel 4 (1) van die Wet het die Raad kennis van die ondersoek gegee en belanghebbendes versoek om binne 'n tydperk van agt weke ná die publikasiedatum van die genoemde kennisgewing vertoë tot die Raad te rig.⁽¹⁾

3. Buite- en binnebande en petrol is vir die doeleindes van die ondersoek buite rekening gelaat. Die rede hiervoor is dat hierdie produkte ten tye van die Minister se opdrag van die algemene verbod op herverkooppryshandhawing vrygestel was. Die Minister van Ekonomiese Sake het intussen aan die Raad opdrag gegee om ondersoek in te stel na die vraag of hierdie voortgesette vrystelling, ingevolge Goewermentskennisgewing R. 1038 van 25 Junie 1969, ten opsigte van binne- en buitebande; nog steeds in die openbare belang geregtig was.⁽²⁾ In Verslag 1860 (M) het die Raad aanbeveel dat die voortgesette vrystelling nie meer in die openbare belang geregtig was nie en dat dit beëindig word.⁽³⁾ Die Minister het die Raad se aanbeveling aanvaar en prysbinding op binne- en buitebande afgeskaf.⁽⁴⁾

4. In hierdie ondersoek sal die begrippe motorvoertuigonderdele, -komponente en -materiale gerieflikheidshalwe deur motorvoertuigonderdele en -toebehore of slegs deur onderdele of toebehore aangedui word. Dit sal op sowel die mark vir oorspronklike toerusting as op die vervangingsmark van toepassing wees. Vir die doeleindes van die verslag sluit motorvoertuigvervaardigers slegs die vervaardigers van passasiersmotors en ligte handelsvoertuie in.

5. Die kennisgewing in die *Staatskoerant* het baie min reaksie van die kant van die bedryf of publiek uitgelok. Om hierdie rede is verdere skrywes aan sekere belanghebbende partye gerig om kommentaar uit te lok. Enkeles van hulle het wel hierop gereageer.

⁽¹⁾ Kennisgewing 510 van 1976, gepubliseer in *Staatskoerant* 5236 van 30 Julie 1976.

⁽²⁾ Kennisgewing 230 van 1977, gepubliseer in *Staatskoerant* 5509 van 15 April 1977.

⁽³⁾ Raad van Handel en Nywerheid, Verslag 1860; *Ondersoek na die vrystelling van die verbod op die handhawing van herverkooppryse in die geval van binne- en buitebande*, 14 April 1978, par. 89.

⁽⁴⁾ Kennisgewing 2292 van 1978, gepubliseer in *Staatskoerant* 6217 van 17 November 1978.

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REPUBLIC OF SOUTH AFRICA

BOARD OF TRADE AND INDUSTRIES

REPORT 1929 (M)

INVESTIGATION INTO MONOPOLISTIC CONDITIONS IN THE SUPPLY AND DISTRIBUTION OF MOTOR VEHICLE PARTS, COMPONENTS AND MATERIALS IN THE REPUBLIC OF SOUTH AFRICA

CHAPTER I

TERMS OF REFERENCE, SCOPE AND METHOD OF INVESTIGATION AND BACKGROUND INFORMATION

Terms of reference

1. On 12 July 1976, the Honourable the Minister of Economic Affairs directed the Board, in terms of section 3 (1) (a) of the Regulation of Monopolistic Conditions Act, No. 24 of 1955, to undertake an investigation to determine whether monopolistic conditions existed in the supply and distribution of motor vehicle parts, components and materials in the Republic of South Africa.

Scope and method of investigation

2. In terms of section 4 (1) of the Act the Board gave notice of the investigation and requested interested parties to address representations to it within eight weeks of the publication date of the said notice.⁽¹⁾

3. Tyres and tubes and petrol were not taken into account for purposes of the investigation. The reason for this is that these products were exempt from the general prohibition on resale price maintenance at the time of the Minister's directive. In the interim the Minister of Economic Affairs directed the Board to investigate the question whether the continued exemption, in terms of *Government Notice* R. 1038 of 25 June 1969, in respect of tyres and tubes was still justified in the public interest.⁽²⁾ In Report 1960 (M) the Board found that the continued exemption was no longer justified in the public interest and recommended that it should be terminated.⁽³⁾ The Minister accepted the Board's recommendation and has abolished price maintenance on tyres and tubes.⁽⁴⁾

4. In this investigation the terms motor vehicle parts, components and materials are, for convenience sake, called motor vehicle parts and accessories or merely parts or accessories. The investigation concerns both the market for original equipment and the replacement market. For purposes of this report motor vehicle manufactures include only manufacturers of passenger motor cars and light goods vehicles.

5. The notice in the *Government Gazette* elicited very little response from the industry or the public. For this reason certain interested parties were approached in writing with a view to obtaining their comments. A few of them reacted to this.

⁽¹⁾ Notice 510 of 1976, published in *Government Gazette* 5236 of 30 July 1976.

⁽²⁾ Notice 230 of 1977, published in *Government Gazette* 5509 of 15 April 1977.

⁽³⁾ Board of Trade and Industries, Report No. 1860; *Investigation into the exemption from the prohibition on the maintenance of resale prices in the case of tyres and tubes*, 14 April 1978, paragraph 89.

⁽⁴⁾ Notice 2292 of 1978, published in *Government Gazette* 6217 of 17 November 1978.

6. Na bestudering van die vertoë en voorleggings wat die Raad van sekere verenigings en ondernemings op grond van begenoemde kennisgewing en skrywes ontvang het en na samesprekings met verskeie moontlike belanghebbendes en aan die hand van beskikbare literatuur oor die onderwerp, is omvattende vraelyste opgestel. Hierdie vraelyste het 'n breë spektrum van moontlike monopolistiese fasette gedek en is aan die volgende belanghebbende partye gestuur:

- (a) Motorvoertuigvervaardigers of -monteerders;
- (b) vervaardigers van motorvoertuigonderdele en -toebehore;
- (c) distribueerders (insluitende groot- of kleinhandelaars);
- (d) verenigings; en
- (e) groot verbruikers.

7. In die loop van die ondersoek is besoeke gebring aan en samesprekings gevoer met 'n groot aantal betrokkenes wat oor die hele Republiek verspreid is. Mondelinge getuigenis is ook deur die Raad van etlike motorvoertuigvervaardigers, agentskappe en onafhanklike onderdelehandelaars aangehoor en verder is 'n koste-ondersoek na die prys- en winsgrensstelling op versoek van die Raad deur die Departement van Nywerheidswese se kosterekenmeesters uitgevoer.

Agtergrondinligting

8. Die opdrag het gevolg op 'n ondersoek wat die Pryscontroleur in 1975 en 1976 na pryse, winste en prysstrukture ten opsigte van motorvoertuigonderdele en -toebehore ingestel het. In dié ondersoek is bevind dat daar moontlike beperkende praktyke kan bestaan wat onder meer die beskikbaarheid van motorvoertuigonderdele en -toebehore kan belemmer en 'n regstreekse uitwerking op die pryse van hierdie produkte kan hê.

HOOFSTUK II

STRUKTURELE EIENSKAPPE VAN DIE MARK VIR MOTORVOERTUIGONDERDELE EN -TOEBEHORE

Inleiding

9. Die motorvoertuignywerheid is 'n belangrike deel van die meeste semi-ontwikkelde en ontwikkelende lande se ekonomie. Motorvoertuie is duur, tegnies ingewikkelde en duursame produkte wat vervoerdienste verskaf en, naas die aankoop van 'n huis, waarskynlik die duurste enkele artikel wat die meeste mense ooit koop. Hierdie kenmerke van motorvoertuie lei daartoe dat die aankoop en funksionering daarvan vir die meeste kopers baie belangrik is en dat hulle bevrediging in hierdie verband verlang.

10. In die meeste Westerse lande is verskeie motorvoertuigvervaardigers bedrywig en is die motornywerheid meestal 'n hoogs gekonsentreerde nywerheid. Elke vervaardiger het gewoonlik verskeie modelle op die mark en elke model bevat duisende onderdele en toebehore. Meestal is die graad van uitruilbaarheid van onderdele en toebehore tussen die verskillende modelle ook gering. Oor die algemeen aanvaar motorvoertuigvervaardigers die verantwoordelikheid om vir baie jare nadat die produksie van modelle gestaak is steeds onderdele te verskaf. Dit gee aanleiding tot verskeie probleme ten opsigte van die vervaardiging, beheer, opberging, administrasie en distribusie van onderdele en toebehore.

11. Die onderdele in 'n spesifieke model verskil grootliks in hulle aard van mekaar, dek 'n wye spektrum, verskil in hulle ekonomiese eienskappe en is nie homogeen nie. In die bespreking wat volg, moet met hierdie verskille rekening gehou word.

12. Vervolgens word gelet op die aard van die produk (onderdele en toebehore), die aard van die mark vir onderdele en die distribusiesisteme ten einde 'n insae in die strukturele eienskappe van die mark vir motorvoertuigonderdele en -toebehore in baie Westerse lande te verkry. Hierdie beskrywing is nodig om die omstandighede en probleme van die nywerheid, ook in Suid-Afrika, te verstaan en antwoorde op sekere vrae te vind.

Aard van die produk

13. Onderdele en toebehore word of deur die motorvoertuigvervaardigers intern of deur onderdelevervaardigers vervaardig. Sodanige onderdele en toebehore is bestem vir gebruik in die vervaardiging van nuwe motorvoertuie as oorspronklike toerusting sowel as vir vervangingsonderdele.

14. In 'n nuwe voertuig word duisende onderdele en subonderdele aangestel wat wissel van dié wat onder normale omstandighede nooit vervang hoef te word nie tot dié wat met gereelde tussenposes vervang moet word. Dit lei daartoe dat sekere onderdele 'n hoë omloopsnelheid het, terwyl dit met ander nie die geval is nie. Hierdie verskil kom veral tot uitdrukking in die voorraad- en prysbeleid van die motorvoertuigvervaardigers en handelaars ten opsigte van onderdele en toebehore. Die onderdele met 'n vinnige omloopsnelheid word normaalweg deur alle onderdelehandelaars in voorraad gehou en dra 'n laer risiko ten opsigte van veroudering. 'n Hoë graad van uitruilbaarheid bestaan in sekere gevalle tussen die onderdele met 'n hoë omloopsnelheid van sekere modelle, byvoorbeeld vonkproppe, gloeilampe, sekerings en punte. Hierdie soort onderdele kan ook met geriefsgoedere in die geval van gewone verbruiksgoedere vergelyk word, aangesien die koper dit wil hê wanneer en soos benodig en nie daarvoor wil wag nie. Normaalweg word 'n laer winsgrens op sulke onderdele verwag as in die geval van dié met 'n lae omloopsnelheid. Alle onderdelehandelaars het normaalweg hierdie soort van onderdele in voorraad.

6. After the Board had studied the representations and submissions it had received from certain associations and individual firms arising out of the above-mentioned notice and letters, and after it had held discussions with various possibly interested parties and had perused available literature on the subject, comprehensive questionnaires were compiled. These questionnaires covered a broad spectrum of possible monopolistic facets and were sent to the following interested parties:

- (a) Motor vehicle manufacturers or assemblers;
- (b) manufacturers of motor vehicle parts and accessories;
- (c) distributors (including wholesalers or retailers);
- (d) associations; and
- (e) bulk buyers.

7. In the course of the investigation visits were made to, and discussions were held with, a large number of those involved throughout the whole of the Republic. Oral evidence was also heard by the Board from several motor vehicle manufacturers, agencies and independent parts dealers, and, in addition, at the request of the Board, a cost investigation was undertaken by the Department of Industries' cost accountants into the price and profit margin structure.

Background information

8. The directive followed an investigation by the Price Controller in 1975 and 1976 into prices, profits and price structures in respect of motor vehicle parts and accessories. During this investigation it was found that limiting practices might possibly exist, which could, *inter alia*, restrict the availability of motor vehicle parts and accessories and have a direct effect on the prices of these products.

CHAPTER II

STRUCTURAL CHARACTERISTICS OF THE MARKET FOR MOTOR VEHICLE PARTS AND ACCESSORIES

Introduction

9. The motor vehicle industry forms an important part of the economy of most semi-developed and developing countries. Motor vehicles are expensive, technically complex, and durable products which provide transport services and, after the purchase of a house, are probably the most expensive single item most people ever buy. Because of these facts the purchase and functioning of a motor vehicle are very important to most buyers who demand satisfaction in these matters.

10. In most western countries a number of motor vehicle manufacturers are actively engaged and the motor industry is mostly a highly concentrated industry. Every manufacturer usually has a number of models on the market and each model consists of thousands of parts and accessories. In most cases the extent to which the parts and accessories of the various models are interchangeable is slight. In general, motor vehicle manufacturers accept the responsibility of supplying parts for many years after the production of a particular model has ceased. This leads to a number of problems in connection with the manufacture, control, storage, administration and distribution of parts and accessories.

11. The parts in a specific model differ greatly in their conformation from one another, cover a wide spectrum, differ in their economic characteristics and are not homogeneous. In the following discussion these differences should be borne in mind.

12. Next cognizance will be taken of the nature of the product (parts and accessories), the nature of the market for parts and the distribution system in order to gain insight into the structural characteristics of the market for motor vehicle parts and accessories in many Western countries. This description is necessary to understand the circumstances and problems of the industry, also in South Africa, and to find answers to certain questions.

Nature of the product

13. Parts and accessories are manufactured either by the motor manufacturers themselves or by parts manufacturers. These parts and accessories are designed for use in the manufacture of new motor vehicles as original equipment as well as for replacement parts.

14. In a new vehicle thousands of parts and subparts are found, varying from those which under normal circumstances need never be replaced to those which must be replaced at regular intervals. This means that certain parts have a high turnover whereas others do not. This difference is expressed in particular in the stock and price policies of the motor vehicle manufacturers and dealers in parts and accessories. The parts with a rapid turnover are normally kept in stock by all parts dealers and have a lower risk of obsolescence. A high degree of interchangeability exists in certain cases between parts of various models with a high turnover such as sparking plugs, light bulbs, fuses and points. These parts may also be compared with convenience goods in the case of ordinary consumer goods, because the buyer wants these to be available when needed and does not want to have to wait for them. Normally a lower profit margin is expected on such parts than on those with a low turnover. All parts dealers normally have these sort of parts in stock.

15. Motorvoertuigvervaardigers vereis normaalweg dat hul agentskappe 'n sekere omvang en verskeidenheid van onderdele in voorraad moet hou, terwyl ander onderdele, gewoonlik dié met 'n lae omloopsnelheid, deur sekere van hulle hoofdistribueerders of hulself in voorraad gehou word. Sekere van die onderdele met 'n lae omloopsnelheid, byvoorbeeld bakdele, bekledsels en stuurwiele, kan met keusegoedere in die geval van verbruiksgoedere vergelyk word deurdat die koper se behoefte daaraan in die meeste gevalle minder dringend is as in die geval van ander onderdele.

16. Die groot verskeidenheid van modelle en groot aantal nie-homogene onderdele, sowel as verskille in die tegniese aard daarvan, het 'n regstreekse invloed op verkoopmetodes en voorraadbeheer. Tegniese kennis en advies word by die verkoop van onderdele verwag en voorraadbeheer en -administrasie is van die allergrootste belang vir effektiewe distribusie. Al hierdie faktore het 'n regstreekse invloed op die koste van distribusie.

Mark vir onderdele en toebehore

17. Die mark vir onderdele en toebehore kan in twee duidelik onderskeibare segmente verdeel word, naamlik die mark vir oorspronklike toerusting by die vervaardiging van nuwe motorvoertuie en die mark vir vervangingsonderdele en -toebehore. Voorts bestaan die mark vir vervangingsonderdele ook uit twee segmente, naamlik dié vir die sogenaamde "egte" onderdele en toebehore wat deur die motorvoertuigvervaardigers vir gebruik in hul voertuie goedgekeur word en gewoonlik deur hul onderdele- en toebehore-afdelings versprei word sowel as die sogenaamde "substitusie-onderdele" (algemeen ook as "roofoonderdele" bekend) wat deur die onafhanklike onderdelehandelaars versprei word. In hierdie verslag sal vervolgens na goedgekeurde en "substitusieonderdele" verwys word.

(a) Oorspronklike toerusting

18. Die mark vir oorspronklike toerusting word deur verskeie bronne voorsien, naamlik eie ("in plant") vervaardiging; vervaardiging of montering deur binnelandse onderdelevervaardigers; invoer deur die motorvoertuigvervaardigers; en in uitsonderlike gevalle ook deur middel van invoer deur binnelandse groothandelaars en onderdelevervaardigers.

19. Vir sekere onderdele en toebehore is die enigste vraag dié vir oorspronklike toerusting, terwyl andere 'n groot vervangingsmark het. Sodoende is sommige van die onderdelevervaardigers grootliks van die motorvoertuigvervaardigers vir die totale vraag na hulle produkte afhanklik en moet die volle koste en wins uit die mark vir oorspronklike toerusting verhaal word. Hoe kleiner die vervangingsvraag na 'n onderdelevervaardiger se produk, hoe groter is sy afhanklikheid van die mark vir oorspronklike toerusting, naamlik die motorvervaardigers, en hoe swakker is sy bedingingsposisie vis-à-vis sy afnemers.

20. In die geval van onderdele en toebehore wat 'n groot vervangingsmark geniet, is die beleid van die onderdelevervaardigers verskillend van dié met geen of 'n klein vervangingsmark. Die onderdele as oorspronklike toerusting bestem, word dikwels teen marginale pryse en soms selfs teen 'n verlies verskaf. Naas die druk van mededinging wat die prys laag hou, is die oogmerk dat die produk as reklame moet dien. Vir hierdie praktyk om uiteindelik te kan slaag, is volgehoue bestellings van vervangingsonderdele egter noodsaaklik.

21. In semi-ontwikkelde lande word die binnelandse vervaardiging van motorvoertuie gewoonlik deur die owerheid aangemoedig en in sulke omstandighede word onderdele dikwels gekoop wat nie in toestand van vrye internasionale mededinging binnenslands gekoop sou word nie. Die binnelandse vervaardigers van onderdele in hierdie lande het egter normaalweg sekere koste-nadele teenoor oorsese onderdelevervaardigers.

22. Motorvoertuigvervaardigers, veral dié in semi-ontwikkelde lande, is van mening dat die onderdelevervaardigers in 'n monopolistiese of oligopolistiese posisie teenoor hulle verkeer. Die klein vraag na onderdele veroorsaak dat die aanbod baie gekonsentreer is deurdat slegs ekonome is dat een of twee onderdelevervaardigers 'n spesifieke onderdeel vervaardig en dat voertuigvervaardigers dan veral vanweë die binnelandse inhoudsprogramme ten opsigte van motorvoertuie dikwels slegs op hierdie beperkte aanbod aangewys is. Daarbenewens kan binnelandse inhoudsprogramme die uitwerking hê om vervaardigers onregstreeks te verplig om sekere onderdele op die binnelandse mark aan te koop. Onderdelevervaardigers in hierdie lande, aan die ander kant, beweer dat die motorvoertuigvervaardigers dikwels monopolisties optree, veral wanneer laasgenoemdes hulself in 'n sterk kopersmarkposisie bevind.

(b) Vervangingsonderdele

23. Vervangingsonderdele en -toebehore word deur die onderdele- en toebehoreafdelings van die motorvoertuigvervaardigers (goedgekeurde onderdele) sowel as deur onafhanklike onderdelehandelaars ("substitusie-onderdele") verskaf. Vir onderdelevervaardigers is die vraag na vervangingsonderdele gewoonlik 'n afgeleide vraag en word dit veral ook deur die aard van die onderdeel beïnvloed. Die vraag het dikwels 'n lae elasticiteit met betrekking tot die prys as gevolg van die rol, posisie en houding van die motorvoertuigvervaardiger, die herstelplek en die motoreienaar. So gebeur dit dat wanneer motoriste hul voertuie vir herstelwerk na werksplase neem hulle weinig invloed het op die handelsmerk en prys van die onderdele en is hulle gewoonlik ook nie teenwoordig wanneer die herstelwerk uitgevoer word nie. Voorts verkeer die motorvoertuigvervaardiger sowel as hul agentskappe in 'n monopolistiese posisie as gevolg van die geboonde mark wat hulle het.

15. Motor vehicle manufacturers normally insist that their agencies have a certain number and variety of parts in stock, while other parts, usually those with a low turnover, are kept in stock by some of their main distributors or by themselves. Certain of the parts with a low turnover, for example body parts, upholstery and steering wheels, may be compared with optional goods in the case of consumer goods in that the buyer's need for them is usually less urgent than in the case of other parts.

16. The large variety of models and large number of non-homogeneous parts, as well as the differences in the technical nature of these, have a direct effect on sales methods and stock control. Technical knowledge and advice are expected from the seller of parts and stock control and administration are of the greatest importance for effective distribution. All these factors have a direct effect on distribution costs.

Market for parts and accessories

17. The market for parts and accessories may be divided into two clearly defined areas, namely the market for original equipment used in the manufacture of new motor vehicles and the market for replacement parts and accessories. In addition, the market for replacement parts also consists of two areas, namely the market for so-called "genuine" parts and accessories approved by the motor vehicle manufacturers for use in their vehicles and therefore usually distributed by their parts and accessories division and the market for so-called "substitute parts" (also known as "pirate parts") distributed by independent parts dealers. In this report these parts will be referred to as approved and "substitute parts" hereinafter.

(b) Original equipment

18. The market for original equipment is supplied by various sources, namely own ("in plant") manufacture; manufacture or assembly by local parts manufacturers; imports by motor vehicle manufacturers; and in exceptional cases also by imports by local wholesalers and parts manufacturers.

19. There is a large replacement market for certain parts and accessories, but in some cases only original equipment is demanded. Thus some parts manufacturers are largely dependent on motor vehicle manufacturers for the total demand for their products and their total costs and profits have to be recovered from the market for original equipment. The smaller the replacement demand for a parts manufacturer's product, the greater his dependence on the market for original equipment, namely the motor manufacturers, and the weaker his bargaining position vis-à-vis his other customers.

20. In the case of parts and accessories with a large replacement market, the policy of the parts manufacturers differs from that for parts with no replacement market at all or only a small replacement market. The parts intended for original equipment are often supplied at marginal prices or even at a loss. In addition to the pressure of competition which keeps the price low, the aim is to use the product for publicity purposes. For this practice to be successful it is however essential that orders for replacement parts be placed continuously.

21. In semi-developed countries the local manufacture of motor vehicles is usually encouraged by the Government and under these circumstances parts are often purchased, which would not be purchased locally under conditions of free international competition. The local manufacturers of parts in these countries, however, usually have certain cost disadvantages as against overseas parts manufacturers.

22. Motor vehicle manufacturers, especially those in semi-developed countries, are of the opinion that the parts manufacturers are in a monopolistic or oligopolistic position compared with them. The small demand for parts leads to the concentration of suppliers in that it is only economical for one or two parts manufacturers to manufacture a specific part. Because of the local content programmes in respect of motor vehicles, in particular, vehicle manufacturers often have to rely on this limited supply. Furthermore, the local content programmes can have the effect of indirectly compelling manufacturers to purchase certain parts on the local market. Parts manufacturers in these countries, on the other hand, claim that the motor vehicle manufacturers often act monopolistically, especially where they find themselves in a strong buyers' market.

(b) Replacement parts

23. Replacement parts and accessories are supplied both by the parts and accessories divisions of the motor vehicle manufacturers (approved parts) and by independent parts dealers ("substitute parts"). As far as parts manufacturers are concerned the demand for replacement parts is usually a derived demand and is especially influenced by the nature of the parts. Very often the demand is not really elastic as regards price because of the role, position and attitude of the motor vehicle manufacturer, the repair shop and the owner of the motor vehicle. It may happen that when motorists take their vehicles for repairs to workshops they have very little say as regards the trade name and price of the parts and are also usually not present when repairs are done. In addition, the motor vehicle manufacturers and their agencies are in a monopolistic position as a result of the tied market which they have.

24. Vervangingsonderdele word in baie gevalle vanaf dieselfde bronne as dié bestem vir oorspronklike toerusting verkry. Goedgekeurde en "substitusieonderdele" is ook dikwels vanaf dieselfde bronne afkomstig en verskil geensins van mekaar nie, behalwe dat die betrokke motorvoertuigvervaardiger se handelsmerk in die geval van die goedgekeurde onderdeel soms daarop of op die verpakking kan verskyn.

25. Motorvoertuigvervaardigers beweer meestal dat die goedgekeurde onderdeel duurder is aangesien dit deur hulle goedgekeur en gewaarborg is en nie met die "substitusie-onderdele" vergelyk kan word nie.

26. Onderdele wat deur die motorvoertuigvervaardigers versprei word, word gewoonlik deur hulle goedgekeur en gewaarborg. Agentskappe van motorvoertuigvervaardigers gebruik tydens herstelwerk aan motors meestal slegs goedgekeurde onderdele en verkry sodoende 'n groot gebonde mark vir die betrokke produkte. Sekere onderdele is ook slegs by die agentskappe verkrygbaar deurdat motorvoertuigvervaardigers dikwels 'n eksklusiewe reg op die spesifikasies en matryse het wat vir vervaardiging gebruik word. Dit skep sodoende 'n verdere gebonde mark vir die motorvoertuigvervaardigers.

27. Motorvoertuigvervaardigers onderneem normaalweg om in alle behoeftes na onderdele en toebehore van hulle modelle te voorsien; selfs vir baie jare nadat die produksie van 'n model gestaak is. Baie van die onafhanklike onderdelehandelaars voorsien slegs in die behoeftes na onderdele met 'n hoë omloopsnelheid. Die redes hiervoor kan tweërlei van aard wees. Dit is moontlik dat hulle nie belang stel in die onderdele met 'n lae omloopsnelheid nie of omdat die eksklusiewe ooreenkomste van motorvoertuigvervaardigers met onderdelevervaardigers en hulle agentskappe hulle daarvan weerhou om sekere onderdele in die hande te kry. Motorvoertuigvervaardigers voer gewoonlik slegs na hulle filiale in ander lande uit en dit weerhou dan ook die onafhanklike handelaars om van die motorvoertuigvervaardigers oorsee in te voer.

28. Kritiek teen die hoë pryse van vervangingsonderdele is universeel en die redes daarvoor kan velerlei van aard wees. So kan die noodsaaklikheid van deeglike gehaltebeheer, die aard van die distribusiesisteme, die gebonde mark, binnelandse inhoudsprogramme, die lae pryse van oorspronklike toerusting en koste en wins wat uit vervangingsonderdele verhaal moet word, winsgrense en diskonto's wat tradisioneel hoog is, onderdele wat vir jare lank in voorraad gehou moet word, lae graad van standaardisasie en die koste van voorraadadministrasie almal 'n rol speel.

Distribusiesisteme vir motorvoertuigonderdele en -toebehore

29. Die distribusiesisteme vir onderdele en toebehore word in Diagram 1 geïllustreer.

24. Replacement parts are, in many cases, obtained from the same sources as those intended for original equipment. Approved and "substitute parts" often come from the same source and do not differ at all, except that in the case of approved parts the motor vehicle manufacturer's trade mark may appear on them or on the package.

25. Motor vehicle manufacturers usually claim that the approved parts are more expensive because they have been approved and guaranteed by them and cannot be compared with the "substitute parts".

