Newspaper of the Campaign for Freedom of Information Number 22 July 1991

SECRETS

What the American FOI Act reveals about Britain

Information about safety problems in Britain, much of it confidential here, is freely available from the United States.

For some months the Campaign has been using the American Freedom of Information (FOI) Act to see what information about the UK is available from the US government. And we have been asking British authorities why they keep the same information secret.

In this newspaper we show a little of what can be learnt about safety and environmental matters. Examples from other areas will be given in later issues.

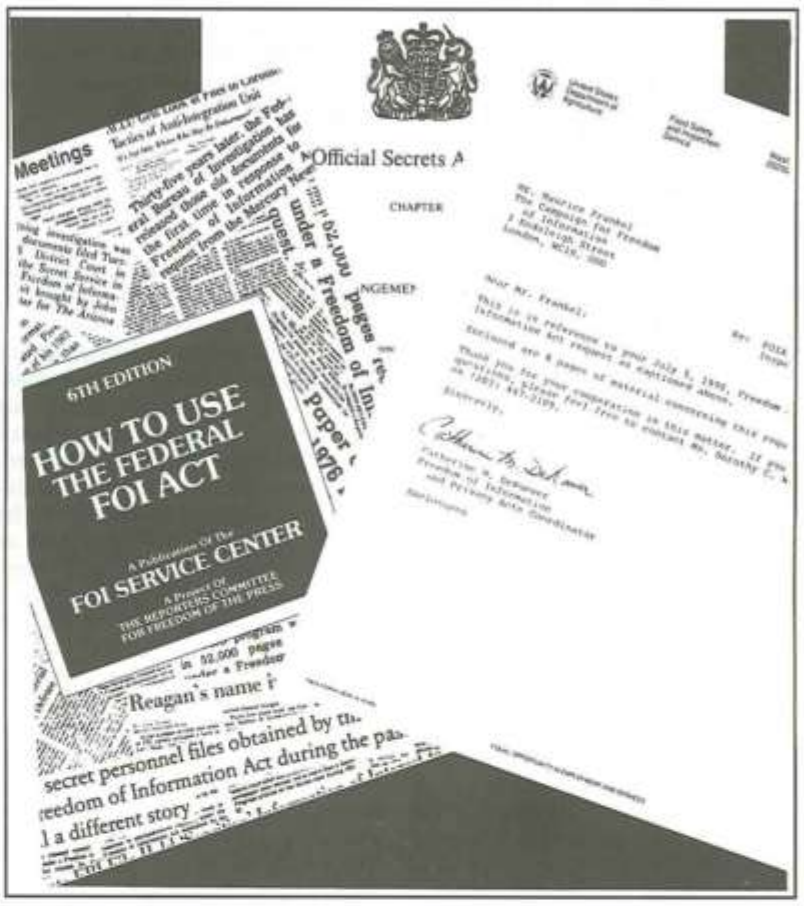
It is only in certain circumstances – for example when a British product is sold in America – that the US government holds information of direct British interest. But when it does the difference in attitude to disclosure could not be greater.

Under the FOI Act, the individual has an enforceable right to information unless the government can show that it is protected by one of the Act's exemptions – on defence or trade secrets, for example.

In Britain, with a few exceptions, the government simply decides for itself whether to release or withhold the facts. Secrecy often results from inertia, or because it reduces the chances of embarrassment, criticism or inconvenience to the bureaucracy.

This report reveals the difference a Freedom of Information Act makes. It shows that:

- British cruise liners crossing the Atlantic are checked by health inspectors in both countries. The British reports are secret – the US reports widely distributed. British passengers on British cruise liners can learn of hygiene problems only from *American* authorities.
- We can learn far more about environmental problems at a US Air Force base in England than about pollution from an ordinary British factory.
- American officials inspect a Suffolk poultry plant which exports to the US. Their hygiene reports are publicly available – British reports on the plant are not. Ministers will not even say what proportion of British abbatoirs are satisfactory, and have refused to identify substandard premises which have lost their European export licenses.
- Details of safety related complaints about British cars in the US are publicly available; safety complaints to British authorities are confidential.
- US officials inspect British pharmaceutical plants who export to America. Their reports, showing whether premises are sterile and products free from contamination, are available to anyone. An official who released the equivalent British report could be jailed for two years.
- American pharmaceutical companies, including the US subsidiaries of two British firms, tried to prevent British consumer representatives attending an international symposium on antibiotics. Their letters, to the US agency which funded the meeting, have been disclosed. Similar lobbying in Britain would never come to light.
- Information on all ICI pesticides used in the US is available from Washington. Anyone who wants to know if the company has done everything the Environmental Protection Agency asked can see all safety reports, every letter between the company and agency and a transcript of the meeting at which company scientists were questioned about their findings. Here, despite some progress, information on 90 per cent of pesticides still remains confidential.



These disclosures are the result of the *American* FOI law: but the information is about safety in Britain. They pose one compelling question: isn't it time we finally had a Freedom of Information Act of our own?

Restricted access to expert committees

Many government safety decisions are based on the recommendations of expert advisory committees. When Ministers are pressed to say why they have banned, or failed to ban, some controversial product the answer is often a one line statement saying they are merely following their committee's advice. Sometimes a report is later published. But often both the advice and the scientific data it is based upon are secret.

On pages 7 and 8 of this issue Emily Russell describes the limited information available about the work of such committees. Her report shows how the law fails us. Instead of requiring that the public be informed, it often forbids it. The 1968 Medicines Act prevents disclosures about drug safety. The same clause denies us information about products used to treat farm animals – though we consume the residues in our food. Secrecy clauses in other laws bind committees advising on the safety implications of genetic engineering, nuclear installations and the control of unnecessary animal experimentation.

In other areas there has been some progress. But it has been piecemeal, leaving much of the problem intact. In 1986 the government decided to allow public access to safety studies seen by advisory committees considering new pesticides and food additives. But the policy does not apply to pre-1986 products. These are not only the great majority, but also those most likely to be of concern, because they may have been tested years ago by standards now regarded as inadequate.

More recently, the government's handling of issues such as salmonella in eggs, listeria poisoning, BSE ('mad cow disease') – has been so vigorously criticised that MAFF and the Department of Health have taken a more serious look at their information policies. Some of their advisory committees have responded by publishing agendas to their meetings and a cursory outline of what was discussed. But background papers and the substance of the proceedings are still not disclosed.

Many of the advisory committees are described as "independent". This merely means that the members are not civil servants. Many work for, are consultants to, or receive research funding from the industries whose products are being regulated. The chairman of the Advisory Committee on Irradiated and Novel Foods at the time of its influential 1986 report on food irradiation was a part-time director of the company which produces the isotopes used in food irradiation.

Eighteen of the 21 members on the Committee on Safety of Medicines have declared financial links with the pharmaceutical industry. Other committees have yet to reveal the financial interests of their members. No-one has suggested impropriety, and committee rules require that members normally take no part when they have a direct interest. But the lack of explicit consumer representation on many committees, coupled with their secrecy, has become an unacceptable combination.

Openness would allow the basis of decisions to be seen, and fully discussed. Interpretation of safety data is by no means a precise science. Regulatory authorities in other countries will often consider the same data as ours, yet reach different decisions. In the UK even the committees themselves are sometimes divided. In 1989 the Medicines Commission – the body which deals with appeals – overturned six recommendations made by advisory committees. The drugs involved, the scope of the debate, and the reasons why the companies' appeals were upheld have not been disclosed.

Occasionally this secrecy goes spectacularly wrong. In the mid 80s the government actively encouraged a tobacco company to set up a new factory making 'oral snuff'. Soon afterwards, an expert committee recommended the product be banned as a cancer hazard. But the ban was overturned on judicial review in 1990 – largely because the government had refused to show the company its expert advice. The court did not question the dangers of the product, but it was scathing about the secrecy. This, it said, was "due to an inbuilt reluctance to give reasons or disclose advice lest it give opponents fuel for argument". The decision itself is being appealed. But if the High Court's ruling is upheld, the justification for such secrecy may have been permanently undermined.

77% OF PUBLIC BACK FOI ACT

Over three-quarters of the public think Britain should have a freedom of information act, according to a MORI poll carried out in January 1991. Freedom of information was backed by 77 per cent of people, and is more popular than any other constitutional reform being discussed. Only 10 per cent did not support the proposal.

Support is remarkably constant amongst people of all political parties and social classes. It is as popular with Conservative voters (75 per cent in favour) as with Labour voters (77 per cent) – though support among Liberal-Democrats is more marked (87 per cent).

Seventy-five per cent of people who described themselves as 'working class' supported FOI, compared to 83 per cent of those who say they are 'middle class'. There was little difference between readers of popular papers (77 per cent in favour) and quality papers (81 per cent). And even of those who said they were not interested in politics 73 per cent favoured a FOI Act.

The reports described on this page are based on research funded by the Joseph Rowntree Charitable Trust and Consumers' Association.

Minister's environmental disclosure promise broken

The government has broken a promise to parliament that details of environmental investigations around polluting factories would be made public. Despite a pledge of maximum openness, pollution authorities will be free to suppress alarming findings.

New disclosure rules under part 1 of the Environmental Protection Act came into force in April 1991. These require HM Inspectorate of Pollution and local authorities to put information about the most polluting industries on public registers. The registers will show the standards factories must meet, the results of any pollution monitoring, and whether the firm has been convicted of offences or served with enforcement notices.

The Campaign welcomed these measures when they were announced, but pointed to one omission. Authorities would not have to disclose the results of their own investigations into the health or environmental impact of pollution around a factory. If people's health was damaged, or wildlife killed, this would not have to be revealed. Lord McIntosh proposed an amendment to remedy this as the bill went through the Lords.

The Environment Minister, Lady Blatch, responded with a commitment which went beyond anything promised before. She said: "I can assure your Lordships that a report on an investigation into pollution of the environment will be made publicly available." She added that as long as the report related to a specific process then "that . . . should go on the register along with other information about that process". *(8.10.90, col. 128)*

But when the draft regulations appeared this was omitted. The Campaign wrote to the Department of the Environment (DOE) reminding it of the minister's promise. But instead of putting the omission right, the DOE came up with a purely cosmetic change. This requires registers to show "particulars of any report *published by* an enforcing authority relating to an assessment of the environmental consequences" of a regulated process. If the authority decides not to publish, it has carte blanche to suppress the findings altogether.

