





Part C.

**CONFIDENTIAL**  
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Begins : 19/8/88

Ends : 19/10/88.

  
 PO -CH /NL/0217  
  
 PART C

Chancellor's (Lawson) Papers :

**THE TELEVISION  
BROADCASTING INDUSTRY**

Disposal Directions : 25 years



13/9/95.

PO -CH /NL/0217  
PART C

CONFIDENTIAL



SECRETARY	
19 AUG 1988	
MRS CASE	
CST, FST,	
SIR P MIDDLETON	
MR ANDROS, MR MOORE,	
MR PHILLIPS, MR BLAGUER,	
MR SPACHMAN, MR WALLER,	
MR FARTHING, MR PERFECT,	
MR CASE, MRS PUGH,	
MR CROPPER, MR TYNE,	
MR CALL	

✓ 22/8

19/8/88

Prime Minister

SUBSCRIPTION

When the Ministerial Group on Broadcasting Services discussed subscription and the use of the night hours on 17 December (MISC 128(87)5th Meeting) I was invited to open discussions with the BBC and the IBA. The purpose of this minute is to report back on these discussions; and to propose the line which we should adopt on these issues in the White Paper.

BBC

The Group proposed that the BBC should be empowered to encrypt its transmissions and to charge subscriptions; that the level of the licence fee from 1991 onwards should reflect the income which the BBC could reasonably be expected to raise from subscription; and that the BBC should relinquish the night hours of one of its channels.

I outlined these proposals to the Chairman of the BBC, making clear in particular the implications for the level of the licence fee. He was enthusiastic about the prospects for raising subscription revenue from downloaded services in the night hours (though, unsurprisingly, he would have preferred to see this as a source of additional income, rather than a way of replacing the licence fee at the margin).

/I gave the BBC

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I gave the BBC approval in January to run a medical downloading service on the BBC 2 night hours in collaboration with British Direct Television, on an experimental basis for two years. This service is planned to start in October. They have also been drawing up plans to provide similar services for other professional and business groups (eg dentists, farmers and architects), again in collaboration with commercial partners. If given permission, they would also like to explore the market for other specialised services, such as educational services and services for particular interests and hobbies. They also see a broader market for niche entertainment services on the BBC 1 night hours exploiting their own programme archive (as they do now to some extent through video sales). The BBC believe that they could fill the night hours of both channels with revenue-raising services if given permission to do so. They have also argued for the retention of both sets of night hours on the separate grounds that this would give them scheduling flexibility to cover major events (eg General Elections, the Olympic Games).

It is good that the BBC have responded positively to the challenge of subscription. I am clear that we should authorise them to press ahead with developing new downloaded subscription services. The issue to be decided is whether they should be able to use the night hours of both channels for this purpose. If the night hours of one channel were allocated to another operator there are two ways in which the service could be regulated to ensure that the content was acceptable:

(a) it could be regulated by the BBC itself, exercising arms-length editorial control (rather like their relationship with the Open University). This would require the co-operation of the BBC, but could be implemented in advance of legislation;

/(b)

3.

(b) it could be regulated by the new Independent Television Authority. This would ensure genuine independence from the BBC, but would of course require legislation.

Neither of these options is very attractive.

There is a choice to be made here between two policy objectives, both of which are in themselves desirable: maximising the BBC's opportunities to raise subscription revenue, thus enabling the licence fee to be held down; and providing opportunities for new entrants to the broadcasting market. I believe that the former should take precedence in this case, and that we should accordingly allow the BBC to retain the night hours of both channels, on condition that they used them both for subscription services. Even without the night hours of one of the BBC channels our proposals will provide a number of opportunities for new entrants: the Channel 3 night hours, Channel 5 (which may itself be divided into temporal slices), additional DBS channels, and possibly Channel 6 and MVDS. We need, in my judgment, to signal clearly our long term objective of replacing the licence fee by enabling the BBC to make a significant early start with subscription. Their proposals for downloaded services will do that, without exposing the licence fee payer to any commercial risk (which will be carried on the BBC's commercial partners), and without damaging new subscription services, such as that to be provided by BSB, by competing with them head-to-head with the same type of programming.

#### Independent Television

The Group proposed that the IBA should be given power to encrypt its transmissions to enable ITV (now Channel 3) and

/Channel 4 to

Channel 4 to charge subscriptions. It also proposed that there should be a separate licence (or licences) for the Channel 3 night hours from January 1993 onwards; and I was invited to explore with the IBA the possibility of a separate night hours contract in the 1990-1992 contract round.

The IBA has expressed concern about the implications of subscription for the principle of 'free' universality entrenched in its public service obligations. But it was always clear that enabling subscription on existing services might lead to some viewers not receiving services which they now perceive to be free, and so I do not regard this as a new point which should cause us to change our view.

Similarly, I remain of the view that there should be a separate night hours licence on Channel 3. It is clear, however, that dividing the clock between the different licence periods will be difficult and controversial. In my view it would be a mistake for the line to be rigidly drawn in legislation, or for Government to become too closely involved in the decision. I therefore propose that the legislation should lay down the general principle that there should be a separate night hours licence, leaving the ITA to define the exact boundaries (just as it will have responsibility for dividing the map into different Channel 3 regions).

As the law stands, it is for the IBA to decide the contract structure in the period 1990-1992. The IBA have taken the view that night-time broadcasting is still in an experimental phase, and that they would like to see a proper experiment conducted by the existing contractors in the 1990-1992 period. Accordingly the contracts which have been offered to the ITV companies for that period, and which are to be signed shortly, envisage them providing a night hours service themselves.

/Conclusion

Conclusion

To sum up, I recommend that:

(a) we should authorise the BBC as soon as possible to run downloaded subscription services on the lines they have indicated;

(b) they should be allowed to retain the use of the night hours of both channels on condition that they used them both as fully as possible for subscription services;

(c) in conveying this decision, I should underline that the level of the licence fee from April 1991 onwards will take account of the amount of revenue which they can reasonably be expected to earn from subscription; and

(d) there should be a separate licence for the Channel 3 night hours, the exact limits for which would be determined by the ITA.

I am copying this minute to the members of MISC 128 and to Sir Robin Butler.

*Al. Sanderson*  
*(Approved by the Home Secretary & signed in his absence.)*

19 August 1988

Done - prep

FROM: MRS A F CASE  
DATE: 25 August 1988

CHANCELLOR

cc Chief Secretary  
Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips o/r  
Mr Burgner  
Mr Spackman  
Mr Farthing o/r  
Mr Perfect  
Mr Cave  
Mr Nicol  
Mr Cropper  
Mr Tyrie  
Mr Call

*Ch / we are being chased for a response as Home Office want to get drafting their WP. If you are content with draft I'd send off in yr absence.*

*mpw 30/8*

**BROADCASTING : SUBSCRIPTION**

Mr Hurd's minute of 19 August to the Prime Minister reports back on his discussions with the BBC and IBA on subscription and night hours broadcasting commissioned by MISC 128 last December. In the light of those discussions he proposes

- (a) to authorise the BBC to run downloaded subscription services aimed at specialised groups (doctors, dentists etc);
- (b) to allow the BBC to retain the night hours on both channels, provided they are used as far as possible for subscription services;
- (c) to reiterate that the level of the license fee from April 1991 will take account of the amount of revenue which the BBC can reasonably be expected to earn from subscription; and
- (d) to provide for a separate license for the Channel 3 night hours, the exact limits for which would be determined by the new ITA.

CASE  
→  
CHEX  
25/8



2. Although the proposals at (a) and (c) are satisfactory, taken together Mr Hurd's proposals fall short of the outcome you sought in December's MISC 128 discussion. You then argued for the earliest practicable introduction of subscription on a wide basis to provide a proper test of its viability. MISC 128 invited the Home Secretary to open discussions with the BBC on the basis that the Corporation would only retain the use of night time hours on one channel (the other to be separately allocated) and with the IBA on the possibility of separate allocation of the ITV night hours contracts, including the possibility that such separate contracts could be awarded in 1990.

3. The paragraphs below discuss Mr Hurd's proposals.

BBC

(a) To authorise the BBC to run downloaded subscription services;

(b) To allow them to retain night hours on both channels for subscription services;

(c) To take account of the amount of revenue which the BBC can be expected to earn from subscription in determining the level of the license fee after April 1991.

4. Mr Hurd's original proposal was to leave the BBC with the night hours on both channels. Our view was that this did not go far enough since it would make it too easy for the BBC to soft pedal subscription and price out other potential subscription services. It also lost an opportunity to secure additional night time subscription service. Mr Hurd now argues that the BBC should retain night time hours on both channels primarily because this would maximise subscription income and allow the license fee to be held down, while the competition arguments for creating a further night time channel have been reduced by Ministers' recent decisions on additional services. He is also concerned not to dampen the BBC's enthusiasm for developing subscription and is worried about political sensitivity of curtailing BBC's ability to show major events, by curtailing their scheduling flexibility.

5. These arguments have some force. The proposals would secure a major element of subscription. Moreover, if separate night hours subscription licenses on C3 are impossible in the short term (see below) establishing an independent subscription service on one of the two BBC channels would be insufficient in itself to provide the major test of subscription we were seeking. On balance therefore it does not seem worth insisting that the BBC give up one channel. But if other operators are to be encouraged to consider subscription financing some further assurance may be needed about the use the BBC intend to make of the two channels. Downloaded specialist services on a subscription basis will clearly extend broadcasting choice but there remains a risk that the BBC may use their license income to cross subsidise and out-price competitors eg by carrying predominantly archive material.

#### Independent Television (Channel 3)

(d) There should be separate license for Channel 3 night hours, the exact limits for which would be determined by the ITA.


6. In December we were not convinced that subscription on the night hours needed to wait until 1993. However, it appears that the final word on this lies with the IBA who have already taken a decision not to offer separate night hours contracts and were not enthusiastic about a subscription experiment. There seems no way round this until 1993. In making it clear in the White Paper that separate contracts are intended thereafter, it may also be necessary to leave open the possibility of requiring these to be financed on a subscription basis in order to ensure increased responsiveness to consumer choice. This could best be judged in the light of responses to the White Paper.

#### Conclusion

7. On the basis of Mr Hurd's talks with the BBC and IBA, the sort of early major test of subscription we envisaged does not seem achievable. Mr Hurd's proposals for the BBC offer an opportunity of making a good start with subscription there. I recommend that you should accept them, subject to seeking reassurance on the pricing issues. For Channel 3, you should

agree to separate licenses for the night loans, the exact limits to be decided by the ITA. But it would be worth keeping open the possibility of requiring these to be financed by subscription.

8. I attach a draft letter.



MRS A F CASE

DRAFT LETTER TO THE HOME SECRETARY

cc Prime Minister  
Members of MISC 128  
Sir Robin Butler

**SUBSCRIPTION**

I have seen your minute of 19 August to the Prime Minister reporting on your discussions on subscription and night hours broadcasting with the BBC and IBA.

2. I am disappointed that you were unable to persuade the IBA to offer separate contracts for the night hours when the existing ITV contracts are extended. I think we have lost a useful opportunity for a wider experiment involving subscription in the period before 1993. The approach which the IBA have adopted may mean that viewers will be accustomed to receiving "free" night hours broadcasting. This may make it more difficult to introduce subscription on the gradual basis you have proposed. Whilst in the longer term it is clearly right to leave the choice of financing to the operators' commercial judgement, I think that in addition to laying down the general principle of a separate night hours license, we should leave open in the White Paper the possibility of requiring subscription finance for such licenses. We can judge, in the light of reactions to it, whether we need to insist on a degree of subscription financing in the interests of ensuring a sufficient degree of consumer responsiveness in the system.

