

24/39

Confidential File

Broadcasting Policy  
 Television Licence Fees  
 Finances of the BBC  
 Pay of the BBC  
 World Television News  
 (Attached folder: Broadcasting and Political Bias)

BROADCASTING

Part 1: July 1979  
 Part 11: March 1990

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
<del>6.3.90</del>							
<del>7.3.90</del>							
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PART 11 ends:-

CST to HOME SEC 28.6.90

PART 12 begins:-

AT to PM 2.7.90

## Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Broadcasting and Political Bias

A Hampden Trust Study

Published by the Hampden Trust, 35 Westminster Bridge Road,  
London SE1 7JB

ISBN 0 95 16115 0 X

Signed

J. Gray

Date

28/10/2016

**PREM Records Team**

23016  
THE RT. HON. MICHAEL ALISON, M.P.



HOUSE OF COMMONS  
LONDON SW1A 0AA

29th June 1990

Andrew Turnbull, Esq.,  
Principal Private Secretary to The Prime Minister,  
10 Downing Street,  
London,  
SW1A 2AA

Dear Andrew,

You will know that the House of Lords will soon be considering the Broadcasting Bill in Committee. David Mellor was kind enough to let me and some of my interested colleagues have an informal sight of amendments which the Government is proposing to table in the House of Lords on the religious broadcasting side, since he had been trying to respond helpfully to our lobbying in this area.

I enclose a copy of the response which I have sent to David Mellor, from which you will see that I indicated that I proposed to copy the letter to you. The important part of the letter to David Mellor is in numbered Paragraph 3 and onwards. I would be grateful if you could do whatever is appropriate to give effect to the references I made in the paragraph to yourself and the Prime Minister.

Yours ever  
Michael Alison

Michael Alison



28th June 1990

David Mellor, QC, MP,  
Minister of State,  
Home Office,  
50 Queen Anne's Gate,  
London, SW1H 9AT

Dear David,

Thank you for your courtesy in sending me, on June 20 last, drafts of possible government amendments to the religious aspects of the Broadcasting Bill for its Committee stage in the House of Lords. Thank you, too, for your generous offer of this opportunity to comment on the drafts.

I have had a preliminary word on the telephone with Jane Harrison in your office, making some general points and suggestions; and this letter summarizes and slightly elaborates that conversation.

1. Your draft amendment to Clause 6 seems to me to be admirable; and very welcome. I would opt for "abusive" instead of "insulting" in (cc)(ii) for the somewhat technical theological reason that aspects of Christianity, e.g. the doctrine of the Divinity of Christ, can, if stressed, be "insulting" to some Muslims, but can scarcely be judged to be reprehensible. But "abusive" treatment of religious views is always and invariably reprehensible.
2. I cannot conscientiously jib at your decision to modify the Bill's originally unqualified provision for the enfranchisement of religious groups in terms of ownership of radio stations. You now propose to place national commercial radio on the same footing and with the same inhibition as the ownership rules governing TV Channel 3. In my view, you have offered so much that is novel and positive on the TV side, that some withdrawal on the radio side is understandable. But you will recall that in Committee you referred to the original Radio concession, now modified, as the 'crossing of a Rubicon', so you will need to be able to stress the positive aspects of improvement in the overall package, as an offset to your modest withdrawal from the Rubicon!
3. This leads me to a feature of your overall proposals, specifically as exemplified in some wording in your proposed Schedule 2 amendments, where I continue to have serious misgivings. I refer to the "appropriateness" test which the ITC will be expected to conduct in relation to applicants for the relevant



TV licences, and the Radio Authority - as a result of your proposed Schedule 2 amendments - in relation to applicants for the relevant radio licences.

I am convinced that some sort of open or objective definition of the "appropriateness" test needs to be provided in the Bill, compatible with the notion that an applicant should be deemed innocent unless and until proved guilty! Thus if discretion is to be left to the Commission and Authority in these vital areas i.e. in reality to shadowy individuals in their bureaucracy, it must not only be fair, but be seen to be fair.

The objectivity which I am pressing for might be secured by adding to your proposed Schedule 2 amendment an elaboration or definition of what is "appropriate" along the lines (I believe) already suggested to you (but here slightly varied) in a letter from Ian Orr-Ewing, e.g. that -

"a person shall not normally be deemed to be inappropriate if such a person can establish his intention to provide programmes which satisfy the general requirements as to licensed services provided in Clause 6(1)."