The new rules – the Environmental Protection (Applications, Appeals and Registers) Regulations 1991 – contain another defect.

Pollution monitoring results have to go onto the registers. This is welcome because it will allow people to see whether a firm's discharges are within legal limits. But there are no time limits for entering results. An embarrassed authority which finds that its standards are being flouted, or pollution levels are dangerous, will be able to sit on the results as long as it likes. It could even decide merely to update the registers once a year – denying people all current information.

When the draft regulations appeared the Campaign told the DOE that they fell below the standard of other rules, which do have time limits. There are registers under the Control of Pollution Act 1974, the Environment and Safety Information Act 1988 and the Water Act 1989. In each case information must be entered within a set period, ranging from 14 days to two months. Despite these recent precedents, the new registers were not brought into line.

When ministers launched the Environmental Protection Bill in January 1990 there was no clue that authorities would be given such freedom to withhold information. The then Environment Secretary Chris Patten, told MPs: "the rule must be that the public should get what the enforcing authorities get . . . The public is unlikely to have trust in a system of pollution control unless it is as open as possible and subject to rigorous scrutiny". And Environment minister David Trippier said the new rules would mean that "every individual in Britain will become an environmental watchdog in his own right".

Radioactive concealment

British governments have a long history of concealing the truth about nuclear hazards. An early example, from official records released under the "30-year rule", shows how ministers prepared to answer questions at a 1955 press conference to launch Britain's first civil nuclear power programme. This is what ministers were briefed to say if asked about the dangers of nuclear waste:

"Some of this is highly radioactive and is sent to the bottom of the Atlantic, two miles deep and about 1,000 miles from our shores. The reason we dispose of it so carefully is this. If a scrap dealer took that piece of metal from a dump and it was made into something else, into a piece of apparatus, the radioactivity in it might interfere with the working of that apparatus.

"To take a simple example – a camera. As we know from X-ray machines, radioactivity fogs film. If, therefore, a piece of that metal got into a camera you would find all your snaps were spoilt. That is why we dump this particular stuff at sea. Not because it is a potential danger but because it could be a nuisance."

Peter Hennessy, Independent, 14.5.90.

MOD 'unwilling to answer MPs frankly'

The Ministry of Defence's excessive secrecy has often frustrated MPs, and the House of Commons Defence Committee frequently complains about it. Some of the problems have been forcefully described by the Committee's Conservative chairman, Michael Mates MP:

"There is an element of the 'Ministry of Defence culture' which appears to regard Parliament with suspicion . . . It is principally demonstrated in an unwillingness to answer frankly and in what seems to be a feeling that the less that is said to the Committee, the safer the Ministry of Defence will be. On occasion this has gone beyond acceptable bounds, with the giving of evidence that concealed a serious state of affairs . . ."

"When the Government takes a decision other than one which is right from the purely defence point of view, it may be incumbent upon us to find out the reasons for that decision; but witnesses at Ministerial as well as official level have in the past often sought to refuse us answers. I believe this is rarely justified. If the MOD wants to do something, but the Treasury thinks it is too expensive, this is part of a responsible way of arriving at a decision of the Government as a whole. It does not spell the end of collective responsibility to tell a Select Committee that was the reason for the decision . . ."

"We are well aware that the Ministry of Defence would prefer to restrict our scrutiny of its decision-making. The Ministry has made it clear that it does not welcome investigations of the options to be considered before a decision is taken. We do not accept that the role of a Select Committee should be confined to conducting a post mortem. There is clear advantage to the House and to the taxpayer in an inquiry which explores all the options open to the Government before those options have been closed off."

House of Commons Select Committee on Procedure, "The Working of the Select Committee System", Session 1989-90, Vol. II, Evidence of Michael Mates MP.

MPs 'mislead themselves'

"I don't think there's any doubt in my mind that anybody who holds ministerial office has given replies which might leave the questioner to come to a wrong conclusion. Parliament must not be told a direct untruth but it's quite possible to allow them to mislead themselves."

Norman Tebbit MP, former Secretary of State for Trade and Industry. (Guardian 13.3.91).

Malta goes for FOI

Malta is likely to be the next country to overtake Britain by passing a freedom of information act. Both of Malta's main parties, the governing Nationalist Party and the Labour Party, promised FOI at the last election in 1987. If Malta passes an FOI Act it will be the fourth Commonwealth country – following Australia, Canada and New Zealand – to do so.

Malta was a British dependency until 1964, and much of its law is based on Britain's. It has an Official Secrets Ordinance, passed in 1923 which is almost identical to s 2 of the old British Official Secrets Act of 1911. There the similarity ends: in 77 years no one in Malta has ever been prosecuted for leaking official information.

1990 FOI AWARDS

Labour to act upon FOI 'within hours'

A Labour government would begin work on an FOI Act within hours of its election, according to Roy Hattersley MP, the Labour Party's deputy leader. Mr. Hattersley was speaking at the Campaign's annual awards at a ceremony in January 1991.

"Anyone who looks at our detailed plans for a Freedom of Information Act must know that it is not only suitable for early enactment. It is ready for early enactment. If a Labour government was elected on Thursday I would be able to send the headings of a Bill to parliamentary draughtsman on the following day" Mr. Hattersley said.

Award winners

The first of Campaign's awards went to an educational psychologist who lost his job after drawing parents' attention to restrictions on what he could tell them about their children.

John Linsie, assessed the special educational needs of children with learning difficulties. Under the 1981 Education Act parents are entitled to copies of such professional advice. But Solihull Council instructed its educational psychologists to withhold certain information, including details of which schools children should be sent to. Mr. Linsie was dismissed after drawing parents' attention to this policy. An Industrial Tribunal later ruled that his dismissal was unfair.

Two local authorities received environmental awards.

Southend-on-Sea Borough Council monitors its beach water quality daily during the summer. The analysis results are given to the press each week and full reports are publicly discussed in committee.

Torfaen Borough Council received an Award for contesting a High Court injunction preventing it publishing information about PCB pollution around a local chemical incinerator. If the injunction's legal basis had been upheld it could have restricted all local authorities' freedom to publish pollution information.

Doug Henderson MP's successful private member's bill, allowing people to see their manually held medical records, won him the Campaign's parliamentary award. His bill, twice blocked at second reading, is now the Access to Health Records Act and comes into force in November 1991.

The **Northern Echo** received a media award for consistently exposing secrecy in local authorities and other bodies. When an American company applied to build a waste disposal incinerator locally, it sent a reporter to the States to investigate its record, using the Freedom of Information Act.

Channel Four's **Hard News** received an award for its consistent reporting of the distortion of information by the press. It has successfully defended itself against injunctions, a libel action and five Broadcasting Complaint Commission inquiries.

Consumer affairs correspondent at the Guardian, **James Erlichman** won an award for his effective exposures of the way secrecy is used to conceal the hazards of food, drugs and consumer products.

Roy Hattersley presents an award to John Linsie.

Grammar book gets the Spycatcher treatment

Education ministers have suppressed the results of a £21 million study on the teaching of English grammar. The guide, intended to increase teachers' understanding of teaching methods was produced by the Language in National Curriculum Project. It is the result of a massive project in which thousands of teachers have received practical training in new teaching methods. The guide was to have been published by HMSO. But ministers have decided that it does not give enough emphasis to traditional formal methods, and have refused to publish it.

More significantly, they have made sure that no one else can either – by refusing to waive Crown copyright. Several commercial publishers who have expressed an interest in publishing the guide will not be allowed to do so. Copyright is of course supposed to protect the commercial interests of authors and publishers in their work, not be an extension of official secrecy laws.

To complete this tale of suppression, ministers have barred the publication of a favourable assessment of the project by Her Majesty's Inspectorate of schools. Five inspectors spent 65 days inspecting the work. But their report – initially intended for publication in July 1991 – has suffered the same fate as the guide.

The US FOI Act

Secret in Britain – available in the US

In this special report Maurice Frankel shows a little of what can be learnt about Britain using the American Freedom of Information (FOI) Act. The information, about safety and environmental issues, is all confidential here – yet freely available from the American government.

The FOI Act gives the public the right to information held in US government files – and can be used by anyone, even a British citizen living in the UK. The Campaign has been using the Act to see what is available – and to show what we would be able to learn if Britain had its own Freedom of Information Act.

There are no military secrets, no trade secrets and no personal information about private citizens in this report. Such information is all exempt from disclosure under the Act (see box). Some of the documents sent to the Campaign contained blanked out passages, where information – usually about a company's manufacturing process – had been withheld. Anyone who suspects that information is not genuinely exempt can ask the agency to review it again, and if still dissatisfied challenge the decision in a federal court.

Fees can be charged for the time spent processing requests and for photocopies. But the press pay photocopying fees alone, and all fees are waived for small requests from non-commercial bodies, or if disclosure is shown to be in the public interest.

The Act requires applicants to "reasonably describe" the records they want, so a request for "anything you hold about Britain" could have been refused as unacceptably vague. To pinpoint information of interest we first discussed with officials what types of records they held. Then we applied for easily identified items – inspection reports on UK premises or safety information on British products. This increased the chances of turning up material of British interest, but may give an unduly narrow view what can be obtained. The range and depth of available information is much greater than this report may suggest.

Future issues of this newspaper will give other examples of information released about Britain – and explain how to go about using the FOI Act. And we will describe our proposals for a *British* Freedom of Information Act.

The Act's exemptions

Information can be withheld under the FOI Act if it falls within one of the Act's exemptions. The main exemptions apply to: classified information about defence, foreign relations or national security; law enforcement records likely to cause specified types of harm; internal advice and opinions which are part of the decision-making process; purely internal personnel rules; trade secrets or confidential business information supplied voluntarily to the government; documents prepared in connection with litigation; records whose disclosure would be an unwarranted invasion of personal privacy; and information specifically protected from disclosure by other laws.

Cruise ship hygiene

Inspection reports disclosed

British cruise liners sailing from Southampton to New York are inspected by health officials in both cities. A vast amount of information about their hygiene conditions is available from the US authorities – usually none is available in the UK.

Any cruise liner on an international voyage which calls at a US port is inspected by the US Centers for Disease Control's (CDC) Vessel Sanitation Program. The inspections cover Cunard and P&O's Princess Cruises ships crossing the Atlantic and those sailing from the US to the Caribbean, Mexico, Canada and elsewhere.