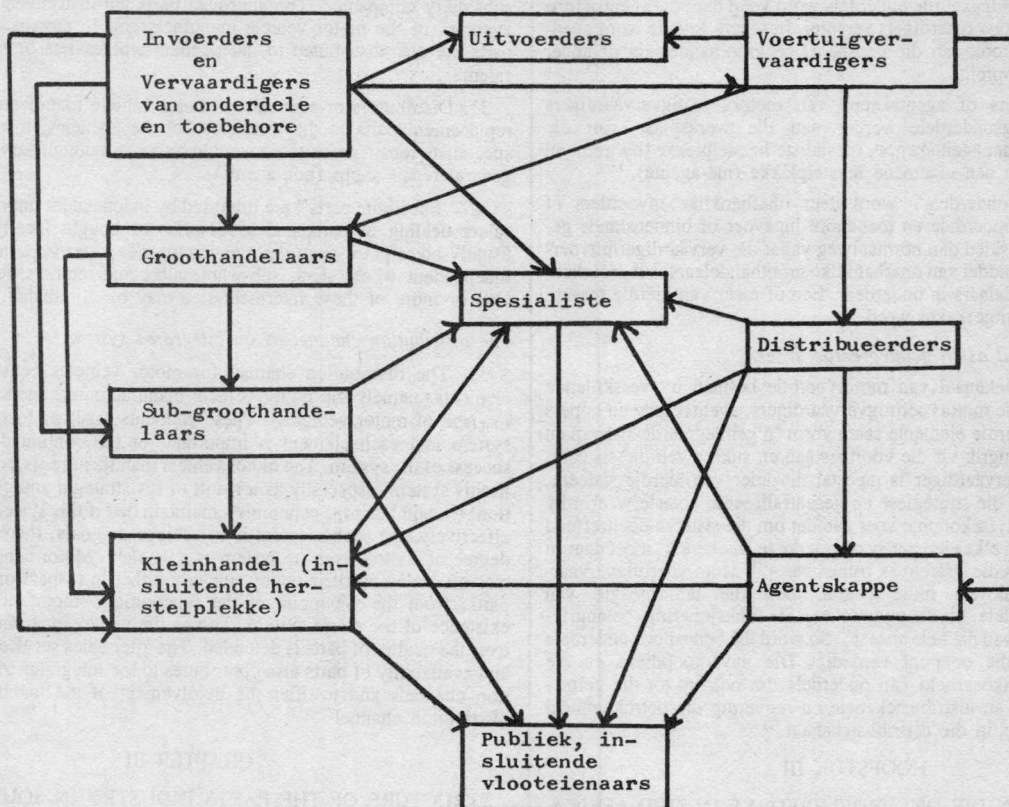
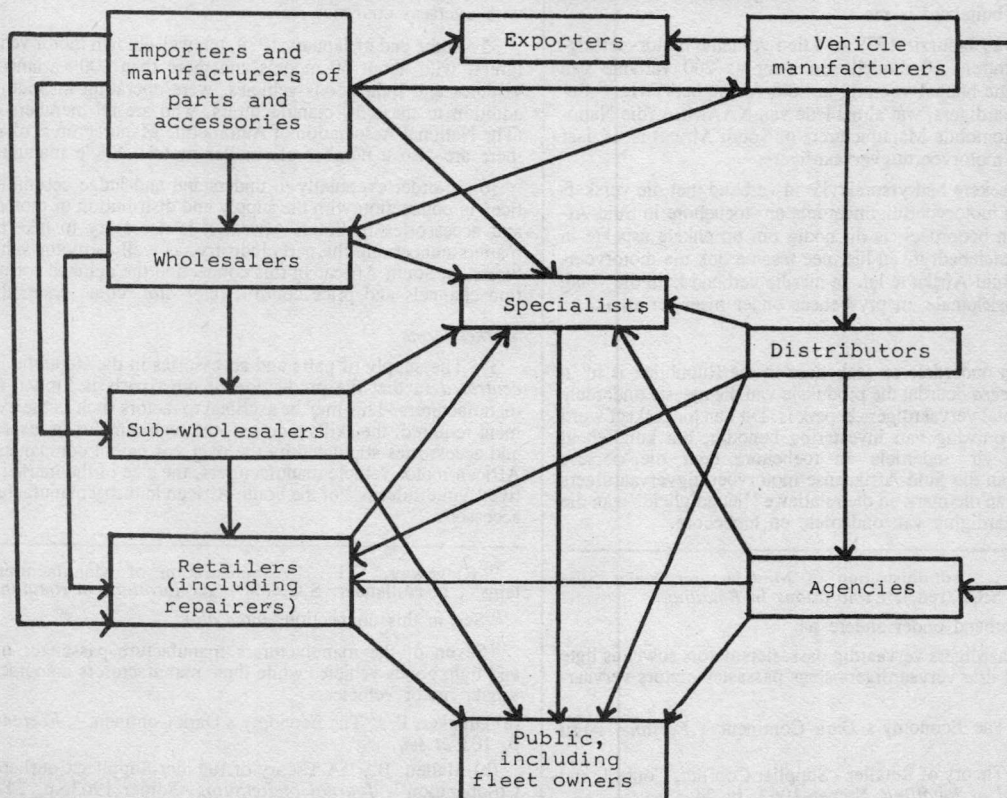
26. Parts distributed by the motor vehicle manufacturers are usually approved and guaranteed by them. Agencies of motor vehicle manufacturers mostly use only approved parts for repairs to motor vehicles, and in this way secure a large tied market for the products in question. Certain parts are also obtainable only from agencies in that motor vehicle manufacturers often have an exclusive right to the specifications and matrices used in their manufacture. In this way a further tied market is created for the motor vehicle manufacturers.

27. Motor vehicle manufacturers usually undertake to supply all demands for parts and accessories for their models, even for many years after the production of any model has ceased. Many independent parts dealers only supply parts with a high turnover. The reason for this can be twofold. It is possible that they are not interested in the parts with a low turnover or that exclusive agreements between motor manufacturers and parts manufacturers and their agencies are preventing them from obtaining certain parts. Motor vehicle manufacturers usually export only to their subsidiaries in other countries and this in turn prevents independent dealers from importing from overseas motor vehicle manufacturers.

28. Criticism of the high prices of replacement parts is universal and the reasons for these can be manifold. The necessity for thorough quality control, the nature of the distribution system, the tied market, local content programmes, the low prices of original equipment and costs and profits to be recovered from replacement parts, profit margins and discounts which are traditionally high, parts which have to be kept in stock for many years, low grade of standardisation and the costs of stock administration can all play a part.

Distribution system for motor vehicle parts and accessories

29. The distribution system for parts and accessories is illustrated in Diagram 1.

DIAGRAM 1DISTRIBUSIESISTEEM VIR ONDERDELE EN TOEBEHOREDIAGRAM 1DISTRIBUTION SYSTEM FOR PARTS AND ACCESSORIES

30. Onderdele wat vir die onderdele- en toebehore-afdelings van die motorvoertuigvervaardigers bestem is (vervangingsonderdele), sowel as dié vir oorspronklike toerusting, word self vervaardig, binnenslands gekoop of ingevoer, veral vanaf die moedermaatskappye oorsee of vanaf mede-filiale. Die goedgekeurde onderdele word veral deur die agentskappe van die motorvoertuigvervaardigers versprei. In sekere gevalle word goedgekeurde onderdele ook aan die onafhanklike groothandelaars of ander groothandelaars versprei.

31. Distribueerders of agentskappe van motorvoertuigvervaardigers versprei vervangingsonderdele verder aan die werksplase van die agentskappe, aan ander agentskappe, spesialisite-herstelplekke (bv. rem- en koppelaardienste) en aan algemene herstelplekke (nie-agente).

32. "Substitusie-onderdele" word deur onafhanklike invoerders of groothandelaars in onderdele en toebehore ingevoer of binnenslands gekoop. Distribusie geskied dan normaalweg vanaf die vervaardiger/uitvoerder/invoerder deur middel van onafhanklike groothandelaars, subgroothandelaars en kleinhandelaars in onderdele. Een of meer van hierdie tussenpersone kan egter uitgeskakel word.

Die distribusiekanaal as 'n geïntegreerde sisteem

33. Die distribusiekanaal van motorvoertuie bestaan uit verskillende elemente, naamlik die motorvoertuigvervaardigers, agentskappe en kopers (motoreienaars). Hierdie elemente saam vorm 'n geïntegreerde sisteem en elke element is belangrik vir die voortbestaan en sukses van die sisteem. Die motorvoertuigvervaardiger is meestal die leier van hierdie sisteem, veral as gevolg van die strategiese en gesentraliseerde posisie waarin hy verkeer. Sekere bedryfsekonome voer aan dat om die sisteem doeltreffend te laat funksioneer en elke element sy oogmerke te laat bereik, moet daar 'n mate van beheer van die sisteem as geheel wees.⁽¹⁾ Motorvoertuigvervaardigers verdedig dikwels hulle beleid, ook dié ten opsigte van motorvoertuigonderdele, uit die oogpunt van die funksionering, belangrikheid en bestaansreg van die hele sisteem. So word die beheer oor onderdele se gehalte uit hierdie oogpunt verdedig. Die naverkoopdiens en die verskaffing en beskikbaarheid van onderdele dra ook by tot die geïntegreerde beskouing van distribusiekanaale en regverdig die betrokkenheid van die vervaardiger in die distribusiekanaal.⁽²⁾

HOOFSTUK III

STRUKTUUR VAN DIE ONDERDELEBEDRYF IN SUID-AFRIKA

Inleiding

34. Die geskiedenis en ontwikkeling van die Suid-Afrikaanse motorvoertuigvervaardigingsnywerheid is reeds in verskillende verslae van die Raad beskryf. In Suid-Afrika, soos ook in die geval van verskeie ander semi-ontwikkelde lande, word besluite ten opsigte van die Suid-Afrikaanse inhoudsprogram vir die binnelandse motorvoertuignywerheid dikwels op gronde ander as die suiwer ekonomiese gebaseer. Die gevolg hiervan is dat daar nou in baie gevalle veral interne mededinging in Suid-Afrika en nie mededinging met die buiteland is nie.

35. Aan die einde van Januarie 1979 was tien vername motorvoertuigvervaardigers, met omtrent 60 modelle en meer as 200 variante van passasiersmotors en ligte handelsvoertuie in Suid-Afrika bedrywig.⁽³⁾ Behalwe hierdie 10 vervaardigers, wat almal lede van NAAMSA (die National Association of Automobile Manufacturers of South Africa) is, is daar ook 'n aantal kleiner motorvoertuigvervaardigers.

36. Om uiteindelik sekere bedryfspraktyke in verband met die verskaffing en distribusie van motorvoertuigonderdele en -toebere in Suid-Afrika te kan verstaan en beoordeel, is dit nodig om op enkele aspekte in verband met die onderdelebedryf, en hiermee tesame ook die motorvoertuigvervaardigers, in Suid-Afrika te let. In hierdie verband kom die vraag na onderdele, distribusiekanaale en prysbeheer onder meer ter sprake.

Markvorme

37. Die aanbod van onderdele en toebehore in die Republiek is in 'n groot mate *gekonsentreerd* deurdat die produksie van die meeste onderdele tot slegs 'n geringe aantal vervaardigers beperk is. Dit kan toegeskryf word aan faktore soos die omvang van investering benodig, die kundigheid vereis, die vereistes vir onderdele en toebehore deur die oorsese moedermaatskappye van die Suid-Afrikaanse motorvoertuigvervaardigers neergelê, die grootte van die mark en die relatiewe "jeugdigheid" van die Suid-Afrikaanse vervaardiging van onderdele en toebehore.

⁽¹⁾ Ridgeway, V.F., "Administration of Manufacturer-Dealer Systems", in Hollander, S.C. (red.), *Explorations in Retailing*.

⁽²⁾ Kyk in hierdie verband onder andere na:

⁽³⁾ Sewe van die vervaardigers vervaardig passasiersmotors sowel as ligte handelsvoertuie terwyl drie vervaardigers slegs passasiersmotors vervaardig.

(a) Drucker, P., "The Economy's Dark Continent", *Fortune*, April 1962, bl 103 e.v.

(b) Mallen, B., "A Theory of Retailer - Supplier Conflict, Control, and Cooperation", *Journal of Retailing*, Somer 1963, bl 24 e.v.

30. Parts intended for the parts and accessories divisions of motor vehicle manufacturers (replacement parts), as well as those for original equipment are manufactured by the dealers themselves, are bought locally or imported, especially from the parent companies overseas or from fellow subsidiary companies. The approved parts are distributed mainly by the agencies of the motor vehicle manufacturers. In certain cases approved parts are also distributed to independent wholesalers or to other wholesalers.

31. Distributors or agencies of motor vehicle manufacturers distribute replacement parts to the workshops of the agencies, to other agencies, specialists repair shops (for example brake and clutch services) and other general repair shops (non-agents).

32. "Substitute parts" are imported by independent importers or wholesalers dealing in parts and accessories or bought locally. Distribution usually takes place from the manufacturer/exporter/importer by means of independent wholesalers, sub-wholesalers and retailers dealing in parts. One or more of these intermediaries may be eliminated, however.

The distribution channel as an integrated system

33. The distribution channel for motor vehicles consists of various elements, namely the motor vehicle manufacturers, agencies and buyers (owners of motor vehicles). These elements together form an integrated system and each element is important for the continued existence and success of the system. The motor vehicle manufacturer is usually the leader in this system, especially as a result of his strategic and centralised position. Certain business economists maintain that if this system is to function effectively and each element is to achieve its goals, there must be some degree of control over the system as a whole⁽¹⁾. Motor vehicle manufacturers often defend their policy, including that in respect of motor vehicle parts, from the viewpoint of the functioning, importance and right of existence of the entire system. This is the viewpoint from which control over the quality of parts is defended. The after-sales service and the supply and availability of parts also contributes to the integrated view of distribution channels and justifies the involvement of the manufacturer in the distribution channel⁽²⁾.

CHAPTER III

STRUCTURE OF THE PARTS INDUSTRY IN SOUTH AFRICA

Introduction

34. The history and development of the South African motor vehicle manufacturing industry has already been described in various reports compiled by the Board. In South Africa, as is the case in various other semi-developed countries, decisions in respect of the South African content programme for the local motor vehicle industry are often based on considerations other than the purely economical. The result is that in many cases there is now internal competition in South Africa and no competition with overseas countries.

35. At the end of January 1979, ten well-known motor vehicle manufacturers, with about 60 models and more than 200 variants of passenger vehicles and light goods vehicles, were operating in South Africa⁽³⁾. In addition to these 10 manufacturers, who are all members of NAAMSA (The National Association of Automobile Manufacturers of South Africa), there are also a number of smaller motor vehicle manufacturers.

36. In order eventually to understand and judge certain business practices in connection with the supply and distribution of motor vehicle parts and accessories in South Africa, it is necessary to take note of a few matters concerning the parts industry, as well as motor vehicle manufacturers, in South Africa. In this connection the demand for parts, distribution channels and price control, *inter alia*, come under discussion.

Market forms

37. The supply of parts and accessories in the Republic is largely *concentrated* in that the production of most parts is limited to only a few manufacturers. This may be ascribed to factors such as the extent of investment required, the skills required, the requirements in respect of the parts and accessories stipulated by the overseas parent companies of the South African motor vehicle manufacturers, the size of the market, and the relative "youthfulness" of the South African industry manufacturing parts and accessories.

⁽¹⁾ Ridgeway, V.F., "Administration of Manufacturer-Dealer Systems", in Hollander, S.C. (ed.), *Explorations in Retailing*.

⁽²⁾ See in this connection, *inter alia*:

⁽³⁾ Seven of the manufacturers manufacture passenger motor vehicles and light goods vehicles while three manufacturers manufacture only passenger motor vehicles.

(a) Drucker, P., "The Economy's Dark Continent", *Fortune*, April 1962, p. 103 *et seq.*

(b) Mallen, B., "A Theory of Retailer-Supplier Conflict, Control, and Co-operation", *Journal of Retailing*, Somer 1963, p. 24 *et seq.*

38. Baie van die binnelandse onderdeleervaardigers het verbintenisse met oorsese vervaardigers van onderdele en toebehore. Hierdie verbintenisse spruit onder meer uit die finansiële belang van die oorsese vervaardigers in die binnelandse vervaardigers, produkte wat binnenslands onder lisensies van die oorsese maatskappye vervaardig word, die verskaffing van toerusting, die verskaffing van matryse en die uitrui van navorsingsresultate, advies en kundigheid.

39. In Suid-Afrika word 'n wye reeks onderdele en toebehore vervaardig, alhoewel die hoeveelhede van die individuele items klein is. Hierdie onderdele sluit onder meer dele in van die bakwerk, masjienonderdele, wiele, bande, bekleding, onderstel, agteras, stuurstelsel, elektriese stelsel, remstelsel, uitlaatstelsel, lugreëling, brandstofstelsel, glas en ligte. Sekere onderdele, soos outomatiese ratkaste, sekere giet- en persstukke, slotte en sekere soorte elektriese toerusting word nie in Suid-Afrika vervaardig nie.

40. Die binnelandse vraag na onderdele bestaan uit die vraag na onderdele om te dien as oorspronklike toerusting of as vervangingsonderdele. Van die onderdeleervaardigers voer van hulle produkte uit en probeer om 'n oorsese mark te ontwikkel. In ander gevalle dien die vervaardigde produk slegs as 'n onderdeel by die vervaardiging of montering van submontasies. Die belangrikheid van onderdeleervaardiging in terme van die totale aktiwiteite verskil aansienlik tussen die onderdeleervaardigers.

41. By sommige is die waarde van die vervaardigde onderdele so laag as twee persent van die totale opbrengs van die onderneming, terwyl ander se totale aktiwiteit op die vervaardiging van onderdele en toebehore toegespits is. In Suid-Afrika is daar ook vervaardigers wat slegs onderdele vervaardig en daarbenewens slegs van een of twee motorvoertuigvervaardigers vir hulle voortbestaan afhanklik is, en soms ook slegs een onderdeel vervaardig.

42. Die mate waarin die onderdeleervaardigers van die mark vir oorspronklike toerusting afhanklik is, wissel aansienlik. Sekere vervaardigers se produkte is hoofsaaklik vir die oorspronklike toerustingmark bestem, soos gietstukke, persstukke, sitlekrame, sonskerms, dakbekleding en sekere bakwerkdele. In ander gevalle is die enigste kopers van onderdele wat vir oorspronklike toerusting sowel as vir die vervangingsmark bestem is, slegs die motorvoertuigvervaardigers. Die rede hiervoor is veral omdat dit produkte met 'n lae omset is en onafhanklike onderdelehandelaars nie belang stel om dit te hanteer nie of omdat die motorvoertuigvervaardigers 'n eksklusiewe reg op die matryse het wat vir die vervaardiging gebruik is. Die verhouding tussen die omvang van die mark vir oorspronklike toerusting en dié vir die vervangingsmark wissel met betrekking tot verskillende onderdele en word deur verskeie spesiale omstandighede bepaal, byvoorbeeld die tegniese lewensduur van die produk, die omloopsnelheid van die onderdeel, die massa en waarde daarvan, die kwaliteit van diens, die mate van invoer en die houding van die binnelandse kopers teenoor die onderdele en toebehore van 'n Suid-Afrikaanse oorsprong.

43. Dit word beweer dat sekere onderdeleervaardigers oor aansienlike monopolistiese mag⁽¹⁾ in die mark beskik. Hierdie vervaardigers kan, volgens een van die motorvoertuigvervaardigers, in drie groepe verdeel word, naamlik:

(i) Die "volledige" monopoliste.—Die volgende onderdele en toebehore word in sy geval deur "volledige" monopoliste vervaardig: agteraste, wielvellings, glas, ruitveërlenne en -arms, hoefligtoebehore, sonskerms, laers, rempe, stuurkolomme en stuurwiele.

(ii) Monopolieë geskep vanweë die spesifikasies en vereistes van die moedermaatskappye van sekere motorvoertuigvervaardigers.—Volgens bogenoemde voertuigvervaardiger lê die oorsese moedermaatskappye van sommige binnelandse motorvoertuigvervaardigers besonder streng spesifikasies en standaardvereistes vir onderdele en toebehore neer. Die Suid-Afrikaanse vervaardiger kan dan meestal selde meer as een onderdeleervaardiger binnenslands kry wat aan die neergelegde vereistes en standaarde voldoen. Dikwels is dit ook die geval dat die binnelandse motorvoertuigvervaardiger die betrokke onderdele- en toebehorevervaardiger in so 'n mate met kundigheid moet bystaan dat hy net op een aangewese kan wees. Een van die binnelandse motorvoertuigvervaardigers het die Raad meegedeel dat die vervaardigers van die volgende produkte vir die motorvoertuigvervaardigers monopoliste is as gevolg van spesifikasies en vereistes deur hul moedermaatskappye neergelê: persstukke soos stuurarms, klinkarms, halfaste, vliegwiële, versilweraars van buffertoehore, remknyptoebehore, versilwerde toebehore soos naafdroppe en spieëls, spoorstangkoppe en stuurstange.

(iii) Die enigste leweransiers van grondstowwe.—Elkeen van die volgende grondstowwe word volgens die genoemde vervaardiger deur slegs een leweransier verskaf: plaatstaal, aluminium, vlekvrystaal, koperplate en -repe, en veerstaal.

44. Alhoewel van die vervaardigers van bogenoemde onderdele en toebehore die enigste leweransiers kan wees, ding hulle wel mee met ingevoerde onderdele en toebehore, alhoewel dié met 'n hoër massa 'n voordeel bo dié met 'n lae massa in terme van die Suid-Afrikaanse inhoudsprogram het.

45. Vanweë die faktore in die vorige paragrafe genoem, kan die markvorm wat by die verskaffing van onderdele en toebehore in Suid-Afrika aangetref word as monopolisties en oligopolisties beskryf word. Aan die ander kant word die aansienlike monopolieë van die onderdeleervaardigers in 'n groot mate getemper deur die monopolieë waaroor die motorvoertuigvervaardigers op hulle beurt beskik.

38. Many of the local parts manufacturers have relationships with overseas manufacturers of parts and accessories resulting, *inter alia*, from the financial interest of overseas manufacturers in the local manufacturers, products manufactured locally under licences from the overseas companies, the supply of equipment, the supply of matrices and the exchange of research results, advice and expertise.

39. In South Africa a wide range of parts and accessories is manufactured, although the quantities of the individual items are small. These parts include, *inter alia*, parts of the body work, machine parts, wheels, tyres, upholstery, chassis, rear axles, steering systems, electrical systems, braking systems, exhaust systems, air-conditioning, fuel systems, glass and lights. Certain parts, such as automatic gearboxes, certain castings and pressings, locks and certain types of electrical equipment, are not manufactured in South Africa.

40. The local demand for parts consists of the demand for parts to serve as original equipment or as replacement equipment. Some of the parts manufacturers export some of their products and are trying to build up an overseas market. In other cases the manufactured product serves only as a part in the manufacture or mounting of sub-assemblies. The importance of parts manufacture in terms of total activities differs considerably from one parts manufacturer to another.

41. In the case of some manufacturers the value of the manufactured parts is as low as 2 per cent of the total return of the concern, while the total activities of other manufacturers are concentrated on the manufacture of parts and accessories. In South Africa there are also manufacturers who manufacture parts only and are moreover dependent on one or more motor vehicle manufacturers for their continued existence; some manufacturers manufacture one part only.

42. The extent to which the parts manufacturers are dependent on the market for original equipment varies considerably. Certain manufacturers' products are intended mainly for the original equipment market, such as castings, pressings, seat frames, sun shields, roofing and certain body parts; in other cases the only buyers of parts for original equipment and for the replacement market are the motor vehicle manufacturers. The reason for this is mainly that these are products with a low turnover in which independent parts dealers are not interested or that the motor vehicle manufacturers have an exclusive right to the matrices used in their manufacture. The correlation between the size of the market for original equipment and that of the market for replacement parts varies with regard to the several parts and is determined by special conditions, e.g. the technical life-span of the product, the turnover of the product, its mass and value, the quality of service, the extent of importation and the attitude of the local buyers to parts and accessories of South African origin.

43. It is alleged that certain parts manufacturers have considerable monopolistic power⁽¹⁾ in the market. These manufacturers can, according to one of the motor vehicle manufacturers, be divided into three groups, namely:

(i) The "complete" monopolists.—The following parts and accessories are manufactured by "complete" monopolists: rear axles, wheel rims, glass, windscreen wiper blades and arms, headlight accessories, sun shields, bearings, brake tubing, steering columns and steering wheels.

(ii) Monopolies created because of the specifications and requirements of the parent company of certain motor vehicle manufacturers.—According to the above-mentioned vehicle manufacturer the overseas parent companies of some local motor vehicle manufacturers lay down particularly strict specifications and standard requirements for parts and accessories. In most cases the South African manufacturer can then seldom find more than one parts manufacturer locally who is able to meet these requirements and standards. Moreover, it is often the case that the local motor vehicle manufacturer must then provide the parts and accessories manufacturer concerned—with so much expertise that he is then dependent on one manufacturer only. One of the local motor vehicle manufacturers informed the Board that the manufacturers of the following products for motor vehicle manufacturers have become monopolists as a result of specifications and requirements laid down by their parent company:

pressings such as drop arms, steering arms, axle shafts, fly wheels, silver-platers of buffer accessories, brake caliper accessories, silver-plated accessories such as hub caps and mirrors, tie-rod ends and drag links.

(iii) The only suppliers of raw materials.—According to the aforementioned manufacturer, each of the following raw materials is supplied only by one supplier: sheet steel, aluminium, stainless steel, copper plates and strips and spring steel.

44. Some of the manufacturers of the above-mentioned parts and accessories may be the only suppliers but do in fact compete with imported parts and accessories. Products of a high mass have an advantage over those of a low mass in terms of the South African content programme.

45. Because of the factors mentioned in the previous paragraphs the market form found in respect of the supply of parts and accessories in South Africa can be described as monopolistic and oligopolistic. On the other hand, the considerable monopolistic power of the parts manufacturers is to a large extent tempered by the monopolistic power which the motor vehicle manufacturers have in turn.

⁽¹⁾ Monopolistiese mag word hier gebruik volgens die ekonomiese betekenis van die begrip, wat dui op markaandeel.

⁽¹⁾ Monopolistic power is used here in the economic sense, namely market share.

46. Die groot aantal verskillende modelle en ontwerpe van onderdele en toebehore vir die relatiewe klein Suid-Afrikaanse mark vir motorvoertuie, asook vir onderdele en toebehore, verhoog die koste van matryse en uiteindelik die totale koste per eenheid. Die fragmentasie van die onderdelebedryf vanweë die groot aantal onderdele en klein mark bring kort produksie-siklusse en ledige produksiekapasiteit mee en het tot gevolg dat die toerusting en arbeid nie optimaal benut kan word nie. Hierdie en ander faktore bring mee dat die koste van vervaardiging in Suid-Afrika oor die algemeen hoër as in lande met 'n groot vraag is.

47. Vir baie van die binnelandse onderdele- en toebehorevervaardigers is die Suid-Afrikaanse motorvoertuigvervaardigers hulle enigste mark, veral vir dié wat slegs vir die oorspronklike toerustingmark lewer, en moet hulle ook met ingevoerde onderdele en toebehore meeding. Dit weer bring mee dat, veral in tye van ekonomiese slappe en lae verkope van motorvoertuie, die motorvoertuigvervaardigers hulle in 'n sterk kopersmarksituasie bevind. Oor die algemeen is die onderdele- en toebehorevervaardigers egter van mening, en is dit ook die Raad se indruk, dat voertuigvervaardigers egter positief teenoor die binnelandse vervaardigers van onderdele en toebehore ingestel is.

48. Die Suid-Afrikaanse motorvoertuigvervaardigers is kopers van onderdele vir sowel oorspronklike toerusting as vir die vervangingsmark en hierdie onderdele en toebehore word ingevoer of in Suid-Afrika aangekoop. Binnelandse aankope geskied vanaf Suid-Afrikaanse onderdele- en toebehorevervaardigers self. Invoer van onderdele geskied veral vanaf die moedermaatskappye of van filiale oorsee.

49. Tabelle 1 en 2 toon die omvang van die invoer en binnelandse aankope (sowel vanaf onderdele- en toebehorevervaardigers en eie vervaardiging) van onderdele en toebehore respektiewelik vir gebruik as oorspronklike toerusting sowel as vir die vervangingsmark deur die motorvoertuigvervaardigers.

TABEL 1

DIE BRONNE VAN SUID-AFRIKAANSE MOTORVOERTUIGVERVAARDIGERS VAN MOTORVOERTUIGONDERDELE EN -TOEBEHORE VIR OORSPRONKLIKE TOERUSTING, 1976-1977

Bron	Waarde (R miljoen)	Persentasie van totaal
Invoer.....	422,88	58,99
Eie vervaardiging	56,75	7,91
Suid-Afrikaanse onderdele- en toebehorevervaardigers	237,11	33,10
Totaal.....	716,74	100,00

Bron: Antwoorde op die Raad se vrae.

TABEL 2

DIE BRONNE VAN SUID-AFRIKAANSE MOTORVOERTUIGVERVAARDIGERS VAN MOTORVOERTUIGONDERDELE EN -TOEBEHORE VIR DIE VERVANGINGSMARK, 1976-1977

Bron	Waarde (R miljoen)	Persentasie van totaal
Invoer.....	52,66	62,01
Eie vervaardiging	5,27	6,20
Suid-Afrikaanse onderdele- en toebehorevervaardigers	26,99	31,79
Totaal.....	84,92	100,00

Bron: Antwoorde op die Raad se vrae.

50. Uit Tabel 1 blyk dat die verhouding tussen die waarde van ingevoerde en binnenslandse vervaardigde onderdele vir oorspronklike toerusting gemiddeld omtrent drie tot twee vir die binnelandse motorvoertuigvervaardigers is. Die eie vervaardiging verteenwoordig gemiddeld 19,3 persent van die totale binnelandse deel in die geval van hierdie onderdele. In die geval van individuele motorvoertuigvervaardigers varieer die waarde van ingevoerde onderdele vir oorspronklike toerusting van 52,3 persent tot so hoog as 68,7 persent. Die hoogste eie vervaardiging van oorspronklike toerusting is 18,7 persent van die totaal vir hierdie marksegment, terwyl die aankope vanaf binnelandse vervaardigers van onderdele vir oorspronklike toerusting varieer tussen 19,03 persent en 46,73 persent van die totale oorspronklike toerusting in die geval van individuele vervaardigers.

51. Tabel 2 toon dat die verhouding tussen ingevoerde en binnenslandse vervaardigde vervangingsonderdele gemiddeld 62 tot 38 vir motorvoertuigvervaardigers is. Die eie vervaardiging is gemiddeld 6,2 persent van die totale binnelandse mark vir vervangingsonderdele.

52. Motorvoertuigvervaardigers versprei hulle vervangingsonderdele, die goedgekeurde onderdele, hoofsaaklik deur hulle eie agentskappe en onderneem gewoonlik om vir 'n periode van 10 tot 15 jaar nadat 'n model van die mark onttrek is steeds onderdele vir die model te voorsien. Hierdie praktyk het dus 'n groot kosteverhogende effek op onderdele, veral op dié met 'n lae omsetnelheid. Die agentskappe gebruik by herstelwerk normaalweg slegs goedgekeurde onderdele wat die motorvoertuigvervaardigers waarborg, aangesien dit deur hulle gekeur is.