3. On the BBC, I too welcome the positive approach which<sup>they</sup> are taking to subscription and I would certainly want them to be authorised to develop new downloaded subscription services. This is a good example of the extension of broadcasting services which the new regime should achieve. It is also important that the BBC understand that the license fee will be limited (and may even be reduced) by the amount which they can reasonably be expected to earn from subscription.

4. There are also, as you point out, strong arguments in favour of leaving both channels with the Corporation for use on a subscription basis, if we want to get subscription off to a good start and maximise the BBC's income from this source. However, I hope that we can be satisfied that the BBC will use this opportunity in a constructive way and not in a way which offers unfair competition to other operators introducing subscription services. There seems to be a risk of this at least if one channel draws predominantly on the BBC's archive material.

5. I am copying this letter to the recipients of yours.



MP

Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

31 August 1988

The Rt Hon Douglas Hurd MP  
Secretary of State for the Home Department  
Home Office  
50 Queen Anne's Gate  
London SW1

Chief Secretary  
Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips o/r  
Mr Burgner  
Mr Spackman  
Mr Farthing o/r  
Mr Perfect  
Mr Cave  
Mr Nicol  
Mr Cropper  
Mr Tyrie  
Mr Call

Dear Secretary of State,

SUBSCRIPTION

I have seen your minute of 19 August to the Prime Minister reporting on your discussions on subscription and night hours broadcasting with the BBC and IBA.

I am disappointed that you were unable to persuade the IBA to offer separate contracts for the night hours when the existing ITV contracts are extended. I think we have lost a useful opportunity for a wider experiment involving subscription in the period before 1993. The approach which the IBA have adopted may mean that viewers will be accustomed to receiving "free" night hours broadcasting. This may make it more difficult to introduce subscription on the gradual basis you have proposed. Whilst in the longer term it is clearly right to leave the choice of financing to the operators' commercial judgement, I think that in addition to laying down the general principle of a separate night hours license, we should leave open in the White Paper the possibility of requiring subscription finance for such licenses. We can judge, in the light of reactions to it, whether we need to insist on a degree of subscription financing in the interests of ensuring a sufficient degree of consumer responsiveness in the system.

On the BBC, I too welcome the positive approach which they are taking to subscription and I would certainly want them to be authorised to develop new down loaded subscription services. This is a good example of the extension of broadcasting services which

CHEX  
→  
HURD  
31/8



the new regime should achieve. It is also important that the BBC understand that the license fee will be limited (and may even be reduced) by the amount which they can reasonably be expected to earn from subscription.

There are also, as you point out, strong arguments in favour of leaving both channels with the Corporation for use on a subscription basis, if we want to get subscription off to a good start and maximise the BBC's income from this source. However, I hope that we can be satisfied that the BBC will use this opportunity in a constructive way and not in a way which offers unfair competition to other operators introducing subscription services. There seems to be a risk of this at least if one channel draws predominantly on the BBC's archive material.

I am copying this letter to the recipients of yours.

*Yours sincerely,*

*Mark Wallace*

*N* NIGEL LAWSON

*(Approved by The Chancellor  
and signed in his absence.)*

CONFIDENTIAL

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

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Home Secretary  
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LONDON  
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Our ref PS5BIQ  
Your ref  
Date 12 September 1988

CH/EXCHEQUER	
REC.	12 SEP 1988
ACTION	MRS CASE
COPIES TO	CST, FST, SIR P MIDDLETON, MR ANDSON, MR MOORE, MR PHELPS, MR BURGER, MR SACKMAN, MR WALLER, MR FARTHING, MR PERFECT, MR CASE, MRS PLUGH, MR CROPPER, MR TYRRE, MR CALL.

✓ 12/9

SUBSCRIPTION

Thank you for sending me a copy of your minute of 19 August to the Prime Minister.

I agree that we should encourage the BBC to seek subscription, so that we can in due course wean them off the licence fee. But aspects of your proposals give me some concern.

In particular, I am not happy that the BBC should simply be given a free hand to exploit its night hours for the downloading of specialised services for business users. This seems to me to be some way removed from the BBC's public service remit, and to have nothing to do with subscription television as such. If it is thought right to raise revenue from such services to offset increases in the licence fee, then my preference would be for the services to be run by a private sector licensee chosen by competitive tender (the proceeds of which could be applied to reducing the licence fee). I see no reason why the ITC should not organise the necessary competition and regulate the content. The BBC could of course bid to provide transmission facilities, and perhaps other services, to the successful tenderer, and the proceeds could also be offset against the licence fee.

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→  
Hurd  
12/9



**CONFIDENTIAL**

We should, of course, have to be clear whether the Channel 3 and Channel 5 night hour licensees (or indeed Channel 4 in the night hours) would also be permitted to carry such specialised services, as this would affect the value of the licence on the BBC frequencies. In principle, I would see some advantage in at least a measure of terrestrial competition, although alternative delivery options should be available from the specialised satellite service uplinkers.

This does however raise a question of principle which we need to consider further. That is whether it is right for the broadcasting frequencies - particularly the UHF TV network which occupies a very large amount of spectrum for the purpose of providing universal coverage in the public interest - to be used for purposes other than broadcasting in the interests of the public at large. The BBC are already proposing a range of specialised services for businesses. Were the telecommunications duopoly to be relaxed after 1990, would we be prepared to see the BBC giving over some or all of the night hours to a wider range of services, including perhaps full-field data broadcasting to closed user groups?

Such an outcome might be considered ironic, in view of the effort and expense we are prepared to contemplate to make available a fifth (and possibly a sixth) UHF channel to expand consumer choice and market opportunities in broadcasting. A licence to provide programme services in the night hours on one of the BBC's universal coverage channels might be just as attractive to a new commercial entrant as a licence for a sixth channel with, say, 40% coverage. Yet the latter can be provided (if at all) only at considerable effort and expense and some years hence, whereas the former is available now and effectively for nothing. Viewed in this light, there is a strong case for putting at least one set of BBC night hours out to tender for a commercial programme service, rather than allowing them to be used for specialised business services which arguably make poor use of the universal coverage available on the BBC's frequencies.

I can see that there may be a case on scheduling flexibility grounds for leaving the BBC in control of the night hours on one of its channels; and we could encourage them to exploit the subscription potential for general (eg, niche entertainment), as opposed to specialised business services. Such services would help accustom viewers generally to paying directly for services received over the BBC frequencies, and thus could help advance our longer term objectives for subscription financing of the BBC. We should however be alive to the fact that if we do allow the BBC to go ahead with

**CONFIDENTIAL**

subscription several years in advance of the terrestrial competition, they will be well placed to influence very strongly the development of de facto standards for encrypted terrestrial transmissions.

The White Paper will need to make clear whether or not we intend to put one set of BBC night hours out to tender, but it need not go into any further detail about the use of subscription on the night hours retained by the BBC. I therefore suggest our next steps might be:

(i) to confirm that one set of the BBC's night hours should be put out to competitive tender, as we earlier agreed, on the same basis as the rest of the commercial licences;

(ii) to consider further (as far as is possible before the duopoly review in 1990) what range of services it would be appropriate to see carried over the UHF network in the future, and by whom, and the regulatory, competition and public services implications of the various options;

(iii) in the light of that consideration, to decide what subscription services it would be right to encourage the BBC to develop, and on what timescale; and to authorise them accordingly. In the meantime, the BBC should be allowed to continue with the medical service experiment, but not to commence any further subscription services.

I am sending a copy of this letter to the Prime Minister and to other members of MISC 128, and to Sir Robin Butler.

*Y. L. Hain*

Missing

Hurd →  
14/9

PO7



CH/EXCHEQUER	
REC.	13SEP1988
ACTION	MRS CASE
COPIES TO	CST, FST, SIR P MIDDLETON, MR ANDSON, MR MOORE, MR PHELLIPS, MR BURGER, MR SPACKMAN, MR USALLER, MR FARTHING, MR PERFECT, MR CAVE, MR DIGH, MR CROPPER, MR THRE, MR CALL

13/9  
QUEEN ANNE'S GATE LONDON SW1H 9AT

BF 2019  
13 September 1988

Dear Secretary of State,

LOCAL SERVICES AND TRANSMISSION

At the meeting of MISC 128 on 28 July officials were commissioned to carry out further work on local services and on transmission. Members of MISC 128 will by now have received notes from the Chairman of the Official Group reporting the outcome of that work. I have considered carefully the proposals made by officials on these two subjects, and I agree with them. My purpose in writing is to invite you and other MISC 128 colleagues to endorse them too.

I believe that the enabling framework proposal for local services would be an effective way of enabling the best blend of MVDS and cable to be used in delivering additional programme services at the local level. I welcome particularly the fact that the framework will not subordinate MVDS to cable in the way that the 'pull-through' proposal advocated by the cable industry would have done. I believe that this will be a politically attractive part of our overall package because it will open up new opportunities for the provision of genuinely local services. Although, as officials have pointed out, it is likely that most of the services carried by local delivery operators will be national in character, there will be scope for locally oriented television services if there is a demand for them.

I recognise that the transitional arrangements will be difficult and controversial. I am clear that we should treat fairly those who have invested money on the basis of the existing statutory framework for cable. This points to allowing them to continue as cable operators if they wish. But I also believe that we should not artificially prevent the use of MVDS in existing cable franchise areas. This suggests, as officials have argued, that existing operators should be given the option of transforming into technology-neutral operators. This option will, however, amount to a substantial privilege as it will enable them to avoid the competitive tendering procedure. I therefore believe that we should restrict the category of operators who benefit from the transitional arrangements as far as we defensibly can. This inclines me to think that the arrangements should apply only to those operators who already hold franchises, not to eventually successful applicants for those presently being advertised (though they will not, of course, be deprived of their ability to proceed under their cable licence). I am struck particularly by the fact that the wider category would encompass over 20% of all television households in the United Kingdom, and by the difficulties which this would cause for planning the efficient use of MVDS frequencies in the rest of the country. I recognise that confining the

The Rt Hon The Lord Young of Graffham

/over

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arrangements to the narrower category may lead to some pressure for extension, to which we may have to respond. But since the proposals do not involve depriving anyone of an existing right the position is defensible.

As to transmission, the proposals made by officials appear to me to strike the right balance between giving the maximum possible role to the private sector, and retaining a measure of central control in order to ensure the efficient planning of spectrum.

I am copying this letter to the Prime Minister, other members of MISC 128 and to Sir Robin Butler.

Yours sincerely,

Hawes

Approved by the Home Secretary and  
signed in his absence abroad.

dti

the department for Enterprise

CONFIDENTIAL

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Home Affairs  
Home Office  
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CH/EXCHEQUER	
REC.	23SEP1988
ACTION	MRS CASE.
COPIES TO	CST, FST, SIR PMIDDLETON, MR ANSON, MR FLORES, MR PHILIPS, MR BURTON, MR SPARKMAN, MR WALLER, MR PERFECT, MR CASE MR FATHALLAH, MR NICHOL, MR CROPPER, MR THIRIE, MR CALL.

✓ 23/9

Direct line 215 5422  
Our ref DW4AOC  
Your ref  
Date 23 September 1988

*John Taylor*

**BROADCASTING WHITE PAPER**

I have seen your minute of 14 September to the Prime Minister and the draft attached on which I shall be commenting separately in greater detail.

I have no difficulty with the line taken in it on the frequencies available for MVDS. However, I wish to point up the implications this may have for our aspirations on the DBS front. There is also a recent development in the margins of the current geostationary satellite orbit conference in Geneva of which you and colleagues need to be aware.