The inspection reports, the company's response to them, the numbers of cases of diarrhoeal illness on each voyage, and reports into outbreaks of illness on ship, are available under the FOI Act.

The CDC also publishes a regular bulletin indicating each ship's rating at its last inspection. Thousands of copies are routinely distributed to travel agents, the industry and the press and individual passengers. Before they book a cruise, passengers can see whether the ship is having problems – and take this into account before deciding (see box).

Such information is not available in the UK at all. Occasionally a serious outbreak of illness may result in port health officials submitting a report to the relevant local authority committee. In theory this could be debated in public. But if enforcement action was being considered the public would be excluded.

Only if a prosecution was brought would information be certain to become public. Because most problems are rectified informally, this is extremely rare. One health official said the last case he could recall was 18 years ago.

According to one chief port health officer: "We would follow up any problems with a letter to the company concerned. These are not for public disclosure. We have always worked on a very confidential basis with shipping companies. If they fail to respond or are not forthcoming – and this very seldom happens – we would put a report in to the appropriate committee and members would decide what to do. We would not release them to the public."

This officer added that he would personally welcome a freedom of information law covering information on all safety matters.

In the US, publicity is part of the enforcement philosophy. After each inspection cruise operators are reminded that the inspection report will be publicly available. They must submit a statement of the corrective action taken and this too is disclosed. Substandard ships are reinspected soon after, which gives operators the chance to demonstrate to potential passengers that they are now up to scratch.

The programme appears to have been highly successful. In December 1988 only 54 per cent of ships were reaching the required standard. Twelve months later the figure was 67 per cent. By July 1990 it was 77 per cent and in March 1991 81 per cent of ships – including nearly all the British owned ships – were complying.

The head of the CDC's Vessel Sanitation Program, Mr Thomas Hunt, said the publicity "certainly makes a difference. The industry realise that anyone can request a copy and then make an informed decision on whether to go on the ship. It puts pressure on them and we don't find that at all bad".

Openness "more" effective

Mr Peter Rotheram, Secretary of the Association of Port Health Authorities, said that if a passenger asked about the findings of an cruise liner inspection he had done "I wouldn't really be able to tell them anything, unless enforcement action had been taken."

And he added: "It's not as effective as the US system which I would certainly prefer to work under. I approve, definitely. I don't believe in hiding things."

"Passengers ring up"

A representative of one of the cruise companies in the US said passengers sometimes phone up and threaten to cancel bookings after an adverse inspection report – though rarely if ever actually do so.

"No one wants to go on a ship that they feel is dirty. When a report comes out and it's bad we get a lot of calls. Down in Florida they get a lot of publicity. It makes it very difficult. Some people check and find out which ships have passed or not. They go right through the inspection report with me. They say: what did you do about this, what did you do about that? Sometimes if they reinspect soon enough, everything will have been put right prior to the publicity. Then I'm in a pretty good position. They say what was wrong? And I give them a few for-instances and tell them how they've been put right."

How British ships score

Fifteen out of 16 British cruise liners were regarded as satisfactory at their last US inspection, according to US Centers for Disease Control's (CDC) figures for the week ending April 12, 1991. But Cunard's *Queen Elizabeth 2* fell below the expected standard.

Under the inspection system, points are deducted out of 100 for each deficiency. For example, five points are lost for failing to keep drinking water systems properly chlorinated; cockroaches lead to a penalty of three points; dirty food contact surfaces, two points, and so on.

A ship scoring between 86 and 100 is rated as satisfactory: 85 or less is unsatisfactory.

The CDC's inspection summary for April 12, 1991 showed that at their last inspections British ships were amongst the highest rated. These included P&O's *Sky Princess* (96), *Canberra* (95), *Pacific Princess* (92), *Star Princess* and *Island Princess* (91 each) and Cunard's *Vistafjord* (95) and *Sea Goddess* (92).

Problems

However, some ships have had recent problems:

● The *Queen Elizabeth 2* was found to be below the satisfactory standard of 86/100 in two out of four inspections over a 17 month period, and borderline in a third.

The ship scored 74 (December 1989), 89 (July 1990), 85 (November 1990), and 77 (April 1991).

The December 1989 inspection, carried out in Florida, revealed cockroaches in several locations: in the bread slicing room, on grill surfaces in the kosher kitchen, outside a walk-in refrigerator, and in the Grand Lounge Pantry. Cunard told the CDC that the infested areas would be treated, and no evidence of the problem was found at the ship's July 1990 inspection. However, cockroaches were again found in kitchen areas in April 1991.

Other problems reported at the April inspection included "many pans . . . found soiled with food residues after washing"; the interior and exterior of an oven "heavily soiled with food residue and dust"; and glassware leaving a glasswashing machine "soiled with food debris".

● P&O's *Fair Princess* failed to reach satisfactory standards on three occasions during 1990, scoring 71, 76 and a low of 66. On a subsequent inspection, in February 1991, it was rated satisfactory (87).

● The P&O's *Sky Princess* scored only 55 points out of 100 in November 1989 – well below standard. Equipment used to monitor chlorine levels in drinking water was not working accurately; disinfection of swimming pools and a jacuzzi was inadequate; and protective devices such as air gaps, used to prevent drinking water being contaminated by backflow from swimming pools and even a hose used in the ship's hospital ward, were absent.

The company responded that it had immediately corrected many of these problems; and new water disinfection and monitoring equipment was later installed. Subsequent inspection scores were uneven and sometimes below standard – 89, 75, 87 and 77 – but rose to a high level, 96, in January 1991.

● Occasionally incidents of illness aboard cruise liners have reached epidemic proportions. One such episode involved the P&O's *Canberra* in July 1986, when more than 600 passengers and crew were taken ill with vomiting and diarrhoea during a series of cruises from British ports. At one point Southampton port health officials were quoted as expressing "grave concern" that the ship had sailed on a new cruise without having implemented all their recommended hygiene improvements. [*Times, 11.7.86*] The illness was later traced to a virus, thought to have harboured in the ship's showers and lavatories. At its most recent US inspection (January 1991) the Canberra was one of the best rated ships seen by the US authorities.

The QEII: hygiene conditions below standard. *Photo: Press Association*

A special four page report

Data on 90% of pesticides still secret

"The UK leads the world in the amount of information released on pesticides."

"The UK is second to none in the amount of information made publicly available."

These statements were made by the food minister, David Maclean, in November 1990. Unfortunately they are not true.

Information on the safety of most British pesticides is still available only under the US Freedom of Information Act. Britain is moving towards a more open system. But new disclosure arrangements introduced in 1987 so far apply to less than 10 per cent of pesticides.

For a relatively small number of the newer pesticides, substantial information is disclosed. When a new pesticide is given approval, or the conditions of an old approval are changed, an evaluation of the information seen by the government's Advisory Committee on Pesticides is now made available. This summarises in considerable detail the results of the manufacturers' toxicological and environmental studies. The studies themselves can be inspected at MAFF offices in Harpenden, though not photocopied or removed.

This scheme, laid down in the Control of Pesticides Regulations 1986, is extremely valuable – yet very limited. Its weakness is that only information discussed in an evaluation document can be disclosed – other safety details are not available.

The overwhelming majority of pesticides are not yet the subject of evaluations. By May 1991 evaluations had been published for only 36 of the 400 or so pesticide chemicals in use. Information on over 90 per cent of pesticides remains confidential.

Old products are being reviewed, and one by one evaluations will be produced, but the process will take many years.

One bizarre consequence of this approach is that if new hazards are discovered *after* a pesticide has been evaluated – and they come to light all the time – they too are confidential. The new information cannot be disclosed, unless another evaluation is later produced.

The result is that pesticide data only become available when the government is certain that a product meets the latest safety requirements. Where its safety is in doubt, or the government hasn't got round to looking, the information is kept secret.

The Ministry of Agriculture says it hopes, with the industry's agreement, to find a way of allowing access to older, unreviewed data. But there is no guarantee that agreement will be reached. In the meantime, the main source of information on most pesticides used in the UK is still the USA.

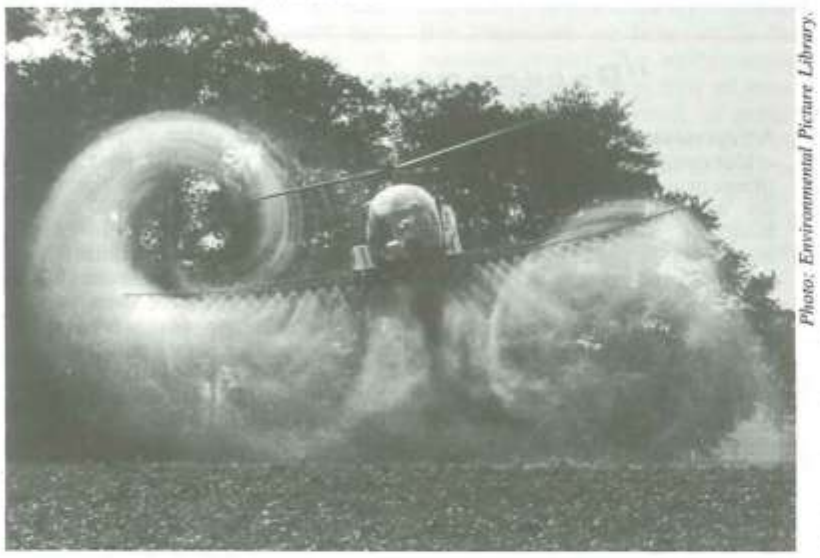


Photo: Environmental Picture Library.

British data available from Washington

Information on all US pesticides – including most of those used in Britain – is available under the FOI Act. As well as safety data, requesters can obtain the Environmental Protection Agency's (EPA) reviews of each study, memos between different EPA branches and correspondence with manufacturers and other outside bodies. For old pesticides, whose safety is under review, special arrangements allow even more immediate access.

A typical example is captan, a fungicide sold by ICI in both the UK and the US. Captan has caused cancer in animal experiments. The EPA classifies it as a "probable human carcinogen", though the carcinogenic effect is thought to be weak (fewer than one additional case of cancer per million people exposed over a lifetime). The fungicide is permitted for use on certain fruit crops in both countries.

MAFF is currently reviewing the safety of captan. The information it holds is confidential.

A similar US review was completed in 1989 – and was totally open. Each document obtained was placed in a public reading room within 10 days of its receipt. If the data or interpretation seemed flawed others could point this out during the review. This cannot be done in the UK.