An alternative approach, perhaps more in keeping with your original "light touch" philosophy *vis à vis* the ITC, would be to provide for regulation on the same basis as that provided for religious broadcasting in the Cable & Broadcasting Act, 1984. Under the latter provisions, the Cable Authority apply a "good sense" interpretation of the general rules, dispensing entirely with religious controllers or bureaucratic theological committees!

The points I have made under paragraph 3 above are of paramount importance to the group with which I have been associated, and to which you have been so responsive. In the background lies our deep disenchantment with, and suspicion of, the shadowy "religious controllers and bureaucratic theological committees" who have hitherto exercised a virtual censorship over religious programmes in relation both to the BBC and the IBA. They are, I believe, a small, elitist, and unrepresentative group of people, appointed from within the broadcasting hierarchies.

One of these figures, Mr. Ernest Rea, Head of Religious Broadcasting at the BBC has publicly stated (at a local broadcasting conference on 22 May) that the campaign to allow independent religious broadcasting was "misguided". Another of the relevant figures, Mr. Eric Shegog, until recently head of religious broadcasting at the IBA, wrote in the Sunday Telegraph last November that -

"The Central Religious Advisory Committee [CRAC] for the BBC and the IBA was unanimous in its view that religious bodies should not be permitted to hold a TV or Radio Authority Licence."



It is to such individuals, and to such bodies, that - unless care is taken - discretion as to "appropriateness" in Schedule 2 will in practice be remitted. If this occurs, it will be a travesty of what Parliament intends in liberalizing religious broadcasting, and a betrayal of your own efforts to pioneer reforms and improvements. Failure to provide against this hazard would be tantamount to handing, unwittingly, a ransomed victim back to his kidnappers!

My fears are not assuaged by the fact that CRAC does not appear in the Broadcasting Bill at all per se. But scope is offered for its existence in the consultation and "advisory committees" provisions of Clauses 9(2) 88(2), and Schedules 1(16) and 6(16). And I see that the Bishop of Liverpool is proposing to table an Amendment precisely to establish and entrench a CRAC-type body to service the new ITC regime (see draft attached). Since the Bishop is avowedly hostile to all the liberalizing measures you have introduced, I am deeply disquieted by his proposals.

In view of the importance and sensitivity of the matters I have raised in this letter, I am copying it to Andrew Turnbull at No. 10 so that the Prime Minister may be made aware of the issues involved.

Thank you again for all your courteous helpfulness. Ian Orr-Ewing agrees with this letter, and joins me in signing it.

Michael . *Yours ever,*

Michael Allison

*Ian*

The Lord Orr-Ewing, OBE

Page of Letter from Bp of Liverpool<sup>2</sup> - to Lucy Fentful.

I am putting down an Amendment, after consulting with the Minister, which will probably be worded:

"The Commission shall appoint a Committee Representative of the mainstreams of religious thought in the United Kingdom, to give advice to the authority on matters of a religious nature included in licensed programme services."

I am also putting down an Amendment concerning religious advertising. I am conscious that this has not received any serious debate in either House as yet, and I thought it would be helpful to probe. I intend to withdraw the Amendment, but hope that some of the issues may be made clearer through it.

"Religious Advertising - should not involve 1) any improper exploitation of any susceptibilities of those watching the programmes or 2) any insulting (or abusive) treatment of views and beliefs of those belonging to a particular religion or religious denomination.

On Channels 3 and 5, advertisements should be limited to spot announcements calling attention to occasional Lectures, Meetings or Services. They should not present religious doctrine, utilise religious music or elicit funds."

*Wm Conway*

*H. W. W.*



*ce/pu*



*n. s. p. m.  
BHP  
2/7*

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon David Waddington QC MP  
Secretary of State for the  
Home Department  
50 Queen Anne's Gate  
LONDON SW1

*28* June 1990

*Dear David*

**REGULATION OF BBC TRANSMISSION ACTIVITIES**

I have seen your <sup>*at has*</sup> letter of 14 June to Nicholas Ridley and his reply of 21 June about the main framework of transmission-related activities in which the BBC should be allowed to engage.

I am grateful for your acceptance that the BBC should not be permitted to offer site access and mast space to Channel 5 and VHF radio transmitter operators, and I see that you are now also proposing to exclude the maintenance of non-BBC broadcasting equipment on BBC sites, in the light of Eric Forth's comments in his letter of 10 May.