46. The large number of different models and designs of parts and accessories for the relatively small South African market for motor vehicles, and also for parts and accessories, increases the costs of matrices and the eventual total costs per unit. The fragmentation of the parts industry resulting from the large number of parts and the small market has led to short production cycles and unused production capacity, and this means that equipment and labour cannot be used optimally. These and other factors cause manufacturing costs to be generally higher in South Africa than in countries with a large demand.

47. For many of the local parts manufacturers the South African motor vehicle manufacturers are their only market, especially if they supply only the original equipment market, and they must compete also with imported parts and accessories. This in turn causes the motor vehicle manufacturers to find themselves in a strong buyers' market position, especially in times of economic recession when fewer motor vehicles are sold. The parts manufacturers are of the opinion, and this is also the impression gained by the Board, that vehicle manufacturers are generally positively inclined towards the local manufacturers of parts and accessories.

48. The South African motor vehicle manufacturers are buyers of parts for both the original equipment and for the replacement market and these parts and accessories are imported or purchased in South Africa. Local supplies are obtained through purchases from South African parts manufacturers or through own manufacture by some motor vehicle manufacturers. Imports of parts originate mainly from the parent companies or from subsidiaries overseas.

49. Tables 1 and 2 show the extent of imports and local purchases (both from parts manufacturers and own manufacture), by the motor vehicle manufacturers of parts and accessories for use as original equipment and for the replacement market, respectively.

TABEL 1

SOURCES OF SOUTH AFRICAN MOTOR VEHICLE MANUFACTURERS OF MOTOR VEHICLE PARTS AND ACCESSORIES FOR ORIGINAL EQUIPMENT, 1976-77

Source	Value (R million)	Percentage of total
Imports	422,88	58,99
Own manufacture	56,75	7,91
South African parts manufacturers	237,11	33,10
Total	716,74	100,00

Source.—Answers to the Board's questionnaires.

TABEL 2

SOURCES OF SOUTH AFRICAN MOTOR VEHICLE MANUFACTURERS OF MOTOR VEHICLE PARTS AND ACCESSORIES FOR THE REPLACEMENT MARKET, 1976-1977

Source	Value (R million)	Percentage of total
Imports	52,66	62,01
Own manufacture	5,27	6,20
South African parts manufacturers	26,99	31,79
Total	84,92	100,00

Source: Answers to the Board's questionnaires.

50. From Table 1 it appears that the ratio of the value of imported to locally manufactured parts for original equipment averages about 3:2 for local motor vehicle manufacturers. Own manufacture represents an average of 19,3 per cent of the total local share in the case of these parts. As regards individual motor vehicle manufacturers the value of imported parts for original equipment varies from 52,3 per cent to as much as 68,7 per cent. The highest own manufacture of original equipment is 18,7 per cent of the total for this section of the market, while purchases from local manufacturers of parts for original equipment varies from 19,03 per cent to 46,73 per cent of total original equipment in the case of individual manufacturers.

51. Table 2 shows that the ratio of imported to locally manufactured replacement parts averages 62 to 38 for motor vehicle manufacturers. Own manufacture averages 6,2 per cent of the total local market for replacement parts.

52. Motor vehicle manufacturers distribute their replacement parts, the approved parts, mainly through their own agencies and usually undertake to continue supplying parts for a model for a period of 10 to 15 years after it has been withdrawn from the market. This practice therefore has a considerable cost-increasing effect on parts, especially on those with a low turnover. Agencies normally use only approved parts guaranteed by motor vehicle manufacturers for their repairs, since these have been selected by them.

53. Onafhanklike onderdelehandelaars se onderdele, "substitusie-onderdele", word deur groothandelaars vanaf binnelandse onderdelevervaardigers aangekoop en ook ingevoer. Normaalweg verkoop die Suid-Afrikaanse motorvoertuigvervaardigers nie onderdele direk aan sulke handelaars nie, maar kan hulle goedgekeurde onderdele by die agentskappe aankoop. Die onafhanklike onderdelehandelaars kan oor die algemeen ook nie regstreeks vanaf die moedermaatskappye of filiale van Suid-Afrikaanse onderdelevervaardigers invoer nie.

Vervaardigingsrekening van motorvoertuig- en motorvoertuigonderdele-vervaardigers

54. Tabelle 3 en 4 toon respektiewelik die beraamde vervaardigingsrekening van motorvoertuig- en onderdelevervaardigers vir 1975. Hierdie tabelle toon die insette en uitsette wat 'n aanduiding gee van die interafhanklikheid of verhouding van die motorvoertuig- en onderdelevervaardigers met die res van die ekonomiese sisteem as 'n geheel.

55. Tabel 3 se insette toon die vraag wat die motorvoertuigvervaardigers in 1975 sou skep. Dit blyk dat die grootste verskaffer die sektor betrokke by motorvoertuigonderdele was (R423 miljoen). Verder was daar ook 'n groot vraag na elektrisiteit, gas en stoom (R45 miljoen), rubberprodukte (R40 miljoen), en basiese yster en staal (R37 miljoen). Die insette van die handel was R45 miljoen en aan werknemers is R134 miljoen betaal. Goedere ter waarde van R387 miljoen is ingevoer. Die mark vir die motorvoertuigvervaardiger was veral huishoudings en die owerheid se aankope van respektiewelik R495 miljoen en R90 miljoen.

56. Onderdelevervaardigers is 'n groot mark vir basiese yster- en staalprodukte (R25 miljoen), motorvoertuigonderdele (R18 miljoen) en goedere en dienste (R17 miljoen) en R44 miljoen is as vergoeding aan werknemers betaal. Die insette van beide dek ook 'n wye spektrum en strek tot in die mynbou, dienste, huishoudings, vervoer en kommunikasie, versekering, bankwese en die algemene owerheid. Hierdie nywerhede skep dus 'n groot vraag na goedere, dienste en arbeid.

53. Independent parts dealers' parts, "substitute parts", are purchased by wholesalers from local parts manufacturers or are imported. Normally South African motor vehicle manufacturers do not sell parts direct to such dealers, but they can purchase approved parts from agencies. The independent parts dealers may, in general, also not import direct from the parent companies or subsidiaries of South African parts manufacturers.

Manufacturing accounts of motor vehicle and motor vehicle parts manufacturers

54. Tables 3 and 4 show estimated production accounts of motor vehicle and motor vehicle parts manufacturers, respectively, for 1975. These tables show the inputs and outputs indicating the interdependence or relation between the motor vehicle and parts manufacturers and the rest of the economic system as a whole.

55. The inputs given in Table 3 show the demand which the motor vehicle manufacturers are said to have created in 1975. It seems that the largest supplier was the sector involved in motor vehicle parts (R423 million). In addition, there was also a considerable demand for electricity, gas and steam (R45 million), rubber products (R40 million), and basic iron and steel (R37 million). The inputs of commerce amounted to R45 million and employees were paid R134 million. Goods valued at R387 million were imported. The market for the motor vehicle manufacturer comprised, in particular, purchases by private households and by the State—R495 million and R90 million, respectively.

56. Parts manufacturers provide a large market for basic iron and steel products (R25 million), motor vehicle parts (R18 million) and goods and services (R17 million), and R44 million was paid as remuneration to employees. The inputs of both also cover a wide spectrum and extend to mining, services, households, transport and communications, insurance, banking and general government. These industries therefore create a large demand for goods, services and labour.

TABEL 3

VERVAARDIGINGSREKENING VIR MOTORVOERTUIGVERVAARDIGERS, 1975

(R miljoen)

Insette		Uitsette	
<i>Intermediêre insette:</i>		<i>Finale vraag:</i>	
Tekstielstowwe	18	Verbruiksbesteding deur huishoudings	495
Hout en houtprodukte	2	Verbruiksbesteding deur die algemene owerheid	90
Drukwerk	7	Vaste investering	676
Basiese chemiese produkte	3	Verandering in voorraad	13
Seep, parfuum en ander toiletartikels	1	Uitvoer	21
Ander chemiese produkte	14	Min: Invoer	387
Rubberprodukte	40		
Glas en glasprodukte	15		
Ander nie-metaalhoudende mineraalprodukte	3		
Basiese yster en staal	37		
Basiese nie-yster metale	9		
Gefabriseerde metaalprodukte	13		
Masjinerie	7		
Elektriese masjinerie, apparaat en benodigdhede	2		
Elektroniese en elektriese huishoudelike benodigdhede	10		
Motorvoertuigonderdele	423		
Diverse vervaardiging	3		
Elektrisiteit, gas en stoom	5		
Handel	45		
Vervoer en kommunikasie	16		
Diverse dienste	16		
Indirekte goedere en dienste	36		
Skroot	3		
Totale intermediêre insette	728		
<i>Primêre insette:</i>			
Vergoeding van werknemers	134		
Bruto bedryfsurplus	93		
Netto indirekte belasting	4		
Min: produkte oorgeplaas	51		
	908		908

TABLE 3
PRODUCTION ACCOUNT FOR MOTOR VEHICLE MANUFACTURERS, 1975
(R million)

Inputs		Outputs	
<i>Intermediary inputs:</i>		<i>Final demand:</i>	
Textiles	18	Consumption expenditure by households	495
Wood and wood products	2	Consumption expenditure by general government	90
Printing	7	Fixed investment	676
Basic chemicals	3	Change in inventories	13
Soap, perfume and other toiletries	1	Exports	21
Other chemicals	14	Minus: Imports	387
Rubber products	40		
Glass and glass products	15		
Other non-metallic mineral products	3		
Basic iron and steel	37		
Basic non-ferrous metals	9		
Fabricated metal products	13		
Machinery	7		
Electrical machinery, apparatus and cable	2		
Electronic and household electrical appliances	10		
Motor vehicle components	423		
Miscellaneous manufactures	3		
Electricity, gas and steam	5		
Trade	45		
Transport and communication	16		
Miscellaneous services	16		
Indirect goods and services	36		
Scrap	3		
Total intermediate inputs	728		
<i>Primary inputs:</i>			
Remuneration of employees	134		
Gross operating surplus	93		
Net indirect taxes	4		
Minus: products transferred	51		
	908		908

Source: Department of Statistics, Report 09-16-01, *Input-output tables*, 1967. Extrapolated with data obtained from the Economic Development Programme, 1975-1981.

TABEL 4
VERVAARDIGINGSREKENING VIR MOTORVOERTUIGONDERDELEVERVAARDIGERS, 1975
(R miljoen)

Insette		Uitsette	
<i>Intermediêre insette:</i>		<i>Intermediêre uitsette:</i>	
Papier en papierprodukte	1	Goud- en uraanmyne	5
Drukwerk	1	Steenkoolmyne	2
Basiese chemiese produkte	1	Ander myne	9
Nie-metaalhoudende mineraalprodukte	3	Motorvoertuie	423
Basiese yster en staal	25	Motorvoertuigonderdele	21
Basiese nie-yster metale	9	Motorvoertuighersteldienste	79
Gefabriseerde metaalprodukte	4	Vervoer en kommunikasie	26
Masjinerie	2	Diverse dienste	23
Elektroniese en elektriese huishoudelike benodigdhede			
Motorvoertuigonderdele	18	Totale intermediêre uitsette	588
Diverse vervaardiging	1	<i>Finale vraag:</i>	
Elektrisiteit, gas en stoom	2	Verbruiksbesteding deur huishoudings	12
Handel	7	Verbruiksbesteding deur die algemene owerheid	4
Vervoer en kommunikasie	3	Verandering in voorrade	6
Diverse dienste	6	Uitvoer	9
Indirekte goedere en dienste	17		
Totale intermediêre insette	104	Min: Invoer	434
<i>Primêre insette:</i>			
Vergoeding van werknemers	44		
Bruto bedryfsurplus	16		
Netto indirekte belasting	1		
Plus: produkte oorgeplaas	20		
	185		185

Bron: Departement van Statistiek, Verslag 09-16-01, *Inset-uitsettable* 1967. Geëkstrapoleer met gegewens verkry uit die Ekonomiese Ontwikkelingsprogram, 1975-1981.

TABLE 4
PRODUCTION ACCOUNT FOR MOTOR VEHICLE COMPONENT
MANUFACTURERS, 1975
(R million)

Inputs		Outputs	
<i>Intermediary inputs:</i>		<i>Intermediary demand:</i>	
Paper and paper products	1	Gold and uranium mines	5
Printing	1	Coal mines	5
Basic chemicals	1	Other mines	9
Non-metallic mineral products	3	Motor vehicles	423
Basic iron and steel	25	Motor vehicle components	21
Basic non-ferrous metals	9	Motor vehicle repair services	79
Fabricated metal products	4	Transport and communication	26
Machinery	2	Miscellaneous services	23
Electronic and household electrical appliances	4		
Motor vehicle components	18	Total intermediate outputs	588
Miscellaneous manufacturing	1		
Electricity, gas and steam	2	<i>Final demand:</i>	
Trade	7	Household purchases	12
Transport and communication	3	General Government purchase	4
Miscellaneous services	6	Stock investment	6
Indirect goods and services	17	Exports	9
		Minus: Imports	434
Total intermediate inputs	104		
<i>Primary inputs:</i>			
Remuneration of employees	44		
Gross operating surplus	16		
Net indirect taxes	1		
Plus: Products transferred	20		
	185		185

Source: Department of Statistics, Report 09-16-01, *Input-output tables*, 1967. Extrapolated with data obtained from the Economic Development Programme, 1975-1981.

Prysbeheer op onderdele en toebehore

57. Motorvoertuigonderdele en -toebere is nie aan formele prysbeheer onderworpe nie. As gevolg van voortdurende klagtes oor beweerde hoë pryse en winsgrense van onderdele het die Pryscontroleur 'n ondersoek na die koste en pryse van sodanige onderdele ingestel. Na aanleiding van hierdie ondersoek en ná verdere uitgebreide onderhandelinge met motorvoertuigvervaardigers en die Motorindustriële-federasie (MIF) in 1975 is tot 'n ooreenkoms met die National Association of Automobile Manufacturers of South Africa (NAAMSA) en die MIF geraak. Volgens hierdie ooreenkoms kom die partye oor die volgende ooreen:

(i) Die aanbevole kleinhandelsprys van enige onderdeel sal nie meer as 250 persent hoër as die koste wees nie. Hierdie winsgrens is van toepassing op die motorvoertuigvervaardigers sowel as die onafhanklike groothandelaars/invoerders van onderdele. Hierdie aanbevole pryse sou maksimum-pryse wees.

(ii) Die bruto wins van die motorvoertuigvervaardigers en die onafhanklike groothandelaars/invoerders sal nie hoër as 33,33 persent op omset in die geval van onderdele en toebehore wees nie.

(iii) Voertuigonderdelevervaardigers sal nie 'n rentabiliteit van 15 persent (voor belasting en die betaling van rente) op totale investering oorskry nie of handel binne die raamwerk onder (ii) beskryf.

58. Vir die bepaling van die koste van onderdele word die aankoopprys en die vervoerkoste na en vanaf die motorvoertuigvervaardiger en die onafhanklike groothandelaar/invoerder (indien deur hulle betaal) in berekening gebring. By die berekening van die bruto wins van 33,33 persent op omset word brekassies en veroudering van onderdele in berekening gebring. Voorts het die betrokkenes ook onderneem om aanbevole pryslyste te publiseer, dit aan die handel beskikbaar te stel en op versoek aan die publiek te toon.

59. In 'n persverklaring deur die Minister van Ekonomiese Sake op 10 Desember 1975, is verklaar dat die posisie jaarliks deur die Pryscontroleur harsien sou word ten einde te verseker dat die beginsels van die ooreenkoms ten volle geïmplementeer word. Dit is opvallend dat die ooreengekome winsgrense vir alle soorte onderdele eenvormig is en dat geen onderskeid gemaak word tussen onderdele met 'n hoë omloopsnelheid en dié met 'n lae omloopsnelheid nie.

Vestiging van motorvoertuig- en onderdeelvervaardigers

60. Motorvoertuigvervaardigers is in Durban, Oos-Londen, Port Elizabeth, Uitenhage, Kaapstad, Brits en Pretoria gevestig. Die meeste onderdeelvervaardigers word in die Pretoria-Witwatersrand-Vereeniging-gebied (PWV-gebied) aangetref, terwyl ander ook in veral Durban, Oos-Londen, Port Elizabeth, Uitenhage en Kaapstad aangetref word. Baie van die motorvoertuigvervaardigers het ook voorraadpakhuis op ander plekke as

Control of prices of parts and accessories

57. Motor vehicle parts and accessories are not subject to formal price control. As a result of repeated complaints about alleged high prices and profit margins of parts the Price Controller held an inquiry into the cost and prices of these parts. In consequence of this inquiry and after further extensive negotiations with motor vehicle manufacturers and the Motor Industries Federation (MIF) in 1975 an agreement was reached with the National Association of Automobile Manufacturers of South Africa (NAAMSA) and the MIF. In terms of this agreement the parties agreed to the following:

(i) The recommended retail price of any part should not exceed 250 per cent of the cost. This profit margin is applicable to motor vehicle manufacturers and to independent wholesalers/importers of parts. These recommended prices would be the maximum prices.

(ii) The gross profit of the motor vehicle manufacturers and the independent wholesalers/importers should not exceed 33,33 per cent of the total turnover of parts and accessories.

(iii) Vehicle parts manufacturers should not show a return exceeding 15 per cent (before tax and the payment of interest) on total investment, or trade within the framework described under (ii).

58. In determining the costs of parts the purchase price and the transport costs to and from the motor vehicle manufacturer and the independent wholesaler/importer (if paid by them) are taken into account. When calculating the gross profit of 33,33 per cent on turnover breakages and ageing of parts are taken into account. Moreover, the parties involved also undertook to publish recommended price lists and make these available to the trade, and also show them to the public on request.

59. In a press release by the Minister of Economic Affairs on 10 December 1975 it was announced that the position would be reviewed annually by the Price Controller in order to ensure that the principles of the agreement were being fully implemented. It is noticeable that the profit margins agreed upon are the same for all types of parts and that no differentiation is made between parts with a high turnover and those with a low turnover.

Situation of motor vehicle and parts manufacturers

60. Motor vehicle manufacturers are situated in Durban, East London, Port Elizabeth, Uitenhage, Cape Town, Brits and Pretoria. Most parts manufacturers are found in the Pretoria-Witwatersrand-Vereeniging Area (PWV area), while others are found in Durban, East London, Port Elizabeth, Uitenhage and Cape Town. Many motor vehicle manufacturers also have warehouses for supplies at places other than those in which vehicles

waar die vervaardiging van voertuie plaasvind. Hierdie verspreiding van motorvoertuigvervaardigers, onderdelevervaardigers, bergplekke en die vernaamste markte (PWV-gebied) bring 'n baie hoë hanterings- en vervoerkoste en 'n groot mate van kruisvervoer en dubbele hantering mee wat uiteindelik tot die verhoging van onderdelepryse lei.

HOOFSTUK IV

PRAKTYKE IN VERBAND MET DIE VERSKAFFING EN DISTRIBUSIE VAN ONDERDELE IN SUID-AFRIKA

Inleiding

61. In hierdie hoofstuk word die vernaamste praktyke in verband met die verskaffing en distribusie van onderdele en toebehore, *vervangingsonderdele* sowel as onderdele vir *oorspronklike toerusting*, in Suid-Afrika bespreek. Die praktyke wat aan die orde kom, is veral dié wat in verband staan met aankope, distribusie en pryse.

Aankope van onderdele en toebehore

(a) Onderdelevervaardigers

62. Grondstowwe en onderdele word deur onderdelevervaardigers binne-lands aangekoop of ingevoer. Die beleid is om van die beste beskikbare bron te koop, met inagneming van kwaliteit, diens en prys. Sekere vervaardigers is nie kopers van enige grondstof of onderdeel nie, aangesien hulle slegs as stukwerkers ("jobbers") beskryf kan word wat verdere verwerking, byvoorbeeld masjinerie, namens die onderdelevervaardigers doen.

63. Oor die algemeen het die onderdelevervaardigers aan die Raad berig dat min probleme met die aankoop van grondstowwe ondervind word. Enkeles het besware teen die beleid van Yskor in die sin dat hulle te groot hoeveelhede per bestelling moet koop of so nie van tussenpersone teen hoër pryse moet koop.

(b) Motorvoertuigvervaardigers

64. Motorvoertuigvervaardigers en die onafhanklike groothandelaars se aankope geskied by die binnelandse onderdelevervaardigers (insluitende die eie vervaardiging deur die motorvoertuigvervaardigers) sowel as in die buiteland. Die invoer van onderdele en toebehore van motorvoertuigvervaardigers geskied veral vanaf die moedermaatskappye en filiale oorsee.

65. Suid-Afrikaanse motorvoertuigvervaardigers maak van "versoek om noterings" ("request for quotation" - "RFQ") gebruik om noterings vir die verskaffing van onderdele en toebehore binne-lands te verkry. Hierdie "versoek om notering" word aan die beskikbare en geskikte onderdelevervaardigers gestuur. By die keuse van 'n onderdelevervaardiger word gelet op aspekte soos pryservaring, omset, verbintenisse met ander ondernemings, lisensie-ooreenkomste, gehalte van bestuur, indiensname, grootte van fabriek, leweransiers van insette, afnemers en beskikbare kapasiteit. Die onderdelevervaardigers word dikwels gevra om 'n koste-ontleding te verstrek en hierdie verdeling word met die intern berekende prys van die motorvoertuigvervaardiger vergelyk.

66. Dikwels vind die onderhandelinge vir die aankoop van oorspronklike toerusting sowel as dié vir onderdele vir die vervangingsmark gelyktydig plaas. Die doel hiervan is om sodoende die beste voorwaardes te verkry en optimale produksie vir die onderdelevervaardigers te verseker. In ander gevalle weer vind onderhandelinge afsonderlik plaas en kan dit gebeur dat verskillende vervaardigers vir oorspronklike toerusting en vir vervangingsonderdele gebruik word. Die beswaar is deur sekere onderdelevervaardigers aan die Raad geopper dat motorvervaardigers dikwels oorspronklike toerusting binne-lands aankoop, veral as gevolg van die Suid-Afrikaanse inhoudsprogram en die voordele wat daarmee gepaard gaan, maar dan vervangingsonderdele invoer. Hierdeur word hulle dan benadeel deurdat lae pryse vir oorspronklike toerusting genoteer word met die hoop om 'n hoër kapasiteitsbesetting deur vervangingsonderdele vervaardiging te kry en hoër pryse op laasgenoemde produkte te verhaal.

67. Sommige onderdelevervaardigers het ook verklaar dat die motorvoertuigvervaardigers dikwels in 'n magposisie teenoor hulle verkeer, veral as gevolg van hul sterk kopersmarkposisie, en dat slegs die voorwaardes van die motorvoertuigvervaardigers aanvaar word. Voorbeelde van die soort van optrede waaroor gekla word, is die volgende: slegs die koopvoorwaardes van die motorvoertuigvervaardigers word gebruik; die motorvoertuigvervaardigers bepaal dikwels die winsgrens waarop die onderdelevervaardigers geregtig is; die moontlikheid van invoer as die voorwaardes van die motorvoertuigvervaardigers nie aanvaar word nie; die gebruik van oopbestellings ("blanket orders");⁽¹⁾ en die afdreigende houding van sekere motorvoertuigvervaardigers indien die onderdelevervaardigers hulle op die kontrak wil beroep deur openlik te verklaar dat hulle wel 'n grondige rede vir afwysing of verwerping sal vind indien nie aan hulle wense voldoen word nie. Sekere onderdelevervaardigers het ook beweer dat van die motorvoertuigvervaardigers onwillige kopers is. Van die motorvoertuigvervaardigers het egter beweer dat hulle gewillig is, en inderdaad hulp verleen, om onderdelevervaardigers se probleme uit te skakel maar dat probleme dikwels van veral sekere onderdelevervaardigers ten opsigte van gehalte, diens en prys ondervind word.

⁽¹⁾ Bestellings vir onbepaalde hoeveelhede wat kopers soos en wanneer benodig kan aanvra.

are manufactured. This distribution of motor vehicle manufacturers, parts manufacturers, storage places and the major markets (PWV area) results in very high handling and transport costs, considerable cross transportation and duplication of handling, which eventually leads to an increase in the prices of all parts.

CHAPTER IV

PRACTICES IN CONNECTION WITH THE SUPPLY AND DISTRIBUTION OF PARTS IN SOUTH AFRICA

Introduction

61. In this chapter the main practices in South Africa in connection with the supply and distribution of parts and accessories—*replacement parts* as well as parts for *original equipment*—are discussed. The practices dealt with are those in connection with purchases, distribution and prices in particular.

Purchases of parts and accessories

(a) Parts manufacturers

62. Raw materials and components are purchased locally or imported by parts manufacturers. The policy is to purchase from the best available source, bearing in mind quality, service and price. Certain manufacturers are not buyers of any raw material or component, because they can be described only as "jobbers" who undertake further processing, e.g. machining, on behalf of the parts manufacturers.

63. In general the parts manufacturers advised the Board that few problems were experienced in purchasing raw materials. A few objected to the policy of ISCOR which obliges them to purchase overlarge quantities whenever an order is placed, or otherwise they have to buy from middle men at higher prices.

(b) Motor vehicle manufacturers

64. Motor vehicle manufacturers and independent wholesalers purchase their requirements from local parts manufacturers (including the own manufacture by motor vehicle manufacturers) as well as from abroad. Imports of parts and accessories by motor vehicle manufacturers come mainly from parent companies and subsidiaries overseas.

65. South African motor vehicle manufacturers make use of "request for quotation"—"RFQ"—to obtain quotations for the supply of parts and accessories locally. This "request for quotation" is sent to available and suitable parts manufacturers. When selecting a parts manufacturer attention is given to matters such as pricing experience, turnover, connections with other concerns, franchise agreements, quality of management, employment, size of factory, suppliers of inputs, customers and available capacity. The parts manufacturers are often asked to submit a cost analysis and this is compared with the internally calculated price of the motor vehicle manufacturer.

66. Negotiations for the purchase of original equipment and for parts for the replacement market often occur simultaneously. The purpose is in this manner to obtain the best conditions and to ensure optimum production to the parts manufacturers. In other cases negotiations take place separately and it can happen that different manufacturers are used for original equipment and for replacement parts. An objection made by certain parts manufacturers to the Board was to the effect that motor manufacturers often purchased original equipment locally, especially as a result of the South African content programme and its attendant advantages, but imported replacement parts. They are prejudiced by this because low prices are quoted for original equipment in the hope of obtaining a higher capacity utilisation by replacement parts manufacture and higher prices on the latter products.

67. Some parts manufacturers also stated that motor vehicle manufacturers were often in a position of power as against them, especially as a result of their strong buyers' market position, and that only the preconditions of the motor vehicle manufacturers were adopted. Examples of the type of behaviour complained about are the following: Only the sales conditions of the motor vehicle manufacturers are used; the motor vehicle manufacturers often determine the profit margin to which the parts manufacturers are entitled; the possibility of importing if the conditions of the motor vehicle manufacturers are not accepted; the use of blanket orders⁽¹⁾; and the threatening attitude of certain motor vehicle manufacturers if the parts manufacturers wish to call upon the terms of the contract, by openly stating that they will find a good reason for rejection or repudiation if their wishes are not complied with. Certain parts manufacturers also maintained that some motor vehicle manufacturers are unwilling buyers. However, some of the motor vehicle manufacturers contended that they were willing, and even helped, to eliminate parts manufacturers' problems but that problems were often experienced, especially from certain parts manufacturers in respect of quality, service and price.

⁽¹⁾ Orders for unspecified quantities which purchasers may request as and when required.

68. Motorvoertuigvervaardigers se aankoopfunksie vir onderdele is meestal in twee verskillende afdelings gesentraliseer, naamlik een vir oorspronklike toerusting en een vir vervangingsonderdele. Dikwels is laagse- genoemde afdelings nie by die hoofkantoor of by die plek van vervaardiging geleë nie. Die opbergingsfunksie van onderdele word ook meestal gesentraliseer. Oor die algemeen stuur onderdelevervaardigers die onderdele na die opbergingspunte van die motorvoertuigvervaardigers vanwaar dit na die agentskappe gaan.

69. Gevalle is aan die Raad bekend waar onderdele van die onderdele- vervaardigers na die vervaardigingsplek van die motorvoertuigvervaar- diger vir doeleindes van gehaltebeheer gestuur word en vandaar na die sentrale pakhuis wat in 'n ander stad geleë is. Hiervandaan gaan dit na die agentskappe dwarsoor die Republiek. Daar is egter motorvoertuigvervaar- digers wat nie alle aangekoopte onderdele vir gehalte toets alvorens dit opgeberg word nie. Al hoe meer van hulle skakel oor na 'n beleid waarvol- gens onderdelevervaardigers, wat oor goeie toerusting beskik, hoë gehalte produkte lewer en 'n goeie stelsel van gehaltebeheer het, se produkte nie volledig ondersoek word nie. Etlikke is reeds as goedgekeurde leweransiers deur motorvoertuigvervaardigers aanvaar en as sodanig gesertifiseer. Som- mige van die motorvoertuigvervaardigers maak egter slegs in uitsonderlike gevalle van hierdie beleid gebruik en verkies steeds gesentraliseerde beheer en opberging.