Anyone can walk into the EPA's public reading room in Washington, without appointment. A constantly updated index describes what is held. Visitors go directly to the filing cabinets, select the documents they want and copy them on a self-service photocopying machine. The first 100 pages are free; for environmental groups subsequent fees may also be waived.

Just the index of what is available on captan runs to 29 pages. Every safety report, every letter and a minute of every meeting is on file. Only trade secret information about manufacturing processes is not accessible.

Correspondence with ICI Americas (ICI's US subsidiary) and other manufacturers is open. Lobbying by farmers and food processors, industry and environmental groups is all on the record. So are letters between EPA and government departments in Britain.

The files even hold the once relied on, and now discredited, safety studies by IBT, a commercial laboratory known to have falsified its findings. IBT data was submitted in the UK too, but the affected pesticides have never been identified.

During the US reviews an independent Scientific Advisory Panel questions industry scientists and EPA experts about uncertainties in the data. The meetings are public and a full transcript is published. Meetings between the UK's Advisory Committee on Pesticides and company scientists also occur – but in total privacy.

EPA's initial assessments of the hazards of captan and its economic importance were challenged by industry; and EPA later modified some estimates as a result. Were these changes justified? In Britain we would never know that the figures had been revised at all. In the US the whole process is open. EPA's final decision document identifies each criticism made of its original proposals, says where it comes from, and explains why it has been accepted or rejected.

Lost formula

"We are in need of a copy of our Confidential formula for 'Complete Vegetation Killer' . . . We have misplaced this formula information and need it as soon as possible."

Freedom of information request to the EPA from Nationwide Chemical Company Inc., after forgetting how to make one of its pesticides. October 1990.

Car Safety

Problems on the road

Details of safety related complaints made about British cars in the US are available under the Freedom of Information Act.

Motorists whose cars develop safety defects are encouraged to report them on a toll-free hotline to the US National Highway Traffic Safety Administration (NHTSA). Each caller is sent a questionnaire requesting details of the defect and any accident it caused. These are reviewed and entered on a data base, which is used to identify possible manufacturing defects.

Print-outs from the data base can be obtained under the FOI Act, along with details of any resulting investigations, action taken and technical reports.

The Campaign was sent a NHTSA print-out listing 38 complaints received between 1987 and 1991 about Land Rover and Range Rover vehicles. Some of these – such as reports of faulty air conditioners – were not safety related. Others, such as brake failure or sudden surges of speed while driving are potentially more serious. However, the numbers are small and likely to be isolated events which could have been caused by poor maintenance or driver error. (Both NHTSA and Rover suggested the latter was the most likely explanation particularly for complaints about surges). The information must be treated with caution, since most listed complaints will not have been investigated by NHTSA.

However, if a genuine problem was occurring the chances are that it would be reflected in these reports.

Despite the limitations of the data, British consumer and safety organisations were envious of the access available in the United States. Peter Sand, Chief Scientific Officer at Consumers' Association said access to such data would be valuable for *Which?* magazine. If their own tests of cars suggested a fault, it would enable them to check whether it was actually being experienced on the road. He added: "There is a case for saying that motoring organisations and consumer bodies should be able to look at the data and reinforce the efforts of the Department of Transport. If it's not available then one doesn't know whether they are dealing with them or not. The motor industry will say they will be misinterpreted but that's a risk we ought to take in the interests of safety."

This view was shared by the Royal Society for the Prevention of Accidents. David Rogers, RoSPA's Safety Adviser said he would "certainly want to see this information, it would be very useful. I would value that sort of information on a regular basis. It gives us an indication of what is going wrong and what the manufacturers aren't talking about. It would help consumers make choices."

In Britain the Department of Transport's Vehicle Inspectorate has a similar data base, which receives some 700 reports a year. Information from it is available to statutory authorities such as local authority Trading Standards officers – but not to the public. A spokesman said this was because (like the US data) they include uninvestigated reports and "if irresponsibly published they could set hares running for no purpose".

Another pair of eyes

"A lot of people use the complaints reports they get under the Freedom of Information Act. Attornies trying to make comparisons in liability cases. Consumer organisations use it to try to compare safety defects of vehicles, and it does enable them sometimes to put questions to agencies on behalf of consumers to get things done. They press us to do investigations. They look at the data too, its like another pair of eyes looking at the data."

Jim Talentino, Chief of Defects and Investigations Division, US National Highway Traffic Safety Administration.

From the EPA's files

Examples of documents on captan and other pesticides publicly available in the EPA reading room include:

14.3.88 Letter from ICI Americas to EPA on behalf of an industry coalition stating that a 90 day rat inhalation study being done on captan at an external laboratory was being inadequately conducted and has been stopped.

12.4.88 Letter from ICI Americas summarising studies on captan in progress. 3 pages.

12.4.88 Minutes of meeting between ICI Americas and EPA to discuss outstanding data on captan.

10.8.88 Letter to ICI Americas, discusses environmental assessment data. 1 page.

9.1.87 Minutes of meeting between EPA and American Seed Trade Association on the feeding of captan treated seed to cattle and hogs.

Undated, EPA risk analysis of captan for acquatic and terrestrial wildlife. 8 pages.

25.7.85 South Carolina Peach Council, letter, opposes ban on captan. 1 page.

23.9.85 US Department of Agriculture, Letter, opposes ban on captan. 1 page.

23.8.85 Flavorland Foods Inc., Letter, supports use of captan on cranberries and strawberries. 2 pages.

Undated, Cox D. R., Imperial College, London. 34 pages report on captan.

8.6.90 Letter from Admiral E. R. Zumwalt, US Navy, to EPA. Discusses potentially dangerous contaminants in 2, 4-D formulations. 26 pages.

1.8.90 Letter from Dr R. Jackson, American Academy of Pediatrics. Criticises EPA and the manufacturer Rhône-Poulenc's communications on the safety of potatoes treated with aldicarb. 3 pages.

6.7.90 Letter from Rhône Poulenc reporting that aldicarb has been detected in a well in Alabama. 2 pages.

8.6.90 Letter from J. D. McGuinness, Health & Safety Executive (UK) forwarding a report on tributyltin oxide.

5.9.90 Letter from M. M. Cassie, Department of Agriculture and Fisheries for Scotland. Responds to EPA's request for a clarification of the term crabapples. 5 pages.

27.7.90 Report from US Fish & Wildlife Services documenting carbofuran poisoning of eagles and other wildlife in New Mexico. 80 pages.

22.13.91 Minute of meeting with FMC Corporation to discuss the need to make substantial reduction in exposure of birds to carbofuran granules. 3 pages.

24.8.90 Minutes of meeting between Du Pont, BASF and other manufacturers to inform EPA of possible irregularities in analyses of the fungicide EBDC in food performed by an external laboratory.

13.2.91 Minutes of meeting with Monsanto Company to discuss risk assessment review of alachlor.

15.8.90 Letter from German Embassy opposing proposed tightening of food residue standards for EBDC fungicides.

24.8.90 Letter from European Commission delegation, proposing that regulation of EBDC residues in food should be done in such a way as to avoid possible trade difficulties between trading partners. 2 pages.

Meat inspection

The one plant where reports are open

British poultry plants which export to the United States are visited by American government inspectors – and their hygiene reports are available under the Freedom of Information Act. The same plants are inspected by veterinary officers from the UK Ministry of Agriculture, Fisheries and Food (MAFF) – whose reports are confidential.

Only one poultry plant is licensed for export to the US: Bernard Mathews plc, of Holton, Suffolk. Exports began in 1989, and the plant was first inspected by a US Department of Agriculture official, accompanied by the MAFF veterinary inspector, in September that year. The inspection reports were released to the Campaign.

The results are graded on a form which lists some 80 separate items. At the first inspection 50 items were marked acceptable, eight as marginal and two as unacceptable. (Three were illegible and other items were not inspected or not applicable.) The plant's overall evaluation was "Acceptable/Re-review", indicating some dissatisfaction. However, at each of three subsequent inspections the plant was "Acceptable". No individual items were described as unacceptable, and the number of "marginal" items decreased on each occasion. By June 1990 73 "acceptable" items and only three "marginal" items were reported.

But even such summary information – which in this case is likely to enhance confidence in the firm's products – is not released by the British authorities.

The secrecy has recently been highlighted over abattoir hygiene. Slaughterhouses are licensed by MAFF but under the day-to-day control of local authorities. About 10 per cent have licences to export within the European Community and are also inspected by EC officials. Answers to a series of parliamentary questions by Labour's agriculture spokesman, Dr. David Clark MP (8.3.89 and 13.6.90) indicate how little we are allowed to know.

- The government has refused to publish EC inspectors' reports on British meat plants. It says these "refer to individual plants and must remain confidential".
- It has refused to name slaughterhouses whose EC export licences have been suspended because of substandard conditions. Between 1982 and 1988 39 premises had their licences suspended, and 73 were warned of possible suspension.
- The government will not say how many of the suspended premises continued to supply the UK market while deemed unfit to export to Europe. The minister replied that domestic standards were a matter for local authorities and that "records of enforcement action by local authorities are not maintained centrally".
- It will not even reveal what *percentage* of slaughterhouses were found to be satisfactory by MAFF veterinary officers. The minister declared that this information "is for the local authority to act upon." He later added that reports were not published because "they are the property of the local authorities". *(The Times 16.6.90)* The information is not disclosed by local authorities either.

This secrecy could not survive if British meat was exported to America – the US inspectors' findings at British plants would be available under the FOI Act. But unlike poultry, no read meat from Britain has been supplied to the US for at least 10 years.

Openness "detrimental to companies"

The Campaign asked MAFF why Britain didn't follow the US practice of disclosing inspection reports. A spokesman said: "We don't divulge information on a plant by plant basis. We try to avoid disclosing information about individual plants because it could be detrimental to their trading position."

He added: "Our objective is to protect the consumer. If we produce an adverse report, and the plant is closed down or whatever, if you're not very careful you're not only penalising them for the public health problem, which of course you should, but you're penalising them because other people may refuse to buy from them. You're penalising them twice."

Wouldn't openness help ensure that failings were immediately corrected? The spokesman described this suggestion as "bilge". He added: "We have no need to tell the public what's going on because we get things done in double fast time by threatening to suspend their licence. We suspended one plant's licence on a Friday and by Monday they had got it back, that's how quickly they move."

