HANSARD ADJOURNMENT DEBATE 19th DECEMBER 2002

I hope that all Members of the House enjoy a peaceful 2003, and that our constituents may continue to look forward to an improvement in public services and public safety.

2.18 pm

Mr. Harry Barnes (North-East Derbyshire): I hope that the hon. Member for Hazel Grove (Mr. Stunell) will forgive me if I do not follow him down some of those important avenues. Third world poverty and the situation in Iraq are matters that I would use other opportunities to raise. I have just returned from Mozambique, which has come through a fantastic transformation. It is 46 years since I did my national service in Iraq, which led me to take a key interest in development in that country. I do not want the people of Iraq to be subject to invasion, mayhem and cumulative damage.

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I want to refer to the problems surrounding certain trading schemes. A person who runs a business under a franchise from a company falls under such arrangements. The company is known as the master franchiser, and the smaller business, which is often run from a person's home, is referred to as the franchisee. I have been pursing this matter with the Department of Trade and Industry since May 1999. Unfortunately, the individuals about whom I am concerned have lost their livelihoods through no fault of their own. They suffered at the hands of two sources: first, the illegitimate actions of their master franchiser; secondly, the failure of the DTI to use its legislative powers and duties to regulate or to prosecute the offending master franchisers.

I want to begin by covering the illegitimate moves undertaken by, and the pressures brought to bear by, the master franchisers Chem-Dry Midlands and London, and Chem-Dry Northern and Southern. First, they obliged franchisees to register for VAT in order to continue receiving Chem-Dry's insurance work, irrespective of the franchisees' turnover. This probably involved the tort of conspiracy. Secondly, franchisees were forced to purchase non-compliant Velda machines, which proved an entry barrier to their operations. Thirdly, franchisees were not offered revised contracts under the terms of the Trading Schemes Act 1996. Fourthly, the master franchisers did not exercise good faith and care in executing contacts with the franchisees. Other points, which could be added to my list, have been presented fully to the DTI.

I turn to the failings of the DTI in this matter. The relevant legislation that the DTI should have acted on when the matter was brought to its attention was part XI of the Fair Trading Act 1973, as amended by the 1996 Act, and its subordinate legislation; and regulation 3(a) of the Trading Schemes (Exclusion) Regulations 1997, as amended. Much rests on exactly who was exempted from the DTI's controls under the 1997 Regulations. Companies that are excluded from DTI controls are known as Xsingle-tier" bodies, as defined in the relevant statutory instrument. It took an inordinate amount of time for the DTI to agree that Chem-Dry was not single-tier, and that it was therefore subject to the DTI's regime. Even then, the DTI still did not act. I tabled five parliamentary written questions on the matter. They were bundled together, and a written answer was given to me on 18 April 2002. It stated:

> Where a breach of legislation over which the Department has oversight is identified, and that breach is addressed by way of criminal sanction, the Department will consider bringing a prosecution, taking account of the evidential and public interest tests set out in the Code of Crown Prosecutors."—[*Official Report*, 18 April 2002; Vol. 383, c. 1152–53W.]

However, that was not acted on in the cases that I am referring to.

In the meantime, some people left the franchise system, as they correctly believed that Chem-Dry's contractual arrangements were in conflict with the legislation. They were then in no position to sell their businesses on, and they folded. Unfortunately, a control of, or prosecution of, Chem-Dry by the DTI is probably no longer feasible, because the DTI had previously sent a letter to Chem-Dry Northern and Southern incorrectly stating that it is a single-tier body and is thus

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exempted from the requirements of the legislation. The letter is both incorrect and inconsistent with later DTI responses to me and to others, including the right hon. Member for North-West Hampshire (Sir George Young).

Matters have now reached the stage where the DTI should provide compensation for the former franchisees, who have lost their businesses and suffered considerable disruption and stress. The DTI should at least meet some of the franchisees and the MPs involved, such as the right hon. Member for North-West Hampshire and me. My requests for such meetings have been rejected in the past. The DTI's suggestion that the franchisees should take civil action against Chem-Dry is inappropriate. The responsibility rests with the DTI; the franchisees have suffered enough traumas, having held on for a long time, waiting for the DTI to undertake its duties. Nor does the parliamentary ombudsman constitute an avenue that can effectively be turned to—although we did attempt to do so—as this matter is overlaid with strong legal considerations.

Although the DTI seems to me to be guilty of serious acts of maladministration—if not illegality—it is clearly time for it to act and clear up this mess. When this account is relayed to it, I hope that such action will begin, perhaps initially through a meeting such as I suggested.

It will not be a very happy Christmas and new year for the franchisees, but I wish them the best. I hope that, by raising their concerns, I have advanced their cause in some way, so that we can attempt to rectify the problem. To Members, my constituents and everyone else, I offer the best wishes of the season.

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