70. Die kruisvervoer en dubbele hantering van die onderdele van een punt na 'n ander en terug verhoog die koste van die onderdele en word uiteindelik deur die finale koper gedra.

71. Vanweë die aard van sekere produkte, soos glas, bande en batterye word dit direk vanaf die vervaardigers daarvan na die agentskappe van motorvoertuigvervaardigers (as vervangingsonderdele) en na die vervaar- digingsplek (as oorspronklike toerusting) gestuur.

(c) Onderdelehandelaars en groot kopers

72. Die aankooppraktyke van die agentskappe of gevolmagtigde hande- laars van die motorvoertuigvervaardigers, die onafhanklike onderdelehan- delaars en van groot kopers van onderdele en toebehore word by die distribusie van vervangingsonderdele ingesluit.

Distribusie van vervangingsonderdele

(a) Algemeen

73. In aansluiting met Hoofstuk III word vervolgens die vernaamste praktyke wat by die distribusie van vervangingsonderdele gevolg word, bespreek. Eerstens word na die prosedures by die onderdelevervaardigers, motorvoertuigvervaardigers en die onafhanklike onderdelehandelaars ge- let. Hierna word die weerhouding van voorraad en eksklusiewe ooreen- komste bespreek.

(b) Distribusie deur onderdelevervaardigers

74. Vervangingsonderdele gaan gewoonlik via die onderdele-afdelings van die motorvoertuigvervaardigers of deur die distribueerders (groot- handelaars) en groothandelaars (subgroothandelaars) na die kleinhandel en die publiek. Die meeste van die onderdelevervaardigers maak, in die geval van distribusie na die onafhanklike onderdelehandelaars, van onafhanklike, aangestelde distribueerders gebruik, aangesien hulle nie oor hulle eie distribusienetwerke oor die hele land beskik nie. Van die onderdele- vvaardigers het ook pakhuis- of fabriek- in die verskillende sentra van die land.

75. Vertikale integrasie van die distribusie bestaan ook in sekere gevalle waar onderdelevervaardigers 'n direkte belang in die groot- en kleinhande- laars het wat hulle onderdele moet distribueer.

76. Eksklusiewe ooreenkomste tussen die onderdelevervaardigers en ander partye weerhou die onderdelevervaardigers dikwels daarvan om vry- lik hulle onderdele te distribueer (kyk later in hierdie hoofstuk).

(c) Distribusie deur motorvoertuigvervaardigers

77. Motorvoertuigvervaardigers distribueer hulle vervangingsonderdele hoofsaaklik deur middel van hul agentskapnetwerke. Die jongste neiging is egter dat sekere van die motorvoertuigvervaardigers ook veral onderdele met 'n hoë omsetnelheid onder ander handelsmerke aan die onafhanklike groot- en kleinhandelaars in onderdele, en selfs aan supermarkte, verkoop. Hierdie praktyk het ontwikkel om mededinging van die "substitusie-on- derdele" en die onafhanklike onderdelehandelaars die hoof te bied.

(d) Distribusie deur onderdelehandelaars

78. Die onderdelehandelaars bestaan uit die agentskappe van motorvoe- rtuigvervaardigers, wat byna uitsluitend goedgekeurde onderdele verkoop, en die onafhanklike onderdelehandelaars. Eersgenoemde groepe verkry onderdele veral van die onderdele-afdelings van die motorvoertuigvervaar- digers terwyl die laagsegenoemde distribusiekanaal uit groothandelaars, groot- en kleinhandelaars en kleinhandelaars kan bestaan.

79. Agentskappe verkoop onderdele aan hulle eie werkplase, aan die publiek oor die toonbank, vlooteienaars, onafhanklike onderdelehande- laars en aan herstelplase. Die onafhanklike onderdelehandelaars verkoop onderdele oor die toonbank aan die algemene publiek, aan herstelplase, vlooteienaars, selfs aan die agentskappe en ook deur middel van hul ver- teenwoordigers wat ander onderdelehandelaars besoek. Laasgenoemde transaksies vind veral plaas tussen die onafhanklike groothandelaars of groot- en kleinhandelaars of kleinhandelaars. Sekere groothandelaars ska- kel daaglik met hulle kliente (ander handelaars) om bestellings te verkry en lewer dan dikwels ook onmiddellik af.

68. The purchase of parts by motor vehicle manufacturers centralised mostly in two different areas, namely one for original equipment and one for replacement parts. Frequently these areas are not situated near the Head Office or the place of manufacture. The storage of parts is also usually centralised. Generally speaking, parts manufacturers send the parts to the storage points of the motor vehicle manufacturers from where they go to the agencies.

69. The Board is aware of cases where parts are sent by the parts manu- facturers to the place of manufacture of the motor vehicle manufacturer for purposes of quality control and from there to the central warehouse situated in another city. From there they are sent to agencies throughout the Repub- lic. There are, however, motor vehicle manufacturers who do not test all purchases for quality before storing them. More and more of them are changing over to a policy in accordance with which products of parts manufacturers with good equipment who supply high quality products and have a good system of quality control are not examined fully. Several have already been accepted as approved suppliers by motor vehicle manufactu- rers and have been certified accordingly. Some of the motor vehicle manu- facturers apply this policy only in exceptional cases and still prefer central- ised control and storage.

70. Cross transportation and double handling of parts from one point to another and back increases the costs of the parts and this is eventually borne by the final purchaser.

71. Because of the nature of certain products, such as glass, tyres and batteries, they are sent direct from the manufacturer to the agencies of motor vehicle manufacturers (as replacement parts) and to the place of manufacture (as original equipment).

(c) Parts dealers and bulk buyers

72. The purchase practices of agencies or authorised dealers of motor vehicle manufacturers, of independent parts dealers and of bulk buyers of parts and accessories are discussed under distribution of replacement parts.

Distribution of replacement parts

(a) General

73. In conjunction with Chapter III the major practices followed in the distribution of replacement parts are discussed hereunder. In the first place attention is given to the procedures followed by parts manufacturers, motor vehicle manufacturers and independent parts dealers. Next the withholding of supplies and exclusive agreements are discussed.

(b) Distribution by parts manufacturers

74. Replacement parts are usually distributed via the parts divisions of the motor vehicle manufacturers or the distributors (wholesalers) and wholesalers (sub-wholesalers) to retailers and the public. Most parts manu- facturers make use of independent, appointed distributors, in the case of distribution to independent parts dealers, because they do not have their own distribution network spread over the country. Some parts manufactu- rers also have warehouses or factories in various centres throughout the country.

75. Vertical integration of distribution also takes place in certain cases where parts manufacturers have a direct interest in the wholesalers and retailers who must distribute their parts.

76. Exclusive agreements between parts manufacturers and other parties frequently prevent parts manufacturers from distributing their parts freely (see later in this chapter).

(c) Distribution by motor vehicle manufacturers

77. Motor vehicle manufacturers distribute their replacement parts mainly through their agency network. The most recent trend is, however, for certain of the motor vehicle manufacturers to sell parts, especially those with a high turnover, under other brand names to independent wholesale and retail dealers in parts and even to supermarkets. This practice has developed to combat competition from "substitute parts" and independent parts dealers.

(d) Distribution by parts dealers

78. Parts dealers consist of agencies of motor vehicle manufacturers, which sell approved parts almost exclusively, and independent parts deal- ers. The former group obtain parts mainly from the parts division of motor vehicle manufacturers while the latter distribution channel may consist of wholesalers, wholesalers and retailers, and retailers.

79. Agents sell parts to their own workshops, to the public over the counter, to fleet owners, to independent parts dealers and to repair shops. The independent parts dealers sell parts over the counter to the general public, to repair shops, to fleet owners, even to agencies and also through their representatives who visit other parts dealers. The latter transactions take place especially between independent wholesalers or wholesalers and retailers, or retailers. Certain wholesalers liaise daily with their clients (other dealers) to obtain orders and frequently also deliver immediately.

80. Onderdelehandelaars verkoop normaalweg onderdele aan enige instansie of individu (behalwe sommige van die groothandelaars wat beperkinge stel). Die Raad kon geen bewyse vind van enige onderdelehandelaar wat nie onderdele aan ander wou verskaf nie. Elkeen volg 'n beleid om sy omset so hoog as moontlik op te stoot en klante te behou. Geen bewys is gevind van praktyke waarvolgens enige onderdelehandelaar 'n ooreenkoms met enige koper het waarvolgens laaggenoemde slegs by hulle sal koop nie. Dit is die Raad meegedeel dat vir die behoud van klante 'n goeie verskeidenheid onderdele, kwaliteit, prys en veral diens deurslaggewend kan wees.

81. Die belangrikheid van die verkope van onderdele in terme van die totale aktiwiteite van onderdelehandelaars verskil geheel en al tussen die agentskappe en die onafhanklike onderdelehandelaars. By die meeste van die onafhanklike onderdelehandelaars verteenwoordig die verkope van onderdele en toebehore die grootste gedeelte van hulle aktiwiteite, terwyl dit by die agentskappe slegs 'n klein gedeelte van die totaal is. Volgens inligting deur die Raad ingewin, verteenwoordig die onderdeleverkope slegs tussen 8 en 16 persent van die totale omset vir alle produkte van die agentskappe.

82. Die Raad het bevind dat die onafhanklike onderdelehandelaars veral let op die prys van onderdele en koop waar dit die goedkoopste is; hetsy binnelands of oorsese. Voorts is vasgestel dat die onafhanklike onderdelehandelaars veral sake in onderdele met 'n hoë omsetnelheid doen.

83. Die Raad het ook nagegaan of die verkoopvoorwaardes van onderdelehandelaars dieselfde vir alle klante is wat tot dieselfde kategorie behoort. Geen diskriminasie in hierdie verband kon vasgestel word nie. Uit die inligting deur die onderdelehandelaars verstrek, het ook gebleek dat hulle nie met mekaar oorleg pleeg ten opsigte van aspekte soos pryse, verkoopvoorwaardes en marktaandeel nie. Ander onderdelevervaardigers, mededingers, ander distribueerders of ander instansies word ook nie geraadpleeg indien enigeen sy verkoopvoorwaardes wil verander nie. Trouens, selde vind hierdie veranderinge op inisiatief van die agentskappe of die kleiner onafhanklike onderdelehandelaars plaas. In die geval van agentskappe beveel die motorvoertuigvervaardigers gewoonlik verkoopvoorwaardes aan, terwyl die onafhanklike groothandelaars of groot- en kleinhandelaars ook sekere verkoopvoorwaardes aanbeveel. Indien dit nie die geval is nie, volg die kleineres gewoonlik die verkoopvoorwaardes van die groteres.

84. 'n Praktyk wat onder die aandag van die Raad gekom het, is gevalle waar agentskappe nie sekere onderdele in voorraad hou nie en dan slegs die volledige submontasie verkoop, waarop vanselfsprekend 'n groter wins is, en hoër pryse (koste) tot gevolg het (die onderdeel is wel op die voorraaddisposisie wat deur die motorvoertuigvervaardiger verskaf is).

(e) Weerhouding van voorraad

85. Die Raad het geen geval gevind waar enige leweransier onderdele van enige koper weerhou het of geweier het om volgens hulle normale verkoopvoorwaardes te lewer nie. Die algemene beleid van onderdele- en motorvoertuigvervaardigers is om te verkoop aan die instansies of persone wat kredietwaardig is of bevestigende diens kan lewer of gemagtig is om ingevolge eksklusiewe ooreenkomste onderdele te bekom.

86. Geen gevalle het onder die Raad se aandag gekom waar voorraad op grond van byvoorbeeld die prysbeleid van kopers weerhou is nie. Die lewering van onderdele word wel in sekere gevalle geweier of opgeskort. Voorbeelde van sodanige gevalle deur agentskappe is—

- (i) die nie-betaling van rekenings ten opsigte van onderdele en toebehore;
- (ii) onbevredigende fasiliteite, opbergingsruimte, diens en verspreiding;
- (iii) die aanhou van ander dan goedgekeurde onderdele en toebehore in stryd met die agentskaps-ooreenkoms; en
- (iv) die aanhou van 'n te beperkte assortiment.

87. In sodanige gevalle word onderdele dan slegs weerhou totdat die rede vir weerhouding uit die weg geruim is. Gevalle is aan die Raad bekend waar die onderdele- of motorvoertuigvervaardigers bestellings nie uitvoer nie maar na tussenpersone in die distribusiekanaal verwys, aangesien dit ingevolge hulle distribusiebeleid die algemene praktyk is. Dit is veral sommige van die onafhanklike onderdelehandelaars wat kla dat hulle veral van die onderdele met 'n lae omloopsnelheid by motorvoertuigvervaardigers direk wil koop, maar dit nie daar kan bekom nie.

88. Die algemene neiging van onderdelehandelaars is om hul omset so hoog as moontlik op te stoot en om klante te probeer behou.

(f) Eksklusiewe ooreenkoms

(i) Tussen onderdelevervaardigers en motorvoertuigvervaardigers

89. Eksklusiewe handelsooreenkoms kom vry algemeen tussen die onderdele- en motorvoertuigvervaardigers voor. Hierdie ooreenkoms bepaal gewoonlik dat in gevalle waar die motorvoertuigvervaardigers die matryse verskaf of besit of die spesifikasies daarvoor voorsien het die onderdelevervaardigers nie die matryse vir die vervaardiging en verkoop van onderdele aan derdes sal aanwend nie. Uitsonderinge bestaan egter, byvoorbeeld soms in die geval van glas en uitlaatselsels. Voorts is daar dikwels ook 'n eksklusiewe ooreenkoms dat onderdele wat in die spesiale verpakings van die motorvoertuigvervaardigers verpak is, nie aan ander gelewer mag word nie. Die motorvoertuigvervaardigers behou dus die reg op die eksklusiewe distribusie van die onderdele wat eksklusief vir hulle vervaardig of verpak is. Normaalweg is die eksklusiewe ooreenkoms van toepassing op sowel onderdele vir oorspronklike toerusting as dié vir die vervangingsmark.

80. Parts dealers normally sell parts to any body or individual (except some wholesalers who impose restrictions). The Board could find no proof of any parts dealer who refused to supply parts to others. Everyone follows a policy to push up his turnover as high as possible and to retain clients. No proof could be found of practices in accordance with which any parts dealer had entered into an agreement with any buyer in terms of which the latter would purchase from him only. The Board was informed that in order to retain clients a considerable variety of parts, quality, price and especially service could be decisive factors.

81. The importance of the sale of parts in terms of all the activities of parts dealers differs completely as far as agencies on the one hand, and independent parts dealers on the other, are concerned. For most independent parts dealers the sale of parts and accessories represents the greater part of the total. According to information gathered by the Board, parts sales represent only between 8 and 16 per cent of the total turnover of all products of the agencies.

82. The Board found that independent parts dealers take special note of the prices of parts and buy these where they are least expensive, either locally or overseas. It was also ascertained that independent parts dealers did business especially in parts with a high turnover.

83. The Board also checked whether the conditions of sale of parts dealers were the same for all clients belonging to the same category. No discrimination in this connection could be found. From information given by the parts dealers it also appeared that they did not consult with one another regarding matters such as prices, conditions of sale and a share in the market. Other parts manufacturers, competitors, distributors or bodies are also not consulted if any one wishes to change his conditions of sale. As a matter of fact, these changes seldom take place on the initiative of agencies or smaller independent parts dealers. In the case of agencies the motor vehicle manufacturers usually recommend conditions of sale, while the independent wholesalers or wholesalers and retailers also recommend certain conditions of sale. If this is not the case, the smaller dealers usually follow the conditions of sale of the larger dealers.

84. A practice which was brought to the attention of the Board is that of agencies who do not keep certain parts in stock and then sell only the complete subassembly, on which naturally a larger profit is made, and this leads to higher prices (costs) (the part does appear on the stock list supplied by the motor vehicle manufacturer).

(e) Withholding of supplies

85. The Board did not come across a single case where any supplier withheld parts from any buyer or refused to supply under normal conditions of sale. The general policy of parts and motor vehicle manufacturers is to sell to the concerns or persons who are creditworthy or who can give satisfactory service or are authorised to obtain parts under exclusive agreements.

86. No cases came to the notice of the Board where supplies were withheld from buyers on the grounds of, for example, price policy. However, the supply of parts is in fact refused or suspended in certain cases. Examples of such cases by agencies are—

- (i) the non-payment of accounts for parts and accessories;
- (ii) unsatisfactory facilities, storage space, service and distribution;
- (iii) having in stock parts and accessories not approved and therefore contrary to the agency agreement; and
- (iv) keeping in stock an assortment that is too limited.

87. In these cases parts are withheld only until the reason for such withholding has been eliminated. Cases are known to the Board where the parts or motor vehicle manufacturers do not carry out orders but refer them to middle men in the distribution channel, because, in terms of their distribution policy, this is the general practice. In particular several independent parts dealers complained that they wished to purchase certain parts, particularly those with a low turnover, direct from motor vehicle manufacturers, but could not do so.

88. The general trend among parts dealers is to increase their turnover as far as possible and to try to retain customers.

(f) Exclusive agreements

(i) Between parts manufacturers and motor vehicle manufacturers

89. Exclusive trade agreements are very common amongst parts and motor vehicle manufacturers. These agreements usually stipulate that in cases where the motor vehicle manufacturers supply or own the matrices or provide specifications for them the parts manufacturers will not use these matrices for the manufacture and sale of parts to third parties. There are, however, exceptions, for example, sometimes in the case of glass and exhaust systems. Moreover there are often exclusive agreements stipulating that parts packed in the special wrappings of the motor vehicle manufacturers may not be supplied to anyone else. The motor vehicle manufacturers therefore reserve the right to the exclusive distribution of the parts exclusively manufactured or packaged for them. Normally the exclusive agreements apply to both parts for original equipment and those for the replacement market.

(ii) *Tussen onderdelevervaardigers en onafhanklike onderdelehandelaars*

90. Eksklusiewe distribusie-ooreenkomste kom voor tussen sommige van die onderdelevervaardigers en van die tussenpersone in die distribusiekanaal. Hierdie ooreenkomste geld hoofsaaklik waar sogenaamde distribueerders aangestel word en die vervaardigers onderneem om slegs aan hulle te verkoop. Die onderdelevervaardigers verwag dan dat die distribueerders voorkeur aan die betrokke produkte bo mededingende produkte sal gee, en soms ook dat mededingende produkte nie gedistribueer sal word nie. Hierdie beleid word veral op grond van kostevoordele, diens en 'n beter markbenutting toegepas.

91. Onderdelehandelaars wat onderdele en toebehoere by onderdelevervaardigers spesiaal laat vervaardig of verpak, het, soos motorvoertuigvervaardigers, meestal 'n ooreenkoms met die vervaardiger waarvolgens die betrokke onderdele en toebehoere nie aan andere verskaf sal word nie.

92. 'n Ooreenkoms het onder die Raad se aandag gekom wat volgens sy mening beperkend van aard is. Hiervolgens moes die distribueerders indien die vervaardiger nie die betrokke produkte kon voorsien nie, die produkte invoer en nie binnelands koop nie.

(iii) *Tussen onderdelevervaardigers onderling*

93. Eksklusiewe ooreenkomste bestaan soms tussen onderdelevervaardigers waarvolgens die een aan die ander onderdele of submontasies moet verskaf of 'n eksklusiewe reg op matryse gee. Tydens die ondersoek het die bestaan van so 'n ooreenkoms, wat van 'n beperkende aard was, onder die Raad se aandag gekom. Deur middel van die Raad se vraelys is spesifiek van vervaardigers verneem of hulle enige geskrewe, mondelinge of tasbare reëling, ooreenkoms of verstandhouding met enige leweransier het waarvolgens laasgenoemde eksklusief of hoofsaaklik aan hulle sal verkoop. 'n Sekere vervaardiger het aan die Raad verklaar dat hy geen sodanige reëling, ooreenkoms of verstandhouding het nie. Kort hierna het die bestaan van so 'n ooreenkoms tussen die betrokke vervaardiger en 'n ander een toevallig onder die Raad se aandag gekom. Hierin is bepaal dat—

(a) die leweransier onderneem dat hy nie kragtens die ooreenkoms die betrokke produkte wat hy vervaardig aan enigiemand anders as aan die betrokke vervaardiger sal verkoop nie; en

(b) die leweransier nie toegelaat sal word om die genoemde produkte uit te voer nie.

94. Hierdie vervaardiger wou nie sy leweransier toelaat om aan andere te verkoop of uit te voer nie, ongeag wie se matryse, kundigheid en spesifikasies ook al gebruik word.

(iv) *Tussen motorvoertuigvervaardigers en hulle agentskappe*

95. Agentskappe is gewoonlik nie die eiendom van die motorvoertuigvervaardigers nie en laasgenoemde het normaalweg geen direkte finansiële belang in agentskappe nie. Tydens die ondersoek is vasgestel dat die agentskappe, behalwe dié van een motorvoertuigvervaardiger, verplig is om slegs goedgekeurde onderdele wat deur die motorvoertuigvervaardiger, of deur sy bemiddeling, verskaf is, te distribueer. Hierdie eksklusiewe ooreenkoms word gewoonlik in die agentskap- of handelaars-ooreenkoms vervat. Volgens hierdie ooreenkomste moet die agentskappe ook aan sekere minimum vereistes in verband met onderdele voldoen, byvoorbeeld ten opsigte van opbergfasiliteite, verskeidenheid en administrasie.

96. Baie van die agentskappe het egter die Raad meegedeel dat hulle al hoe meer in stryd met die ooreenkoms ook "substitusie-onderdele" verkoop indien die pryse van laasgenoemde onderdele baie laer as dié van die goedgekeurde onderdele is en klante 'n voorkeur daarvoor toon. In hulle werksplase is baie van die agentskappe ook gewillig om "substitusie-onderdele" te gebruik indien klante dit self verskaf. In hierdie gevalle word die onderdele egter nie gewaarborg nie.

97. Sommige van die Suid-Afrikaanse onderdelehandelaars en ook agentskappe van die motorvoertuigvervaardigers het die Raad meegedeel dat die oorsese moedermaatskappye van die motorvoertuigvervaardigers nie na hulle wil uitvoer nie. Volgens die plaaslike motorvoertuigvervaardigers is die rede vir hierdie beleid van moedermaatskappye dat hulle die gevollmagtigde verspreiders van onderdele en toebehoere van die moedermaatskappye in Suid-Afrika is. Sodoende kan en sal die oorsese moedermaatskappye nie met ander onderhandel sonder die goedkeuring van die Suid-Afrikaanse motorvoertuigvervaardigers nie.

Pryse van onderdele(a) *Pryse van onderdele as oorspronklike toerusting en vir die vervangingsmark*

98. Die pryse wat motorvoertuigvervaardigers vir vervangingsonderdele betaal, is oor die algemeen hoër as die vir oorspronklike toerusting. Die redes wat hiervoor aangevoer word, is onder meer dat die bemarkings-, verpakings- en administrasiekoste in die geval van vervangingsonderdele hoër is en ook omdat sekere onderdelelewervaardigers die gebruik van hulle produkte as oorspronklike toerusting as 'n stimulant vir die vraag na hulle vervangingsonderdele beskou.

99. Op versoek van die Raad het die kosterekenmeesters van die Departement van Nywerheidswese ondersoek na hierdie prysverskille ingestel. Tabel 5 toon sommige van hierdie verskille (die onderdele is willekeurig gekies en op verskillende motorvoertuigvervaardigers van toepassing—kyk ook Tabel 6).

(ii) *Between parts manufacturers and independent parts dealers*

90. Exclusive distribution agreements are concluded between some parts manufacturers and middle men in the distribution channel. These agreements usually apply where so-called distributors are appointed and the manufacturers undertake to sell to them only. The parts manufacturers then expect the distributors to give preference to the products concerned over competitive products, and sometimes also to refrain from distributing competitive products. This policy is especially applied on the basis of cost advantages, service and better market utilisation.

91. Parts dealers who have parts and accessories specially manufactured or packed by parts manufacturers, such as motor vehicle manufacturers, have usually signed an agreement with the manufacturer in accordance with which the parts and accessories concerned will not be supplied to anyone else.

92. An agreement was brought to the Board's attention which, in its opinion, is of a restrictive nature. In accordance with this agreement the distributors must import products and not purchase them locally if the manufacturer cannot supply the products.

(iii) *Between parts manufacturers themselves*

93. Exclusive agreements sometimes exist between parts manufacturers themselves in terms of which one manufacturer must supply the other with parts or subassemblies or grant it an exclusive right to matrixes. During the investigation the existence of such an agreement, which is of a restrictive nature, came to the Board's notice. By means of the Board's questionnaire manufacturers were specifically asked if they had any written, oral or tangible arrangement, agreement or understanding with any supplier in terms of which the latter would sell exclusively or mainly to them. A certain manufacturer informed the Board that he had no such arrangement, agreement or understanding. Shortly afterwards the Board chanced to hear of the existence of such an agreement between the manufacturer concerned and another. In this agreement it was stated that—

(a) in terms of the agreement the supplier undertook not to sell the particular products which he manufactured to anyone other than to the manufacturer concerned; and

(b) the supplier would not be permitted to export the said products.

94. This manufacturer would not allow his supplier to sell to others or to export, no matter whose matrixes, expertise and specifications were being used.

(iv) *Between motor vehicle manufacturers and their agencies*

95. As a rule agencies are not the property of the motor vehicle manufacturers and the latter normally have no direct financial interest in agencies. During the investigation it was ascertained that the agencies, except those of one motor vehicle manufacturer, were compelled to distribute only approved parts supplied by the motor vehicle manufacturer, or through his intermediation. This exclusive agreement is usually contained in the agency's or dealer's agreement. According to these agreements the agencies must also meet certain minimum requirements in connection with parts, for example, in respect of storage facilities, variety and administration.

96. Many of the agencies, however, informed the Board that they were selling ever-increasing quantities of "substitute parts" contrary to agreements if the prices of these parts were much lower than those of the approved parts and clients showed a preference for these. In their workshops many of the agencies were also willing to use substitute parts if clients supplied these themselves. In these cases the parts were, however, not guaranteed.

97. Some of the South African parts dealers and also agencies for the motor vehicle manufacturers informed the Board that overseas parent companies of the motor vehicle manufacturers were unwilling to export to them. According to the local motor vehicle manufacturers the reason for this policy adopted by parent companies was that they were the authorised distributors of parts and accessories of the parent companies in South Africa. For this reason the overseas parent companies could not and would not negotiate with others without the approval of the South African motor vehicle manufacturers.

Prices of parts(a) *Prices of parts as original equipment and for the replacement market*

98. Prices paid by motor vehicle manufacturers for replacement parts are generally higher than those for original equipment. The reasons given for this are, *inter alia*, that the marketing, packaging and administration costs are higher in the case of replacement parts, and also because certain parts manufacturers consider that the use of their products as original equipment stimulates the demand for their replacement parts.

99. At the request of the Board the cost accountants of the Department of Industries investigated these price differences. Table 5 shows some of these differences (the parts were chosen at random and applied to various motor vehicle manufacturers—see also Table 6).

TABEL 5

VERGELYKING TUSSEN DIE PRYSE VAN ONDERDELE EN TOEBEHORE VIR OORSPRONKLIKE TOERUSTING EN VIR DIE VERVANGINGSMARK

Produk	Prys: Oorspronklike toerusting	Prys: Vervangings- mark	Persentasie ver- vangingsonderdele koopprys groter as oorspronklike- toerusting se kosprys (oorspronklike toerusting = 100)
Vonkproppe.....	R 0,15	R 0,44	193,3
Uitlaatspruitstuk { A.....	10,96	25,41	131,8
B.....	7,00	15,62	123,1
Brandstoftekkop.....	6,68	23,06	245,2
Battery.....	12,00	27,82	131,8
Enjinkap.....	20,00	92,44	362,2
Stuurwiel.....	25,24	46,17	82,9
Krukas.....	57,34	80,37	40,2
Suier.....	21,17	54,08	155,5
Draaglaer.....	3,96	6,26	58,1
Ruitveër.....	0,78	1,13	44,9
Buffer.....	8,13	32,58	300,7
Drukplaat.....	7,30	16,63	127,8
Hoofas.....	11,78	40,90	247,2
Voor-halfas.....	25,00	62,87	151,5

TABLE 5

COMPARISON BETWEEN THE PRICES OF PARTS AND ACCESSORIES FOR ORIGINAL EQUIPMENT AND FOR THE REPLACEMENT MARKET

Product	Price: Original equipment	Price: Replace- ment market	Percentage by which selling price or replacement parts exceeds that or original equip- ment (original equipment = 100)
Sparkling plugs.....	R 0,15	R 0,44	193,3
Exhaust manifold { A.....	10,96	25,41	131,8
B.....	7,00	15,62	123,1
Fuel tank head.....	6,68	23,06	245,2
Battery.....	12,00	27,82	131,8
Bonnet.....	20,00	92,44	362,2
Steering wheel.....	25,24	46,17	82,9
Crankshaft.....	57,34	80,37	40,2
Piston.....	21,17	54,08	155,5
Bearing.....	3,96	6,26	58,1
Windscreen wiper.....	0,78	1,13	44,9
Buffer.....	8,13	32,58	300,7
Pressure plate.....	7,30	16,63	127,8
Main shaft.....	11,78	40,90	247,2
Front axle shaft.....	25,00	62,87	151,5

100. Uit bogenoemde tabel blyk dat die aankoopprys van vervangingsonderdele selfs tot 362 persent hoër as die prys van dieselfde onderdele, bestem vir oorspronklike toerusting, is. Enkele gevalle is teëgekom waar die prys van die vervangingsonderdele laer as die prys van die oorspronklike toerusting was (dit was egter die uitsondering).