If that is the normal response, it is indeed reassuring. But is it? How bad do conditions need to be before anyone threatens to suspend a licence? How quickly are improvements made without this threat? With so little information available it is impossible to know.

But one example suggests that firms don't always jump when failings are pointed out to them.

In December 1988 it was revealed that a quarter of factories supplying processed animal feed had failed MAFF inspections the previous year. The feed, containing reprocessed animal protein made from offal was found to be contaminated with salmonella. Recycling of contaminated animal material is thought to have contributed to outbreaks of salmonella food poisoning. A similar process, involving a different organism, was probably responsible for the development of BSE or "mad cow disease".

How promptly was this serious contamination dealt with? *The Independent,* reported that "none of the 21 plants was prosecuted, production was not halted and none of the dirty protein was destroyed. Four of the plants were found to be infected on a second inspection and one was still dirty when inspected for a third time". (24.12.88.)

Surely publicity would have accelerated this leisurely response? Characteristically, there was none: "The names of these infected factories, and another 17 found to be contaminated this year, are a state secret. A direct request was made by *The Independent* to the minister to reveal the names and addresses. Mr. MacGregor (then Minister of Agriculture) said that the identity of the plants concerned was a matter of commercial confidence and so could not be made public. A spokesman said the names of the dirty producers had been given to the ministry in confidence by inspectors and the ministry could not betray the inspector's undertaking to maintain that confidence."

Pharmaceutical quality

FDA inspects British firms

A temperature recorder used to check that sterilising equipment reached the right temperature failed so often, that staff at Evans Medical Ltd., a Liverpool pharmaceutical firm finally ignored it. The result was that bottles of dextrose solution – used to feed patients intravenously when they cannot eat – left the plant in 1972 without being properly sterilised. Five patients at a Plymouth hospital died of infection after receiving contaminated solution.

To try and avoid such problems, pharmaceutical manufacturers are monitored by inspectors from the Department of Health's Medicines Control Agency (MCA).Their findings are not disclosed. Indeed, disclosure is prohibited by section 118 of the Medicines Act 1968, and could even lead to criminal charges.

But information about many British pharmaceutical manufacturers is available from the US Food and Drug Administration (FDA). FDA inspectors visit UK firms which export to the US, and the reports are available under the FOI Act. So are reports on UK manufacturers of surgical devices, such as heart valves; and toxicology laboratories testing the safety of medicines or food additives.

In the US inspection reports are obtained by consumer groups investigating potentially hazards products, and by lawyers acting for people who believe they have been injured by poorly made medical devices or inadequately tested products.

They are available to hospitals wishing to check that products they buy are manufactured to the highest standards.

Many pharmaceutical companies obtain inspection reports to monitor changes in FDA enforcement emphasis or to check that their suppliers or contract laboratories are up to scratch. A US parent company sometimes applies for reports on its British subsidiary to ensure that it is not running into regulatory problems in the UK. In this country even the firm itself cannot see the British inspector's report – though it gets a letter pointing out deficiencies.

A spokesman for the Department of Health said all that the public would be able to discover, and really needed to know, was that a firm was licensed. One consequence is that even hospitals and health authorities are not able to distinguish between suppliers that are on the borderline of acceptability and those using state-of-the-art safeguards.

The quality control pharmacist in one health authority said he would find inspection reports very useful particularly if he suspected a manufacturer had quality control problems. He said the MCA felt unable to discuss such matters. And he added that it was even difficult to discover that a manufacturer's licence had been suspended. Some years ago he had discovered a suspension only by chance, after visiting a supplier's plant and noticing that production had stopped. The company suggested they could continue to supply stock produced prior to the suspension – an offer he did not pursue.

The Department of Health said that with a serious quality defect the product would be recalled. But in other cases they would not make a suspension public. The manufacturer would have to stop production, but would be free to sell earlier stock. A spokesman pointed out that the quality problem may have developed recently – and not have jeopardised earlier products. However, purchasers would undoubtedly feel that a suspension raised a question mark about earlier stock. They would not be informed of the suspension by the MCA and would learn of it only if the manufacturer volunteered the information, or the product became conspicuously unavailable.

This difficulty would not arise if the FDA happened to detect the same problem. Their inspection reports are freely available.

Ironically, the MCA itself does not receive these. British inspectors sometimes accompany their FDA colleagues on inspections. When they do not, there is no guarantee they would learn of problems detected at British premises.

The Campaign obtained a printout of UK firms inspected by the FDA between 1987 and 1989. They include Wellcome Foundation; 3M Healthcare; Glaxo; Merck Sharpe & Dohme; Celltech; Purolite International; CP Pharmaceuticals; Sterling Organics; Huntingdon Research Centre; Cyanamid; Boots; Beecham Products; and Harwell Ltd.

A selection of inspection reports was obtained. They indicated that British companies were generally meeting US standards. However they also revealed deficiencies. Many were minor and were corrected during the inspections themselves. In other cases inspectors left with a promise that they would be remedied before their next visit.

In some cases the reports suggest that FDA inspectors were pointing to weaknesses at UK premises that one might have expected to have been corrected by British inspectors.

Were these not regarded as problems here? Alternatively, had British inspectors missed the problem or, more likely, not inspected the plant recently? The Department of Health said that while some plants would be seen frequently others could go for up to two years without inspection. That raises a question about how much reassurance should be taken simply from being told that a plant is licensed – which is all that would be revealed here. The openness of the American reports gives an explicit account both of the standards of firms and the degree of supervision by the regulatory agency. Under the British approach neither can be questioned.

What the reports show

To avoid making unnecessary demands on FDA time, the Campaign asked for copies of inspection reports on British pharmaceutical plants which had already been cleared for release to previous US requesters. The reports obtained related to the period 1986-87; and so are not representative of current conditions. In all cases the firms promised to correct the deficiencies and no doubt will have done so long ago. However the extracts below do illustrate the nature of the information available.

"This inspection found the firm in substantial compliance . . . The firm has an extensive monitoring program for the clean room and the sterile area . . . The domestic steam system is used in the autoclave (sterilising equipment) and to sanitize piping and vessels. This steam is generated by the facility's boilers and is also used to provide heating for the site. Three different boiler additives are automatically added to the boiler feed reservoir . . . There is no monitoring of the steam, either microbiologically or chemically and the quality is not known. The firm does not know the composition of the three boiler additives which are used and they have not checked for residues in the steam. I told the firm that this was a *serious* deficiency, since it is used in the autoclaves and in the product vessels and transfer lines, with many contact surfaces . . . I told them it is not generally acceptable to use domestic steam where clean steam should be used."

Inspection of CP Pharmaceuticals Ltd., (a Fisons subsidiary) Wrexham, June 1986. In response the company stated that information about the composition of the additives had now been sought, that monitoring of boiler water and steam residues in vessels would be carried out, and that a new still capable of producing pure steam was due to be installed at the end of the year.

"Several problems were found involving the chloroquine sulfate operation. The [*deleted*] equipment was not in good condition. Sterling has no humidity controls for the areas in which chloroquine phosphate is processed and packaged although the material is hygroscopic [absorbs water from the atmosphere] . . . it was found that material produced in April of 1987 exceeded the specified yield range . . . One possible explanation for these unexpectedly high yields would be moisture uptake . . . Outdated [*deleted*] instructions and batch records were being used for the [*deleted*] operation . . . Sterling agreed to correct these objectionable conditions . . . [and will] re-evaluate the adequacy of the chloroquine phosphate operation from a homegeneity standpoint."

Inspection of Sterling Organics Ltd., Dudley, December 1987.

"This inspection revealed that the corrective actions [requested at the previous inspection] have been fully implemented . . . [named staff] appeared to be very knowledgeable of the scientific principles and the techniques involved in production . . . I reviewed and examined in detail the records for each of the steps involved in manufacturing. The records appeared adequate . . . The quality control records appeared acceptable . . . I recommend that Celltech's application to amend their establishment licence be approved provided all other considerations are in compliance . . . "

Inspection of Celltech Ltd., Slough, October 1986.

Trade secrets

The Association of British Pharmaceutical Industry told the Campaign it had no objection to releasing inspection reports to the public as such; their only concern was that confidential manufacturing details might be revealed. Mr Ben Hayes, the association's Public Affairs Manager, said that if they were satisfied about trade secrecy protection "that would allay our main concern".

The suspicion that US companies use the FOI Act to try and uncover their competitors' trade secrets is sometimes voiced. In fact the FDA reports seen by the Campaign showed heavy editing of manufacturing process details. Typical extracts from one FDA report include:

"A total of *[deleted]* batches of *[deleted]* have been processed since the beginning of 1986";

"When I asked for the firm's specifications for the tubing, they stated they would obtain them from their supplier, *[deleted]*";

"The batch record states to use Speed *[deleted]* on the *[deleted]* mixer. However the actual speed of the mixers when set at the required speed has never been checked."

Mr. Wendell Peterson, director of quality assurance for the US manufacturer Parke Davis told the Campaign that he insists that his staff routinely monitor FDA reports in order to stay abreast of latest FDA quality control requirements and changes in regulatory emphasis.

He said: "After personally having looked at hundreds of inspection reports I can truthfully say I have never picked up anything of interest aboutother companies. I think the FDA bend over backwards to protect trade secrets and probably delete more than necessary. I have a personal opinion that all the talk about the release of trade secrets is a lot of nonsense. I don't know of any company where it's happened. If anyone could point to a single example where it's happened I'd be a lot more impressed with those arguments."

Pollution incidents

Fuel spills

"The fuel spill occurred at 0830 hours on 11 October 1990 at Hardstand 1. Approximately 30 to 60 gallons of JP8 aviation fuel syphoned out through the ventilating valve situated underneath the right wing of a C141 Starfighter Aircraft. Most of the fuel spilt onto the ground of the hardstand. The Fire Department cleaned up this fuel using absorbing materials. Approximately five gallons of fuel reached the edge of the hardstand and contaminated an area of soil (1 ft. by 30 ft., depth unknown), this contaminated soil will be removed by PSA (the Property Services Agency of the Department of the Environment) and properly disposed of . . . No permanent damage has been caused to the environment."

This is an extract from an internal report on a fuel leak at the US Air Force base at Mildenhall, Suffolk in 1990. Records about environmental incidents at US bases in Britain are available under the FOI Act. In the UK this information is not available about ordinary factories let alone military bases.