The 12 GHz band, advocated for MVDS by the Home Affairs Committee among others, has strong technical advantages of receiver compatibility with DBS. But unfortunately it is also the band in which we would have to seek additional DBS channels if we wanted them at the same orbital position as BSB's. Moreover, if pressure built up internationally to replan the DBS band an MVDS service located there might face relocation in the late nineties.

It is true that there are other frequencies around 12 GHz which might be considered for MVDS, but considerable uncertainties still attach to them and besides they might not have the same advantages of compatibility with DBS technology.

L. Young  
→  
HURD  
23/9

## CONFIDENTIAL

Following my letter to you of 7 June we agreed to review the question of additional DBS allocations after the orbit conference. However, the issue has come to a head in the margins of the conference with indications that the Spanish Government may have had the same idea. Since Spain has the same orbital position for DBS as we, a Spanish request to the IFRB for additional channels would be likely to pre-empt our chances.

Nevertheless, I do not think we should ourselves make a pre-emptive move. It would involve taking a decision now, publicly, to introduce a further five DBS channels not later than 1993. Such a radical proposal would surely have to figure in the White Paper, where it would be seen as inconsistent with the preference implied in para 37 for placing MVDS at 12 GHz. We will therefore have to take the risk that the Spaniards may foreclose a possibility which we might yet - though I now believe it unlikely - want to return to.

If we do want additional DBS channels there is always the alternative of seeking them at a different orbital position, adjacent to Astra's rather than BSB's. Although Astra may at least initially use different transmission characteristics from DBS satellites, giving less technical synergy than would be the case with BSB, a major advantage is that at this orbital position we might secure additional channels in the lower subband which would not be affected by the introduction of MVDS in the upper subband. Alternatively, there might be the possibility of an accommodation with the Irish Republic in respect of its channels.

To sum up, I believe that

- a. the White Paper is right to speak with caution about the choice of frequency for MVDS and to stress, as it does, that we have not yet taken firm decisions; a 12 GHz solution is attractive but could prove incompatible with international developments on the DBS front;
- b. the Spaniards may well apply for additional DBS channels and so foreclose our chance of securing another five at BSB's orbital position (though they would not interfere with our prospects for 12 GHz MVDS nor with our prospects for additional DBS channels in the lower subband at an orbital position adjacent to Astra); however, we should not seek to pre-empt them and we should review



the department for Enterprise

CONFIDENTIAL

the question of additional DBS channels in the context of our further studies into the correct location for MVDS.

I am copying this minute to the Prime Minister, Geoffrey Howe MISC 128 colleagues and to Sir Robin Butler.





10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

CH/EXCHEQUER	
REC.	29 SEP 1988
ACTION	MRS CASE
COPIES TO	FST, Sir P Middleton
	Mr Anson, Mr Mon
	Mr Phillips, Mr Bu
	Mr Spackman, Mr H

28 September 1988 Mr Tyrrie  
Mr Perfect

*Dea Philp,*

BROADCASTING

The Prime Minister has now had a chance to consider the Home Secretary's minute of 14 September and the attached full draft of the White Paper, together with the Home Secretary's earlier minute of 19 August on subscription and his letter to the Secretary of State for Trade and Industry of 13 September on local services and transmission. The Prime Minister has also seen the comments on this correspondence from other colleagues.

I should be grateful if you and copy recipients would ensure that this letter is circulated on a restricted basis.

Having now considered the package as a whole, the Prime Minister has a number of concerns about its overall balance.

First, she thinks that further thought needs to be given to the future arrangements for news services on Channel 3. She regards it as essential to ensure the existence of a high quality news service in competition with the BBC. This might be achieved by retaining in a modified form the provision of the 1981 Broadcasting Act imposing a duty on the ITC to ensure there is at least one body effectively equipped and financed to provide news on Channel 3, with a requirement to show national and international news and current affairs. There might also be a requirement for the ITV contractors to hold a minority, though not a majority, of the shares in the company providing the news service.

Second, the Prime Minister is concerned about the proposal that the BBC should retain the use of night hours on both its channels. She thinks that the BBC should retain the night hours on just one of its channels, with the night hours on the other channel being assigned to the ITC. In presenting this decision, it would be important to emphasise that the BBC should use its night hours channel as fully as possible to develop subscription services. The Prime Minister also thinks the White Paper should express more strongly the Government's

Overall objective progressively to replace the BBC licence fee by subscription; the more specific the period for this changeover the better.

Third, the Prime Minister believes that the present proposals for transmission need to be considered further. She thinks it important for there to be scope for effective competition and new entrants into transmission services. As a minimum, therefore, the BBC should be asked to contract out the operation and service of its transmission system to the private sector. She also questions whether it is appropriate for the ITC, as a regulatory body, to own private sector transmitters.

On Channel 4, the Prime Minister recognises the difficulty in expressing a clear view in the White Paper on the best way forward. Against this background, she thinks the White Paper will need to set out a number of options. But she regards it as essential that the final arrangement keeps the pressure on C4 to maximise the efficiency of its operations, and does not allow C4 to rely on subventions from the other ITV contractors.

The Prime Minister would be grateful if the Home Secretary, in consultation as appropriate with colleagues, could consider these aspects further and come forward with a revised package and draft White Paper for MISC 128 - together with the Foreign Secretary and Secretary of State for Education and Science - to consider at a meeting in the second-half of October.

I am copying this letter to the Private Secretaries to members of MISC 128 to and Sir Robin Butler.

Yours,  
P.G.

PAUL GRAY

Philip Mawer, Esq.,  
Home Office.

CONFIDENTIAL



*Please I have  
also heard  
draft WP.*

FST  
→  
CHEX  
28/9

FROM: FINANCIAL SECRETARY

DATE: 28 September 1988

**CHANCELLOR**

cc Chief Secretary  
Sir P Middleton  
Mr Anson  
Mr Phillips  
Mrs Case  
Mr Spackman  
Mr Farthing  
Mr Perfect  
Mr Tyrie

MISC 128

As you know, I have read the papers on broadcasting in case you were not here for the next meeting of MISC 128. In general, I agree with Mrs Case's draft brief of 20 September. But there are two areas where I would put a slightly different emphasis.

Channel 4

I am not convinced that we need to allocate the Channel 4 licence to a non-profit making trust. In the more open broadcasting structure set out in the White Paper, I believe that there will be a market for a higher quality minority channel like Channel 4. Most observers seem to think Channel 4 with direct sales of advertising will attract more revenue than it does at present. There is a niche for Channel 4 (just as there is for the "Independent"), and I doubt if that would be threatened by making it a profit-making organisation. An insistence on a non-profit making trust is not therefore necessary.

## Subscription

This is a somewhat bigger concern. I wonder whether we are giving a big enough shove to subscription. I have some sympathy with David Young's view that the BBC should allocate (by competitive tender) one of its nighttime channels to a commercial company willing to introduce subscription. More radically, perhaps, we could encourage its development by reserving all of Channel 5 for subscription services, rather than (as currently intended) a mix of advertising and subscription as bidders so desire. I suspect that in any tender for a new Channel, those firms favouring conventional financing will have the advantage, and that there will be no subscription. We therefore need to provide a kick start to subscription in order to give it the opportunity to compete with the other terrestrial and satellite channels financed by advertising but free to the viewer. I personally know of people who would be prepared to bid for a subscription - only channel of this kind.

In my view, subscription is the most exciting of all the new developments. It is also the best guarantee against a complete erosion of standards, since it will allow minorities to pay for special programmes to meet their interests, rather than leaving them to rely on the BBC to cater to their tastes. Subscription has not taken off in the U.S.; it would be a great pity if it did not do so here.



NORMAN LAMONT

# dti

the department for Enterprise

*BE 6/10*

**CONFIDENTIAL**

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

The Rt Hon Douglas Hurd CBE MP  
Home Secretary  
Home Office  
50 Queen Anne's Gate  
SW1P 3AG

**Department of  
Trade and Industry**

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

<b>CH/EXCHEQUER</b>	
REC.	- 30 OCT 1988
ACTION	MRS CASE ✓ 3/10
COPIES TO	CST, PST, SER P MIDDLETON, MR ADJON, MR MOWAT, MR PHILLIPS, MR BURGER, MR SPACHMAN, MR WALLER, MR FARTHING, MR PERFECT, MR CAVE, MR NICHOL, MR CROPPER, MR TYRRE, MR CALL

Direct line 215 5422  
Our ref PS6AOJ  
Your ref  
Date 3 October 1988

*Res Douglas,*

**BROADCASTING WHITE PAPER**

I have seen a copy of the letter of 28 September from the Prime Minister's Private Secretary to yours. I would like to add one or two comments on the BBC's use of the night hours, and on transmission.

I welcome the prospect of moving the BBC progressively from licence fee to subscription funding; and allowing them to retain one set of their night hours will give them the necessary flexibility to make a "soft start" with subscription. But as I argued in my letter of 12 September, our objectives for subscription funding of the BBC will not be advanced by the use of the night hours for specialised business services (such as the medical service), as these will do nothing to accustom viewers at large to paying for services received over the BBC frequencies. In presenting our decisions to the BBC, therefore, I think it should be made clear that we expect them to concentrate on developing services likely to be of interest to viewers at large (albeit individual programmes might cater for niche markets) and that we would not expect to authorise subscription services which appeared to be directed wholly or mainly at business or professional interests.



*L. Young  
→  
Hurd  
3/10*

**CONFIDENTIAL**

On transmission, I would naturally favour an outcome which allowed for the development of as effective competition as possible. On the question of ownership of transmission assets, it seems to me that the ideal solution would be to find a way of persuading the BBC to accept an amendment to their Charter which would allow us to make sensible arrangements to privatise the whole UHF network now. I appreciate that if the BBC were vehemently opposed to such a course of action our room for manoeuvre before 1996 might be limited, but we should at least put the proposition to them.

I also have a few comments on some other aspects of the draft White Paper, which it may be helpful to raise at this stage.

Open ended -v- fixed term licences

I remain convinced that the commercial licences should be open ended. I see no prospect of bidders raising funding on the basis of eight year fixed terms. While this difficulty might be reduced by setting a much longer fixed term, the serious problems of ensuring quality and efficiency in the closing years of the licence remain. I am not persuaded that open ended licences are incompatible with change to the independent system, provided the possibility of change is made clear in the prospectus when the licences are offered. I see no reason why, in a market-led system, changes to the geographical framework of channel 3 should not be made by agreement between the licensees concerned and the ITC. Similarly, it should be possible to make any changes to accommodate technical or international developments provided the terms of the original licence are carefully drawn. The objection that the initial price paid might not in practice reflect the full value of the licence can be met by a revenue levy, as already proposed. The balance of the arguments in paragraph 18 of Chapter VI should therefore be reversed, and the paragraph should express a strong presumption in favour of open-ended licences.

Transitional arrangements for local services

In your letter of 13 September you advocated restricting the right to "convert" a cable franchise to a technology neutral delivery franchise to cable operators actually awarded franchises by the date of the White Paper. The transitional arrangements are clearly going to be difficult and controversial, and it will not be feasible to finalise them until officials have been able to discuss the implications with the Cable Authority and the industry after the White Paper is published. We must accept that this part of the

**CONFIDENTIAL**

White Paper has particularly "green edges", and that in the light of comments we might conclude that arrangements rather different to those sketched out in the White Paper would be appropriate.