101. Onderdeleervaardigers het die Raad meegedeel dat die volgende faktore in 'n mindere of meerdere mate 'n belangrike invloed uitoefen op die pryse van onderdele: Navorsing- en ontwikkelingskoste, koste van matryse, die verwagte vraag, die omvang van die vraag en aanbod (of dit

100. From the above table it appears that the purchase price of replacement parts may exceed the price of the same parts intended for original equipment by as much as 362 per cent. A few cases were encountered in which the price of the replacement part was lower than the price of the original equipment (this was however the exception).

101. Parts manufacturers informed the Board that the following factors had, to a greater or lesser extent, an important effect on the prices of parts: research and development costs, costs of matrixes, the expected demand,

'n kopers- of verkopersmark is), oorsese mededinging, belangrikheid van die produk in terme van die Suid-Afrikaanse inhoudsprogram, materiaal-koste, arbeidskoste, algemene koste en die koste verbonde aan opberging, aflewering en finansiering.

(b) *Winsgrense*

(i) *Onderdeleervaardigers*

102. Die winsgrense van die onderdeleervaardigers verskil oor die algemeen tussen dié bestem vir oorspronklike toerusting en dié vir die mark vir vervangingsonderdele. Normaalweg word die eersgenoemde kategorie teen laer pryse as dié vir die vervangingsmark verkoop. Soos vroeër gemeld, voer die onderdeleervaardigers verskeie redes hiervoor aan, soos groter bestellings en laer verpakkingskoste. Die indruk van die Raad is egter dat die prysverskil aan heelwat meer faktore toegeskryf kan word as die genoemde redes. Die belangrikste is dat die vervaardigers gewillig is om 'n baie lae winsgrens, selfs 'n verlies, in die geval van oorspronklike toerusting te aanvaar ten einde hul produkte aanvaar te kry en sodoende 'n ekonomiese skaal van produksie te bereik en te handhaaf. Vervaardigers is ook van mening dat die verbruiker, wanneer dit by vervanging kom, voorkeur sal gee aan die produk wat as oorspronklike toerusting gebruik is. Die verwagting is dus dat deur middel van 'n hoër winsgrens vir die vervangingsmark uiteindelik 'n bevredigende gemiddelde winsgewendheid behaal kan word.

103. Bogenoemde beleid kan oor die lang termyn slegs toegepas word ten opsigte van daardie produkte wat wel algemeen as vervangingsonderdele voorkom. Die leeftyd van onderdele het ook 'n direkte invloed op hierdie beleid. Die onderdeleervaardigers wat hierdie beleid toepas, verdedig dit op grond daarvan dat dit oor die hele wêreld in gebruik is.

104. Dit was vir die Raad uit die ondersoek duidelik dat die mark vir onderdele tans oor die algemeen 'n kopersmark is en dat die motorvoertuigvervaardigers meestal die sterkste party in onderhandelinge is; veral in die gevalle waar die waarde in verhouding tot massa hoog is. Motorvoertuigvervaardigers bepaal in sekere gevalle selfs watter winsgrens toegelaat word. Die posisie van die kopers word versterk indien die vervaardiger van onderdele slegs vir een of twee motorvoertuigvervaardigers vervaardig en vir sy voortbestaan van hulle afhanklik is. Voorts is die binnelandse vervaardiger van onderdele ook voortdurend in mededinging met oorsese konkurrente, sowel as met ander binnelandse vervaardigers van ander onderdele en toebehoere.

105. Dit is dus duidelik dat die presiese omvang van die winsgrens na gelang van verskillende omstandighede wissel. Sommige van die onderdeleervaardigers het ten doel om 5 of 10 persent wins op die omset te realiseer, terwyl andere die winsgrens bepaal om 'n sekere rentabiliteit op hulle investering te behaal. Hierdie strewes is egter onderhewig aan onderhandelinge tussen die onderdele- en motorvoertuigvervaardigers. Afwykings van hierdie norme is onderhewig aan onderhandelinge met die motorvoertuigvervaardigers met betrekking tot die pryse van oorspronklike toerusting en oor prysveranderinge. Aan die Raad is ook verklaar dat die prys meestal beheer word deur die pryse van die oorspronklike ingevoerde artikel.

106. Soos vroeër beskryf, word die pryse van die vervangingsonderdele aan die motorvoertuigvervaardigers gewoonlik per kontrak vasgelê. In hierdie geval kan die mededinging van oorsese vervaardigers hier sterker wees, aangesien die aanspooring vir motorvoertuigvervaardigers wat op oorspronklike toerusting in die vorm van aksynskorting van toepassing is nie hier geldig is nie.

107. Die pryse van vervangingsonderdele wat nie in kontrakte vasgelê is nie, word gewoonlik bepaal deur die finale kleinhandelprys as basis te neem. Hierdie pryse word deur mededinging (hier te lande en van oorsese), tradisie, kapitaalinvestering, omloopsnelheid van die produk, ooreenkomst met die Pryscontroleur, en ander faktore beïnvloed. Die Raad het egter gevalle tegekom waar die finale kleinhandelprys tot selfs so hoog as 385 persent bo die vervaardigingskoste is. 'n Vervaardiger wie se aanbevole kleinhandelprys 240 persent bo vervaardigingskoste is, het aan die Raad gesê dat hierdie persentasie gekies is omdat die dié een is wat na hulle mening die mees algemene winsgrens in die handel is. Van hierdie kleinhandelprys word nou diskonto's aan die tussenpersone in die distribusiekanaal toegestaan.

108. Volgens die mening van baie van die onderdeleervaardigers is kopers vandag meer prysbewus as gehaltebewus. Dit dwing dan dikwels die vervaardigers van produkte van 'n hoër gehalte om hulle pryse te verlaag ten einde te kan mededing met goedkoop, ingevoerde onderdele. 'n Ander beswaar is dat sekere minderwaardige onderdele ingevoer word en dan teen dieselfde pryse as hoër gehalte produkte bemark word.

(ii) *Motorvoertuigvervaardigers*

109. Motorvoertuigvervaardigers, en onderdelehandelaars, het die Raad meegedeel dat hulle die aanbeveling en ooreenkoms tussen die Pryscontroleur en NAAMSA met betrekking tot die winsgrense en bruto wins toepas en dit as die limiet by prysbepaling beskou (kyk Hoofstuk III). Oor die algemeen verdeel die motorvoertuigvervaardigers onderdele in verskillende kategorieë en differensieer dan die winsgrense met betrekking tot elke kategorie om by die aanbevole kleinhandelpryse uit te kom. Dienooreenkomstig wissel die aanbevole diskonto's aan distribueerders, werksplase en vlooteienaars ook.

110. Tabel 6 toon die resultate van die ondersoek van die Departement van Nywerheidswese se kosterekenmeesters. Hierin word die groot verskil tussen die pryse vir oorspronklike toerusting, vir die vervangingsmark (aankoopprys vir die motorvoertuigvervaardigers), vir die kleinhandelaars (onderdelehandelaar) en vir die finale verbruiker getoon. Sommige van die groot verskille word vervolgens bespreek:

the size of the demand and supply (whether it is a buyers' or sellers' market), overseas competition, importance of the product in terms of the South African content programme, material costs, labour costs, general costs and the costs involved in storage, delivery and financing.

(b) *Profit margins*

(i) *Parts manufacturers*

102. The profit margins of parts manufacturers generally differ when it comes to parts intended for original equipment and those intended for the market for replacement parts. Normally the former parts are sold at lower prices than parts for the replacement market. As mentioned earlier, the parts manufacturers give various reasons for this, such as larger orders and lower packing costs. The impression gained by the Board is, however, that the price difference may be ascribed to many more factors than those mentioned. The most important of these is that the manufacturers are willing to accept a very low profit margin, or even a loss, in the case of original equipment in order to have their products accepted and so achieve and maintain an economic scale of production. Manufacturers are also of the opinion that, when it comes to replacement, the consumer will give preference to the products used as original equipment. It is therefore expected that by means of a higher profit margin for the replacement market a satisfactory average profit can eventually be achieved.

103. In the long-term the above policy can be applied only in respect of those products which are generally used as replacement parts. The life-span of parts also has a direct effect on this policy. The parts manufacturers applying this policy defend it on the grounds that it is applied throughout the world.

104. From the investigation it was clear to the Board that on the whole the market for parts was at present a buyer's market and that the motor vehicle manufacturers were usually in a stronger position when negotiations were entered into, especially in cases where the value was high in proportion to the mass. In certain cases motor vehicle manufacturers even determine the profit margin to be allowed. The position of the buyers is strengthened if the manufacturer of parts manufactures for one or two motor vehicle manufacturers only and is dependent on them for his continued existence. In addition, the local manufacturer of parts is also continually in competition with overseas competitors, as well as with other local manufacturers of parts and accessories.

105. It is therefore clear that the exact size of the profit margin varies according to circumstances. Some of the parts manufacturers aim at realising 5 or 10 per cent profit on turnover, while others determine the profit margin with a view to achieving a certain return on their investment. These aims are however subject to negotiations between the parts and motor vehicle manufacturers. Deviations from these norms are subject to negotiations with the motor vehicle manufacturers with regard to the prices of original equipment and price changes. The Board was also informed that the price was mostly controlled by the price of the original imported article.

106. As mentioned above, the prices of replacement parts supplied to motor vehicle manufacturers are usually laid down in a contract. In this case competition from overseas manufacturers may be stronger, because the incentive to motor vehicle manufacturers, applicable on original equipment in the form of excise rebates, does not apply here.

107. The prices of replacement parts, which are not laid down in contracts are usually determined by taking the final retail price as a basis. This price is influenced by competition (both here and overseas), tradition, capital investment, turnover of the product, agreements with the Price Controller, and other factors. The Board has, however, come across cases where the final retail price was as much as 385 per cent higher than the manufacturing cost. A manufacturer whose recommended retail price is 240 per cent higher than the manufacturing cost told the Board that this percentage was chosen because it was the one which, in his opinion, was the most common profit margin in the trade. On this retail price discounts are now granted to middle men in the distribution channel.

108. In the opinion of many of the parts manufacturers buyers nowadays are more price-conscious than quality-conscious. This often forces the manufacturers of high-quality products to lower their prices in order to be able to compete with cheap, imported parts. Another objection is that certain inferior parts are imported and then marketed at the same prices as high-quality products.

(ii) *Motor vehicle manufacturers*

109. Motor vehicle manufacturers and parts dealers informed the Board that they applied the recommendation and agreement between the Price Controller and NAAMSA in connection with profit margins and gross profit and considered this the limit in price determination (see Chapter III). In general the motor vehicle manufacturers divide parts into various categories and then differentiate the profit margins as regards each category to arrive at the recommended retail prices. The recommended discounts to distributors, workshops and fleet owners also vary accordingly.

110. Table 6 shows the results of the investigation by cost accountants of the Department of Industries. This table shows the large difference between the prices for original equipment, for the replacement market (purchase price for motor vehicle manufacturers), for the retailers (parts dealers), and for the final user. Some of the major differences are then discussed:

TABEL 6

VERGELYKING TUSSEN DIE PRYS VAN ONDERDELE EN TOEBEHORE DEUR DIE DISTRIBUSIEKANAAL

Produk		Bron (SA of oorsee)		Koste vir:				(3) > (1) %	(3) > (2) %	(4) > (1) %	(4) > (2) %	(4) > (3) %
		Oorspronk- like toe- rusting	Vervang- ings- mark	Motorvoertuigver- vaardiger		Klein- hande- laar (3)	Verbrui- ker (4)					
				Oorspronk- like toerus- ting (1)	Vervang- ingson- derdele (2)							
Krukas	(a)	SA	SA	R57,34	R80,37	R137,01	R210,79	138,94	70,47	267,61	162,27	53,85
	(b)	SA	SA	76,96	62,48	96,22	124,96	25,02	54,00	62,37	100,00	29,87
Suier	(a)	SA	SA	3,43	3,27	4,87	8,86	41,98	48,92	158,31	170,95	81,93
	(b)	SA	SA	4,34	4,88	6,49	29,40	49,53	32,99	577,42	502,46	353,00
	(c)	oorsee	oorsee	21,17	54,08	59,80	104,00	182,47	10,57	391,26	92,31	73,91
Draaglaer t.o.v.	(a)	oorsee	oorsee	3,96	6,26	7,04	14,66	77,77	12,46	270,20	134,19	108,24
krukas	(b)	oorsee	oorsee	1,35	5,33	10,29	18,70	662,22	93,05	1 285,19	250,84	81,73
Snelheidsmeter	(a)	oorsee	oorsee	-	18,80	27,07	56,39	-	43,98	-	199,95	108,31
	(b)	oorsee	oorsee	-	19,50	37,53	68,24	-	92,46	-	249,95	81,83
Ruitveërs	(a)	SA	SA	0,92	1,40	2,34	4,10	154,34	67,14	345,65	192,86	75,21
	(b)	SA	SA	0,78	1,13	1,41	2,49	80,77	24,78	219,23	120,35	76,60
	(c)	SA	SA	0,57	0,91	1,12	1,94	96,49	23,07	240,35	113,19	73,21
Voorruit	(a)	SA	SA	17,38	19,99	30,45	40,60	75,20	52,32	133,60	103,10	33,33
	(b)	SA	SA	26,94	44,50	55,63	111,25	106,49	25,01	312,95	150,00	99,98
Buffer (voor)	(a)	SA	SA	32,98	41,43	54,30	104,40	64,64	31,06	216,56	151,99	92,27
	(b)	oorsee	oorsee	8,13	32,58	55,32	97,75	580,44	69,79	1 102,34	200,03	76,70
Drukplaat ("pres- sure plate")	(a)	SA	SA	7,30	16,63	20,70	36,59	183,56	24,47	401,23	120,02	76,76
	(b)	oorsee	oorsee	-	39,81	46,58	84,69	-	17,00	-	112,74	81,82
Aandryfelement		oorsee	oorsee	5,30	16,47	32,56	56,63	514,33	97,69	968,49	243,84	73,93
Hoofas		oorsee	oorsee	11,78	40,90	87,47	152,13	642,52	113,86	1 191,43	271,96	73,92
Hoofasbus		oorsee	oorsee	2,00	7,12	14,10	24,52	605,00	98,03	1 126,00	244,38	73,90
Voor-halfas		oorsee	oorsee	25,00	62,87	125,05	217,48	400,20	98,90	769,92	245,92	73,91
Aansitter (volledig)		oorsee	oorsee	39,08	53,42	92,98	120,75	137,92	74,05	208,98	126,04	29,87
Anker		oorsee	oorsee	-	20,26	39,02	70,95	-	92,60	-	250,20	81,83
Veldspoel		oorsee	oorsee	-	8,63	16,61	30,20	-	92,47	-	249,94	81,82
Borsels		oorsee	oorsee	-	2,98	6,78	12,32	-	127,52	-	313,42	81,71
Verdigtingspakstuk- stel		SA	SA	-	11,00	19,61	35,65	-	78,27	-	224,09	81,80
Koppelomsitter		oorsee	oorsee	40,83	54,83	104,69	190,35	156,40	90,94	366,20	247,16	81,82
Vonkproppe	(a)	oorsee	oorsee	-	1,08	1,49	2,59	-	37,96	-	139,81	73,83
	(b)	oorsee	oorsee	-	0,45	0,50	1,00	-	11,11	-	122,22	100,00
	(c)	oorsee	oorsee	-	0,54	0,58	1,00	-	7,40	-	85,19	72,41
	(d)	oorsee	oorsee	0,15	0,44	0,51	1,05	240,00	15,90	600,00	138,64	105,88
Uitlaatspruitstuk	(a)	SA	SA	10,96	25,41	70,93	123,35	547,17	179,14	1 025,46	385,44	73,90
	(b)	SA	SA	7,00	15,62	29,57	51,43	322,42	89,30	634,71	229,26	73,93
Oliefilter	(a)	SA	SA	-	0,90	1,05	1,62	-	16,66	-	80,00	54,29
	(b)	SA	SA	0,66	0,86	0,92	2,30	39,39	6,98	248,48	167,44	150,00
	(c)	SA	SA	0,66	0,86	0,92	2,30	39,39	6,98	248,48	167,44	150,00
Kontakpunte		oorsee	SA	-	0,79	1,07	1,92	-	35,44	-	143,04	79,44
Skyfrenne (voor)		SA	SA	13,57 (links) 13,80 (regs)	13,41	22,26	-	64,03	66,00	-	-	-

Knaldemper	(a)	SA	SA	10,58
	(b)	SA	SA	-
Remdrom	(a)	SA	SA	10,93
	(b)	SA	SA	7,34
Brandstoffenkkop		oorsee	oorsee	6,68
Wiel ("Rim")	(a)	SA	SA	5,17
	(b)	oorsee	oorsee	5,09
				6,26
Battery	(a)	SA	SA	12,00
	(b)	SA	SA	19,82
Wieldop	(a)	SA	SA	-
	(b)	SA	SA	1,71
Enjinkap	(a)	SA	SA	20,00
	(b)	SA	SA	16,00
	(c)	SA	SA	48,52
Kleppe: Inlaatklep		oorsee	oorsee	0,52
Uitlaatklep		oorsee	oorsee	1,79
Stuurwiel	(a)	SA	SA	10,38
	(b)	oorsee	oorsee	-
	(c)	oorsee	oorsee	-

TABEL 6 (vervolg)

9,07	12,83	32,03	21,26	41,46	202,74	253,14	149,65
47,54	72,20	120,34	-	51,87	-	153,13	66,68
14,05	18,40	35,40	68,34	30,96	223,88	151,96	92,39
7,48	11,00	19,43	49,86	47,06	164,71	159,76	76,64
23,06	32,51	76,50	386,67	40,98	1 045,21	231,74	135,31
7,67	13,65	20,96	164,02	77,96	305,42	173,27	53,55
7,40	23,47	21,65	361,10	217,16	325,34	192,57	- 7,75
16,96	24,70	41,17	294,56	45,63	557,67	142,75	66,68
27,82	32,27	44,28	168,91	15,99	269,00	59,17	37,22
-	-	-	-	-	-	-	-
7,83	10,27	15,75	-	31,16	-	101,15	53,36
2,80	4,31	7,84	152,04	53,92	358,48	180,00	81,90
92,44	100,05	174,00	400,25	8,23	770,00	88,23	73,91
16,00	30,16	63,50	88,50	88,50	296,88	296,88	110,54
48,52	59,45	152,98	22,52	22,52	215,29	215,29	157,33
1,76	2,48	4,38	376,92	40,90	742,31	148,86	76,61
3,83	5,41	9,66	202,23	41,25	439,66	152,22	78,56
13,84	19,58	34,60	88,63	41,47	233,33	150,00	76,71
47,60	59,50	114,42	-	125,00	-	140,38	92,30
25,24	46,17	87,11	-	82,92	-	245,13	88,67

TABLE 6

COMPARISON BETWEEN THE PRICES OF PARTS AND ACCESSORIES THROUGH THE DISTRIBUTION CHANNEL

Product		Source (SA or overseas)		Price paid by:				(3) > (1) %	(3) > (2) %	(4) > (1) %	(4) > (2) %	(4) > (3) %
		Original equipment	Replacement market	Motor vehicle manufacturer		Retailer	User					
				Original equipment (1)	Replacement parts (2)							
Crankshaft	(a)	SA	SA	R57,34	R80,37	R137,01	R210,79	138,94	70,47	267,61	162,27	53,85
	(b)	SA	SA	76,96	62,48	96,22	124,96	25,02	54,00	62,37	100,00	29,87
Piston	(a)	SA	SA	3,43	3,27	4,87	8,86	41,98	48,92	158,31	170,95	81,93
	(b)	SA	SA	4,34	4,88	6,49	29,40	49,53	32,99	577,42	502,46	353,00
	(c)	Overseas	Overseas	21,17	54,08	59,80	104,00	182,47	10,57	391,26	92,31	73,91
Bearing for crankshaft	(a)	Overseas	Overseas	3,96	6,26	7,04	14,66	77,77	12,46	270,20	134,19	108,24
	(b)	Overseas	Overseas	1,35	5,33	10,29	18,70	662,22	93,05	1 285,19	250,84	81,73
Speedometer	(a)	Overseas	Overseas	-	18,80	27,07	56,39	-	43,98	-	199,95	108,31
	(b)	Overseas	Overseas	-	19,50	37,53	68,24	-	92,46	-	249,95	81,83
Windscreenwipers	(a)	SA	SA	0,92	1,40	2,34	4,10	154,34	67,14	345,65	192,86	75,21
	(b)	SA	SA	0,78	1,13	1,41	2,49	80,77	24,78	219,23	120,35	76,60
	(c)	SA	SA	0,57	0,91	1,12	1,94	96,49	23,07	240,35	113,19	73,21
Windscreen	(a)	SA	SA	17,38	19,99	30,45	40,60	75,20	52,32	133,60	103,10	33,33
	(b)	SA	SA	26,94	44,50	55,63	111,25	106,49	25,01	312,95	150,00	99,98
Bumper (front)	(a)	SA	SA	32,98	41,43	54,30	104,40	64,64	31,06	216,56	151,99	92,27
	(b)	Overseas	Overseas	8,13	32,58	55,32	97,75	580,44	69,79	1 102,34	200,03	76,70
Pressure plate	(a)	SA	SA	7,30	16,63	20,70	36,59	183,56	24,47	401,23	120,02	76,76
	(b)	Overseas	Overseas	-	39,81	46,58	84,69	-	17,00	-	112,74	81,82
Motoring drive member		Overseas	Overseas	5,30	16,47	32,56	56,63	514,33	97,69	968,49	243,84	73,93
Main shaft		Overseas	Overseas	11,78	40,90	87,47	152,13	642,52	113,86	1 191,43	271,96	73,92
Main shaft bush		Overseas	Overseas	2,00	7,12	14,10	24,52	605,00	98,03	1 126,00	244,38	73,90
Front axle shaft		Overseas	Overseas	25,00	62,87	125,05	217,48	400,20	98,90	769,92	245,92	73,91
Starter (complete)		Overseas	Overseas	39,08	53,42	92,98	120,75	137,92	74,05	208,98	126,04	29,87
Armature		Overseas	Overseas	-	20,26	39,02	70,95	-	92,60	-	250,20	81,83
Field coil		Overseas	Overseas	-	8,63	16,61	30,20	-	92,47	-	249,94	81,82
Brushes		Overseas	Overseas	-	2,98	6,78	12,32	-	127,52	-	313,42	81,71
Condenser gasket set		SA	SA	-	11,00	19,61	35,65	-	78,27	-	224,09	81,80
Torque converter		Overseas	Overseas	40,83	54,83	104,69	190,35	156,40	90,94	366,20	247,16	81,82
Sparking plugs	(a)	Overseas	Overseas	-	1,08	1,49	2,59	-	37,96	-	139,81	73,83
	(b)	Overseas	Overseas	-	0,45	0,50	1,00	-	11,11	-	122,22	100,00
	(c)	Overseas	Overseas	-	0,54	0,58	1,00	-	7,40	-	85,19	72,41
	(d)	Overseas	Overseas	0,15	0,44	0,51	1,05	240,00	15,90	600,00	138,64	105,88
Exhaust manifold	(a)	SA	SA	10,96	25,41	70,93	123,35	547,17	179,14	1,025,46	385,44	73,90
	(b)	SA	SA	7,00	15,62	29,57	51,43	322,42	89,30	634,71	229,26	73,93
Oil filter	(a)	SA	SA	-	0,90	1,05	1,62	-	16,66	-	80,00	54,29
	(b)	SA	SA	0,66	0,86	0,92	2,30	39,39	6,98	248,48	167,44	150,00
	(c)	SA	SA	0,66	0,86	0,92	2,30	39,39	6,98	248,48	167,44	150,00
Contact points		Overseas	SA	-	0,79	1,07	1,92	-	35,44	-	143,04	79,44
Disc brakes (front)		SA	SA	13,57 (left) 13,80 (right)	13,41	22,26	-	64,03	66,00	-	-	-

Silencer	(a)	SA	SA	10,58
	(b)	SA	SA	-
Brake drum	(a)	SA	SA	10,93
	(b)	SA	SA	7,34
Fuel tank head		Overseas	Overseas	6,68
Rim	(a)	SA	SA	5,17
	(b)	Overseas	Overseas	5,09
				6,26
Battery	(a)	SA	SA	12,00
	(b)	SA	SA	19,82
Hub-cap	(a)	SA	SA	-
	(b)	SA	SA	1,71
Bonnet	(a)	SA	SA	20,00
	(b)	SA	SA	16,00
	(c)	SA	SA	48,52
Valves: Inlet valves		Overseas	Overseas	0,52
Outlet valves		Overseas	Overseas	1,79
	(a)	SA	SA	10,38
	(b)	Overseas	Overseas	-
	(c)	Overseas	Overseas	-

TABLE 6 (continue)

9,07	12,83	32,03	21,26	41,46	202,74	253,14	149,65
47,54	72,20	120,34	-	51,87	-	153,13	66,68
14,05	18,40	35,40	68,34	30,96	223,88	151,96	92,39
7,48	11,00	19,43	49,86	47,06	164,71	159,76	76,64
23,06	32,51	76,50	386,67	40,98	1 045,21	231,74	135,31
7,67	13,65	20,96	164,02	77,96	305,42	173,27	53,55
7,40	23,47	21,65	361,10	217,16	325,34	192,57	- 7,75
16,96	24,70	41,17	294,56	45,63	557,67	142,75	66,68
27,82	32,27	44,28	168,91	15,99	269,00	59,17	37,22
-	-	-	-	-	-	-	-
7,83	10,27	15,75	-	31,16	-	101,15	53,36
2,80	4,31	7,84	152,04	53,92	358,48	180,00	81,90
92,44	100,05	174,00	400,25	8,23	770,00	88,23	73,91
16,00	30,16	63,50	88,50	88,50	296,88	296,88	110,54
48,52	59,45	152,98	22,52	22,52	215,29	215,29	157,33
1,76	2,48	4,38	376,92	40,90	742,31	148,86	76,61
3,83	5,41	9,66	202,23	41,25	439,66	152,22	78,56
13,84	19,58	34,60	88,63	41,47	233,33	150,00	76,71
47,60	59,50	114,42	-	125,00	-	140,38	92,30
25,24	46,17	87,11	-	82,92	-	245,13	88,67

'n Uitlaatspruitstuk se prys vir 'n sekere motorvoertuigvervaardiger vir gebruik as oorspronklike toerusting is R10,96 en dieselfde produk in die geval van vervangingsonderdele kos R25,41; 'n verhoging van 132 persent. Die aankoopprys van die kleinhandelaar, wat 'n agentskap van die motorvoertuigvervaardiger is, is R70,93; 179 persent hoër as die motorvoertuigvervaardiger se aankoopprys van die produk vir die vervangingsmark en 547 persent hoër as die prys vir die oorspronklike toerusting. Die finale verbruiker moet R123,35 vir dieselfde produk betaal wat 1 025 persent meer as die prys vir oorspronklike toerusting is; 385 persent meer as die motorvoertuigvervaardiger se prys van die produk bestem vir vervangingsonderdele (die ooreenkoms met die Pryscontroleur stel 'n maksimum van 250 persent); en bykans 74 persent meer as die aankoopprys van die agentskap (kleinhandelaar) is. Hierdie uitlaatspruitstuk is binnenslands vervaardig; vir die mark vir oorspronklike toerusting sowel as vir die vervangingsmark.

Die prys van 'n brandstoftenkop as oorspronklike toerusting (wat 'n ingevoerde en 'n luukse produk in die besondere geval is) is R6,68; vir die vervangingsmark is die aankoopprys van die motorvoertuigvervaardiger R23,06; die aankoopprys van die agentskap is R32,51; en die finale verbruiker betaal R76,50. Die prys wat die publiek betaal, is 1 045 persent meer as die prys vir die produk as oorspronklike toerusting en bykans 232 persent meer as die aankoopprys van die motorvoertuigvervaardiger vir die vervangingsmark.

Vir 'n ingevoerde wielveling wat as oorspronklike toerusting R6,26 kos, betaal die motorvoertuigvervaardiger R16,96 indien dit vir die vervangingsmark bestem is. Uiteindelik betaal die publiek R41,17, wat bykans 143 persent meer is as die prys wat deur die motorvoertuigvervaardiger vir die produk vir die vervangingsmark betaal en meer as 550 persent groter as die oorspronklike toerustingprys is.

Indien na die drie verskillende enjinkappe gelet word, is dit opmerklik dat in die geval van twee die prys vir oorspronklike toerusting en die aankoopprys van die motorvoertuigvervaardiger vir die vervangingsmark dieselfde is. In die ander geval is laasgenoemde prys egter 362 persent hoër as die prys wanneer die produk vir oorspronklike toerusting bestem is.

Op voorraade met 'n hoë omloopsnelheid, byvoorbeeld vonkproppe, kontakpunte, oliefilters en ruitveërs is die prys wat die verbruiker betaal ook dikwels in die omgewing van 75 tot 150 persent hoër as die aankoopprys van die kleinhandelaar.