A pollution incident in the UK might be investigated by HM Pollution Inspectorate. Its monitoring results would be available on a public register. But the public has no right to see its reports into the cause of the incident or the environmental or health consequences. A government promise that environmental investigations would have to be placed on public registers has been broken (See page 2).

The documents obtained under the FOI Act relate to the US Air Force bases at Mildenhall and Lakenheath in Suffolk. They show the capacity of oil storage tanks, the date each was last checked for leaks, and the number of individual spillages. For example, there were 19 separate incidents at Lakenheath in October 1990 alone. The Mildenhall documents include internal reports on individual spills, the largest of which involved 120 gallons of fuel. Most were contained but occasionally quantities of fuel reached drains.

In the past the base has caused major problems. In 1983 chlorinated solvents used in degreasing fluids at Mildenhall seeped into a borehole supplying 30 million gallons of drinking water a day to neighbouring areas. The contaminated source had to be shut down, and alternative supplies used.

In 1989 the *Sunday Times* reported that the Pentagon had asked the US Congress for an additional $3.4 million to build new jet fuel storage tanks at Mildenhall. A Pentagon budget application stated that some tanks were more than 50-years-old and "have exceeded their safe design life". Existing fuel tanks "have deteriorated, causing seepage between the metal seams and environmental problems". If they were not replaced they would continue to deteriorate and will hamper "mission operational effectiveness". The newspaper added (3.9.89) that a USAF spokesman had accepted that the documents were authentic, while denying that Mildenhall's fuel tanks leaked.

This suggested either that a serious problem was being concealed – or that a minor problem was being exaggerated in order to boost the case for more funds.

The documents obtained by the Campaign describe accidental spills during the fueling of aircraft or the filling of storage tanks at Mildenhall. Separate records on underground storage tanks indicate that there were no *detected* leaks during 1989. However, many of the tanks – including one installed in 1931 – have never been tested for leaks while others have never been cleaned or inspected. The condition of the area surrounding many of them is described as "unknown".

How MPs were 'thwarted'

In 1985 the British tin industry was brought to the verge of bankruptcy by the financial collapse of the International Tin Council (ITC) – an international body, on which Britain was represented, which regulated the price of tin. The Trade and Industry select committee attempted to discover what if anything the British government had tried to do about the impending crisis. It reported that it was "considerably hampered" by the ITC's refusal to supply information and by the government's "unnecessarily obstructive" attitude. It concluded "we have been effectively prevented from discovering all the facts about . . . the role of the Government in the crisis. The House has a right to know about this, and it must be a cause of grave concern to all Members of the House that one of its Select Committees . . . has been thwarted."

However, the Committee did obtain some important information: several ITC reports which had been released under the US Freedom of Information Act. A Conservative MP on the Committee, Robin Maxwell-Hyslop, questioned Department of Trade and Industry officials about one:

Q: In the report by the Buffer Stock Manager . . . released under the Freedom of Information Act, he says:

"As we have reported over the last three years or so the fact that hardly any cash was contributed to the Sixth Agreement was gambling on the good fortune of Buffer Stock operations, and so far the gambling by ITC members has fortunately paid off . . . mainly due . . . to . . . the increase in the US dollar . . . our message [is] the ITC should stop gambling on its good fortune in view of what is at stake, i.e. the fortunes of the entire tin-making industry."

Is that statement . . . true within your knowledge?

Mrs. Jones: I am afraid I am not allowed to confirm the contents of the discussions in the Tin Council.

Q: I am referring to a document released in the United States of America under the Freedom of Information Act.

Mrs. Jones: I am aware this is the case . . . My understanding is that from our point of view we are still not in a position to discuss a document of the Tin Council. Perhaps I could ask my colleague to take up that question.

Q: Mr. Lunn, when you took over . . . were you aware that such warnings had been given by the Buffer Stock Manager . . .?

Mr. Lunn: . . . all I can say is that I had read and was briefed and informed by my predecessor about what was going on.

Q: But I am asking you whether the Buffer Stock Manager's statement is accurate insofar as you are informed?

A: But I have instructions that I may not discuss the contents of that document . . .

Sir Brian Hayes (Permanent Secretary at the DTI): I understand . . . [they] have come into the public domain under the Freedom of Information Act . . . The United Kingdom Government retains an obligation not to discuss the contents of these documents with third parties without the consent of the International Tin Council as a whole and . . . that consent is not forthcoming.

Drug companies oppose consumer voice

"Participants . . . included Charles Medawar of Social Audit [a UK group], Dr. Andrew Herxheimer of the UK consumer organisation, Dr. Sidney Wolfe of Public Citizen Health Research Group, Washington DC., and Dr. M. N. G. Dukes of WHO [World Health Organisation]. I cannot recall ever hearing or reading of one of them speaking in admiring terms of the US pharmaceutical industry. To learn that they had been brought to the NIH gathering at US taxpayer expense was certainly aggravating . . . My own impression is that further meetings of this group would only intensify an obviously inherent bias and culminate in an outright attack on free enterprise . . . I trust you will use the influence of your office to limit this particular activity."

Letter from Dr. Thomas Christie, Vice President of the US pharmaceutical company Wyeth International to Dr. Edward Brandt, US Assistant Secretary for Health, December 1984.

This letter, released under the FOI Act, complained that British and other consumer representatives had been critical of the US pharmaceutical industry at a 1984 symposium on the worldwide use of antibiotics. The gathering was funded by the US National Institute of Health (NIH), and intended to prepare the way for a major international conference. Consumer representatives had highlighted the dangers of excessive antibiotic use for non-essential purposes. Over use increases the rate at which bacteria become resistant to antibiotics, making diseases more difficult or occasionally impossible to treat.

Similar letters criticising individual British participants were sent by Wellcome Research Laboratories and Beecham Laboratories – both US subsidiaries of British owned companies. The flurry of letters suggested concerted lobbying by the industry to exclude critics from the planned follow-up conference.

Dr. Brandt responded rejecting criticism that the symposium had an "anti industry bias" and pointing out that the industry itself had been well represented. But the NIH later withdrew funding from the follow-up conference – which never took place.

Time for Freedom of Information

Why should we need to rely on the laws of another country to get basic information about our own?

None of the information in this report is publicly available in Britain. Some has been sought by Members of Parliament, and been refused. The embarrassing truth is that the ordinary British citizen often has greater rights to information from the American government than an MP has from ministers in parliament.

For the British user, accustomed to Whitehall norms, the Freedom of Information Act is an exercise in culture shock. You do not have to demonstrate your need to know. No one tries to persuade you that information is too complicated for you to grasp, too trivial to bother with, or simply none of your business. If it is not protected by one of the Act's exemptions – for example, on defence, trade secrets, internal government deliberations or privacy – you are entitled to it.

It should be a culture shock for government too. Our rulers still seem to believe that Britain is a world leader, even in openness. In a BBC radio interview in March 1991, Lord Armstrong, the former cabinet secretary, declared "Britain and the United States stand together as two of the most open societies in the world". Any distinctions, he said, are "fairly small differences of degree at the virtuous end of the spectrum".

In reality, the "virtuous end" is that large group of countries whose citizens have the right to know what is done in their name, and with their funds. It includes Commonwealth countries such as Australia, Canada and New Zealand, whose parliaments are modelled on ours. In Europe, France, Sweden, Norway, Denmark, Finland and Holland also have FOI laws. Even tiny Malta, another Commonwealth country with a Westminster system of government, is now committed to legislation. Britain is at the retarded end of this spectrum, increasingly left behind as citizens of other nations acquire rights that we lack.

Both Labour and the Liberal-Democrats have promised FOI legislation. The government appears to have rejected it. It claims, in the words of Francis Maude, the minister co-ordinating the Citizens' Charter, that FOI "would undermine the traditional concepts of ministerial responsibility under the Crown and accountability to Parliament".

This is nonsense. Accountability is not threatened by the provision of more information. A Freedom of Information Act does nothing to restrict MPs' rights: it strengthens them. The only thing undermined is government's ability to withhold information simply to protect itself from inconvenience or embarrassment.

We already have a modest example of such a law in Britain's Data Protection Act. This entitles individuals to information held about them on computer by government departments or other bodies. Ministers have no power to withhold information unless it falls within the Act's exemptions. If they try, the courts will compel disclosure. No one claims this diminishes parliament.

An FOI Act would recognise grounds for confidentiality – for example to protect military secrets – in its exemptions. Parliament determines these and would be free to change them. Whatever the exemptions MPs can continue to seek any information, regardless of its status under the Act.

Another concern is that civil servants' advice would be revealed, altering the traditional relationship between ministers and their officials. In fact, all existing FOI laws exempt policy advice to a greater or lesser degree, though not the factual information on which it is based. In 1986 New Zealand's Information Authority commented "Prior to the introduction of the [1982 FOI law] it was felt by some that it could bring about a change in the relationships between Ministers and their Permanent Heads; that the possibility of conflict could arise if it was seen that there was a divergence of views between the department and the Minister. In the perceptions of permanent heads this had not eventuated and they do not see any substantive changes in their relationships with their Ministers".

Comment by Maurice Frankel

The government says it wants to improve the responsiveness of the public services. Nothing would do so more effectively than opening them to scrutiny. In 1984 the Australian Attorney General, in his first report on Australia's FOI act, summarised the benefits reported by departments and agencies themselves: "greater awareness of the need for objectivity and accountability in dealing with the public" was cited by 46 agencies; "improved quality of decision-making" by 38; "improved communication and understanding between agency and clients" (33); "improved efficiency of records management" (27); and "greater public awareness of the role of the agency" (25).

The government might note that in Australia, New Zealand and Canada FOI bills were introduced or enacted by conservative administrations. It might also reflect on the findings of a recent MORI poll. Not only is FOI the most popular of all the constitutional reforms proposed for Britain, but it is supported by 75 per cent of Conservative voters.

The cost would be minimal. In both Australia and Canada the legislation costs around £7 million sterling per year. Even if this needs to be scaled up for Britain's larger population, it would still come out of petty cash at the Central Office of Information (1989/90 budget £164 million).

We asked British authorities why they kept secret information which was freely available in the US. They replied: "The information would be misinterpreted"; "exposing a company's failings would damage its reputation"; "the public has no need to know because our inspectors guarantee safety"; and "commercial secrets would be lost".