In the light of the timing difficulties over the issue of the BBC's Telecommunication Act Licence I agree with Nicholas Ridley that officials should now discuss with the BBC a package which allows them to transmit the MF commercial radio services but excludes them from project management for other broadcasters.

As for R&D contracts, I accept that allowing the BBC to compete for new commercial research projects could affect privatisation receipts and agree that the activity should not be in the permissible category.

I am copying this letter as before.

*Yours ever  
Peter*

**PETER LILLEY**

BROADCASTING: Poling  
1911



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10 DOWNING STREET

FILE JD  
C:/Broadcasting  
bc JW  
BG  
SUBJECT  
CC MASTER.

*From the Principal Private Secretary*

28 June 1990

**BROADCASTING BILL: IMPARTIALITY**

The Prime Minister held a meeting this morning to discuss the approach the Government should take to the amendments tabled at the committee stage of the Broadcasting Bill in the House of Lords which were designed to enforce greater impartiality. The Home Secretary, the Chancellor of the Duchy of Lancaster, and Mr. Whittingdale were present.

The Prime Minister said she regarded the lack of impartiality in the output of the BBC and the independent television companies as a serious matter. In particular, she was concerned by the failure of the BBC to enforce impartiality on its own staff. Instances of selective and biased reporting were frequent and continuing. The amendments tabled by Lord Wyatt and others offered an opportunity to improve matters, and she hoped it would be possible for the Government to find ways of supporting these amendments.

The Home Secretary said he was willing to suggest amendments to Clause 6 similar to those sought by Lord Wyatt which would specify in the Bill some of the features which should be included in the code of guidance which the ITC would be required to produce. This could cover such matters as the time-scale within which balancing programmes should be broadcast, and the prominence to be given to them. He was also willing to bring so-called personal view programmes within the scope of the impartiality regime. But he pointed out that Clause 6 was confined to the ITC's role as a regulator. Any changes would have no effect on the BBC whose Charter had assigned the regulatory role to the Governors. To introduce amendments to the Bill that changed the role of the Governors would alter the character of the Bill in a major way. It would re-introduce an element of fierce controversy and was not a course he would advise.

Mr. Baker endorsed the Prime Minister's view on the seriousness of the problem. He thought it would be difficult to defend imposing strict impartiality requirements on ITV companies, while leaving the BBC's position untouched, particularly as much of the slanted output originated from the

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BBC. The Prime Minister questioned why it was not possible to make changes apply to the BBC. She pointed out that the BSC was being made statutory under the Bill, and that it applied to the BBC as well as independent television companies.

The Home Secretary replied that the BSC's remit was confined to the portrayal of sex and violence and to questions of taste and decency. It would be empowered to draw up a code giving guidance on these matters, but it would have no sanctions other than influence on public opinion through the publication of its findings. It was not, therefore, a regulatory body in the true sense, and its remit did not therefore conflict with the regulatory role assigned to the Governors. To extend its remit to matters of impartiality would be tantamount to amendment of the BBC Charter. In any case, Lord Rees-Mogg did not wish the BSC to take on this role. (It was agreed that it would not be appropriate for the BCC to deal with questions of impartiality as its function was to handle complaints and grievances of individuals.)

Summing up the discussion, the Prime Minister said that the changes the Home Secretary had suggested for Clause 6 of the Bill which would specify certain required features of the ITC's code would be a significant advance, but while they remained confined to the ITC, much of the problem would remain untackled. She therefore asked the Home Secretary to examine urgently how these amendments could be made to cover the BBC, either by making the provisions of the revised Clause 6 directly applicable to it or by extending the role of the BSC. The latter could either be given a regulatory role or it could hear complaints and produce findings as it will do on questions of sex, violence and decency. It would be helpful if he could talk to Lord Wyatt and Lord Rees-Mogg. The Prime Minister would welcome further advice before the relevant clauses are reached in the House of Lords.

I should be grateful if this letter could be copied only to those with a strict need to know of its contents.

I am sending a copy of this letter to Robert Canniff (Office of the Chancellor of the Duchy of Lancaster).

*Yours sincerely  
Andrew Turnbull*

(ANDREW TURNBULL)

Colin Walters, Esq.,  
Home Office.

PRIME MINISTER

BROADCASTING BILL: IMPARTIALITY

You are to discuss this with the Home Secretary and Mr. Baker tomorrow morning at 0930. Mr. Whittingdale will also attend. The Committee Stage of the Broadcasting Bill in the House of Lords is likely to reach the relevant clauses next Thursday.