111. Die winsgrense wissel ook veral na gelang van die mededingendheid van die betrokke kategorie met ander "substitusie-onderdele" en die mate van 'n gebonde mark wat die motorvoertuigvervaardiger besit. Die indruk ontstaan dat die omvang van die winsgrens in 'n groot mate deur tradisie bepaal word. Samehangend hiermee gaan die diskonto wat aan tussenpersone in die distribusiekanale en aan andere, byvoorbeeld vlooteienaars en werksplase, toegestaan word. Die Raad is nie daarvan oortuig dat hierdie diskonto en die omvang daarvan altyd ekonomies of op grond van koste geregtig en doelmatig is nie. Die nadele van ondoelmatigheid van hierdie praktyk word duidelik weerspieël deur duur onderdele met 'n lae omloopsnelheid wat dikwels nie deur agentskappe in voorraad gehou word nie maar slegs op aanvraag bestel word. Baie van die motorvoertuigvervaardigers meen dat die diskontopraktyke van toepassing op motorvoertuigonderdele en -toebehore nie gesond is nie en slegs gebruik word aangesien dit geïkone praktyke is wat al vir jare in die bedryf bestaan. Sommige van die motorvoertuigvervaardigers het die Raad meegedeel dat hulle reeds besig is om hul beleid ten opsigte van winsgrense en diskonto's te hersien ten einde groter erkenning te verleen aan die ekonomiese funksie wat verrig word. Met die huidige diskontobeleid is dit veral die algemene publiek wat deur middel van te hoë prysvlakke benadeel word, aangesien die prysmededinging nie op kleinhandelsvlak bestaan nie.

112. Sekere motorvoertuigvervaardigers en andere het ook beweer dat die wins op vervangingsonderdele sekere ander aktiwiteite van motorvoertuigvervaardigers moet subsidieer sodat in totaal 'n redelike gemiddelde wins op al die motorvoertuigvervaardigers se aktiwiteite gerealiseer word. Aan die ander kant het van die onafhanklike onderdelehandelaars getuig dat die praktyk van lae pryse vir oorspronklike toerusting en hoë pryse vir vervangingsonderdele nadelig op die kopers van laasgenoemde onderdele inwerk. Hierdie nadeel ontstaan deurdat die kopers van vervangingsonderdele in werklikheid te veel betaal en kopers van nuwe motors (wat dikwels nooit vervangingsonderdele koop nie) te min. Onregstreeks, so word beweer, subsidieer kopers van gebruikte motors dan die kopers van nuwe motors.

(c) Aanbevole pryse

113. Die Suid-Afrikaanse motorvoertuigvervaardigers sowel as die meeste van die onderdelehandelaars en hoof-distribueerders wat aan die onafhanklike onderdelehandelaars verkoop, maak van aanbevole pryse vir hulle onderdele gebruik. Hierdie praktyk is vandag ook ingevolge die ooreenkoms met die Pryscontroleur nodig. Hierdie pryslys word gewoonlik in 'n katalogus aangebring en periodiek hersien. Dikwels word die diskonto wat op die onderdele van toepassing is, ook hierop aangedui.

114. Die aanbevole pryse word as maksimumpryse beskou en sommige van die motorvoertuigvervaardigers moedig hulle agentskappe aan om diskonto's aan die publiek en andere op hierdie aanbevole pryse te gee. In sekere van die agentskappe ooreenkomste word spesifiek gemeld dat die aanbevole pryse slegs maksimumpryse is. Die Raad het ook gevande gevind waar motorvoertuigvervaardigers agentskappe verplig om terugbetalings te doen indien die agentskappe verbruikers meer as die aanbevole pryse laat betaal. Sommige van die motorvoertuigvervaardigers probeer om aan hulle agentskappe die waarde te toon om nie meer as die aanbevole pryse te vra nie deur te wys op die belangrikheid van die verbruiker, die beeld van die vervaardiger en die waarde van 'n gesonde, goeie verhouding tussen die agentskap en die verbruiker.

The price of an exhaust manifold to a certain motor vehicle manufacturer for use as original equipment is R10,96 and the same product as a replacement part costs R25,41, an increase of 132 per cent. The purchase price to the retailer, an agency of the motor vehicle manufacturer, is R70,93, 179 per cent higher than the motor vehicle manufacturer's purchase price of the product for the replacement market and 547 per cent higher than the price of the original equipment. The final private buyer must pay R123,35 for the same product, which is 1 025 per cent higher than the price for original equipment, 385 per cent more than the motor vehicle manufacturer's price of the product intended as a replacement part (the agreement with the Price Controller stipulates a maximum of 250 per cent), and almost 74 per cent more than the purchase price paid by the agency (retailer). This exhaust manifold is manufactured locally for the market for original equipment and for the replacement market.

The price of a fuel tank head as original equipment (which is an imported, luxury product in this specific case) is R6,68; for the replacement market the purchase price paid by the motor vehicle manufacturer is R23,06; the purchase price paid by the agency is R32,51, while the final private buyer pays R76,50. The price paid by the public is 1 045 per cent higher than the price of the product as original equipment and almost 232 per cent higher than the purchase price paid by the motor vehicle manufacturer for the replacement market.

For an imported wheel rim costing R6,26 as original equipment the motor vehicle manufacturer pays R16,96 if it is intended for the replacement market. The public eventually pays R41,17, almost 143 per cent more than the price paid by the motor vehicle manufacturer for the product for the replacement market and more than 550 per cent higher than the original equipment price.

If one looks at the three different bonnets, it is noticeable that in the case of two of them the price for original equipment is the same as the purchase price to the motor vehicle manufacturer for the replacement market. In the third case the latter price is, however, 362 per cent higher than the price when the product is intended for original equipment.

On stocks with a high turnover, for example, sparking plugs, contact points, oil filters and windscreen wipers, the price which the user pays is often in the vicinity of 75 to 150 per cent higher than the purchase price paid by the retailer.

111. Profit margins vary also according to the competitiveness of the particular category of products with other "substitute parts" and the extent to which the motor vehicle manufacturer has a closed market. The impression is created that the size of the profit margin is largely determined by tradition. Closely connected with this is the discount allowed middle men in the distribution channel and, *inter alia*, fleet owners and workshops. The Board is not convinced that this discount and its size are always justifiable and effective economically or on the basis of costs. The disadvantages or ineffectiveness of this practice are clearly reflected by expensive parts with a low turnover which are often not kept in stock by agencies but are ordered on request. Many of the motor vehicle manufacturers feel that the discount practices applicable to motor vehicle parts and accessories are not sound and are employed merely because they are established practices in the industry of many years standing. Some of the motor vehicle manufacturers informed the Board that they were already revising their policy on profit margins and discounts in order to give greater recognition to the economic functions performed. Under the present discount policy the general public in particular is adversely affected by the overhigh price levels because there is no price competition at retail level.

112. Certain motor vehicle manufacturers and others have stated also that the profit on replacement parts must subsidise certain other activities of motor vehicle manufacturers so that a reasonable average profit is realised on all the motor vehicle manufacturer's activities. On the other hand, some of the independent parts dealers testified that the practice of low prices for original equipment and high prices for replacement parts had an adverse effect on buyers of the latter. This disadvantage comes about in that the buyers of replacement parts are really paying too much while buyers of new motor cars (who often never buy replacement parts) too little. Indirectly, it is alleged, buyers of used motor cars subsidise buyers of new motor cars.

(c) Recommended prices

113. The South African motor vehicle manufacturers and most of the parts manufacturers and main distributors selling to independent parts dealers make use of recommended prices for their parts. Nowadays this practice is also required in terms of the agreement with the Price Controller. These price lists usually appear in a catalogue and are periodically revised. Frequently the discounts applicable to the parts are also indicated therein.

114. The recommended prices are considered to be maximum prices and some of the motor vehicle manufacturers encourage their agencies to offer discounts to the public and others on these recommended prices. In some of the agency agreements special mention is made of the fact that the recommended prices are only maximum prices. The Board learnt also about cases in which motor vehicle manufacturers compelled agencies to make repayments if they made customers pay more than the recommended prices. Some motor vehicle manufacturers try to point out to their agencies the value of not asking more than the recommended prices by stressing the importance of the customer, the image of the manufacturer and the value of the healthy, good relationship between the agencies and the customer.

115. Die Raad het vasgestel dat selfs by die verkope van onderdelehandelaars aan intermediêre kopers (byvoorbeeld herstelplase) pryse aanbeveel word deurdat die aanbevole kleinhandelprys gefaktoreer word en die diskonto hiervan afgetrek word.

116. Die algemene mening van die meeste van die onderdelevervaardigers, motorvoertuigvervaardigers, distribueerders, onderdelehandelaars en groot kopers is dat die gebruik van aanbevole pryse praktiese en ekonomiese voordele vir almal inhou en in die openbare belang is. Die belangrikste argumente wat aangevoer word om die gebruik van aanbevole pryse te verdedig, is dat dit 'n onmoontlike taak vir die gemiddelde onderdelehandelaar sal wees om die pryse vir die derduisende items te bereken (met voldoende aandag aan aspekte soos onder meer kapitaal betrokke, administrasie, opberging en omsatnelheid). Voorts word gereken dat die praktyk die publiek teen hoër pryse beskerm. Die algemene gevoel is dat vrye, individuele prysbepaling deur handelaars tot onsekerheid in die mark sal lei.

117. Tydens die ondersoek het die Raad tot die slotsom gekom dat die aanbevole pryse oor die jare by die meeste onderdelehandelaars reeds so 'n inslag gevind het dat dit as die "regte", "ware" of enigste pryse vir onderdele geag word. Dit is vir die Raad ook duidelik dat die meeste onderdelehandelaars passiewe prysbepalers is en dat ekonomiese faktore nie 'n rol by prysbepaling speel nie. Geeneen van die onderdelehandelaars wat genader is, kon aan die Raad aantoon wat die belangrikste ekonomiese faktore is wat die bepaling van die kleinhandelprys beïnvloed nie.

118. Oor die algemeen is die onderdelehandelaars ook nie in staat om die belangrikste elemente van die bemerkingskoste van onderdele te identifiseer en aan te toon nie.

(d) Uitrui van prysinligting

119. Ten spyte van die ontkenning van die meeste van die motorvoertuigvervaardigers omtrent die uitrui van prysinligting het sommige die Raad meegedeel dat pryse van vervangingsonderdele en -toebehore wel uitgerui word. Hierdie uitruiing geskied deurdat die name van mededingende motorvoertuigvervaardigers ook tesame met dié van gevormde agentskappe op die motorvoertuigvervaardiger se sirkulasielyste vir inligting geplaas word. Die Raad is egter meegedeel dat die metode een is om markinligting makliker te bekom, maar dat die waarde en benutting daarvan nie baie groot is nie. Daar word slegs na pryse in terme van mededingendheid gekyk.

Rol van verenigings

120. Die Raad het ondersoek ingestel na die aard en betrokkenheid van die vernaamste verenigings wat regstreeks of onregstreeks by die vervaardiging van motorvoertuie, vervaardiging van onderdele en die distribusie van onderdele betrokke is, om vas te stel in watter mate hulle vir moontlike monopolistiese praktyke by die verskaffing en distribusie van onderdele in Suid-Afrika verantwoordelik is.

(a) Motorvoertuigvervaardigers

121. Die belangrikste Suid-Afrikaanse motorvoertuigvervaardigers is lede van NAAMSA. Hierdie Vereniging bemoei hom egter nie regstreeks met die verskaffing en distribusie van onderdele nie.

(b) Onderdelevervaardigers

122. Die meeste onderdelevervaardigers behoort aan die verenigings wat vervolgens beskryf word:

(i) Die Motorverwerfing-Vervaardigersvereniging ('n konstituerende vereniging van die Motorindustrie-federasie—MIF) of die Automotive Parts Production Engineers' Association ('n konstituerende vereniging van die Steel and Engineering Industries' Federation of South Africa—SEIFSA) waarvan die meeste onderdelevervaardigers lede is. Hierdie twee verenigings vorm saam 'n oorkoepelende vereniging, naamlik die Federasie van Komponente-vervaardigersverenigings.

(ii) Die South African Battery Manufacturers' Association wat in 1948 deur die batterijvervaardigers gestig is om na hul gemeenskaplike belange om te sien.

(iii) Die Plastiek-verwerkersvereniging van Suid-Afrika, in 1973 gestig, bestaan uit drie stigterslede-verenigings om die belange van die plastiek-verwerkers te bevorder.

(c) Distribusie en verbruik

123. Die volgende verenigings bestaan vir die distribueerders en verbruikers van onderdele:

(i) Die Nasionale Motoronderdele- en Toerustingsvereniging of van die Motorhandelaarsvereniging van Suid-Afrika (albei konstituerende lede van die MIF) waarvan die meeste onderdelehandelaars lede is. Die Raad kon geen bewyse vind dat hierdie verenigings die toetreding van lede of onderdelehandelaars beperk of voorkom nie of beleidsrigtings volg waarvolgens beperkende handelspraktyke bevorder word nie. Daar is wel vasgestel dat diskonto's wat aan lede toegestaan word, bespreek en aanbeveel word.

(ii) Die Motoringenieursvereniging van Suid-Afrika ('n konstituerende vereniging van die MIF) wat 'n groep wat groot kopers van onderdele is, verteenwoordig. Die Raad kon geen bewyse vind van enige ooreenkoms, reëling of verstandhouding waarvolgens lede onderdele en toebehore eksklusief of hoofsaaklik van sekere leweraars moet koop of dat die Vereniging vir ander vorme van beperkende handelspraktyke ten opsigte van die verskaffing en distribusie van onderdele en toebehore verantwoordelik is nie.

115. The Board has ascertained that even in sales by parts dealers to intermediate buyers (e.g. repair shops) prices are recommended in that the recommended retail prices are invoiced and the discounts deducted therefrom.

116. Most parts manufacturers, motor vehicle manufacturers, distributors, parts dealers and large buyers feel that the use of recommended prices has practical and economic advantages for everyone and is in the public interest. The most important argument voiced in defence of the use of recommended prices is that it would be an impossible task for the average parts dealer to calculate prices for thousands of items (giving adequate attention to matters, *inter alia*, such as capital involved, administration, storage and rate of turnover). It is also felt that the practice protects the public against higher prices. The general feeling is that free, individual price determination by dealers could lead to uncertainty in the market.

117. During the investigation the Board came to the conclusion that recommended prices had become so popular with most parts dealers over the years that they were considered the "right", "true" or the only prices for parts. It was also clear to the Board that most parts dealers were passive price determiners and that economic factors did not play a role in price determination. None of the parts dealers approached could indicate to the Board the most important economic factors influencing the determining of the retail price.

118. In general the parts dealers were also not able to identify and indicate the most important elements of the marketing costs of parts.

(d) Exchange of price information

119. In spite of the fact that most motor vehicle manufacturers deny exchanging price information some of them informed the Board that details of prices of replacement parts and accessories are in fact exchanged. This exchange is effected by placing the names of competing motor vehicle manufacturers, together with those authorised agencies, on the motor vehicle manufacturers' circulation lists for general information. The Board was, however, informed that this method was used to obtain market information more readily, but that its value and utilisation were not very great. Prices are only considered in terms of competitiveness.

Role of associations

120. The Board investigated the nature and involvement of the most important associations directly or indirectly involved in the manufacture of motor vehicles, the manufacture of parts, and the distribution of parts to ascertain to what extent they could be responsible for monopolistic practices in the supply and distribution of parts in South Africa.

(a) Motor vehicle manufacturers

121. The most important South African motor vehicle manufacturers are members of NAAMSA. This association does not, however, involve itself directly in the supply and distribution of parts.

(b) Parts manufacturers

122. Most parts manufacturers belong to the associations described below:

(i) The Motor Industry Manufacturers' Association (one of the associations constituting the Motor Industries Federation—MIF) or the Automotive Parts Production Engineers' Association (one of the associations constituting the Steel and Engineering Industries' Federation of South Africa—SEIFSA) of which most parts manufacturers are members. These two associations together form an umbrella association, namely the Federation of Component Manufacturers' Associations.

(ii) The South African Battery Manufacturers' Association which was established in 1948 by the battery manufacturers to look after their mutual interests.

(iii) The Plastic Processors' Association of South Africa, established in 1973, consists of three founder member associations to promote the interests of plastic processors.

(c) Distribution and consumption

123. The following associations have been formed for distributors and users of parts:

(i) The National Motor Parts and Equipment Association and the Motor Dealers' Association of South Africa (both constituent members of the MIF) of which most parts dealers are members. The Board could find no proof that these associations restricted or prevented the entry of members or parts dealers or followed policies in terms of which restricting trade practices were promoted. It was however ascertained that discounts granted to members were discussed and recommended.

(ii) The Motor Engineers' Association of South Africa (a constituent association of the MIF) which represents a group of large buyers of parts. The Board could find no evidence of any agreement, arrangement or understanding in terms of which members had to buy parts and accessories exclusively or mainly from certain suppliers, nor could it establish that the association was responsible for other forms of restrictive trade practices in respect of the supply and distribution of parts and accessories.

HOOFSTUK V

DIE SKEPPING VAN MOONTLIKE MONOPOLISTIESE TOESTANDE EN DIE OPENBARE BELANG

Algemeen

124. In die voorafgaande hoofstukke het die Raad die struktuur van die mark vir onderdele in die algemeen sowel as van die onderdelebedryf in Suid-Afrika bespreek. Hierna is gelet op die verskillende bedryfspraktyke by die verskaffing en distribusie van onderdele in Suid-Afrika. Die feitelike posisie ten opsigte van hierdie praktyke is reeds bespreek en in hierdie hoofstuk beoordeel die Raad die betrokke praktyke ten einde te bepaal of enige daarvan vir die bestaan van 'n monopolistiese toestand ingevolge die Wet verantwoordelik is.

125. Die Wet op Reëling van Monopolistiese Toestande, No. 24 van 1955, is van toepassing ten opsigte van elke monopolistiese toestand⁽¹⁾ dit wil sê—

(a) elke ooreenkoms, reëling of verstandhouding, hetsy wetlik afdwingbaar al dan nie, tussen twee of meer persone;

(b) elke besigheidspraktyk of handelsmetode, met inbegrip van enige metode om pryse vas te stel;

(c) elke handeling of versuim deur enigiemand hetsy hy onafhanklik dan wel tesame met iemand anders optree; en

(d) elke toestand wat uit die bedrywighede van enige persoon of klas of groep persone ontstaan,

wat, deurdat dit mededinging regstreeks of onregstreeks beperk, die uitwerking het of bereken is om—

(i) die oprings of afset van handelsware te beperk; of

(ii) die fasiliteite beskikbaar vir die produksie of distribusie van handelsware in te kort; of

(iii) pryse te verhoog of te handhaaf; of

(iv) die produksie of distribusie van handelsware op die mees doeltreffende en ekonomiese manier te verhoed; of

(v) die ontwikkeling of invoering van tegniese verbeterings of die uitbreiding van bestaande of skepping van nuwe markte te verhoed of te vertraag; of

(vi) die toetreding van nuwe produsente of distribueerders tot enige tak van die handel of nywerheid te verhoed of te beperk; of

(vii) die aanpassing van enige tak van die handel of nywerheid by veranderende toestande te verhoed of te vertraag.

126. Indien 'n ondersoek deur die Raad enige monopolistiese toestande aan die lig bring, moet die Raad vasstel of omstandighede bestaan wat dit in die openbare belang regverdig al dan nie. Hierdie evaluasie geskied teen die agtergrond van die strukturele eienskappe van die mark, die aard van die produk en distribusiemetodes wat in die bedryfstak ontwikkel het, met inagneming van die markgedrag van die betrokke partye en die ekonomiese resultate daarvan.

127. Soos tydens vorige ondersoeke ingevolge die Wet, het die Raad die begrip "openbare belang" vertolk in terme van die uitwerking wat die betrokke praktyke op die belange van verbruikers, die onderskeie partye in die bedryfstak en die breë nasionale belang het, by wyse van die invloed op die verweentliking van die basiese ekonomiese doelwitte soos groei, doeltreffende besteding van hulpbronne, aanvaarbare verdeling van inkomste, en die effek op die algemene pryspeil en die betalingsbalans.

128. Die praktyke wat ten opsigte van die verskaffing en distribusie van motoronderdele en -toebehore as gevolg van die ondersoek aan die lig gekom het en moontlik vir monopolistiese toestande verantwoordelik kan wees, word vervolgens bespreek.

Die eksklusiewe distribusie van goedgekeurde onderdele deur agentskappe of gevolgmagtigde handelaars

129. Die distribusie van die vervangingsonderdele van motorvoertuigvervaardigers (goedgekeurde onderdele) geskied veral deur die motorvoertuigvervaardigers se stelsel van agentskappe of gevolgmagtigde handelaars. Hierdie eksklusiewe ooreenkomste waarvolgens die agentskappe slegs goedgekeurde onderdele mag koop, en dan ook uitsluitlik van die betrokke motorvoertuigvervaardigers, is 'n beperking van mededinging wat die uitwerking het of daarop bereken is om die distribusie van onderdele op die doeltreffendste en mees ekonomiese manier te verhoed en die pryse daarvan te verhoog of te handhaaf.

130. Die voorstanders van hierdie eksklusiewe ooreenkomste wat onder meer sekere motorvoertuigvervaardigers sowel as sommige agentskappe insluit, verdedig die praktyk veral op grond daarvan dat die kwaliteit van die onderdele reg moet wees; dat dit bronne vir onderdele verseker; dat onderdele met 'n hoë sowel as met 'n lae omloopsnelheid beskikbaar is; dat slegs goedgekeurde onderdele vir waarborgdoeleindes (ten opsigte van nuwe motors sowel as herstelwerk) aanvaarbaar is; dat sekere motorvoertuigvervaardigers aan hulle agentskappe hulp verleen met voorraadbestuur en met opleiding; dat 'n vrye vloei van onderdele tussen die motorvoertuigvervaardigers en die agentskappe slegs moontlik is met die volle ondersteuning van die agentskappe; dat die goedgekeurde onderdele 'n minimumstandaard vir die verbruiker verseker sodat die naam van die motorvoertuigvervaardiger in die mark gehandhaaf sal word; en dat die

⁽¹⁾ Artikel 2 van die Wet.

CHAPTER V

THE CREATION OF POSSIBLE MONOPOLISTIC CONDITIONS AND THE PUBLIC INTEREST

General

124. In the foregoing chapters the Board has discussed the structure of the market for parts in general as well as the parts industry in South Africa. Next attention was given to the various trade practices in the supply and distribution of parts in South Africa. The factual position in respect of these practices has already been discussed and in this chapter the Board reviews the practices concerned in order to determine whether any of them are responsible for the existence of a monopolistic condition in terms of the Act.

125. The Regulation of Monopolistic Conditions Act, No. 24 of 1955, applies in respect of every monopolistic condition,⁽¹⁾ that is to say—

"(a) every agreement, arrangement or understanding, whether legally enforceable or not, between two or more persons;

(b) every business practice or method of trading, including any method of fixing prices;

(c) every act or omission on the part of any person, whether acting independently or in concert with any other persons; and

(d) every situation arising out of the activities of any person or class or group of persons,

which, by directly or indirectly restricting competition, has or is calculated to have the effect of—

(i) restricting the output or disposal of any commodity; or

(ii) limiting the facilities available for the production or distribution of any commodities; or

(iii) enhancing or maintaining prices; or

(iv) preventing the production or distribution of any commodity by the most efficient and economical means; or

(v) preventing or retarding the development or introduction of technical improvements or the expansion of existing markets or the opening up of new markets; or

(vi) preventing or restricting the entry of new producers or distributors into any branch of trade or industry; or

(vii) preventing or retarding the adjustment of any branch of trade or industry to changing circumstances."

126. If an investigation by the Board brings to light any monopolistic conditions, the Board must ascertain whether circumstances exist which justify this in the public interest or not. This evaluation takes place against the background of the structural characteristics of the market, the nature of the product, and the distribution methods which have developed in the industry, regard being had to the marketing behaviour of the parties concerned and the economic results thereof.

127. As was the case in previous investigations in terms of the Act, the Board interpreted the expression "public interest" in terms of the effect which the practices concerned have on the interests of consumers, the various parties in the industry and the broad national interest, by way of the effect on the realisation of basic economic goals such as growth, efficient utilisation of resources, acceptable distribution of income and the effect on the general price level and balance of payments.

128. The practices in respect of the supply and distribution of motor parts and accessories, which came to light during the investigation and could possibly be responsible for monopolistic conditions, are discussed below.

The exclusive distribution of approved parts by agencies or authorised dealers

129. Replacement parts of motor vehicle manufacturers (approved parts) are distributed mainly through the motor vehicle manufacturers' system of agencies or authorised dealers. These exclusive agreements, in terms of which the agencies may purchase only approved parts, and then only from the motor vehicle manufacturers concerned, is a restriction of competition which has the effect of preventing the distribution of parts in the most effective and most economical way, and of increasing or maintaining their prices, or is calculated to do so.

130. The supporters of these exclusive agreements which include, *inter alia*, certain motor vehicle manufacturers as well as some agencies, defend the practice in the main on the grounds that the quality of the parts must be as required; that they ensure the sources for parts; that parts with both a high and a low turnover are made available; that only approved parts are acceptable for guarantee purposes (in respect of both new motor cars and repairs); that certain motor vehicle manufacturers assist their agencies by providing training and information on stock management; that a free flow of parts between the motor vehicle manufacturers and agencies is possible only with the full support of the agencies; that the approved parts ensure a minimum standard to the customer so that the motor vehicle manufacturer's name will be upheld on the market; and that the customer will not

⁽¹⁾ Section 2 of the Act.

verbruiker nie sal besef dat hy substituoonderdele kry nie en, volgens die ondervinding van baie motorvoertuigvervaardigers, die pryse van die ooreenstemmende goedgekeurde onderdele sal betaal.

131. Voorts voer baie van die motorvoertuigvervaardigers aan dat hulle 'n naverkoopverplichting teenoor die motoreienaars het om slegs die beste aan hulle te bied. Ook onderneem die motorvoertuigvervaardigers om vir baie jare lank onderdele vir modelle te verskaf. Om dit dan te kan bewerkstellig, beweer sommige van die motorvoertuigvervaardigers, bevat die meeste handelaarsooreenkomste klousules om hierdie eksklusiewe aankope deur die agentskappe te verseker. In die handelaarsooreenkomste is ook bepalinge ten opsigte van voorraadhouding (bergplekke, samestelling en verskeidenheid van onderdele en 'n kundige personeel) waaraan die agentskappe moet voldoen.

132. Getuienis is onder meer deur motorvoertuigvervaardigers, agentskappe en onafhanklike onderdelehandelaars aan die Raad gelewer dat hierdie eksklusiewe ooreenkomste in die praktyk nie nodig is nie of dat dit dikwels nie nagekom word nie. Een van die grootste motorvoertuigvervaardigers in die Republiek het egter nie ooreenkomste met sy agentskappe waarvolgens alle onderdele by hom gekoop hoef te word nie. Volgens een van sy agentskappe is daar nie regverdiging vir enige beperking op die agentskappe nie. 'n Ander groot motorvoertuigvervaardiger, wat wel sodanige ooreenkomste met sy agentskappe het, is daarvan oortuig dat hierdie ooreenkomste nie nodig of belangrik is nie. Sommige van die standpunte wat hierdie voertuigvervaardiger in dié verband geopper het, is dat die agentskap of die motorvoertuigvervaardiger nie altyd alle onderdele in voorraad het nie; dat slegs dié onderdele met 'n hoë omloopsnelheid by alternatiewe bronne gekoop sal word; en dat dit vir die motorvoertuigvervaardigers moeilik is om die ooreenkomste af te dwing. Een van die onafhanklike onderdelehandelaars het die Raad meegedeel dat die praktyk slegs beperkend is vir soverre dit die agentskappe geheel en al verbied om by die onafhanklike onderdelehandelaars te koop. Volgens getuienis gelewer, breek die agentskappe al hoe meer weg van die agentskapooreenkomste en doen ook aankope by die onafhanklike groothandelaars in onderdele. Die Raad kon ook geen gevalle vind waar die motorvoertuigvervaardigers opgetree het teen agentskappe wat die ooreenkomste verbreek het nie. Wat wel gebeur, is dat die voertuigvervaardigers, waar sodanige gevalle onder hulle aandag gekom het, die agentskappe probeer oortuig dat dit in almal se belang is om slegs goedgekeurde onderdele te verkoop en voorts probeer om die ondersteuning van die agentskappe te behou. 'n Agentskap het die Raad meegedeel dat die agentskappe die reg behoort te hê om self te kan besluit watter onderdele (goedgekeurde of ander) hulle in voorraad wil hou.