Such concerns were not expressed by US officials. In America they belong to an era of discussion long past. The legislation has safeguards to protect trade secrets. Of course information can be misinterpreted; it is the job of the journalist or enquirer to understand its limitations, as they must when handling equally complex figures about the balance of trade or inflation. Of course a substandard company's reputation will suffer. It can recover it by rectifying problems immediately; the company's statement of corrective action will also be disclosed. Equally, openness will enhance the reputation of those who perform well, rewarding them with new business. And the public will have not only more informed choice, but a better understanding of what government is or is not doing to protect them.

US authorities accept that outside bodies will use FOI to question them more searchingly, to press them to do more, and occasionally to uncover problems which they have missed. As one official put it: "It's like another pair of eyes looking at the data".

What American officials did express was genuine surprise that Britain did not have its own freedom of information act. They look on us, much as we would now look at a nation which refused to televise its parliament on the grounds that the exercise was too risky and the benefits doubtful.

No doubt the government could now spend several years considering the case for and against some additional disclosure in the areas raised in this report. Even if this led to some progress it would be painfully inadequate. These are just a scattering of examples, across a handful of topics. Public concern expresses itself over a vastly greater and constantly changing canvas. Other countries responded to this challenge years ago. Britain's Freedom of Information Act is long overdue.

Expert Committees

The govt's confidential safety advice

A series of independent advisory committees play a crucial role in government decisions on safety. The committees, which lie outside the Whitehall structure, are largely composed of non-government experts. They offer technical advice to Ministers on a wide range of issues, such as food irradiation, the milk-boosting hormone BST, pesticides and new drugs. Ministers invariably defer to their advice. In particular their recommendations on whether new products or processes should be approved as safe are rarely rejected.

Advisory committee members often have close links with industry giving rise to concern about the composition of committees (see page 8). And too often there is an unnecessary degree of secrecy about their work. Some are legally bound by confidentiality:

- Members of advisory committees responsible for advising on the safety of medical products (such as the Committee on Safety of Medicines and the Committee on the Review of Medicines) could face up to two years' imprisonment under Section 118 of the 1968 Medicines Act for disclosing information about the products they review;
- Members of the Animal Procedures Committee, which monitors animal experiments, are prohibited from revealing information under section 26 of the Animal (Scientific Procedures) Act 1986;
- Health and safety advisory committees, such as the Advisory Committee on Genetic Modification and the Advisory Committee on the Safety of Nuclear Installations, are barred from disclosing information under Section 28 of the 1974 Health and Safety at Work Act. Information is only revealed if disclosure is needed to protect the safety of particular individuals.

Committees tend to follow a code of confidentiality even when they are not legally bound to secrecy, but disclosure practice varies. And there is a welcome trend towards greater openness (see page 8). But as the following examples and other articles in this issue show, unnecessary secrecy still persists.

- Evidence about the safety of most pesticide chemicals reviewed by the Advisory Committee on Pesticides (ACP) are secret. Many were introduced over 20 years ago when controls were less stringent than now. Only information submitted to the ACP on the safety of newly approved or reviewed pesticide chemicals must be disclosed under the 1985 Food and Environment Protection Act.
- Safety studies on large numbers of food additives approved by the Committee on Toxicity (COT) and the Food Advisory Committee before 1986 are confidential. As with pesticides, only information about newly approved additives are made available to the public. The controversial artificial sweetener, aspartame falls into the category of additives about which information is withheld. Several hundred pilots in America have reported a range of symptoms including memory loss, confusion, visual disturbances and headaches according to the US Aspartame Consumer Safety Network after consuming products containing aspartame. The COT began reviewing the additive's safety in January 1990 but has not yet reported. Three members of COT have declared links with the artificial sweeteners industry.
- Safety studies presented by pharmaceutical companies to the Committee on Safety of Medicines (CSM) in support of applications for drug licences are confidential. Genuine differences of opinion between experts may exist but this secrecy prevents necessary peer review. For example, members of the CSM disagreed about the safety of the heart drug Corwin (*Guardian* 10.7.90). The CSM was evaluating evidence suggesting that Corwin actually made people with a medium heart complaint worse. It eventually decided not to withdraw Corwin, but advised doctors to only use it for patients with mild heart disease. But details of the CSM's debate are secret – the health minister, Virginia Bottomley, even refused to disclose how the CSM voted on the issue. Decisions like this would benefit from the input of outside views and command more confidence.

Reports by Emily Russell

Furthermore, secrecy about drug safety data lags behind UK practice on pesticides and food additives where information on newly approved chemicals is disclosed. But Section 118 of the Medicines Act 1968 – which bars the disclosure of information – prevents equally necessary reforms in the field of drug safety.

In the United States a "Summary Statement of Approval" giving the key reasons for approving a new product is published by the Food and Drug Administration. But in the UK not even information relating to the basis for the CSM's decisions is available.

- One function of the Medicines Commission is to consider representations by companies appealing against the decisions of the Committee on Safety of Medicines (CSM) and the Committee for the Review of Medicines (CRM). Sometimes companies will be required to submit further information to support their applications. In 1989 the Medicines Commission considered 12 appeals and upheld six of them, overturning half of the CRM and CSM decisions. But even though the expert committees differed in their assessments, the identity of the drugs, the scope of the debate, and the reasons for their decisions are secret.
- Like other medicine advisory committees, information about veterinary products supplied to the Veterinary Products Committee (VPC) cannot be disclosed under S.118 of the 1968 Medicines Act. As a result details of the artificially developed milk-boosting hormone, bovine somatotropin (BST) are withheld. The hormone is being tested on secret dairy farms in the UK and the milk is added to the general milk supply without being separately labelled. Information about the highly toxic pesticide dichlorvos, licensed to control sea lice on farmed salmon on the advice of the Veterinary Products Committee is also secret. Dichlorvos is banned in the USA, and must not be used in a 14 day period before the fish is harvested in Norway, compared with only four days in the UK, so that dichlorvos residues are not consumed. But dichlorvos was detected in Sainsbury's fresh salmon by an *Independent on Sunday* survey in October 1990.
- A genetically engineered yeast, which speeds up dough fermentation, was approved after being secretly assessed by the Advisory Committee on Genetic Modification and the Advisory Committee on Novel Foods and Processes (ACNFP). The data submitted to the ACNFP and its advice have since been made available, but consumer organisations were indignant that no consultation occurred prior to its approval. The Genetic Manipulation Committee's advice on its risks to human health and safety is confidential.
- Licence applications to experiment on animals for microsurgery training, tobacco and cosmetic testing are referred to the Animal Procedures Committee (APC). The licence applications are confidential but the APC's advice is summarised in its annual report. Six current licences allowing cosmetics to be tested on animals were reviewed by the APC in 1989. Its advice, and the licence details are withheld. The secrecy is partly a result of fears

Continued on page 8

Tipsy toddlers

At least 50 babies were accidentally intoxicated by gripe water in 1988, the Junior Health Minister, Roger Freeman, revealed in a letter to Jack Ashley MP in July 1989. But the proceedings of an experts committee's review of permissible alcohol levels in gripe water were kept secret under a secrecy clause in the 1968 Medicines Act.

Jack Ashley became concerned about gripe water after a Food Commission survey showed that the most popular brands had an alcohol content of 5 per cent. Used to relieve babies suffering from colic and wind, even parents who followed some makers' instructions precisely could give their babies the equivalent of four gin and tonics a day, it claimed. Roger Freeman's letter said that the licences for existing brands of gripe water were to be reviewed by the Committee on the Review of Medicines (CRM) and that "no new licences have been granted to products with alcohol in excess of 0.8 per cent".

But details of the CRM's review of permissible alcohol levels in gripe water were kept secret. The Food Commission asked the Medicines Control Agency, the arm of the Department of Health responsible for licensing medicines, whether product licences had changed as a result of the review. It also asked who, if anyone, was invited to submit evidence, who actually did, and who attended the meeting which discussed gripe water products. An official from the Medicines Control Agency replied ". . . I am precluded by Section 118 of the Medicines Act to disclose any details of information given to the Medicines Control Agency solely for licensing functions. Such information is strictly confidential between the Licensing Authority and the Manufacturers."

Cancer ban set aside

A ban on a cancer-causing tobacco product has been set aside in the High Court because of the government's excessive secrecy.

In 1985, US Tobacco opened a factory in Scotland making 'Skoal Bandits', a pouch of tobacco which is placed in the mouth. It did so with active government support, and an investment grant of nearly £200,000. But the year before the government's Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment (COC) advised that there was a causal link between such 'oral snuff' products and cancer.

"I am not willing to disclose the text of the advice given in 1984, 1986 or on any other occasion by my own professional advisers." Health Secretary, Kenneth Clarke writing to US Tobacco, February 1988.

In 1986 the Committee advised the government to ban oral snuff.

But no one told the manufacturer, and US Tobacco continued to invest in its new factory. It only learnt of the 1986 advice 28 months later when the Department of Health announced the ban. Even then, it was not permitted to see the COC's advice.

The company challenged the decision by judicial review, and in December 1990 the High Court set aside the ban. The court ruled that as the company "was led up the garden path" by the government and because the ban was likely to be disastrous to it, it was important that the company should have a "full opportunity to know and respond to the material and evaluations which led (the Secretary of State) to such a striking change of policy".

In considering the Department's reasons for refusing to disclose the advice, Lord Justice Taylor said: "The only reason advanced by counsel for the refusal of disclosure, other than the existence of an inflexible rule to that effect, was that members of the COC might feel more inhibited in expressing their views if they could be identified by those affected. I find this unconvincing. The COC members are scientific experts of integrity and standing . . . I cannot believe that they would be affected by the suggested inhibitions . . . One cannot help feeling that the denial of the applicants' request was due to an inbuilt reluctance to give reasons or disclose advice lest it give opponents fuel for argument. One can understand and respect the need for ministers to preserve confidentiality as to the in-house advice they receive on administrative and political issues from their civil service staff. But here, the advice was from a body of independent experts set up to advise the Secretary of State on scientific matters. I can see no ground in logic or reason for declining to show the applicants the text of the advice."

The DoH is appealing against the judgment.

Science budget advice secret

The government has stopped publishing the advice it receives on the science budget. The Advisory Board for Research Councils (ABRC) advice on the size and allocation of the science budget had been published every year since 1982.