It is essential therefore that the White Paper leaves us ample room for manoeuvre. I also believe that we should seek to put a term on the inevitable period of uncertainty in the cable industry by committing ourselves clearly in the White Paper to publishing a further document, setting out firm proposals for local services, not more than, say, two months after the end of the consultation period.

Finally, I feel the draft gives insufficient weight to the potential impact of new technology, including High Definition Television, on the broadcasting scene in the 1990s. My officials will let yours have some suggestions on this.

I am copying this letter to the Prime Minister and other members of MISC 128, and to Sir Robin Butler.

*Y. L.*  
*David*

CONFIDENTIAL

BF 6/10 MP



CH/EXCHEQUER	
REC.	5 OCT 1988
ACTION	MRS CASE
COPIES TO	CST, FST
	SIR P MITCHELL
	MR ANDSON, MR MOWER,
	MR PHILLIPS, MR BURROW,
	MR SPACHMAN, MR WEAVER
	MR FARTHING, MR PERFECT, MR CADE,
	MR NICHOL, MR CROPPER, MR TYRRE,
	MR CALL

QUEEN ANNE'S GATE LONDON SW1H 9AT

5/10

4. October 1988

Dear David,

BROADCASTING WHITE PAPER

Thank you for your letter of 23 September.

I take your point about the trade-off between MVDS at 12 GHz and the options open to us for securing additional DBS frequencies. We will need to return to this point when we review the options after the orbit conference in Geneva. In the meantime I am glad to hear that you have no difficulty with the way the draft White Paper deals with this point.

I note what you say about the possible ambitions of the Spanish Government to secure additional DBS frequencies in the same orbital position as the UK. Although it would clearly be a pity if this happened (particularly as they are so far less advanced than us in using their initial five channel allocation) I agree that it would be a mistake to try to take pre-emptive action.

You mention the possibility of trying to secure additional DBS frequencies at the orbital position occupied by Astra (19oE). I can see that this option may well have some technical attractions. But we have to bear in mind that the orbital position at which we tried to seek additional frequencies would have implications for the services already operating from that position. If we are faced with a choice between 31oW (which is of course the option we have had in mind so far) and 19oE I would have a strong preference, all things being equal, for the former. This would be the natural option to choose as it would complement the services operating in our initial five channel allocation. To go for 19oE would, in contrast, be perceived, whether we intended it or not, as support for Astra and a vote of no confidence in BSB. Among other things this might prejudice BSB's chances of raising the 400m of capital which they will need after launch next autumn.

I am copying this letter to the Prime Minister, the Foreign Secretary, Members of MISC 128 and to Sir Robin Butler.

HURD  
L. Young  
4/10

Young,  
David,

The Rt Hon Lord Young of Graffham

CONFIDENTIAL



CONFIDENTIAL

~~PPS AT~~FROM: MRS A F CASE  
DATE: 4 October 1988

CHANCELLOR

cc Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips  
Mr Burgner  
Mr Spackman  
Mr Farthing  
Mr Perfect  
Mr Nicol  
Mr Tyrie

## BROADCASTING : DRAFT WHITE PAPER

Mr Hurd's minute of 14 September to the Prime Minister sought broad endorsement of the White Paper in terms of substance and presentation and decisions on a list of outstanding issues. The Prime Minister has now commented on the draft (Mr Gray's letter of 28 September) raising doubts about four issues; news services on Channel 3, the BBC's use of night hours on both its channels, the future transmission arrangements and Channel 4. The Home Secretary has been asked to consider these points further and bring forward a revised package for the 20 October MISC 128 meeting. There is therefore an opportunity to put your views on record where this might achieve a more acceptable outcome. Lord Young has already done so (his letter of 3 October). I suggest you might do so on two points - subscription and Channel 3 news services.

2. On subscription, the Treasury position was set out in your letter of 31 August. That letter reluctantly accepted Mr Hurd's proposal of leaving the BBC both night channels in order to develop subscription to the maximum extent possible. It also suggested that the White Paper should leave open the possibility of requiring subscription for certain licenses. The draft White Paper provides for the first point but not the second. Both the Prime Minister and Lord Young argue that the BBC should be left with its night hours on only one channel with encouragement to develop subscription there.

CASE  
→  
CHCX  
4/10

3. Combined with the totally non-prescriptive approach in the White Paper to the choice between advertising and subscription for services, that could mean that subscription will never get off the ground, since in any tender for a license, firms favouring conventional financing may have the advantage. It would therefore be worth raising again the possibility that subscription finance should be required for some licenses.

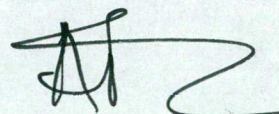
4. There are two other points worth making on this section of the White Paper. First, it should not rule out a reduction in the BBC license fee reflecting the earning potential of subscription. This could be demotivating, as the Home Secretary argues: equally, that may be the only way of making progress towards replacing the license fee by subscription. Second, the White Paper implies a different levy regime for different sources of broadcasting funding. Levy will only apply to services financed by advertising and not those financed by subscription. If this is intended eg as a means of encouraging subscription, the White Paper should say so, but it would not necessarily be right to rule out levy on subscription income for all time.

5. The draft White Paper suggests that there should be a bias towards news and current affairs on one Channel 5 license (though not an exclusive news only license) to supplement the normal requirement on Channels 3, 4 and 5 to include news and current affairs. The proposal was designed to meet the Prime Minister's concern about ITN. It does not seem to have done so. The No 10 letter effectively seeks to reverse the earlier decision taken to end the protected position of ITN by requiring the ITV contractors to hold shares in a company which will provide the news on Channel 3. This would be a retrograde step. ITN's track record should put it in a strong position to supply news to the independent channels. There is no reason to believe that commercial pressures will operate to cut out high quality news provision entirely. If this were the fear, the license conditions could be strengthened on this point.

6. The attached draft letter covers these points. I doubt whether you need comment at this stage on the other issues raised in Mr Hurd's minute or the Prime Minister's response. Your position on Channel 4 is well understood. The Prime Minister has effectively ruled out any return to protected financing. On transmission, there is no difficulty about the direction in which the policy should develop ie towards greater competition and private sector involvement. The issues are practical ones ie the intertwining of the transmission infrastructures of the BBC and IBA and the difficulty of making changes in the ownership of the BBC assets before their charter comes up for renewal in 1996. It may be possible, as Lord Young suggests, to persuade the BBC to accept an amendment now allowing the network to be privatised.

7. Lord Young continues to argue for open-ended licenses. In addition to his earlier concern about the problems of ensuring quality and efficiency in the closing years of the license, he now suggests that bidders will be unable to raise funding on the basis of 8 year fixed terms. This is a new argument for which we have seen no evidence. If it is indeed a problem, it could be expected to emerge in consultations on the White Paper and is therefore an argument for leaving the point open in the White Paper. Discussions at official level have found no water tight way round the end-of-license problem, although end loaded performance bonds would help. Nor has a way been found round the difficulty of revising broadcasting policy in the future, if this entailed major changes in the license structure or conditions. It might be possible to rest on the possibilities of negotiation and agreement but if major changes were in prospect, the Government could be faced with demands for compensation. If the license were to allow for major change, the original bids would be lower. It is unlikely that all of this could be recaptured through the levy.

8. I attach a draft letter.



MRS A F CASE

DRAFT LETTER TO THE HOME SECRETARY

pl type final

cc Prime Minister  
Members of MISC 128  
Sir Robin Butler

BROADCASTING WHITE PAPER

I have seen a copy of a letter of 28 September <sup>Paul Cray's</sup> [from] the Prime Minister's <sup>views</sup> private secretary, together with David Young's letter to you of 3 October. <sup>Setting out</sup>

2. You might find it helpful to have my views on two of the points raised.

3. On night hours and subscription, I remain concerned that we may not be giving subscription a big enough push, if the only clear subscription element in the package is the night hours on one BBC channel. My letter of 31 August suggested that the White Paper should leave open the possibility of requiring subscription finance for some commercial licenses at least in the short term. I continue to think that that would be helpful. We could then judge, in the light of reactions to the White Paper, whether we need to insist on a degree of subscription financing, eg for channel 5 or night hours licenses. Without such positive discrimination, it may be that those prepared to bid for a subscription service will always be outbid by those favouring conventional financing and our opportunity to establish a consumer responsive market will have been lost. This could also help deal with the arguments we will face about quality.

4. I also share the Prime Minister's view that the White Paper should express strongly the overall objective of progressively replacing the BBC license fee by subscription. With that aim in view, the White Paper should not rule out an actual reduction in the license fee reflecting the earning potential of subscription. I agree we would need to consider the impact of such a move in the circumstances of the time.

5. Finally, also in the subscription area, I think we need give further thought to the position of subscription income and the levy. Given the White Paper's emphasis on funding broadcasting from a variety of sources, we may well be asked why only some of those services will be subject to levy. The absence of any levy may serve to encourage subscription services but I am not convinced that anything more than a "holiday" is required.

6. You will be looking again at news services in the light of the Prime Minister's comments. I hope that a means can be found of ensuring the existence of a high quality news service without going back on our decision to end the ITN monopoly and its protected financial position. To do so would be quite out of keeping with the White Paper's general approach, whilst some competition at the margin should help buttress ITN's efficiency in the future. Perhaps a way forward might be to reinforce the licence conditions dealing with views and current affairs coverage.

7. I am copying this letter to the Prime Minister, the members of MISC 128 and Sir Robin Butler.



CH/EXCHEQUER	
REC.	50CT1988
ACTION	MRS CASE
COPIES TO	CST, FST, SIR PMIDDLETON, MR ANDSON, MR MOORE, MR PHILLIPS, MR BURGER, MR SPACKMAN, MR WALLER, MR FARTHEG, MR PERFECT, MR CASE, MR NICHOL, MR CROPPER, MR TYRRE, MR CALL

✓ s/10

PRIME MINISTER

4/10/88.

BROADCASTING WHITE PAPER

I am grateful to you for your comments on the draft White Paper as conveyed in your Private Secretary's letter of 28 September. Now that we can see the package of reforms as a whole for the first time I recognise the case for making some adjustments to it. I have gone through the same process myself. I discuss in turn below the points you raise.

News Provision on Channel 3

2. The draft White Paper envisages, in paragraph 11 of Chapter VI, an obligation on each Channel 3 station to show news and current affairs. Since this is, and is likely to remain, the most popular channel in competition with the BBC, I believe we need to be more explicit about this. We should make clear that the obligation should be to show high quality news and current affairs dealing with national and international matters, and that the ITC should have a duty to ensure that the news (and possibly also current affairs) is shown during the main viewing periods. We want to avoid the possibility that licensees might shuffle news into the non-peak hours - say in the middle of the afternoon or very late at night. On the other hand, we must be careful not to reintroduce the whole panoply of bureaucratic regulation of scheduling which the present system entails, and which we are agreed ought to go.

HURD  
→  
PM  
4/10

2.

3. This would meet some of our objectives, but, like you, I believe there is a strong case for going further to ensure that there are adequate institutional arrangements to provide a news service which, at the level of quality achieved by the ITN, is necessarily expensive. A modified version of section 22 of the Broadcasting Act 1981 would impose a duty on the Independent Television Commission (ITC) to ensure that there was at least one body effectively equipped and financed to provide news on its Channel 3 service. Channel 3 licensees would be required to finance the organisation and in exchange would have the opportunity to own shares in it. The organisation should provide news to Channel 3 licensees under an arm's length service contract, incorporating a profit margin sufficient to generate a divided stream. However, whereas the present ITV contractors hold all the shares in ITN - and the fact that they will not automatically cease to do so if they lose their franchises complicates the position - I agree that under the new provision shares, perhaps a majority, would eventually be held externally, by companies without licences on any television channel. It may be necessary for the licensees to hold the majority of shares initially until a record of trading has been established; the shareholding should then be widened to bring in external shareholders. The ITC would have powers to ensure that the news service provided by this body was shown by the stations and, as already mentioned, that this should be at proper times.