133. Die Raad erken die verantwoordelikheid van die motorvoertuigvervaardigers in verband met dienslewering aan die publiek wat hulle motorvoertuie besit; die beskikbaarheid van onderdele dwarsdeur die land; die neerlegging van sekere minimumvereistes ten opsigte van voorraadhouding; en die verskaffing van onderdele vir baie jare selfs nadat 'n model nie meer geproduseer word nie. Voorts is die Raad van mening dat die agentskappe in baie opsigte 'n integrale deel van die distribusiekanaal vir sowel motorvoertuie as vir onderdele uitmaak en dat die verpligting van die motorvoertuigvervaardigers teenoor die kopers van hulle produkte nie by die verkoop van motorvoertuie eindig nie. Nogtans is die Raad daarvan oortuig dat die eksklusiewe ooreenkomste waarvolgens baie van die motorvoertuigvervaardigers hul agentskappe verplig om onderdele slegs van hulle te koop, nie noodsaaklik is vir die doeltreffende funksionering van die sisteem nie, aangesien sodanige ooreenkomste dikwels nie deur die agentskappe nagekom word nie; die voertuigvervaardigers nie optree teen die agentskappe wat versuim om die ooreenkomste na te kom nie; baie van die goedgekeurde onderdele identies aan die substituoonderdele is; en dat die ooreenkomste mededinging beperk en vir 'n monopolistiese toestand ingevolge die Wet verantwoordelik is. Die Raad is ook nie oortuig dat daar omstandighede bestaan wat die ooreenkomste waarvolgens die agentskappe verplig word om onderdele slegs van die betrokke motorvoertuigvervaardigers te koop, en laasgenoemdes op hulle beurt onderneem om sekere onderdele slegs aan die agentskappe te verkoop, in die openbare belang regverdig nie.

Weerhouding van onderdele van onafhanklike onderdelehandelaars deur motorvoertuigvervaardigers

134. Motorvoertuigvervaardigers weier oor die algemeen om vervangingsonderdele en -toebehore direk aan die onafhanklike onderdelehandelaars te verskaf. Klagtes word dikwels deur die publiek, vlooteienaars, eienaars van werksplase asook deur die onafhanklike onderdelehandelaars geopper dat die motorvoertuigvervaardigers nie onderdele direk aan hulle wil verskaf nie. Hierdie besware word veral geopper in verband met dié onderdele waarvoor die motorvoertuigvervaardigers 'n geboonde mark het. Hierdie weerhouding van onderdele is 'n beperking van die mededinging wat die uitwerking het of daarop bereken is om die fasiliteite beskikbaar vir die distribusie van onderdele in te kort; die distribusie van onderdele op die doeltreffendste en mees ekonomiese manier te verhoed; die toetrede van nuwe distributeurs te verhoed of te beperk; en die pryse van onderdele te verhoog of te handhaaf, en is gevolglik vir 'n monopolistiese toestand ingevolge die Wet verantwoordelik.

135. Die Raad is deur verteenwoordigers van onafhanklike onderdelehandelaars, motorvoertuigvervaardigers en agentskappe van voertuigvervaardigers meegedeel dat die onafhanklike onderdelehandelaars slegs in die onderdele met 'n hoë omloopsnelheid belang stel. In die onderdele met 'n lae omloopsnelheid stel hulle meestal nie belang nie. Een van die onafhanklike onderdelehandelaars het trouens die Raad meegedeel dat hy sou verkies om direk by die motorvoertuigvervaardigers te koop maar dat hy

realiseer dat hy is getting "substitute parts" and, according to the experience of many motor vehicle manufacturers, will pay the prices asked for similar approved parts.

131. It is further claimed by many motor vehicle manufacturers that they have an after-sales obligation to motor vehicle owners to offer them only the best. The motor vehicle manufacturers also undertake to supply parts for models for many years. Some motor vehicle manufacturers aver that, in order to be able to do this, most dealer agreements contain clauses to ensure these exclusive purchases by the agencies. In the dealer agreements there are also provisions regarding stockholding (storage places, composition and variety of parts, and a knowledgeable staff) with which the agencies must comply.

132. Evidence was submitted to the Board, *inter alia*, by motor vehicle manufacturers, agencies and independent parts dealers that these exclusive agreements were not necessary in practice or were often not complied with. One of the largest motor vehicle manufacturers in the Republic, however, has no agreement with his agencies in terms of which all parts need to be purchased from him. According to one of his agencies there is no justification for any restriction on agencies. Another large motor vehicle manufacturer, who has in fact entered into such agreements with his agencies, is convinced that these agreements are not necessary or important. Some of the viewpoints expressed by this vehicle manufacturer in this regard are that the agency or the motor vehicle manufacturer does not always have all parts in stock; that only those parts with a high turnover will be purchased from alternative sources; and that it is difficult for motor vehicle manufacturers to enforce these agreements. One of the independent parts dealers informed the Board that the practice was restrictive only in so far as the agencies were wholly prohibited from buying from independent parts dealers. According to evidence submitted, the agencies are breaking away from the agency agreements to an ever-increasing extent and are also making purchases from independent wholesale dealers in parts. The Board could find no cases in which the motor vehicle manufacturers took steps against agencies who had broken agreements. What did happen was that, where such cases came to their notice, the vehicle manufacturers tried to persuade the agencies that it was in everyone's interest to buy only approved parts, and tried also to retain the support of the agencies. An agency stated that agencies ought to have the right to decide for themselves which parts (approved or otherwise) they wished to have in stock.

133. The Board acknowledges the responsibility of motor vehicle manufacturers in regard to the rendering of service to the public who own their motor vehicles, the availability of parts throughout the country, the laying down of certain minimum requirements in respect of stockholding, and the supply of parts for many years even when a model is no longer being produced. The Board is further of the opinion that in many respects the agencies form an integral part of the distribution channel for both motor vehicles and parts and that the obligation of the motor vehicle manufacturers to the buyers of their products does not end with the sale of the motor vehicle. The Board is nevertheless convinced that exclusive agreements, in terms of which many of the motor vehicle manufacturers force their agencies to buy parts only from them, are not necessary for the effective functioning of the system, since these agreements are often not complied with by the agencies; that the vehicle manufacturers do not take steps against agencies which neglect to carry out the provisions of the agreement; that many approved parts are identical to "substitute parts"; and that the agreements restrict competition and are responsible for monopolistic conditions in terms of the Act. The Board is also not convinced that there are circumstances which, in the public interest, justify the agreements, in terms of which the agencies are compelled to purchase parts only from the motor vehicle manufacturers concerned, while the latter in turn undertake to sell certain parts to agencies only.

Withholding of parts from independent parts dealers by motor vehicle manufacturers

134. In general motor vehicle manufacturers refuse to supply replacement parts and accessories direct to independent parts dealers. Complaints are often made by the public, fleet owners, owners of workshops and independent parts dealers that the motor vehicle manufacturers will not supply parts direct to them. These objections have been made particularly in connection with those parts for which the motor vehicle manufacturers have a tied market. This withholding of parts is a restriction of the competition which has the effect of curtailing, or is calculated to curtail, facilities available for the distribution of parts, prevents the distribution of parts in the most effective and most economical way, prevents or restricts the entry of new distributors, and increases or maintains the prices of parts, and is therefore responsible for a monopolistic condition in terms of the Act.

135. The Board was informed by representatives of independent parts dealers, motor vehicle manufacturers and agencies of vehicle manufacturers that independent parts dealers are interested only in parts with a high turnover. They are for the most part not interested in parts with a low turnover. One of the independent parts dealers in fact informed the Board that he would prefer to purchase direct from the motor vehicle manufacturers but would not be interested in all parts and would not keep a large

nie in alle onderdele sal belang stel nie of 'n groot verskeidenheid van voorraad sal aanhou nie. 'n Ander onafhanklike onderdelehandelaar het getuig dat hy nie daarin belang stel om by die voertuigvervaardigers te koop nie, aangesien hy onderdele direk by die fabrikante daarvan wil koop en voorts dat hy nie in bakwerkonderdele geïnteresseerd is nie. Oor die algemeen word die mening gehuldig dat pryse laer sal word indien die motorvoertuigvervaardigers aan die onafhanklike onderdelehandelaars sal voorsien, aangesien die verbruikers tans nie die voordeel van mededinging kry nie.

136. Agentskappe van motorvoertuigvervaardigers het aangevoer dat indien die voertuigvervaardigers die onafhanklike onderdelehandelaars direk sal voorsien, laasgenoemde aan dieselfde vereistes ten opsigte van onderdele, byvoorbeeld voorraadsamestelling, bestellings en voorraadbeheer, moet voldoen as wat vir die agentskappe gestel word. Sommige van die motorvoertuigvervaardigers verlang ook nie vrye distribusie aan almal nie, aangesien hul administratiewe las te groot sal word en hulle die distribusiekanaalleiers wil wees. Die motorvoertuigvervaardigers het die Raad meegedeel dat alhoewel hulle nie aan andere as die agentskappe onderdele verskaf nie, die vlooteienaars, onafhanklike onderdelehandelaars, herstellplase en agentskappe van ander motorvoertuigvervaardigers wel onderdele by hul agentskappe kan verkry, en gewoonlik teen groot diskonto's. Een van die motorvoertuigvervaardigers het die Raad meegedeel dat hy daarvan oortuig is dat die pryse van onderdele eerder sal styg indien hulle aan die onafhanklike onderdelehandelaars sou voorsien, aangesien die omset van die agentskappe gefragmenteer sou word. Voorts het van die motorvoertuigvervaardigers aangevoer dat hulle tevrede met die werkverrigting van hul agentskappe ten opsigte van onderdele is; dat die agentskappe groot investeringe aangegaan het; dat die agentskapstelsel sal verswak indien aan die onafhanklike onderdelehandelaars gelewer word; en dat die onafhanklike handelaars slegs in dié onderdele met 'n hoë omloopsnelheid sal belang stel.

137. Die Raad het bevind dat die goedgekeurde onderdele uiteindelik van niemand weerhou word nie, met inagneming van die normale, aanvaarbare verkoopvoorwaardes en die distribusiebeleid van die motorvoertuigvervaardigers en hulle agentskappe. Nie-agente kan die goedgekeurde onderdele slegs onregstreeks bekom en die Raad is van mening dat die distribusie van veral dié onderdele waarvoor die motorvoertuigvervaardigers 'n gebonde mark het hierdeur beperk word en pryse verhoog kan word. Die Raad is egter van mening dat indien die motorvoertuigvervaardigers bereid sou wees om aan die onafhanklike onderdelehandelaars te lewer, hulle nie daarin sal belangstel om alle onderdele in voorraad te hou nie. Hulle sal veral in dié onderdele met 'n hoë omloopsnelheid en 'n prysvoordeel bo mededingende produkte belang stel. Sommige van die motorvoertuigvervaardigers het ook reeds begin met 'n stelsel waarvolgens onderdele onder ander handelsmerke ook aan onafhanklike onderdelehandelaars verkoop word.

138. Om hierdie redes meen die Raad dat daar wel omstandighede bestaan wat die praktyk, alhoewel dit 'n monopolistiese toestand ingevolge die Wet uitmaak, in die openbare belang regverdig.

Die eensydigheid van kontrakte tussen motorvoertuig- en onderdelevervaardigers

139. Onderdelevervaardigers het verskeie aspekte aan die Raad genoem om aan te toon in watter magposisie die motorvoertuigvervaardigers teenoor hulle verkeer. Onder meer het sommige van hulle gekla dat dikwels slegs die verkoopvoorwaardes van die motorvoertuigvervaardigers gebruik word; dat die motorvoertuigvervaardigers in baie gevalle die winsgrense, waarop die onderdelevervaardigers geregtig is, bepaal; dat die moontlikheid van invoer deur motorvoertuigvervaardigers bestaan indien onderdele nie aan hul vereistes voldoen nie; en dat sekere motorvoertuigvervaardigers 'n bedreigende houding inneem indien die onderdelevervaardigers hulle op die kontrak sou beroep indien geskille ontstaan.

140. Die Suid-Afrikaanse motorvoertuigvervaardigers is weer van mening dat die onderdelevervaardigers in Suid-Afrika in 'n monopolistiese of oligopolistiese posisie teenoor hulle verkeer, soos ook in ander semi-ontwikkelde en ontwikkelende lande. Die groot aantal onderdele en die Suid-Afrikaanse inhoudsprogram veroorsaak dat hulle soms op slegs een of twee onderdelevervaardigers aangewys is. Voorts beweer die motorvoertuigvervaardigers dat veral die onderdelevervaardigers wat onderdele met 'n groot massa vervaardig, ingevolge die Suid-Afrikaanse inhoudsprogram in 'n magposisie teenoor hulle verkeer. Aan die ander kant ondervind baie van die onderdelevervaardigers nog probleme om sekere onderdele, veral die tegnologie geïmporteerde, te vervaardig. Die motorvoertuigvervaardigers beweer dat hulle baie moeite doen om hierdie onderdelevervaardigers te help om tegniese probleme uit te skakel en selfs ook om die kosteberekening te doen.

141. Volgens die motorvoertuigvervaardigers is hul optrede, sowel as die kontrakte, nie so eensydig as wat die onderdelevervaardigers beweer nie. Die meeste van hulle besef die belangrikheid van 'n goeie en gesonde onderdelebedryf en wend positiwepogings aan om die probleme, veral ten opsigte van gehalte, diens en prys, wat dikwels met die onderdelevervaardigers ondervind word, uit te skakel. Oor die algemeen is die Suid-Afrikaanse motorvoertuigvervaardigers van mening dat hul sogenaamde magposisie slegs die gevolg is van die kopersmarksituasie waarin hulle tans met betrekking tot sekere onderdele en toebehore verkeer.

variety in stock. Another independent parts dealer stated that he was not interested in purchasing from vehicle manufacturers since he wished to buy parts direct from the manufacturer, and he also stated that he was not interested in bodywork parts. The general opinion was that prices would become lower if motor vehicle manufacturers supplied independent parts dealers, because the public did not at present enjoy the advantage of competition.

136. Agencies of motor vehicle manufacturers maintained that if the vehicle manufacturers were to supply the independent parts dealers direct, the latter must meet the same requirements in respect of parts, e.g. composition of stock, orders and stock control, as those demanded of the agencies. Some motor vehicle manufacturers are also not interested in free distribution to everyone, since their administrative burden would become too great and they wished to be the distribution channel leaders. The motor vehicle manufacturers informed the Board that although they did not supply parts to anyone other than agencies, fleet owners, independent parts dealers, repair shops and agencies of other motor vehicle manufacturers could obtain parts from their agencies, usually subject to considerable discounts. One of the motor vehicle manufacturers informed the Board that he was convinced that the prices of parts would rise if they were to supply the independent parts dealers, since the turnover of the agencies would be fragmented. In addition, some of the motor vehicle manufacturers stated that they were satisfied with the performance of their agencies in respect of parts, that the agencies had made large investments, that the agency system would be weakened if deliveries were made to independent parts dealers, and that the independent dealers would be interested only in those parts with a high turnover.

137. The Board found that approved parts were in fact, not withheld from anyone, bearing in mind that normal acceptable conditions of sale and the distribution policy of the motor vehicle manufacturers and their agencies. Non-agents could obtain the approved parts only indirectly and the Board was of the opinion that the distribution of those parts in particular for which the motor vehicle manufacturers had a tied market was restricted in this way and this could lead to an increase in prices. The Board was however of the opinion that if the motor vehicle manufacturers were prepared to supply the independent parts dealers they would not be interested in keeping all parts in stock. They would be particularly interested in those parts with a high turnover and a price advantage over competitive products. Some of the motor vehicle manufacturers had already introduced a system in accordance with which parts were also sold to independent parts dealers under other trade names.

138. For these reasons the Board feels that circumstances do in fact exist which justify the practice in the public interest, although it constitutes a monopolistic condition in terms of the Act.

The one-sidedness of contracts between motor vehicle and parts manufacturers

139. Parts manufacturers mentioned various matters to the Board to illustrate the position of power in which motor vehicle manufacturers were in relation to them. Some of them complained, *inter alia*, that frequently only the conditions of sale of the motor vehicle manufacturers were used; that in many cases the motor vehicle manufacturers determined the profit margins to which the parts dealers were entitled; that there was the possibility of imports by motor vehicle manufacturers if parts did not meet their requirements; and that certain motor vehicle manufacturers adopted a threatening attitude if the parts dealers invoked the contract when disputes occurred.

140. The South African motor vehicle manufacturers, again, felt that the parts dealers in South Africa were in a monopolistic or oligopolistic position compared with them, as is the case in other semi-developed and developing countries. The large number of parts and the South African content programme caused them at times to have to rely on no more than one or two parts manufacturers. The motor vehicle manufacturers further maintained that the parts manufacturers in particular who manufactured parts with a large mass were in a position of power compared with them because of the South African content programme. On the other hand many parts manufacturers were still experiencing problems in manufacturing certain parts, especially technologically advanced parts. The motor vehicle manufacturers claimed that they took pains to aid these parts manufacturers in overcoming technical problems and even in doing the costing.

141. According to the motor vehicle manufacturers their behaviour, as well as the contracts, is not as one-sided as the parts dealers claim. Most of them realise the importance of a good, sound parts industry, and take positive steps to eliminate problems, especially as regards quality, service and price, frequently experienced in dealing with the parts manufacturers. In general the South African motor manufacturers feel that their so-called position of power is only the result of the buyers' market situation obtaining at present as regards certain parts and accessories.

142. Die Raad stem saam dat die motorvoertuigvervaardigers in verband met bepaalde onderdele in 'n sterk bedingingsposisie verkeer. Vir hul voortbestaan is baie van die onderdelelevertvaardigers, ten opsigte van sekere onderdele, van die motorvoertuigvervaardigers afhanklik. Die moontlikheid bestaan voorts ook dat die motorvoertuigvervaardigers kan invoer, maar sonder die Suid-Afrikaanse inhoudsprogram sou die motorvoertuigvervaardigers in 'n nog sterker posisie gewees het. Nogtans moet erken word dat sommige onderdelelevertvaardigers ook in 'n sterk bedingingsposisie kan verkeer. Die Raad is egter nie oortuig dat die praktyke of toestande wat uit die bedrywighede van die onderskeie markpartye ontstaan mededinging by die verskaffing en distribusie van onderdele en toebehore beperk nie, sodat daar gevolglik in hierdie verband nie 'n monopolistiese toestand ingevolge die Wet geskep word nie.

Binnelandse aankope van onderdele vir oorspronklike toerusting terwyl vervangingsonderdele ingevoer word

143. Sommige van die onderdelelevertvaardigers het die beswaar geopper dat van die motorvoertuigvervaardigers dikwels onderdele vir oorspronklike toerusting, wat deel van die Suid-Afrikaanse inhoudsprogram vir motorvoertuie uitmaak en gewoonlik teen lae pryse verskaf word, binnelands aankoop maar die vervangingsonderdele invoer. Hulle beweer dat hul onderdelelevertvaardiging in sodanige gevalle op 'n verlies uitloop, aangesien hulle meestal 'n groot produksie-omvang nodig het om windsgewend te kan wees en dat by die prysbepaling van die onderdele vir oorspronklike toerusting die moontlike verskaffing van vervangingsonderdele in ag geneem word. Die onderdelelevertvaardigers argumenteer ook dat deur die invoer van die vervangingsonderdele die fasiliteite wat vir die produksie van onderdele in Suid-Afrika beskikbaar is, ingekort sal word.

144. Hierdie aantygings word ten sterkste deur die motorvoertuigvervaardigers ontken. Hulle beweer dat onderdele slegs ingevoer word indien die betrokke produkte nie in Suid-Afrika beskikbaar is nie, die Suid-Afrikaanse onderdele nie aan die vereistes voldoen nie, of indien die binnelandse prys onekonomies is. Die motorvoertuigvervaardigers het teenoor die Raad die bewering gedoen dat die beleid om oorspronklike onderdele in Suid-Afrika te koop maar vervangingsonderdele in te voer, slegs in hoogs uitsonderlike gevalle toegepas word. Teenoor die Raad is beweer dat gevalle waar dit voorkom, onder meer die volgende is: waar die binnelandse onderdelelevertvaardigers nie aanvaarbare vervangingsonderdele kan lewer nie; waar die prys te hoog is; te veel eise ingevolge waarborgte ten opsigte van oorspronklike toerusting ontstaan; en waar knelpunte by die binnelandse vervaardiging van onderdele bestaan. Die algemene beleid van die motorvoertuigvervaardigers is om onderdele vir die vervangingsmark op dieselfde plek as die oorspronklike toerusting te koop. Voorts is die neiging al hoe meer dat die onderhandelinge vir beide kategorieë van onderdele vir albei kontrakte gelyktydig plaasvind. Sodoende behoort baie van die bestaande klagtes uitgeskakel te word.

145. Indien die praktyk wel vry algemeen sou voorkom, sal dit egter nie sonder meer 'n monopolistiese toestand verteenwoordig nie, aangesien dit nie mededinging beperk nie maar in werklikheid verskerp. In sodanige gevalle waar grondige klagtes bestaan, is dit eerder die beskermingsbeleid as die mededingingsbeleid wat die posisie in die nasionale belang moet regstel.

Eksklusiewe reg van motorvoertuigvervaardigers op matryse en gebruik van handelsmerke

146. Baie van die onafhanklike onderdelehandelaars en sommige van die onderdelelevertvaardigers het teenoor die Raad die beswaar geopper dat die Suid-Afrikaanse motorvoertuigvervaardigers meestal 'n eksklusiewe reg op die matryse en op die handelsmerke van onderdele besit. Die posisie is dat die motorvoertuigvervaardigers meestal of die matryse vir die vervaardiging van onderdele besit, of die alleenreg op die gebruik van die matryse behou indien dit die eiendom van die onderdelelevertvaardigers is. Hierdie alleenreg is ook meestal op die handelsmerke van die onderdele van toepassing. Volgens hierdie eksklusiewe regte mag die matryse en handelsmerke dan slegs vir die vervaardiging en verpakking van onderdele vir die betrokke motorvoertuigvervaardigers gebruik word.

147. Sekere onderdelelevertvaardigers en -handelaars het aangevoer dat, indien die matryse ook vir die vervaardiging van onderdele vir andere (bv. die onafhanklike onderdelehandelaars) gebruik kan word, invoer verminder kan word, onderdelelevertvaardigers 'n beter kapasiteitsbesetting kan verkry, kostevoordele behaal kan word, die gebonde mark van motorvoertuigvervaardigers verbreek sal word (veral met betrekking tot die onderdele met 'n lae omloopsnelheid), en dat dit alles tot vryer distribusie, 'n groter graad van mededinging en laer pryse kan lei. Die klein Suid-Afrikaanse mark sou ook nie die hoë koste van ontwikkeling van matryse vir onderdele deur andere in Suid-Afrika regverdig nie.

148. Motorvoertuigvervaardigers is egter van mening dat hierdie eksklusiewe reg hulle toekom, aangesien hulle alleen die aansienlike ontwikkelingskoste vir onderdele, matryse en handelsmerke aangegaan het. Dikwels gaan hulle ook groot koste aan om te verseker dat die Suid-Afrikaanse onderdelelevertvaardigers in staat sal wees om onderdele met 'n hoë gehalte te lewer. Volgens die motorvoertuigvervaardigers stel die onderdelelevertvaardigers ook slegs in die onderdele met 'n hoë omloopsnelheid belang terwyl hulle 'n verantwoordelikheid en verpligting teenoor motoreienaars het om selfs vir jare nadat 'n model van die mark is, steeds alle onderdele te verskaf om die voortdurende ondersteuning, vertroue en lojaliteit van motoreienaars te behou. Die motorvoertuigvervaardigers is van mening dat die beswaarmakers teen die praktyk "slegs die room van die mark wil afskep".

142. The Board agrees that the motor vehicle manufacturers are in a strong bargaining position in respect of certain parts. Many of the parts manufacturers depend on the motor vehicle manufacturers for their continued existence as far as certain parts are concerned. There is also the possibility that the motor vehicle manufacturers can import, but with the South African content programme the motor vehicle manufacturers would be in an even stronger position. It must nevertheless be acknowledged that some parts dealers could also be in a strong bargaining position. The Board is, however, not convinced that the practices or conditions resulting from the activities of the various marketing parties restrict competition in the supply and distribution of parts and accessories, so that, in this regard, a monopolistic condition is therefore not created in terms of the Act.

Local purchases of parts for original equipment while replacement parts are imported

143. Some parts manufacturers objected to the fact that some motor vehicle manufacturers often purchased parts for original equipment, which form part of the South African content programme for motor vehicles and are usually supplied at low prices locally, but imported the replacement parts. They maintained that their parts manufacturing resulted in a loss in these cases, since they usually required a large volume of production to be profitable, and when fixing the prices of parts for original equipment the possible supply of replacement parts was taken into account. The parts manufacturers also argued that through the importation of replacement parts the facilities available for the production of parts in South Africa would be restricted.

144. These imputations are strongly denied by the motor vehicle manufacturers. They maintain that parts are imported only if the products concerned are not available in South Africa, if the South African parts do not meet the requirements, or if the local price is uneconomical. The motor vehicle manufacturers informed the Board that the policy of purchasing original parts in South Africa but importing replacement parts was applied only in very exceptional cases. The Board was informed that cases in which this did occur were, *inter alia*, the following: Where the local parts manufacturers could not supply acceptable replacement parts; where the price was too high; where too many claims in terms of guarantees for original equipment occurred; and where problems existed in the local manufacture of parts. The general policy of the motor vehicle manufacturers was to purchase parts for the replacement market from the place that supplied the original equipment. Moreover, the tendency to negotiate both contracts for both categories of parts simultaneously was growing. In this way many of the existing complaints should be eliminated.

145. If the practice were to become fairly common, it would not necessarily represent a monopolistic condition, since it did not restrict competition but in actual fact made it keener. In those cases in which well-founded complaints existed, the protective policy rather than competitive policy should remedy the position in the national interest.

Exclusive right of motor vehicle manufacturers to matrixes and use of trade marks

146. Many independent parts dealers and some parts manufacturers informed the Board that they objected to the fact that the South African motor vehicle manufacturers usually had an exclusive right to the matrixes and the trade marks of parts. The position is that as a rule the motor vehicle manufacturers either own the matrixes for the manufacture of parts, or retain the sole right to the use of the matrixes if they are the property of the parts manufacturers. This sole right is also usually applicable to the trade marks of the parts. According to these exclusive rights the matrixes and trade marks may be used only for the manufacture and packing of parts for the motor vehicle manufacturers concerned.

147. Certain parts manufacturers and dealers maintained that, if the matrixes could be used for the manufacture of parts for other also (e.g. independent parts dealers), imports could be reduced, parts manufacturers could obtain a better capacity utilisation, cost advantages could be achieved, the tied market of motor vehicle manufacturers would be broken (especially with regard to parts with a low turnover), and this would lead to freer distribution, a greater degree of competition and lower prices. The small South African market would also not justify the high costs of the development of matrixes for parts by others in South Africa.

148. Motor vehicle manufacturers are however of the opinion that they are entitled to this exclusive right, since they alone incurred the considerable development costs for parts, matrixes and trade marks. They frequently also incur considerable costs in ensuring that the South African parts manufacturers will be able to supply parts of a high quality. According to the motor vehicle manufacturers the parts manufacturers are also interested only in the parts with a high turnover, while they have a responsibility and duty towards motor vehicle owners to continue supplying parts even years after a model has been withdrawn from the market, in order to retain the continued support, confidence and loyalty of motor vehicle owners. The motor vehicle manufacturers are of the opinion that the objectors to the practice are interested only in securing the "cream of the market".

149. Die Raad kon nie bewyse vind dat motorvoertuigvervaardigers enige onderdeleervaardiger verbied om vir andere te vervaardig en aan andere te vervaardig en aan andere te distribueer nie, mits die spesifikasies, matryse en handelsmerke van die motorvoertuigvervaardigers nie gebruik word nie.

150. Hierdie bedryfspraktyk kan wel mededinging beperk deurdat die afset van die betrokke onderdeel en toebehore deur die motorvoertuigvervaardigers tot hulself of hul aangestelde agentskappe en distribueerders beperk word. Sodanige beperking op die gebruik van matryse en handelsmerke kan die uitwerking hê, of daarop bereken wees, om pryse aan die publiek te verhoog of te handhaaf in die opsig dat dit saamhang met die praktyk van eksklusiewe distribusie van goedgekeurde onderdele (kyk paragrawe 129-138). Die Raad meen egter dat die eksklusiewe gebruik van die eie matryse en handelsmerke geregtigdig kan word omdat die motorvoertuigvervaardigers die aanvanklike kapitaalinvestering in die produksiefaktore waarmee sulke onderdele en toebehore vervaardig word, moet doen. Die produktdifferensiasie wat deur hierdie praktyk geskep word, het ekonomiese nadele, maar desnieteenstaande kan vanweë die investering nie van die motorvoertuigvervaardigers verwag word om af te sien van die alleenreg op die onderdeel wat met die betrokke matryse vervaardig word nie.

151. Na oorweging van die voor- en nadele van die praktyk, soos in die voorafgaande paragrawe uiteengesit, kom die Raad tot die gevolgtrekking dat die monopolistiese toestand wat daardeur geskep word, per saldo in die openbare belang geregtigdig is.

Die praktyk van laer pryse vir oorspronklike toerusting en hoër pryse vir vervangingsonderdele

152. Soos ook in ander lande is die pryse wat motorvoertuigvervaardigers vir vervangingsonderdele betaal, normaalweg hoër as dié vir oorspronklike toerusting. In Hoofstuk IV is getoon dat hierdie verskille soms aansienlik kan wees.