The decision to stop publishing the ABRC's advice on the *size* of the science budget was made by the Secretary of State for Education and Science, John MacGregor, in July 1990. His successor, Kenneth Clarke, decided to withhold the separate advice received on the *allocation* of the budget too. In a parliamentary debate on the science budget in February 1991 he said: "My predecessor made the wise decision not to publish this year's advice on the public spending round. I have decided not to publish the ABRC's full advice on the distribution of funds and, as has been said, we have followed the financial division between the councils that the advisory board recommended. When one has advisers of this kind, carrying out this role, the relationship is best one of confidential close advice, not one of public debate."

The decision not to publish the advice has come at a time when science funding is the subject of heated debate. A leaked copy of the ABRC's 1991-92 advice, obtained by the *New Scientist*, was highly critical of the size of science expenditure. It argued that the budget was "substantially less than the sums needed to sustain the health of the UK science base" and that the "proportion of the nation's wealth deployed through the science budget will have declined by 15 per cent between 1981 and 1994".

The decision not to publish the ABRC's advice was condemned by politicians and eminent scientists. The Lords Science and Technology Committee argued: "It seems to us that changing the practice in a particularly lean year for the science budget constitutes a most spectacular own goal on the part of the DES . . . DES maintain in correspondence with us that publication of the advice would not be conducive to good government. It seems to us that . . . the withholding of publication has not been conducive to good government."

John Mulvey of Save British Science said: "An inevitable and unfortunate result is that the ABRC will be regarded with some caution and less confidence in the scientific community. It becomes more clearly a part of the government machinery when the veil of secrecy is drawn over its deliberations." He argued that secrecy prevented an assessment of the quality of the ABRC's advice, and inhibited public debate of the issues.

John Hardy, a scientist working for the Alzheimer's Disease Research Group, told the Campaign "There is not a democratic debate about British science. The only discussions which take place about science funding are amongst government appointees on the ABRC which meets in secret. There is no mechanism, apart from writing angry letters to newspapers to influence decisions, and because the advice of the ABRC is secret, any debate is stifled."

Advisory committees

Conflict of interests?

Many advisory committee members have links with the industry on whose products or activities the committee is advising. By contrast consumer interests are often non-existent or under-represented. Although members are technically appointed in their individual capacity, rather than as representatives of organisations, this – coupled with the secrecy which shrouds their deliberations – gives rise to fears that conflicts of interest may exist.

For example, the majority of members on advisory committees responsible for advising on the safety of medical products have links with the pharmaceutical industry. In 1989 financial interests with the pharmaceutical industry were declared by:

- **18 of the 21 members of the Committee for Safety of Medicines (CSM), which gives advice on the safety of new drugs. Over half (13) received personal payments in the form of consultancies and fees from the pharmaceuticals industry while others ran research departments and institutions receiving pharmaceutical industry funds. In total the 21 members of the committee disclosed over 30 personal payments and 130 research grants from pharmaceutical companies;**
- **16 of 24 members of the Medicines Commission which advises Ministers on the regulation of drugs;**
- **12 of 18 members of the Veterinary Products Committees which advises on the safety of animal medicines and pesticides;**
- **12 of 17 members of the Committee on the Review of Medicines which advises on the safety of existing drugs.**

No members are drawn from consumer organisations.

Members operate under a Code of Practice prohibiting them from taking part in the proceedings if they have a personal interest in a drug company or product under discussion by the committee, except at the Chairman's discretion. But the rules do not prevent members whose departments are funded by industry from taking part in deliberations.

The commercial interests of members of food advisory committees are currently secret. But one analysis of the composition of 27 food committees suggested that 197 out of a total of 370 seats were filled by people who were or had been employed, funded by, or were consultants to, the food industry (Geoffrey Cannon, *The Politics of Food* Century 1987).

At the time of the Advisory Committee on Irradiated and Novel Food's first report on food irradiation two members were known to have a direct interest in approving food irradiation. The committee's chairman was then Sir Arnold Burgen, a part-time director of Amersham International, Britain's leading manufacturer of isotopes used to irradiate food. The committee's economic advisor, Frank Ley, was a shareholder in, and the marketing director of, Isotron plc which has recently become the first company to be issued with a licence to irradiate food products.

Information about members' interest on the Animal Procedures Committee are not disclosed due to fears of attacks on licence holders. But even the number of licence holders, or previous licence holders on the Committee was refused by the Home Office minister, Angela Rumbold, in a Parliamentary Answer in November 1990. The potential conflict of interests is acknowledged in the Animal (Scientific Procedures) Act 1986 which stipulates that no more than half its members must be licence holders or have held one in the past six years. But this does not include people who have been, or are employed by institutions conducting animal experiments, or those who have links with pharmaceutical industry which relies on animal experimentation to safety test new medicines.

Taking this into account, the British Union for the Abolition of Vivisection estimates that at least 12 of 20 APC members have an interest in or links with animal experimentation.

The composition of the Radioactive Waste Management Advisory Committee has been criticised by the Commons Environment Select Committee. It recommended that "there should be a stronger environmental representation on RWMAC and that a category of appointment to RWMAC should be created for environmental organisations. Both statutory and non-statutory bodies should be represented within this new group" (1985-86 Report *Radioactive Waste*). Few changes have resulted: the present chairman, Professor John Knill, is a member of the Nature Conservancy Council. No non-statutory bodies are represented. By contrast six members are currently or have previously been employed by the nuclear industry. The Select Committee's recommendation that RWMAC should have a secretariat independent of the Department of Environment, and that it should be made a statutory agency has been ignored.

Tobacco barons insist on secrecy

Five major studies on the tobacco industry's compliance with the voluntary agreement controlling tobacco promotion are secret. The studies, commissioned by the Committee for Monitoring Agreements on Tobacco Advertising and Sponsorship (COMATAS), are on poster advertising near schools; sports sponsorship; two surveys on advertising at confectioners, tobacconists and newsagents; and, most recently, a report on promotion by direct mail. The committee is composed equally of representatives from the tobacco industry and the Department of Health, each funding half the costs.

Explaining why the reports had been withheld the then Health Minister, Roger Freeman, said in a Parliamentary Answer in October 1989 "This matter has been pursued with the industry's representatives with the aim of securing the release of this material but they remain of the view that the research reports should not be made public. They argue that the business of COMATAS is private and confidential to the committee and that the research in question was not intended to be free-standing. They insist also that the reports contain commercially sensitive information."

Continued from page 7

Secret advice *continued*

that licence holders will be attacked: but if licence holders' names were withheld, and only details about the licence were released, this could be overcome.

- The scope for relaxing confidentiality about establishments and individuals holding animal experiment licences was reviewed by the APC in 1990. It invited comments from interested parties on the issue but even these are confidential. The APC's conclusions are yet to be published.
- Advisory committees sometimes ask for advice from other advisory committees who have specialist knowledge on an issue under consideration. For example, the Independent Scientific Committee on Smoking and Health gave advice on tobacco testing on animals to the Animal Procedures Committee. This advice is secret.
- The Advisory Committee on Irradiated and Novel Food's first report on food irradiation is unreferenced, containing only a bibliography. Thus it is impossible to determine whether many of the committee's conclusions are supported by the scientific evidence.

Conclusion

Background evidence and data should be publicly available except in cases where genuine commercial confidentiality can be shown.

Traditionally, secrecy in this area has been justified on the grounds of commercial confidentiality. But in the case of both pesticides and food additives procedures permitting the disclosure of safety information have been introduced without jeopardising trade secrets. Yet information about the safety of medical products is still withheld: progress is restricted by Section 118 of the 1968 Medicines Act which bars disclosure of information about medical products.

Scientific advice to Ministers should be published.

Although it is normal practice not to disclose the policy advice offered by civil servants, the same arguments do not apply in relation to independent expert committees providing technical assessments of safety. This view was expressed in the recent high court judgment on oral snuff (see p7). Furthermore, the publication of evaluations of environmental and product hazards is normal scientific practice, essential for peer review and the replication of experiments.

Public registers of members' interests should be established.

If members are predominantly drawn from industry then this should be acknowledged openly. The current secrecy about members' interests only perpetuates the view that industry has a disproportionate influence on advisory committee decisions. Publishing members' interests would provide greater public awareness about how decisions are reached, and may lead to consideration about how other interest groups could be involved in the process.

Consumer interests should be represented.

While industry may be the main source of expertise in specialised areas of safety, consumer representation is equally important even if it only performs a watchdog role. This is particularly valid as an awareness of the need to balance scientific and public perceptions of risk become more acute.

Glasnost in MAFF?

Food advisory committees in the Ministry of Agriculture, Fisheries and Food (MAFF) and the Department of Health are being "encouraged to consider various methods of reporting their activities and making themselves open to public scrutiny" according to a MAFF paper on freedom of information. The paper – prepared for the MAFF consumer panel – suggests that agendas, summaries of meetings, annual reports and public registers of members' interests should be published. But officials emphasise that it is for advisory committees to determine their own procedures.

MAFF's more open outlook comes as a result of pressure from consumer groups, and the new MAFF consumer panel – set up in 1989, and chaired by the Food Minister David Maclean. Its members are nominated by a small number of selected consumer groups to put forward the consumer's view on food and related issues.

Some welcome changes have already resulted. Bodies responding to consultation papers are now encouraged, though not required, to allow MAFF to release their comments. But progress is piecemeal. For example, the Advisory Committees on Pesticides and the Committee on Medical Aspects of Food Policy have agreed to publish registers of members' interests but other committees have not yet reached a decision. Agendas and an outline of meetings are published by the Food Advisory Committee and the Advisory Committee on Novel Food Processes, but the Advisory Committee on Microbiological Safety of Food only issues a press notice after each meeting, and the Committee on Toxicity publishes neither summaries nor agendas. And the reforms themselves do not go far enough: agendas without any background papers or reports may be of little value, while the outlines only say what was discussed without conveying the substance of the debate. Nor has the need for more consumer representation on advisory committees been addressed. A suggestion by a consumer panel member that consumer representatives sit in on meetings as observers has been rejected by David Maclean.

How to support the Campaign

The Campaign does not have a formal membership scheme.

On the other hand, it welcomes help and support, particularly from volunteer workers during daytimes and evenings.

All those who contribute a donation of £12.50 or more automatically receive the Secrets newspaper for one year. If you would like to receive the Secrets newspaper, please fill in the coupon.

Typeset and printed by the Co-operative Press Ltd., London and Manchester.