4. I attach a revised passage covering these points (Chapter VI, paragraph 12). If colleagues agree to this approach I believe we should drop as no longer needed the suggestion in paragraph 14 of Chapter VI of the White Paper that one of the licences offered for Channel 5 would be for a service with a substantial proportion of news and current affairs among its output.

### BBC Night Hours

5. In my minute of 19 August I explained the case for allowing the BBC to retain the night hours on both channels on the basis that this would assist in moving the BBC over to a subscription basis. But there is a case for removing one of its channels to reduce its dominant position and to avoid the risk that it could become the market leader of subscription services. The Trade and Industry Secretary has already expressed doubts about the approach I canvassed and I would be content, if that reflects the general view of colleagues, to revert to our earlier decision to remove the night hours from the BBC on one of its channels. Probably the best way of doing this would be to hand the frequency to the ITC who would allocate it by competitive tender, on a similar basis to the night hours on Channel 3. The BBC would then have to do its best to introduce subscription on its remaining channel, though whether it found it best to proceed through further specialised services like its present one to doctors or by more general entertainment channels is something we might leave to them. Obviously our ability to reduce the licence fee in recognition of subscription income would be less than it would otherwise have been, but we can nonetheless make it clearer that replacement of the licence fee is our overall objective. I do not myself believe that we should be able to achieve this objective quickly, but until we have some experience of subscription there can be no certainty about this.

6. I attach a revised passage for Chapter III.

### Channel 4

7. I welcome your view that the White Paper should set out options as to the future constitution and structure of Channel 4. It is already clear that when the White Paper is published much attention will be focussed on our proposals on this. I am myself increasingly conscious of the need to



ensure continued and adequate competition for the BBC and its audiences across the full range of programming (including quality programming). We have all agreed that Channel 4's special remit must be preserved. We need to make sure that Channel 4 provides a bulwark of quality broadcasting in the independent sector which stands comparison with the BBC. While we agreed that advertisements on Channel 4 must be sold separately from those on Channels 3 and 5, which is the main change which the advertisers want to see on Channel 4, there are of course different ways of achieving it. I attach a revised passage setting out a rather fuller discussion of the options for constitutional change for this purpose. My own view remains that Channel 4 should stay as a non-profit making body, and that a fully commercial entity would find it difficult to fulfil its special remit. Having, like you, looked at our proposals in the round, and thought further about the likely course of public and Parliamentary debate on quality, I hold this opinion more strongly than before, but am content that we should at this stage simply describe the options.

### Transmission System

8. I have looked again at what the draft White Paper says about transmission. As to the BBC, I agree we could go further than officials proposed and that we should canvass a provision, parallel to that envisaged for the ITC, requiring the BBC to contract out as far as possible the operation of its transmitters. If the White Paper says that is what we want to happen, there is a reasonable prospect that the BBC will proceed to do it without waiting for legislation, and we could take a final decision on whether it is necessary to include a specific provision in the Bill nearer the time. I am persuaded that while the present Charter is in force - until the end of 1996 - it would be difficult to go further and to require the BBC to divest itself of transmission sites, transmitters and associated equipment. This is because the Charter expressly authorises the BBC to establish and use transmitting stations.

9. As to the ITC, you question whether the ITC should own the transmitters. Paragraph 5 of the Official Group's report (MISC 128(88)11) suggests that it would be sensible for the ITC to take over the transmission infrastructure (e.g. sites and masts) presently owned by the IBA (and accordingly in the public sector). They argue:

"The extent to which the IBA's network is entwined with that of the BBC makes it impractical to contemplate privatisation of the infrastructure until the Corporation's Charter comes up for renewal."

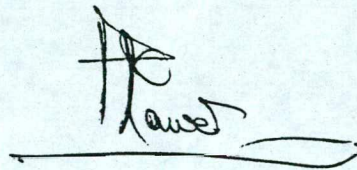
10. It might be possible to go beyond this and to transfer the IBA's assets to private sector contractors appointed by the ITC. But it is not clear to me that there is much purpose in doing so when we can achieve our main objectives by other means: namely requiring the ITC to contract out the operation of servicing of the transmission system. Going further would create real practical problems. These stem from the fact that there are relatively few UHF transmitters, that all existing aerials are directionally attuned to them, and that the IBA/BBC system is, for good technical reasons, intertwined. For example, it would be difficult, on that approach, for the ITC to replace a transmitter contractor, perhaps because of incompetence, unless of course the departing contractor were required to sell the sites etc to the newcomer, in which case his "ownership" would effectively be a sham. It would be worse if the dismissed contractor were able to retain the infrastructure given the inter-relationship with the BBC and the fact that the present transmitters occupy the most suitable sites and that aerials are aimed at them.

11. Accordingly I believe that in the case of the ITC, too, we should await the review of these arrangements when the BBC Charter falls in at the end of 1996. I attach a revised version of the Chapter which reflects my view that we could require the BBC, as well as the ITC, to contract out

the operation of the transmission function. The passage also makes it clear that when the ITC and the BBC do contract out this function it should be to more than one private sector operator: our objective should be to foster the development of a competitive private sector transmission capacity.

12. I thought it would be helpful to circulate these revised passages straightaway, without waiting to make the consequential editorial changes in the rest of the text. I hope that they, together with the draft as a whole, will commend themselves to you and to other colleagues and that we can consider them at the forthcoming meeting of the Ministerial Group.

13. I am sending a copy of this minute to the other members of MISC 128, to the Foreign Secretary, the Secretary of State for Education & Science and to Sir Robin Butler.

A handwritten signature in black ink, appearing to read 'H. Lawet', with a long horizontal flourish extending to the right.

4 October 1988

APPROVED BY THE HOME SECRETARY  
AND SIGNED IN HIS ABSENCE

NEWS SERVICES ON CHANNEL 3

CHAPTER VI, PARAGRAPH 12

12. Taken together these requirements will ensure that Channel 3 helps forward the main objective of enlarging viewer choice. The first reflects the Government's agreement with the Home Affairs Committee (paragraph 171 of their Report) that the regional basis of what will become Channel 3 is crucial. The third will ensure - on the same basis as for national commercial radio services - that the Channel is not monopolised by programmes of appeal to only a single target audience. The fourth and fifth will ensure a competitive programme production market. It will be open to Channel 3 licensees to contract out all their programme making if they find it efficient to do so. The second requirement, concerning news, would in itself do much to ensure that the public does not lack opportunities to keep itself informed. However, the Government believes it necessary to go further, in the case of Channel 3 alone, to ensure that there is adequate competition to the BBC and to guarantee the continued availability of a high quality news service of the kind which ITN has provided throughout the existence of the ITV system. ITN has its existence by virtue of section 22 of the Broadcasting Act 1981, which requires there to be at least one news organisation in which each ITV contractor must be given opportunities to invest. The Government intends to

retain this provision in modified form: it will impose a duty on the ITC to ensure that there is at least one body effectively equipped and financed to provide news on its Channel 3 service. Channel 3 licensees would be required to finance the organisation and in exchange would have the opportunity to own shares in it. However, whereas at present all ITN shares are held by ITV contractors, under the new provision some shares would be held externally, by bodies without licences on any television channel. The Government envisages that eventually a majority of shares might be held by non-licensees. The detailed arrangements require further study and consultation, but one approach would be as follows. Initially the Channel 3 licensees might hold the majority, or all, of the shares in the news organisation or organisations. The supply of news to Channel 3 would be governed by a service contract which would, unlike the funding for ITN at present, include a profit element to establish the organisation's commercial value. The ITC would be under a duty, at the appropriate time, to ensure that some, perhaps the majority, shares were sold to non-licensees. No external investor should hold more than 5% of the shares. Although not having general control of scheduling, the ITC would have powers to ensure that the news service provided by one or more of the news organisations was shown by Channel 3 stations and, as already indicated, that this should include exposure during peak viewing times. As a necessary safeguard, the ITC would have power to withdraw, after adequate notice, its approval of a news organisation which failed to deliver an acceptable service.

BBC NIGHT HOURS

CHAPTER III, PARAGRAPHS 12, 13 AND 14

12. As new television services proliferate the system of financing the BBC television and radio services by a compulsory licence fee alone will become harder to sustain. Though the Government accepts the advice of its consultants that a sudden, wholesale switch to subscription would be undesirable and damaging, there should be a greater role for subscription. The Government looks forward to the eventual replacement of the licence fee, the timing to depend on experience gained of the impetus and effects of BBC and other new subscription services. So the Government has decided that the right course for the present is to encourage the progressive introduction of subscription on the BBC's television services. Account will need to be taken in due course of the implications for financing of BBC radio services.

13. The Government accordingly proposes to authorise the BBC to encrypt its services so that it can raise money through subscription. The extent and pace of the move towards subscription will be for the BBC to judge in the first instance. But the BBC will have in mind the objective of replacing the licence fee; and, to provide a financial incentive, the Government intends after April 1991 to agree licence fee increases of less than the RPI increase in a way which takes account of the BBC's capacity to generate income from subscription. The Government has informed the BBC of these decisions and will be discussing the details further before firm targets are set. The Government proposes to authorise the BBC to run subscription services during the night hours. The BBC [has already started] [plans to start soon] a downloaded service, in conjunction with a commercial partner, British Direct Television, providing information for the medical profession. It plans to run other similar services, and also to move into entertainment services, catering for particular tastes and interests, drawing on its programme archives. It will be for the BBC in this area, as more generally, to decide the best mix of programme services within the framework of financial incentives laid down.

14. The Peacock Committee proposed that the night hours (1 am to 6 am) should be removed from the BBC and other broadcasting authorities and sold for use to provide new services by the highest bidder (paragraph 652). There is, however, scope for new services to be provided in other ways. Removal of the night hours on both its channels would make it hard for the BBC to introduce subscription without running the risk of depriving viewers of valued programming which they had been accustomed to receive free. It would also hamper the BBC's plans for building substantially on its initial downloading experiment in a way which offered the prospect of substantially widening viewer choice and establishing a firm base for subscription technology. However the Government accepts the case for removing the night hours from one of the BBC's channels, and assigning it to the ITC (see Chapter VI, paragraph 14). The Government therefore proposes to allow the BBC to retain the night hours of one of its channels, on the basis that it uses it as fully as possible for developing subscription services.



CHANNEL 4

CHAPTER VIII, PARAGRAPH 23

23. The Government accordingly believes that Channel 4's special role is best fulfilled by an independent organisation subject to ITC oversight, but without direct financial or structural links to the Channel 3 licensees. The ITC would be responsible for transmitting the service, as explained in Chapter IX. Advertising will be sold separately from the advertising on Channel 3 or other channels; while this is probably best made the responsibility of Channel 4 or the ITC it might in practice choose to contract this out. But there are a number of different constitutional models which might meet these objectives, and the Government would welcome comment on the best way forward. The following list of options is intended to be illustrative rather than exclusive:

(i) The service on the Fourth Channel could be provided by a private sector company licensed by the ITC in much the same way as services on Channel 3. On this approach the programme remit would need to be clearly expressed in the form of licence conditions which the ITC would need to enforce rigorously. The licence could then be awarded by competitive tender, as described in paragraph 15. In particular it would be necessary to ensure that the Channel should continue to provide a service which, as well as being innovative and experimental, addressed a wide range of minority tastes. However, an express requirement that it should be different from all services licensed by the ITC could not sensibly be laid down as a licence condition. The Channel would be given the freedom to recover the costs of fulfilling its programming remit by its own efforts in selling air time, charging subscription or raising funds through sponsorship.