Lord Wyatt and others have put down amendments (flag A) designed to ensure greater impartiality. A problem exists at two levels:

- current legislation and guidance is inadequate;
- even where there are codes, broadcasters are adept at getting round them.

The Wyatt amendments address the following issues.

- (i) The current law calls for due impartiality in matters of current political or industrial controversy or relating to current public policy. This allows events of even recent history to be given tendentious treatment. The Home Secretary (flag B) has agreed to accept an amendment deleting "current".
- (ii) In meeting the due impartiality requirement a series of programmes may be considered as a whole. This provides scope for observing the letter but not the spirit of the guidelines, e.g. by tucking away the balancing programme in an obscure part of the timetable.

Lord Wyatt has tabled amendments requiring that:

- (a) at the end of any programme over 15 minutes which is not impartial, there should be a discussion allowing the opposing point of view to be put;
- (b) within one month, the programme will be broadcast putting forward the other side of the case;

- (c) after any partial programme, there will be broadcast an announcement stating when this second programme will be shown.

This probably goes further than is required; either (a) or (b) and (c) jointly would be sufficient.

The Home Secretary proposes to deal with this by getting the regulators to spell out in detail the way in which impartiality is to be achieved including such matters as the nature and timescale of the series over which programmes can be considered as a whole. He believes it is better to deal with these matters in a code rather than on the face of the Bill.

- (iii) Should impartiality be enforced by the BBC and ITC or by an independent adjudicator such as the Broadcasting Complaints Commission or the Broadcasting Standards Commission. The Home Secretary argues that neither Lord Rees-Mogg nor Lady Anglesey wish to take on this responsibility. Lord Wyatt believes there should be an independent adjudicator.
- (iv) At present personal view/special mandate programmes are treated as outside the impartiality requirements. Baroness Cox and Lord Orr-Ewing see this as a loophole and have put down an amendment to bring them within the impartiality regime.

In whatever is decided, care needs to be taken over the treatment of drama. The letter from Ian Curteis (flag C) warns of the dangers of requiring all plays to be impartial. He believes these requirements should be confined to news, documentaries and current affairs.

You could open the meeting by asking Mr. Baker to set out his views. The Home Secretary could then explain why he believes his approach is adequate for dealing with the problem. You will want

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- 3 -

to ensure that whatever is decided can be successfully defended as maintaining impartiality rather than suppressing freedom of expression.

You may like to see the letter (flag D) from Lord Pearson. He feels he ought to vote for the Wyatt et al amendments but having so recently joined the House he hopes it will be possible for him not to have to vote against the Government.

AT

ms

ANDREW TURNBULL  
27 June 1990

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## Broadcasting Bill

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### AMENDMENTS TO BE MOVED IN COMMITTEE

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#### Clause 6

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING  
THE BARONESS ELLES

- Page 6, line 10, leave out ("person providing the service") and insert ("persons providing the service and programmes")

BY THE BARONESS COX

- Page 6, line 11, leave out ("current")

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

- Page 6, line 19, at end insert ("subject to the following provisions, namely—

- (a) at the end of any programme lacking due impartiality, there shall be broadcast a discussion with a duration sufficient to demonstrate adequately the main opposing views and featuring participants qualified competently to represent those views; but this provision shall not apply to programmes of less than fifteen minutes' duration;
- (b) within one calendar month of the broadcasting of any programme lacking due impartiality, there shall be broadcast another programme or programmes on the same topic, in the same series, at a comparable time and with comparable prominence, putting forward the main arguments excluded from the initial programme;
- (c) when any programme lacking due impartiality is broadcast there shall also be broadcast an announcement stating the date and time of any subsequent programme or programmes in the same series and that this subsequent programme or programmes will contain the main views opposing those put forward in the initial programme.")



( 2 )

*Clause 6—continued*

BY THE BARONESS COX  
THE LORD ORR-EWING

Page 6, line 19, at end insert—

("( ) Programmes which are categorised as being the 'Personal View' of particular individuals, programmes produced under the special mandate of particular television services, and programmes categorised by any other special designation, shall not be exempt from the impartiality provisions set out in section 6(1) and (2) above.")