153. Die voorstanders of beoefenaars van hierdie praktyk verdedig dit op grond daarvan dat die koste van produksie en distribusie in die geval van vervangingsonderdele hoër as dié vir oorspronklike toerusting is. Van die onderdeleervaardigers beweer ook dat die gebruik van onderdele as oorspronklike toerusting die verkoop van vervangingsonderdele bevorder. Andere weer is van mening dat indien hierdie praktyk nie in navolging van die praktyk oorsee gevolg word nie, die oorspronklike toerusting van die moedermaatskappye ingevoer sal word aangesien die pryse vir oorspronklike toerusting oorsee gewoonlik laer as dié vir die vervangingsmark is (veral onderdele met 'n lae massa). Baie van die Suid-Afrikaanse onderdeleervaardigers beweer dat hulle ook van die volume van oorspronklike toerusting afhanklik is om kostevoordele te verkry. Indien hulle dan nie vir hierdie mark sou lewer nie, sal dit tot gevolg kan hê dat baie van die Suid-Afrikaanse vervaardigde onderdele nooit hier beskikbaar sou wees nie.

154. Die teenstanders van hierdie praktyk beweer dat dit diskriminerend is teenoor die publiek wat hoofsaaklik vervangingsonderdele koop. Die argument dat die wins op die vervangingsonderdele die motorvoertuigvervaardigers moet help om uiteindelik 'n redelike wins op alle aktiwiteite te realiseer, is ook nie vir almal aanvaarbaar nie, aangesien die kopers van vervangingsonderdele (bv. veral eienaars van gebruikte motors) kopers van nuwe motorvoertuie onregstreeks subsidieer. Die voorstanders van die praktyk voer ook aan dat die oorspronklike toerusting soms teen laer pryse aangebied word ten einde 'n vastrapplek in die mark te verkry en dat dit veral by onderdele met 'n hoë omloopsnelheid voorkom. Die teenstanders hiervan wys egter daarop dat die groot prysverskille selfs by onderdele met 'n baie klein vervangingsmark voorkom.

155. Die Raad meen dat ten spyte van die argumente teen die praktyk daar nie bewys is dat mededinging daardeur beperk word nie, en dat daar grondige redes bestaan waarom daar 'n verskil tussen die pryse van oorspronklike toerusting en vervangingsonderdele moet wees. Die praktyk om vervangingsonderdele teen hoër pryse as oorspronklike toerusting te verkoop, kan derhalwe nie as 'n monopolistiese toestand ingevolge die Wet beskou word nie.

Gesentraliseerde aankope, gehaltebeheer en opberging deur motorvoertuigvervaardigers

156. Sommige Suid-Afrikaanse motorvoertuigvervaardigers sentraliseer die funksies van aankope, gehaltebeheer en opberging ten opsigte van onderdele op een plek. Volgens die huidige prysooreenkomste tussen die Pryskontroleur en die motorvoertuigvervaardigers kan laasgenoemde 'n groot gedeelte, indien nie alles nie, van die vervoergeld vir prysbepalingsdoeleindes in ag neem. Die uiteindelige uitwerking van die kruisvervoer en dubbele hantering wat vanweë bogenoemde funksies plaasvind, is dat pryse uiteindelik verhoog word.

157. Die beoefenaars van dié praktyke is egter van mening dat die vestiging en plasing van die motorvoertuigvervaardigers, onderdeleervaardigers en die mark sowel as die lae gehalte van baie onderdeleervaardigers se produkte die sentralisering van die funksies noodsaaklik maak.

158. Ten spyte van die argumente wat sommige van die motorvoertuigvervaardigers ten gunste van die bestaande praktyke in verband met die gesentraliseerde aankope, gehaltebeheer en opberging aangevoer het, is die Raad van mening dat dit slegs in die afwesigheid van effektiewe mededinging weens verskeie ander faktore, soos produktdifferensiasie, en met die huidige prysooreenkomste en -formule die omvang kan aanneem wat dit tans het. Vanweë die gebonde mark wat die motorvoertuigvervaardigers ten opsigte van baie onderdele het, is hulle nie altyd regstreeks daarop ingestel om koste te bespaar nie.

149. The Board could find no proof that motor vehicle manufacturers prohibited any parts manufacturers from manufacturing for others and distributing to others, provided the specifications, matrices and trade marks of the motor vehicle manufacturers were not used.

150. This trade practice could limit competition in that the sale of the particular parts and accessories was restricted by the motor vehicle manufacturers to themselves or their appointed agencies and distributors. This restriction on the use of matrices and trade marks could have the effect of increasing or maintaining the prices to the public or could be calculated to do so in so far as it was connected with the practice of exclusive distribution of approved parts (see paragraphs 129-138). The Board, however, feels that the exclusive use of own matrices and trade marks can be justified because the motor vehicle manufacturers must make the initial capital investment in the production equipment with which these parts and accessories are manufactured. The product differentiation created by this practice has economic disadvantages, but nevertheless, because of their investment the motor vehicle manufacturers cannot be expected to relinquish their sole right to the parts manufactured with these matrices.

151. After consideration of the advantages and disadvantages of the practice, as set out in the foregoing paragraphs, the Board came to the conclusion that the monopolistic condition created was on balance, justified in the public interest.

The practice of lower prices for original equipment and higher prices for replacement parts

152. As is the case in other countries, the prices paid by motor vehicle manufacturers for replacement parts are normally higher than those for original equipment. In Chapter IV it was shown that these differences could be considerable.

153. Those who support or apply this practice defend it on the grounds that the costs of production and distribution of replacement parts are higher than those of original equipment. Some parts manufacturers also claim that the use of parts as original equipment promotes the sale of replacement parts. Others, again, are of the opinion that if this practice is not followed in imitation of the practice overseas, original equipment will be imported from parent companies because the prices of original equipment overseas are usually lower than those of parts for the replacement market (especially parts with a low mass). Many South African parts manufacturers claim that they are also dependent on the volume of original equipment to obtain cost advantages. If they did not supply this market, it would mean that many of the South African parts now being manufactured would never be available here.

154. The opponents of this practice claim that it discriminates against the public, which mainly buys replacement parts. The argument that the profit on replacement parts must help the motor vehicle manufacturers eventually to realise a reasonable profit on all activities, is also not acceptable to everyone, because the buyers of replacement parts (especially owners of used motor cars) are indirectly subsidising buyers of new motor vehicles. Supporters of the practice claim that original equipment is sometimes offered at lower prices in order to obtain a foothold in the market and that this usually happens to parts with a high turnover. Opponents point out, however, that large price differences occur even in the case of parts with a very small replacement market.

155. The Board feels that in spite of the arguments against the practice there is no proof that competition is restricted by it, and that there are valid reasons why there must be a difference between the prices of original equipment and replacement parts. The practice of selling replacement parts at higher prices than original equipment cannot therefore be considered a monopolistic condition in terms of the Act.

Centralised purchases, quality control and storage by motor vehicle manufacturers

156. Some South African motor vehicle manufacturers centralise the functions of purchasing, quality control and storage of parts in one place. According to the present price agreement between the Price Controller and the motor vehicle manufacturers the latter may take into account a large part, if not all, of the transport costs for price determination purposes. The eventual result of cross transportation and double handling because of the above activities is that prices are ultimately increased.

157. Those who follow these practices are however of the opinion that the establishment and placing of motor vehicle manufacturers, parts manufacturers and the market, as well as the low quality of the products of many parts manufacturers, make it necessary to centralise these functions.

158. In spite of the arguments put forward by some motor vehicle manufacturers in favour of the existing practices in connection with centralised purchases, quality control and storage, the Board is of the opinion that these can reach their present level only in the absence of effective competition because of various other factors, such as product differentiation, and with the present price agreement and formula. Because of the tied market which motor vehicle manufacturers have in respect of many parts, they are not always geared to saving costs.

159. Die Raad kan egter geen bewyse vind dat sommige motorvoertuigvervaardigers se praktyk om aankope, gehaltebeheer en opberging te sentraliseer, in sigself die mededinging beperk nie en kan dus nie vir 'n monopolistiese toestand verantwoordelik wees nie.

Hoë winsgrense op onderdele

160. Baie kritiek is teen die hoë pryse en winsgrense van onderdele uitgespreek. Die grootste beswaar is teen die motorvoertuigvervaardigers se pryse vir onderdele waarvoor hulle 'n geboonde mark het. Klagtes is ook geopper teen die groot diskonto's wat normaalweg aan vlooteienaars, herstelplase en aan die andere toegestaan word.

161. Motorvoertuigvervaardigers, onderdelevervaardigers en onderdelehandelaars beweer dat hul winste en pryse nie buitensporig is nie. Voorts word aangevoer dat die maksimumkleinhandelpryse en winste op onderdele deur die ooreenkoms tussen die Pryscontroleur en NAAMSA (en aanvaar deur die MIF) gereël word. Veral die motorvoertuigvervaardigers het aangevoer dat hul winsgrense en dié van hul agentskappe nie kleiner kan wees nie—veral in die lig van hul verpligtinge teenoor motoriste en vereistes neergelê ten opsigte van die hantering van onderdele deur hul agentskappe. Pryse word ook deur die hoë vervoerkoste daarop verhoog, sowel binnenslands en as gevolg van die afstand vanaf buitelandse onderdelevervaardigers. Die lae omloopsnelheid van baie van die onderdele word ook aangevoer as 'n faktor wat hoë winsgrense op onderdele regverdig.

162. Die pryse van onderdele het 'n regstreekse invloed op baie ander sektore van die ekonomie, veral in die lig van die onderlinge afhanklikheid van die motorvoertuig- en onderdelevervaardigers en die res van die ekonomiese sisteem. Ten spyte van die prysbeheer op onderdele het die Raad nogtans etlike gevalle aangetref waar die winsgrens op individuele onderdele heelwat hoër as 250 persent was. Die Raad is van mening dat die winsgrense van onderdele in baie gevalle deur vervaardigers of invoerders te hoog vasgestel word, aangesien dit ook vir die groot diskonto's aan vlooteienaars, herstelplase en aan andere voorsiening moet maak. Hierdie diskonto's tesame met die kortings aan die tussenpersone in die distribusiekanaal hou dikwels geen verband met die ekonomiese funksies wat verrig word nie. In hierdie verband was baie van die motorvoertuigvervaardigers, onderdelevervaardigers en onderdelehandelaars dit eens dat die winsgrense en diskonto's van onderdele in baie gevalle nie op rasionele gronde berus nie maar tradisioneel ontwikkel het. Die Raad is ook van mening dat veel van die hoë koste, pryse, diskonto's en winsgrense van onderdele toegeskryf kan word aan sommige van die eksklusiewe ooreenkoms. Hierbenewens erken die huidige prysformule baie van die koste en word die toelaatbare maksimumwinsgrens ook op grond van sodanige koste toegelaat. Sodoende is daar dikwels geen aanspooring vir vervaardigers om koste te besnoei nie en vind sekere praktyke, soos kruisvervoer, sentrale beheer en dubbele hantering ongestoord plaas.

163. Uit getuienis aan die Raad gelewer, is dit duidelik dat strawwe mededinging op groothandelsvlak ten opsigte van onderdele bestaan. Die gevolg van hierdie strawwe mededinging is dat al hoe groter handelskortings toegestaan word. Dit is egter opvallend dat hierdie graad van mededinging nie op kleinhandelsvlak bestaan nie en ook dat die laer pryse wat vir onderdele op groothandelsvlak beding word nie na die finale verbruiker oorgedra word nie. As rede hiervoor kan die lae pryselastisiteit van die vraag na vervangingonderdele deur die finale verbruiker aangevoer word (kyk paragraaf 23). Die Raad is van mening dat die graad van mededinging verbeter kan word deur 'n kleiner mate van eksklusiwiteit in die distribusie van onderdele, maar dat dit in sigself nog nie die mededinging effektief genoeg sal maak nie. Aangesien die gebreke in die mededingingstelsel gunstige geleentheid kan skep vir wanpraktyke of uitbuiting by prysvasstelling, kan owerheidsbeheer oor sulke pryse wel geregverdig wees. 'n Belangrike probleem in verband met die pryse van onderdele is moontlik die gebrek aan deursigtigheid in die mark deurdat die kopers nie genoegsame kennis van die pryse van die groot aantal onderdele het nie.

Die praktyk van aanbevole pryse

164. Ten spyte van die besware wat teen die gebruik van aanbevole pryse in die geval van onderdele geopper word, is die meeste van die motorvoertuigvervaardigers, onderdelevervaardigers, onderdelehandelaars en groot verbruikers van onderdele van mening dat die praktyk in die openbare belang is, uit sowel 'n praktiese as 'n ekonomiese oogpunt. Die belangrikste argumente wat ten gunste van die praktyk aangevoer word, is dat die onderdelehandelaars en vervaardigers dieruisende onderdele hanteer, dat pryse te vinnige verander en dat die administrasiekoste om self die pryse te bepaal in die afwesigheid van aanbevole pryse te hoog sal wees en aanbevole pryse dus die publiek teen uitbuiting beskerm.

165. Hoewel aangevoer kan word dat handelaars in staat behoort te wees om hul eie pryse te bereken met behoorlike inagneming van die ekonomiese funksies wat by elke onderdeel betrokke is, bestaan die praktiese en ekonomiese voordele van die praktyk ten spyte van die nadele wat dit mag inhou. Die Raad is van mening dat die gebruik van aanbevole pryse nie 'n monopolistiese toestand ingevolge die Wet skep nie en tans, ingevolge die ooreenkoms van die Pryscontroleur, vereis word.

Uitruil van onderdelepryse deur motorvoertuigvervaardigers

166. Klagtes is in die verlede geopper dat sommige van die motorvoertuigvervaardigers hulle onderdele en toebehore se pryslyste by ander motorvoertuigvervaardigers sirkuleer. Volgens sekere motorvoertuigvervaardigers is die omvang en voordele van hierdie praktyk nie baie groot nie en help dit slegs om markinligting makliker te bekom. Sodoende kan op mededingers se pryse in terme van mededingendheid gelet word.

159. The Board could however find no evidence that the practice of some motor vehicle manufacturers of centralising purchases, quality control and storage in itself restricted competition and it could therefore not be responsible for a monopolistic condition.

High profit margins on parts

160. A great deal of criticism was levelled against the high prices and profit margins of parts. Most objections were made against the motor vehicle manufacturers' prices for parts for which they have a tied market. Complaints were also made about the large discounts normally given to fleet owners, repair shops and others.

161. Motor vehicle manufacturers, parts manufacturers and parts dealers claim that their profits and prices are not excessive. It is claimed also that the maximum retail prices and profits on parts are regulated by the agreement between the Price Controller and NAAMSA (and accepted by the MIF). The motor vehicle manufacturers in particular stated that their profit margins and those of their agencies could not be lower—especially in the light of their obligations to motorists and requirements laid down in respect of the handling of parts by their agencies. Prices are also increased by the high transport costs, both locally and as a result of the remote situation of overseas parts manufacturers. The low turnover of many of the parts is also mentioned as a factor justifying high profit margins on parts.

162. The prices of parts have a direct effect on many other sectors of the economy, especially in the light of the interdependence of the motor vehicle and parts manufacturers and the rest of the economic system. In spite of price control on parts the Board nevertheless came across a number of cases in which the margin of profit on individual parts was considerably higher than 250 per cent. The Board is of the opinion that in the case of parts profit margins are often set too high by manufacturers or importers, since provision must also be made for large discounts to fleet owners, repair shops and others. These discounts, together with the rebates to the middle men in the distribution channel, are often unrelated to the economic functions performed. In this regard many motor vehicle manufacturers, parts manufacturers and parts dealers agreed that in many cases the profit margins and discounts in respect of parts were not based on rational grounds but had developed traditionally. The Board is also of the opinion that many of the high costs, prices, discounts and profit margins could be ascribed to some of the exclusive agreements. In addition, the present price formula recognises many of the costs and the permissible maximum profit margin is also allowed on the basis of these costs. Thus there is frequently no incentive to manufacturers to cut costs, and certain practices, such as cross transportation, central control and double handling continue undisturbed.

163. From evidence submitted to the Board it is clear that there is keen competition in respect of parts at wholesale level. The result of this severe competition is that ever larger trade rebates are being granted. It is noticeable, however, that this sort of competition does not exist at retail level and also that the lower prices negotiated for parts at wholesale level are not passed on to the final buyer. The reason for this could be the low price elasticity of the demand for replacement parts by the final buyer (see paragraph 23). The Board is of the opinion that the degree of competition could be improved by means of less exclusiveness in the distribution of parts, but that this alone would not make competition effective enough. Because the gaps in the competitive system could create favourable opportunities for malpractices or exploitation in price determination. Government control over such prices can be justified. An important problem in connection with the prices of parts is possibly the lack of transparency in the market in that buyers do not have adequate knowledge of the prices of the large number of parts.

The practice of recommended prices

164. In spite of the objections to the use of recommended prices for parts most motor vehicle manufacturers, parts manufacturers, parts dealers and bulk buyers of parts feel that the practice is in the public interest, both from a practical and an economic viewpoint. The most important arguments advanced in favour of the practice are that the parts dealers and manufacturers handle many thousands of parts, that prices change too rapidly and that the administrative costs of self-determination of prices, in the absence of recommended prices, would be too high and that recommended prices therefore protect the public against exploitation.

165. Although it may be argued that dealers ought to be able to calculate their own prices with due regard to the economic functions concerning each part, the practice still has practical and economic advantages in spite of its disadvantages. The Board is of the opinion that the use of recommended prices does not create a monopolistic condition in terms of the Act, and at present such practice is required in terms of the agreement with the Price Controller.

Interchange of lists of prices of parts by motor vehicle manufacturers

166. Complaints were made in the past that some motor vehicle manufacturers circulated lists of prices of their parts and accessories among other motor vehicle manufacturers. Certain motor vehicle manufacturers feel that the extent and advantages of this practice are not very great and that it merely helps to obtain market information more readily. In this way notice can be taken of competitors' prices in terms of competitiveness.

167. Die Raad het geen misbruik van die praktyk teengekom wat op 'n beperking van die mededinging dui en 'n monopolistiese toestand ingevolge die Wet skep nie.

Invoer van onderdele indien Suid-Afrikaanse onderdeleervaardiger nie kan lewer nie

168. Die klousule in 'n ooreenkoms, wat die Raad gevind het, waarvolgens die distribueerders van 'n vervaardiger se produkte onderdele moes invoer indien die Suid-Afrikaanse vervaardiger nie in die vraag kon voorsien nie, het na die Raad se mening 'n monopolistiese toestand geskep. Die rede hiervoor is dat die klousule of ooreenkoms mededinging beperk het en die uitwerking gehad het om die fasiliteite beskikbaar vir die produksie of distribusie van die betrokke onderdele in te kort. Voorts kon mededinging ook beperk word deur die toetreding van nuwe produsente of distribueerders te verhoed of te beperk.

169. Die betrokke vervaardiger het geen argumente aangevoer om die praktyk in die openbare belang te regverdig nie. Voorts kon die Raad ook nie enige voordeel of regverdiging van die betrokke klousule vir die openbare belang vasstel nie. Nogtans weerhou die Raad hom van enige aanbeveling ter beëindiging van die praktyk, aangesien die klousule nooit in die verlede afgedwing is nie en die klousule intussen ook deur die vervaardiger uit sy verkoopkontrak verwyder is.

Weerhouding van onderdeleervaardiger om vir ander te vervaardig

170. Die ooreenkoms tussen 'n onderdeleervaardiger en sy leweransier van onderdele ('n ander onderdeleervaardiger) waarvolgens laasgenoemde slegs vir eersgenoemde mag vervaardig, is volgens die mening van die Raad beperkend van aard. Volgens die ooreenkoms mag die leweransier nie sy eie matryse of kundigheid gebruik om vir andere te vervaardig of om uit te voer nie.

171. Die onderdeleervaardiger (koper) het die ooreenkoms in die openbare belang probeer regverdig deur dat hy groot koste aangegaan het om kundigheid aan die leweransier te verskaf, matryse te verskaf en tegniese verfyning van die produkte te verkry. Voorts kon die leweransier ook nie in sy bestaande behoeftes voorsien nie. Nogtans was die onderdeleervaardiger van mening dat selfs in gevalle waar in sy behoeftes voorsien kon word, alle verdere produksie van die leweransier deur hom versprei moes word of aan hom 'n kommissie betaal moes word, aangesien hy groot aanvanklike ontwikkelingskoste aangegaan het.

172. Aan die ander kant was die leweransier van mening dat hy sy eie matryse, kundigheid en spesifikasies van ander vervaardigers wou gebruik om ook aan ander vervaardigers te lewer. In die vervaardiging hiervan wou hulle nie gekontroleer word nie en ook nie deur die bestaande vervaardiger verkoop nie.

173. Die Raad is van mening dat hierdie ooreenkoms mededinging beperk deurdat dit die fasiliteite beskikbaar vir die produksie of distribusie van onderdele en toebehore ingekort het, die toetreding van nuwe distribueerders verhoed of beperk het en produksie of distribusie op die mees doeltreffende manier verhoed het. Sodoende was dit 'n monopolistiese toestand en die Raad kon, na oorweging van die voor- en nadele van die eksklusiewe ooreenkoms, nie die bestaan daarvan in die openbare belang regverdig nie. Aangesien die partye tot die ooreenkoms egter onderneem het om die betrokke klousule in die ooreenkoms tot bevrediging van die Raad te verwyder, beveel die Raad geen optrede aan vir die beëindiging van die betrokke monopolistiese toestand nie.

Eksklusiewe ooreenkoms tussen onderdeleervaardigers en onafhanklike onderdelehandelaars

174. Die vernaamste redes vir die bestaan van eksklusiewe ooreenkoms tussen onderdeleervaardigers en onafhanklike onderdelehandelaars is dat dit voordele ten opsigte van kostebesparings, diens en 'n beter markdekking vir die bedryfstak en die verbruikers sou inhou.

175. Slegs een ooreenkoms wat volgens die Raad se mening beperkend van aard was, het onder die Raad se aandag gekom. Hierdie ooreenkoms is in paragrawe 168 en 169 geëvalueer. Voorts het geen ander instansie enige besware teen enige eksklusiewe ooreenkoms tussen onderdeleervaardigers en onafhanklike onderdelehandelaars geopper nie. Die Raad het dit gevolglik nie nodig geag om hierdie spesifieke aspek verder te oorweeg nie.

HOOFSTUK VI

GEVOLGTREKKINGS EN AANBEVELINGS

176. Ooreenkomstig die Minister se opdrag ingevolge artikel 3 (1) (a) van die Wet op Reëling van Monopolistiese Toestande, No. 24 van 1955, bevind die Raad dat sekere van die bedryfspraktyke by die verskaffing en distribusie van motorvoertuigonderdele, -komponente en -materiale monopolistiese toestande uitmaak, soos in artikel 2 van die genoemde Wet omskryf. Sommige van hierdie toestande is of in die openbare belang geregtigdig of is reeds deur die betrokke partye self beëindig. Om hierdie redes vind die Raad dit nie nodig om by die Minister aan te beveel dat hierdie monopolistiese praktyke ten opsigte van die verskaffing en distribusie van motorvoertuigonderdele, -komponente en -materiale in die Republiek van Suid-Afrika ingevolge artikel 6 van die Wet verbied moet word nie.

167. The Board did not come across any abuse of the practice which could indicate a restriction of competition and create a monopolistic condition in terms of the Act.

Importation of parts if South African parts manufacturers cannot supply them

168. The clause in an agreement seen by the Board, in terms of which the distributors of a manufacturer's product must import parts if the South African manufacturer cannot meet the demand, creates a monopolistic condition in the Board's opinion. The reason for this is that the clause of agreement restricts competition and has the effect of curtailing facilities available for the production or distribution of the parts concerned. In addition, competition could also be restricted by preventing or restricting the entry of new producers or distributors.

169. The manufacturer concerned did not offer any arguments to justify the practice in the public interest. Moreover, the Board could not establish any advantage in, or justification for, the particular clause in the public interest. Nevertheless, the Board will not make any recommendation regarding the termination of this practice, because the clause has never been enforced in the past and has since been removed from the sales contract by the manufacturer.

Preventing a parts manufacturer from manufacturing for others

170. The agreement between a parts manufacturer and his supplier of components (another parts manufacturer), in terms of which the latter may manufacture only for the former, is, in the opinion of the Board, of a restricting nature. According to the agreement, the supplier may not use his own matrixes or expertise to manufacture for others or to export.

171. The parts manufacturer (buyer) tried to justify the agreement in the public interest in that he had incurred considerable expense in providing expertise to the supplier, in supplying matrixes, and in obtaining the technical refinement of the products. Furthermore, the supplier could not meet his existing needs. Nevertheless the parts manufacturer felt that, even in cases in which his requirements could be met, all further production by the supplier should be distributed by him or a commission should be paid him seeing that he had initially incurred considerable expenditure on development.

172. On the other hand the supplier stated that he wished to use his own matrixes and expertise and the specifications of other manufacturers to supply other manufacturers also. They did not wish to be hampered in their manufacture nor did they wish to sell through the existing manufacturer.

173. The Board is of the opinion that this agreement restricts competition in that it curtails the facilities available for the production or distribution of parts and accessories, prevents or restricts the entry of new distributors and prevents production of distribution in the most effective way. In this way it is a monopolistic condition and, after considering the advantages and disadvantages of the exclusive agreement, the Board could not justify its existence in the public interest. Because the parties to the agreement have, however, undertaken to remove the particular clause from the agreement to the satisfaction of the Board, the Board does not recommend any action for terminating the monopolistic condition in question.

Exclusive agreements between parts manufacturers and independent parts dealers

174. The main reasons for the existence of exclusive agreements between parts manufacturers and independent dealers are that these have advantages in respect of costs savings, service and a better market coverage for the industry and purchasers.

175. Only one agreement which, in the opinion of the Board, is of a restrictive nature, came to the Board's notice. This agreement is evaluated in paragraphs 168 and 169. No other body made any objections to any exclusive agreements between parts manufacturers and independent parts dealers. The Board therefore did not consider it necessary to give further consideration to this specific matter.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

176. In accordance with the Minister's directive in terms of section 3 (1) (a) of the Regulation of Monopolistic Conditions Act, No 24 of 1955, the Board finds that certain trade practices in the supply and distribution of motor vehicle parts, components and materials constitute monopolistic conditions, as defined in section 2 of the said Act. Some of these conditions are either justified in the public interest or have already been self eliminated by the parties concerned. For these reasons the Board does not find it necessary to recommend to the Minister that these monopolistic practices in connection with the supply and distribution of motor vehicle parts, components and materials in the Republic of South Africa be prohibited in terms of section 6 of the Act.

177. Ooreenkomstig artikel 3 (2) van die Wet beveel die Raad egter by die Minister aan dat die monopolistiese toestand waarvolgens die meeste motorvoertuigvervaardigers hulle agentskappe verplig om slegs goedgekeurde onderdele, komponente en materiale aan te hou en sodanige onderdele, komponente en materiale slegs van hulle te koop by wyse van 'n kennisgewing in die *Staatskoerant* ingevolge artikel 6 (1) (b) van genoemde Wet en behoudens subartikel 2 van artikel 3 van die Wet verbied word.

178. Wat die klagtes oor abnormaal hoë pryse en bruto winsgrense op onderdele betref, beveel die Raad aan dat die Pryscontroleur versoek word om—

(a) ondersoek in te stel na die bewerings dat die toelaatbare perke ingevolge sy ooreenkoms met die bedryfstak soms oorskry word;

(b) tussen verskillende kategorieë van onderdele en tussenpersone in die distribusiekanaal te differensieer ten opsigte van die toelaatbare winsgrense en diskonto's, met inagneming van die ekonomiese funksies wat verrig word; en

(c) die toelaatbare koste ten opsigte van onderdele en toebehore weer eens krities te ondersoek met die oog op die redelikheid van sulke koste en die toelaatbare perke van winsgewendheid wat op grond daarvan vasgestel word.

S. J. KLEU, Voorsitter.

J. S. MABIN, Adjunk-voorsitter.

D. J. MOUTON, Lid.

*H. J. P. L. KRUGER, Lid.

M. R. HEYNS, Lid.

G. J. J. BREYL, Direkteur.

Pretoria, 2 Augustus 1979.

(T6/2/17)

* Afwesig met verlof.

177. In terms of section 3 (2) of the Act the Board, however, recommends to the Minister that the monopolistic condition according to which most motor vehicle manufacturers compel their agencies to keep only certain approved parts, components and materials in stock and to purchase such parts, components and materials only from them, be prohibited by means of a notice published in the *Government Gazette* in terms of section 6 (1) (b) of the said Act and subject to section 3 (2) of the Act.

178. As regards the complaints concerning abnormally high prices and gross profit margins with respect to parts, the Board recommends that the Price Controller be requested—

(a) to investigate the allegations that the limits allowed in terms of his agreement with the industry are sometimes exceeded;

(b) to differentiate between various categories of parts and middle men in the distribution channel in respect of the profit margins and discounts allowed, due regard being had to the economic functions performed; and

(c) once more critically to investigate the costs allowed in respect of parts and accessories with a view to the reasonableness of such costs and allowable profit limits which may be determined on this basis.

S. J. KLEU, Chairman.

H. S. MABIN, Deputy Chairman.

D. J. MOUTON, Member.

*H. J. P. L. KRUGER, Member.

M. R. HEYNS, Member.

G. J. J. BREYL, Director.

Pretoria, 2 August 1979.

(T6/2/17)

* Absent on sick leave.

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The desire and object of the promoters of the publication will be achieved if it stimulates further interest in the study and cultivation of our indigenous plants.

The illustrations are prepared mainly by the artists at the Botanical Research Institute, but the Editor welcomes contributions of suitable artistic and scientific merit from kindred institutions.

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