(ii) Channel 4 could remain as a non-profit making body, in the form of a subsidiary of the ITC, but again made self-sufficient in funding through the sale of advertising, subscription and sponsorship. Additionally, while Channel 4 could be funded in the first instance from its own efforts in raising money through advertising, sponsorship or subscription, this could be on the basis that the ITC would have a reserve power to top this up if necessary, to reach a predetermined minimum level, the money coming from the proceeds of competitive tender or a precept on independent television companies.

(iii) Channel 4 could remain as a non-profit making body, in the form of a subsidiary of the ITC, but instead of being made self-sufficient its revenue could be determined independently, as it is now, of its audience share or its success in raising money through advertising, subscription or sponsorship. Various mechanisms could be devised to achieve this outcome. For example, Channel 4's income could be determined by the ITC subject to Government approval by a formula, perhaps expressed as now in the form of a percentage of the advertising revenue of Channels 3, 4 and perhaps 5, combined. The money would come from advertising on Channel 4, the sale of which would be contracted out to a private sector operator independent of any ITC licensee. This would be supplemented if necessary by the proceeds of the levy, and any surplus would be creamed off by the ITC and applied to the revenue for the Welsh Fourth Channel. Channel 4's management would accordingly have no financial incentive to chase the ratings or to enlarge its audience at the expense of Channel 3.

There are competing considerations: a fully privatised Channel 4 would have greater incentives to efficiency and the Government believes this approach would be practicable; but there are fears that if Channel 4 were operated by a profit maximising private company concern about its revenue would put powerful pressure on

its adherence to its special remit, and on any regulatory structure designed to secure such adherence. On the other hand if Channel 4 remains in the public sector, and particularly if it does so under an arrangement which, like the present system, guarantees its income and accordingly insulates it from any market disciplines, then the incentive to efficiency will be diminished and, in programming matters, it may be vulnerable to sterile elitism or precious self-indulgence. The Government would welcome views on these and other possible arrangements from the industry, other interested parties and from viewers.

<mg>Min/Pas/Chan4

## CONFIDENTIAL

## IX: TRANSMISSION

1. The transmission networks run by the BBC and the IBA give a highly effective service to the public. They reach 99.4% of the households in the UK, providing them with a reliable, high quality signal. This is a considerable engineering achievement, and it is highly regarded internationally. As broadcasting enters a more competitive phase, the Government intends to see that high technical standards are maintained, while opening up transmission more to private sector competition.

2. Overall responsibility for spectrum management must remain with the Government. The Government believes that the ITC should have responsibility for frequency planning for all non BBC services and for overseeing the transmission of all national or quasi-national independent UHF services (ie Channels 3, 4, 5 and, possibly, 6). The Government considers that there are clear advantages in retaining a single body with responsibilities to arrange the transmission of these services, particularly as there will be a number of licensees using the frequencies in different areas, or at different times of the day or week. It will make it easier to plan the use of frequencies in such a way as to maximise coverage. There are advantages for viewers in an integrated UHF transmission system for all independent services operating from a minimum of sites, since this will reduce the likelihood that they will need different aerials for different services. The Government believes, however, that the ITC should discharge this responsibility as far as possible through private sector transmission contractors chosen periodically by competitive tender. The ITC should have a number of different contractors, each operating in a particular part of the country, with the aim of fostering a competitive transmission industry in the private sector. Its role will be mainly to appoint the contractors and monitor their performance. The Government sees merit in principle in privatising the ownership of the transmission infrastructure as

a whole but believes this is difficult at present given the way in which the IBA's system is entwined with that of the BBC. However, it envisages that this issue will be reviewed when the BBC Charter comes up for renewal at the end of 1996.

3. Under the existing arrangements the IBA owns and operates the uplink for its DBS contractors. The Government believes that DBS licensees should in future be responsible for the uplink themselves along with the rest of their transmission system (ie the satellite). The IBA is presently constructing the uplink for British Satellite Broadcasting and will operate it while the law remains as it is. The Government will discuss the transitional arrangements with the parties concerned.

4. The BBC's transmission responsibilities are reflected in its Charter which lasts until the end of 1996, and the Government does not wish to question the BBC's continuing transmission role, at least in that period. The advent of new services will, indeed, open up new commercial opportunities for the BBC. The Government hopes that the BBC will make the best of these opportunities by offering a transmission service to other broadcasters on a commercial basis, and the BBC has indicated its interest in pursuing that. In the same way the BBC should test the market for the operation by others of its transmission system. The BBC has already tested the market for a range of support services as part of its general policy of devoting as great a proportion as possible of its resources to programme making. The Government sees advantage in it adopting the same approach to the transmission area too. Accordingly, while it wishes to consult the BBC about the approach, it envisages that the BBC should contract out to the private sector, as far as possible, the operation and servicing of its transmission system; and the Government will keep in mind the possibility of legislating to that end. As in the case of the ITC, the Government expects the BBC to engage a number of transmission contractors. That approach

is compatible with the BBC, at the same time, offering a transmission service to other broadcasters, for example the new national commercial radio services and those wishing to offer an MVDS delivery service. The Government appreciates that there is some risk that because of its dominant position as a vertically integrated national broadcasting organisation the BBC may be able to undercut commercial competition for transmission contracts. It will keep under review the extent to which market distortions, through pricing policy or otherwise, arise and if necessary will seek remedies under the competition legislation.

5. The holders of local delivery franchises will be responsible for making their own transmission arrangements, though they will be subject to ITC oversight, especially since it will be responsible for planning, and for providing advice to government on co-ordination and international clearance for the use of the relevant frequencies. It will be open to operators to have an in-house transmission operation, or to make arrangements with a private sector company, with the BBC or the ITC, or any combination of these.

CONFIDENTIAL

FROM: MRS A F CASE  
DATE: 5 October 1988

CHANCELLOR

cc Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips  
Mr Burgner  
Mr Spackman  
Mr Farthing  
Mr Perfect  
Mr Nicol  
Mr Tyrie

*in content with  
new paras 6 and 7?  
mpw*

*OK*

**BROADCASTING : DRAFT WHITE PAPER**

Mr Hurd has now minuted the Prime Minister in response to her earlier comments.

2. I still think it would be worth your commenting. Indeed, the case for doing so is even greater as Mr Hurd's latest proposals represent a clear move away from a competitive broadcasting industry on both ITN and Channel 4. I have therefore strengthened the draft letter.

3. As revised this takes a firmer line on news services (where Mr Hurd's proposals would reinstate the ITN monopoly) and incorporates a comment on Channel 4 (where Mr Hurd's proposals include an unacceptable option which would maintain in a slightly different form Channel 4's protected revenues).

*ATC*

MRS A F CASE



CASE  
→  
CHEX  
5/10

DRAFT LETTER TO THE HOME SECRETARY

cc Prime Minister  
Members of MISC 128  
Sir Robin Butler

BROADCASTING WHITE PAPER

I have now seen your response to the Prime Minister's comments on the draft White Paper which you circulated on 14 September.

2. You might find it helpful to have my views on three of the issues raised.

3. On night hours and subscription, I remain concerned that we may not be giving subscription a big enough push, if the only clear subscription element in the package is the night hours on one BBC channel. My letter of 31 August suggested that the White Paper should leave open the possibility of requiring subscription finance for some commercial licenses at least in the short term. I continue to think that that would be helpful. We could then judge, in the light of reactions to the White Paper, whether we need to insist on a degree of subscription financing, eg for channel 5 or night hours licenses. Without such positive discrimination our opportunity to establish a consumer responsive market may be lost. Greater emphasis on the development of subscription could also help deal with the arguments we will face about quality.



4. I also share the Prime Minister's view that the White Paper should express strongly the objective of progressively replacing the BBC license fee by subscription. With that aim in view, the White Paper should not rule out an actual reduction in the license fee reflecting the earning potential of subscription. I agree we would need to consider the impact of such a move in the circumstances of the time.

5. <sup>still</sup> In the subscription area, I ~~also think~~ <sup>believe</sup> further thought is needed on the position of subscription income and the levy. Given the White Paper's emphasis on funding broadcasting from a variety of sources, we may well be asked why only some of those services will be subject to levy. The absence of any levy may serve to encourage subscription services but I am not convinced that anything more than a "holiday" is required.

~~On another matter, in~~  
~~re reformulated~~  
6. ~~You have reformulated~~ your proposals about news services, ~~in~~ the light of the Prime Minister's comments. ~~In doing so,~~ you have gone back on our earlier decision to end the ITN monopoly and its protected financial position. This seems to me likely to damage ITN itself in the longer term by eliminating any pressures on it for improved efficiency. It also seems out of keeping with the White Paper's general approach. We obviously need to ensure the continued existence of a high quality news service but I remain to be persuaded that this cannot be done by the explicit reinforcing of licence conditions dealing with news and current affairs coverage, which you also suggest.

7. Finally, you are aware of my views on the appropriate regime for ~~C4~~. <sup>Channel Four</sup> But whichever of the options paraded in your first draft we eventually decide on, the third option in your latest draft surely goes too far in suggesting that a final arrangement might be one which gave ~~C4~~ <sup>Channel Four</sup> no incentive to efficiency.

8. I am copying this letter to the Prime Minister, the members of MISC 128 and Sir Robin Butler.

- PS/Financial Secretary
- Sir P Middleton
- Mr Anson
- Mr Monck
- Mr Phillips
- Mr Burgner
- Mr Spackman
- Mrs Case
- Mr Farthing
- Mr Perfect
- Mr Nicol
- Mr Tyrie



Treasury Chambers, Parliament Street, S  
01-270 3000

BF 10/10

*June - do we have  
time for bilateral yet?*

6 October 1988

The Rt Hon Douglas Hurd CBE MP  
Secretary of State for the Home Department  
Home Office  
50 Queen Anne's Gate  
LONDON SW1H 9BW

*Maura S. Cooper*

*Monday 17 Oct.*

*June.*

*[Handwritten signature]*

*[Handwritten signature]*

CHEX  
→  
Hurd  
6/10

**BROADCASTING WHITE PAPER**

I have now seen your response to the Prime Minister's comments on the draft White Paper you circulated on 14 September.

On night hours and subscription, I remain concerned that we may not be giving subscription a big enough push, if the only clear subscription element in the package is the night hours on one BBC channel. My letter of 31 August suggested that the White Paper should leave open the possibility of requiring subscription finance for some commercial licenses at least in the short term. I continue to think that that would be helpful. We could then judge, in the light of reactions to the White Paper, whether we need to insist on a degree of subscription financing, eg for channel 5 or night hours licenses. Without such positive discrimination, our opportunity to establish a consumer-responsive market may be lost. Greater emphasis on the development of subscription could also help deal with the arguments we will face about quality.

I also share the Prime Minister's view that the White Paper should express strongly the overall objective of progressively replacing the BBC license fee by subscription. With that aim in view, the White Paper should not rule out an actual reduction in the license fee reflecting the earning potential of subscription. I agree we would need to consider the impact of such a move in the circumstances of the time.