BY THE LORD ORR-EWING

Page 6, line 33, leave out ("person providing the service") and insert ("persons providing the service and programmes")

BY THE BARONESS COX

Page 6, line 34, leave out ("current")

*Clause 85*

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

Page 71, line 43, leave out ("or matters of current political or industrial controversy or relating to current public policy; and")

BY THE BARONESS COX

Page 71, line 43, leave out ("current")

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

Page 71, line 44, at end insert—

("( ) that due impartiality is preserved on the part of the persons providing the service and the programmes as respects matters of political or industrial controversy or relating to current public policy; and")

Page 72, line 2, leave out ("person providing the service") and insert ("persons providing the service and the programmes")

BY THE BARONESS COX

Page 72, line 4, leave out ("current")

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

Page 72, line 6, leave out ("the programmes included in that service shall be taken") and insert ("a series of programmes may be considered")

Page 72, line 7, at end insert ("subject to the same provisions as set out in section 6(2)(a), (b) and (c) above")

( 3 )

*Clause 85—continued*

BY THE BARONESS COX  
THE LORD ORR-EWING

Page 72, line 7, at end insert—

("( ) Programmes which are categorised as being the 'Personal View' of particular individuals, programmes produced under the special mandate of particular radio services, and programmes categorised by any other special designation, shall not be exempt from the impartiality provisions set out in section 85(2) and (3) above."

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

Page 72, line 9, leave out paragraph (a) and insert—

("(a) draw up, and from time to time review, a code giving guidance—

(i) as to the rules to be observed in determining what constitutes a series of programmes for the purposes of subsection (3), and

(ii) as to the rules to be observed in other respects in connection with the application of paragraph (a) of subsection (2) in relation to any such licensed service as is mentioned in that subsection; and")

**Clause 140**

BY THE LORD WYATT OF WEEFORD

Page 108, line 44, at end insert ("; and

(d) standards to be observed and practices to be followed for the preservation of due impartiality in matters of political or industrial controversy or relating to current public policy.")

**Clause 142**

BY THE LORD WYATT OF WEEFORD

Page 110, line 7, at end insert ("; or

( ) to alleged failures on the part of such programmes to preserve due impartiality in matters of political or industrial controversy or relating to current public policy.")

From: Lord Pearson of R



The Prime Minister  
10 Downing Street  
London SW1

27th June 1990

Dear Prime Minister,

I fear I am in trouble with my conscience over Clause 6 (political impartiality) of the forthcoming Broadcasting Bill.

As it stands this will weaken even the present inadequate legal safeguards, and, amongst other things, will certainly make our life more difficult at the next General Election.

I will of course listen to the arguments, but I have been close to this subject for several years, and fear I shall have to support the amendments tabled by Lord Orr-Ewing and others. It would be a great relief if the Government could reach agreement with them beforehand.

I know its only one vote, but in the circumstances it would be a particularly painful one, and I felt I should contact you in advance.

Yours Sincerely,

Malcolm Pearson

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THIS IS A COPY. THE ORIGINAL IS  
RETAINED UNDER SECTION 3 (4)  
OF THE PUBLIC RECORDS ACT

Broadcasting Bill

N. F. F. F. F.

Temporarily Retained 26th June 1990  
27/10/16 B. Walsh

Dear Julian,

Thank you for your call from Conservative Central Office yesterday.

You explained that you had rung in reply to my letter to Woodrow Wyatt, about the proposed amendments to the Broadcasting Bill during its House of Lords committee stage, particularly those to Clause 6 (impartiality).

You told me that the proposers of the amendments were adopting a two-stage strategy: first, to get the amendments adopted as they stand in committee, and second, to build in certain exceptions, such as drama, at Report stage.

Therefore, you asked me not to lobby, publicly or privately, against the amendments as they stood, however limiting or indeed destructive they would be on drama in general, and on my own plays in particular. You expected opposition, you said, but equally you expected I would speak up in public in defence of the amendments when this came.

You assured me I could regard the incorporation of the exemptions at Report stage as a definite promise. You asked me to propose wording for a redrafting of the relevant clause, which I did in broad terms.

As you are aware, my making a public stand over The Falklands Play has had a devastating effect on my career. Were the amendments to be incorporated into the Bill in their present form, there is little doubt they would finish it off.

However, in the light of your categorical assurance, I will do as you ask. So far as the amendments concern news, current affairs, documentary and so on, you already have my unqualified support.

continued ...

I am sending a copy of this letter to Lord Wyatt, on whose behalf you were responding, and to Lord Orr-Ewing and Baroness Cox, the other proposers of the amendments. They will be fully aware of the two-stage strategy you have explained, and that any failure to incorporate the exemptions on Report would very likely finish off the career of the only robustly Conservative playwright in British Television.