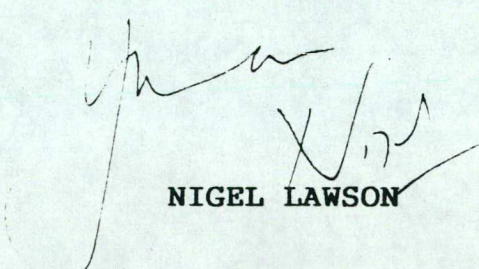
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On another matter, in reformulating your proposals about new services, you have gone back on our earlier decision to end the ITN monopoly and its protected financial position. This seems to me likely to damage ITN itself in the longer term by eliminating any pressures on it for improved efficiency. It also seems out of keeping with the White Paper's general approach. We obviously need to ensure the continued existence of a high quality news service but I remain to be persuaded that this cannot be done by the explicit reinforcing of licence conditions dealing with news and current affairs coverage, which you also suggest.

Finally, you are aware of my views on the appropriate regime for Channel Four. But whichever of the options paraded in your first draft we eventually decide on, the third option in your latest draft surely goes too far in suggesting that a final arrangement might be one which gave Channel Four no incentive to efficiency.

I am copying this letter to the Prime Minister, the members of MISC 128 and Sir Robin Butler.

  
NIGEL LAWSON



✓  
10/10

CH/EXCHEQUER	
REC.	10 OCT 1988
ACTION	Mrs CASE
COPIES TO	CST, FST, SIR P. MIDDLETON, Mr ANSON, Mr MONCK, Mr PHILLIPS, Mr BURGNE, Mr SPACKMAN, Mr WALLEK, Mr PERFECT, Mr CAVE, Mr FARTHING, Mr NICHOL, Mr CROPPER, Mr TYRRE.

10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

10 October 1988 Mr CALL.

Dear Philip,

BROADCASTING WHITE PAPER

The Prime Minister was most grateful for the Home Secretary's further minute of 4 October and the enclosed revised passages for the draft White Paper. She has also seen the letters of 3 October from the Secretary of State for Trade and Industry, and 6 October from the Chancellor of the Exchequer.

I should be grateful if you and copy recipients could ensure that this letter is circulated on a restricted basis.

The Prime Minister welcomes the broad direction of the Home Secretary's proposed adjustments. It has now been arranged for MISC 128 to consider the issues on Thursday 20 October. The Prime Minister will want to consider the papers further before that meeting, but she has two immediate reactions.

First, she continues to attach importance to stimulating the development of subscription income by the BBC, and has noted that both the Secretary of State for Trade and Industry and the Chancellor of the Exchequer have put forward suggestions for achieving this.

Second, the Prime Minister thinks it would be helpful to expand the description of the options for the future constitution and structure of Channel 4 to include the possibility of the creation of a private company which incorporated both C4 and C5. A possible advantage of such an approach would be to improve the prospects of the creation of a commercially viable "third force" able to stand alongside the BBC and the independent sector based on Channel 3.

I am copying this letter to the Private Secretaries to members of MISC 128, the Foreign Secretary, the Secretary of State for Education and Science, and Sir Robin Butler.

Yours,  
Paul

PAUL GRAY

Philip Mawer, Esq.  
Home Office

GRAY  
→  
MAWER  
10/10

CONFIDENTIAL

~~COMMERCIAL IN CONFIDENCE~~

FROM: MRS A F CASE  
DATE: 14 October 1988

CASE  
7  
CHEX  
14/10

CHANCELLOR

MP

cc Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips  
Mr Spackman  
Mr Farthing  
Mr Perfect  
Mr Nicol  
Mr Tyrie

BROADCASTING WHITE PAPER

Mr Hurd has asked to come to see you on Monday. He wants to run over the outstanding issues on the Broadcasting White Paper in advance of MISC 128 on 20 October. His principal concern is to reach agreement at that meeting so that publication of the White Paper can go ahead immediately.

2. Following decisions taken by MISC 128 in July and further work by officials during the holidays, Mr Hurd circulated on 14 September a broadly satisfactory draft White Paper. Its message was the provision of a framework within which an open, plural and competitive broadcasting market could develop. Although some points remained open, most particular issues had been decided in ways consistent with the overall objective. Since then a number of retrograde proposals have been put forward by Mr Hurd notably on ITN and Channel 4 (Mr Hurd's minute of 4 October). Your letter of 6 October expressed concern about these issues and suggested that more of a push needed to be given to subscription. A further letter from No 10 (10 October) supports your views on subscription but puts forward a further, unattractive, option for Channel 4. Lord Young has also written (his letter of 3 October) expressing concern about the BBC and subscription and transmission services, as well as reiterating his support for open-ended (perpetual) broadcasting licenses.

3. Mr Hurd will want to reach an accommodation with you on as many of the outstanding issues as possible. His main interest may well be the outcome on C4 which he sees as crucial in the balance of the White Paper, in particular the need to give sufficient emphasis to "quality". In theory, it should be possible to use Mr Hurd's anxiety for quick decisions on some topics to secure acceptable outcomes on the points of concern to you. In practice, Mr Hurd will feel his room for manoeuvre very limited, particularly on ITN. It may be the case that only a damage limitation exercise is possible at this stage ie a White Paper text which leaves open the possibility of a later pro-competitive decision on the points concerned.

4. I attach an aide memoire dealing with each of the outstanding points.

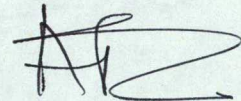
5. Mr Hurd may raise two other issues: the allocation of DBS Channels 4 and 5 about which he wrote to Lord Young on 10 October and the levy arrangements in the contract extension period. You have advice from us on both issues (my minute of 13 October and Mr Perfect's minute of 11 October)

orange folder behind

your letter

will issue

first thing on Monday.



MRS A F CASE

CONFIDENTIAL

### 1. Fixed or Open-ended licenses

The Home Secretary continues to favour fixed term licenses, although he would be prepared to go beyond the 8 year term which Ministers agreed earlier. Lord Young wants open-ended (perpetual) licenses because of the acknowledged difficulties towards the end of a fixed term license of enforcing license conditions by regulation and reduced market pressure for efficiency. No way has been found round this - though end-loaded performance bonds would help. But perpetual licenses have other disadvantages, notably lack of flexibility should further changes in broadcasting policy or structure be required and also a reduction in Exchequer yield. (Bids for unlimited licenses would be lower than the sum of discounted bids for successive fixed term licenses because the degree of uncertainty about returns would lead to bids for later years being heavily discounted.)

#### Line to Take

Agree that the balance of argument is towards fixed term licenses, which might be somewhat longer than 8 years. Programming requirement in license conditions must be framed as clearly and objectively as possible so that ITC can enforce, perhaps by performance bonds.

### 2. News Services and ITN

Mr Hurd's proposals (his minute of 4 October) go back on MISC 128 decision (in January) to end the ITN monopoly. There are no new arguments. He is unwilling to resist further the Prime Minister's pressure to protect ITN's current management. However, although it would entrench the monopoly supply of news to one channel, retaining Section 22 would not automatically ensure ITN's survival under the new regime. It is not clear why the objective of high quality coverage of national and international news could not be secured by appropriate conditions in Channel 3 licenses. ITN would be well placed to secure such contracts. If you judge that this will not satisfy the Prime Minister, it may be worth exploring with Mr Hurd the possibility that Section 22 might be reformulated to operate on conditional basis ie a new provider compulsorily financed by C3 licenses would only be set up if ITC were satisfied that no other means could be found of providing quality news. This would involve some changes in the present White Paper text, which spells out the structure of a new "C3 ITN" in some detail.



### Line to Take

Not convinced of need to reinstate monopoly. Likely to be criticised as inconsistent with rest of White Paper. Would it not be sufficient for White Paper to emphasis commitment to quality news enforced by stringent license conditions? Can Section 22 be revised so that it would only operate if normal competitive arrangements proved unworkable? White Paper should not point so categorically towards recreating ITN.

### 3. Channel 4

This is likely to be Mr Hurd's principal concern, since he sees role of Channel 4 as crucial in balance of White Paper, demonstrating Government's commitment to quality. In addition to the options already in the White Paper (a fully commercial body and a non-profit making trust) he has suggested adding continuation of the status quo for Channel 4 ie funding by a proportion of all commercial channel revenues. This goes back on MISC 128's decision for self financing Channel 4. The No 10 letter of 10 October adds a further option - that Channels 4 and 5 should be owned by the same commercial company and thus provide a third force to counter-balance BBC and Channel 3. This suggestion apparently stems from Michael Grade but is low down on the C4 Board's preferred options. It would provide financial backing for C4 but

i. would be no more likely that an independent commercial C4 to preserve the special remit;

ii. would be tantamount to restoring the duopoly in another form (with two 2-channel national services (BBC and Channels 4 and 5) competing with regional Channel 3 contractors)

iii. would lose the opportunity of splitting Channel 5 between 2 or 3 licensees.

Mr Hurd might hope for your support in rejecting this but may be unwilling to give up his status quo option.

### Line to Take

Accept that colleagues unwilling to take final decision now on Channel 4. Agree with Mr Hurd on importance of emphasising Channel 4's special remit. Important that alternatives displayed are also consistent with general thrust of White Paper. Do not think Mr Hurd's option (essentially preserving the status quo) would be. Suggestion of brigading together Channels 4 and 5 unappealing. This would limit new entrants, recreate a duopoly of cross scheduled national channels and provide no extra protection for Channel 4.

### 4. Subscription

There are a number of issues here. Mr Hurd will accept your suggestion that a reduction in the BBC's license fee to reflect potential subscription income should not be ruled out now. He will be looking to you for support on no interference with BBC's subscription output. He is likely to express doubt about the possibility of going further than relief from levy in discrimination in favour of subscription.

### Line to Take

Grateful to Mr Hurd for not ruling out reduction in the license fee reflecting earning potential of subscription for BBC. Worth encouraging BBC to experiment with subscription services to get this off to a good start and maximise income from this source. No need to be too prescriptive but hope can be satisfied that BBC will use opportunity in constructive way which allows fair competition to develop. Not suggesting specific measures of positive discrimination now in favour of subscription (except perhaps for DBS 4 and 5 - see separate minute) but White Paper should leave open possibility of requiring as a license condition a proportion of subscription finance in order to ensure proper consumer market develops. Decision on whether necessary to take such steps in light of responses to White Paper.

### 5. Transmission

Mr Hurd will be looking to you for support in going no further than contracting out transmission services both by ITC and the BBC (to maximum extent possible). He believes privatisation impractical both because of intertwined BBC and ITV assets and also because of quasi monopoly position of transmission asset owners (current transmission assets are in best sites, changes would require wholesale redirection of aerials etc).

Line to Take

Agree no possibility of moving further than contracturisation in near future. White Paper should signal privatisation as long term goal. Further work needed on form it might take.

**CONFIDENTIAL**

MP

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

The Rt Hon Douglas Hurd CBE MP  
Home Secretary  
Home Office  
50 Queen Anne's Gate  
LONDON  
SW1H 9AT

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

<b>CH/EXCHEQUER</b>	
REC.	18 OCT 1988
ACTION	MRS CASE ✓ 18/10
COPIES TO	CST, FST SER P MIDDLETON MR ANSON, MR MONCK MR PHILLIPS, MR BURGNER, MR SPECTORIAN, MR WALKER, MR PERFECT, MR CASE, MR FARTHING, MR NICHOL, MR CROPPER, MR TYRRE, MR CALL.

Direct line 215 5422  
Our ref PS5BLR  
Your ref  
Date 17 October 1988

*Lord Young*

**BROADCASTING WHITE PAPER**

Thank you for sending me a copy of your minute of 4 October to the Prime Minister. I have also seen her Private Secretary's letter of 10 October and Nigel Lawson's letter of 6 October.

As the draft passage for the White Paper says, the new outline proposals for news on Channel 3 will need further study and consultation. Given its guaranteed funding and market, the proposed Channel 3 news organisation will obviously be well placed to compete on advantageous terms with any would-be new entrant, and it will be important when working up the detail to guard against the risk of an effective duopoly developing in the supply of TV news.

It is also important that the new organisation should be subject to strong pressure to maintain efficiency. To this end I would see advantage in seeking to secure a majority of external shareholders from the outset.

I remain unhappy with your proposal to give the BBC an entirely free hand to decide what kind of services to offer by subscription in the night hours. It seems right in principle that in the longer term the BBC should work with the same opportunities and constraints - in terms of the kind of services which may be offered in the night hours - as the



L Young  
Hurd  
17/10

## CONFIDENTIAL

other terrestrial operators, subject to the requirement in the BBC's case to use the night hours to develop subscription. But in the short term, while the BBC is in a position to use subscription in advance of its terrestrial competitors, we need to be particularly careful about what we authorise to avoid any risk of market distortion and BBC dominance.


I would also repeat the point which seems to me to be crucial. Specialised business services will not accustom viewers at large to paying directly for services received from the BBC; yet that is the hurdle to be overcome if our objective of replacing the licence fee with subscription is to be attained.

I find the revised White Paper paragraph on the BBC's role in transmission a little confusing. I welcome your proposal that the BBC should if necessary be required to contract out the operation of its transmission network; but if the work is to be contracted out, does it make sense to talk any more of the BBC offering transmission services to potential new entrants to the broadcasting market?

I am also disappointed at your conclusions on ownership of the transmission infrastructure. As I argued in my letter of 4 October, much the best solution would be for the BBC to agree to give up their transmission rights in advance of 1996, thus giving us the opportunity to make sensible arrangements now to privatise the infrastructure as well as its operation. I still believe it would be worth exploring the possibility with the BBC; the more so as, if the operation and maintenance are to be contracted out, the case for holding on to the assets alone must be somewhat diminished.

I recognise that we might not want to float this possibility explicitly in the White Paper, but at all events the passage on ownership of the transmission system should be couched in open terms, to leave us the flexibility to pursue privatisation now if the BBC did after all turn out to be more amenable than anticipated.

I am copying this letter to the Prime Minister, to Geoffrey Howe, Kenneth Baker, other members of MISC 128 and to Sir Robin Butler.



CONFIDENTIAL

CASE  
→  
CHEX  
19/10FROM: MRS A F CASE  
DATE: 19 October 1988

CHANCELLOR

cc Chief Secretary  
Financial Secretary  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips  
Mr Burgner  
Mr Spackman  
Mr Farthing  
Mr Perfect  
Mr Cave  
Mr Nicol  
Mr Tyrie

## MISC 128 : BROADCASTING WHITE PAPER

The draft White Paper has already generated a substantial volume of paper. (A full list of the relevant correspondence is attached to the agenda.) The key documents for Thursday's meeting are:

- i. the draft White Paper attached to Mr Hurd's minute of 14 September to the Prime Minister;
- ii. revised passages for the White Paper (covering new services on Channel 3, BBC night hours and subscription, Channel 4 and transmission) attached to Mr Hurd's minute of 4 October);
- iii. The Prime Minister's comments set out in No 10 letters of 28 September and 10 October.

Your own comments (on night hours and subscription, ITN and Channel 4) were set out in a letter of 6 October.

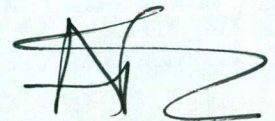
2. You also wrote to the Home Secretary on 17 October to suggest that DBS channels 4 and 5 might be used to give a push to subscription. In his letter to you today Mr Hurd indicates that he would be prepared to accept this. Lord Young is not convinced that this will be necessary. It is difficult to judge the strength of the arguments here, hence your suggestion that the White Paper should leave open the possibility of requiring some degree of subscription in post-1992 licenses. Although there are reasons to believe new entrants will incorporate a degree of subscription, so far satellite broadcasters are only introducing it for premium films. It may need more of a push in an advertising dominated world.

3. The Foreign Secretary and Education Secretary have been invited to MISC 128 on this occasion. Sir G Howe's views are set out in his minute of 18 October to Mr Hurd. He raises no new points but supports guaranteed funding for C4. On news, he supports choice and competition but wants to prevent the commercial channels buying all their news abroad and disproportion foreign holdings in a C3 news company. Mr Baker is also likely to support a continuation of guaranteed funding on C4 as a means of maintaining quality in educational broadcasting. He may also express concern about the uncertain effects of more subscription on the BBC on educational broadcasting.

4. You are already familiar with the outstanding issues and with the views of the other Ministers principally concerned. (My brief of 14 October for your meeting with Mr Hurd set out the recent background.) I therefore attach speaking notes on the issues where you may want to intervene as follows:

- a. overall shape of White Paper - Annex A1
- b. fixed or open-ended licenses - Annex A2
- c. news services and ITN - Annex A3
- d. Channel 4 - Annex A4
- e. Subscription - Annex A5.

5. You may find it helpful to have at Annex B an updated version of the "Broadcasting Timetable".



MRS A F CASE

Shape of White Paper

Points to Make

- Generally content with shape and balance, subject to resolution of outstanding points.
- Most important message to get across is that Government's proposals will allow the development of a plural competitive market which can respond to consumer's demands for variety of programmes.
- Must not blur that message by decisions on individual issues which run counter to that. Similarly "green" passages in White Paper or options (eg on C4) must also be consistent.
- Retaining elements of detailed, interventionist approach will distort market and open Government to charge of inconsistency.

ANNEX  
A1



Fixed or Open-ended Licenses

Objective: Stick to fixed licenses, perhaps extending to 10 years.

## Points to Make

- Acknowledge problems of fixed term licenses, especially in "lame duck" period. Should take action eg end-loaded performance bonds to minimise this.

- Still prefer fixed licenses because of greater flexibility at time of continuing, unforeseeable change. Broadcasting market may change as significantly in the next 8-10 years as in the past. Minor/moderate changes in license conditions eg changing franchise boundaries ~~but~~ might be accommodated by legislation <sup>law</sup> not radical change without costly buying out.

- Fixed term licenses would also mean lower Exchequer yield. Bids for unlimited licenses would be lower than the sum of discounted bids for successive fixed term licenses. Degree of uncertainty about returns beyond say 10 years would lead to bids for these years being heavily discounted. [If decision in favour of open-ended licenses, could need more complex revenue levy arrangements to try to recoup some part of lower yields.]

- Although attractions in treating broadcasting like any other market, over period immediately ahead operators will still be using limited national resource. Gradual approach needed.

ANNEX  
A2

News and Channel 3

Objective: No reinstatement of monopoly news provision. If special arrangements inevitable, seek to make monopoly provisions operate only if market fails to supply.

## Points to Make

- Agree news important and some special arrangements necessary.
- Consistent with philosophy of White Paper to secure high quality national and international news at generally available times through stringent license conditions for Channels 3 and 4 as main alternatives to BBC.
- That need not mean ITN losing out. ITN have the quality and strength to hold the ground they possess and move on from that, if they are efficient. Untying reinforces efficiency by introducing competition at the margin.
- Reinstating Section 22 (compulsorily funded monopoly supplier of news) would be inconsistent with market approach and block the possibility of new entrants.
- The possibility of new entrants necessary to keep any news provider up to the mark. Outside shareholders and arms length supply contracts will not achieve this if news organisation has guaranteed market. More likely that prices will be pushed up [if reinstating Section 22 in some form inevitable].
- Can Section 22 be reformulated to operate on a conditional basis ie provider of compulsorily funded Channel 3 news only set up if no other means could be found of meeting license conditions. White Paper should leave open detail of these arrangements.

Channel 4

**Objective:** Decision either now or as likely outcome of White Paper to let Channel 4 with distinctive remit by competitive tender.

## Points to Make

**On Channel 4 and 5 Merger**

- Not an attractive option. No more likely to preserve special remit of Channel 4; given regional nature of Channel 3 licenses, could simply recreate duopoly; lose opportunity linked national channels of splitting Channel 5, offering additional scope for new entrants to expand consumer choice.

- Should not be an option in White Paper. Too much like Government picking winners.

**On options for Channel 4 generally**

- Earlier discussion pointed to clearly towards private enterprise license. Consistent with White Paper philosophy. Provided distinctive remit spelt out in license conditions, no reason why franchise holder should not be held to this. To suggest it cannot, will cast doubt on regulatory regime as a whole described in White Paper.

- Understand Home Secretary's concern in terms of offering reassurance in White Paper on quality. But must have confidence of our convictions. Bidders for Channel 4's special remit will take into account revenues from Channel 4's distinctive high spending audience. Scope for "Independent" as well as "Sun".

[If no agreement can be reached on commercial license approach at this stage]

- Options in White Paper must be consistent with White Paper's overall message. Must rule out continuing to finance Channel 4 from protected revenues. Otherwise will allow restrictive practices and high costs to develop in new independent production sector and lose opportunities for internationally competitive broadcasting industry, particularly on programming front.

ANNEX  
A4

Disagree

Subscription

**Objective:** Maximise opportunities for subscription, ensuring that BBC license fee can be reduced in future to encourage subscription income.

## Points to Make

- Need positive attitude in White Paper to development of subscription to demonstrate our commitment to growth of real consumer driven market in broadcasting. Will buttress our reply to concerns likely to be voiced on quality front if clear way to improved consumer choice can be discerned.

- For BBC, important that we pave the way for substitution of subscription for programmes currently received "free" by providing that the license fee may be reduced by the amount they can reasonably be expected to earn from subscription.

- This should encourage BBC, without the need to be too prescriptive, to get subscription off to a good start. Hope we can prevent the BBC introducing subscription in a way which offers unfair competition to other operators. A risk of this if new subscription services draw predominantly on BBC archive material.

- Should take all other opportunities open in White Paper to be positive on subscription front eg

stress levy holiday for subscription income;

encourage SC4, like BBC, to see subscription eventually replacing protected funding;

look for a commitment to subscription in new DBS Channels 4 and 5 and on night hours channel allocated away from BBC.

- Free choice on funding attractive but given current dominance of advertising should leave open possibility of requiring some degree of subscription finance in licenses. No need for decision now. Judge in the light of reactions to the White Paper whether we need insist on this to ensure a sufficient degree of consumer responsiveness.

ANNEX  
A5

Transmission

Objective: To keep open the possibility of privatisation of transmission infrastructure.

Points to Make

- Agree should contract out transmission services by both ITC and BBC to maximum extent possible. White Paper should signal privatisation as goal but further work needed on how this best achieved.

ANNEX  
A6

## TIMETABLE OF BROADCASTING EVENTS

Autumn 1988	White Paper on Broadcasting
December 1988	MMC's report on restrictive practices due
Spring 1989	ASTRA start broadcasting by satellite (weak signal)
Autumn 1989	BSB start Direct Broadcasting by Satellite (high powered signal)
Autumn 1989	Legislation introduced on TV and radio
January 1990	Extended ITV franchises begin
1990	Telecommunications duopoly reviewed
Summer 1990	Fourth and Fifth DBS channels come into use
1990/1991	Independent Television Commission and Radio Authority begin operating
1990-1994	Radio franchises expire and need to be renewed under new legislation
1990-1994	Local television channels on MVDS/cable authorised
1991/1992	New ITV Channel 3 franchises auctioned
January 1993	New ITV franchises begin
January 1993	Fifth channel to be established

Annex  
B