Ian Curteis

Dr. Julian Lewis,  
Conservative Central Office,  
32 Smith Square,  
London SW1P 3HH

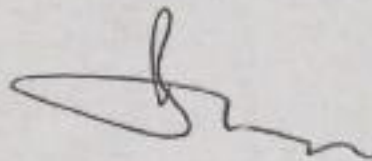
THIS IS A COPY. THE ORIGINAL IS  
RETAINED UNDER SECTION 3 (4)  
OF THE PUBLIC RECORDS ACT

C / A. Swatby  
Poiner

Temporarily retained 21st June 1990

27/10/16 B. Walsh

— to Woodrow Wyatt, Ian Orr-Ewing  
and Caroline Cox.

  
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I have been reading your proposed amendments to the Broadcasting Bill during its House of Lords committee stage with great interest.

So far as news, documentary, current affairs and similar programmes are concerned, they are admirable and have long been needed. So far as their effect on drama is concerned, however, I have considerable reservations.

All drama, whether classical or modern, and particularly television drama, expresses the powerfully-held personal opinions of the author. It is often not realised that the copyright in every British television play is owned by the author, and he alone is legally and morally responsible for what it says - not the transmitting company.

The effect of the proposed amendments, if applied to drama, would rob the playwright of what he writes plays for. For example, I am the only robustly Conservative playwright working in British television; but these amendments would effectively stop the expression of such views in drama, and I would be thrown out of work! It would certainly prevent the transmission of such plays as The Falklands Play.

The ITC would also be prevented by these amendments from transmitting most of the world's great plays, which are expressions of strongly-held personal beliefs of their authors.

continued ...

Impartiality and balance have in the past been interpreted as they relate to drama as a rough balance of plays over a period. In practice, of course, this loose method of approach has been ruthlessly abused by the majority of drama television producers with a political axe to grind. The problem is to find some acceptable way of encouraging a real balance of viewpoints.

I do so hope that some method can be devised by which drama can be put into a somewhat separate, if related, category from news, documentaries, current affairs programmes and so on, so far as the proposed amendments are concerned.

With kind regards,

Yours ever,

Ian Curteis

The Lord Orr-Ewing, OBE

also sent to Woodrow Wyatt and Caroline Cox

dti

the department for Enterprise

n.b.p.m.

BTP

27/6

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

Ms S J Dent  
Private Secretary to  
the Home Secretary  
Home Office  
Queen Anne's Gate  
LONDON  
SW1H 9AT

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Direct line 071-215 5622

Our ref PE2AXL

Your ref

Date 27 June 1990

See Sara

map

**BROADCASTING BILL: NETWORKING**

Your letter of 5 June to Barry Potter set out the revised approach, devised by Home Office officials with Professor Griffiths, to the Channel 3 networking arrangements.

We agree that the revised approach proposed appears reasonable, and DTI officials have, with Home Office and Office of Fair Trading (OFT) colleagues, worked up detailed proposals for the scrutiny of networking arrangements by the Director General of Fair Trading (DGFT) (and, if the parties disagree with his decision, the MMC) against a new competition test. If this new test (which anticipates the test in the new RTP legislation proposed in the White Paper "Opening Markets: New Policy on Restrictive Trade Practices", Cm 72, July 1989) is satisfied, the DGFT will be relieved of his duty to refer such arrangement to the Restrictive Practices Court. This would remove the uncertainty caused by the prospect of prolonged proceedings in the Court which would act as a significant disincentive to potential licensees. Although certain details remain to be agreed, this approach seems to offer a way forward.

I should however clarify two points in your letter (unfortunately repeated in the Home Office press release of 18 June which was not cleared with DTI or OFT):

- (a) While appreciating the concern about discrimination between large and small licensees, it is a fact of life that the bargaining strengths of the licensees will vary. While we would expect the DGFT to be concerned if there was for example suggestion of an abuse of a dominant position, it is not part of his duties to







the department for Enterprise

assess whether the interests of large and small licensees have been fairly balanced - this must be a matter for the commercial judgement of the parties.

- (b) The DGFT cannot be expected to ignore the "wider competition issues". It is in my Secretary of State's view important that these are examined and that any adverse competition effects stemming from the arrangements are weighed against the benefits of those arrangements. The competition test in our proposals provides for this.

The OFT is however meeting the IBA and the ITV companies later this week to discuss the draft arrangements which they propose to adopt in anticipation of the Channel 3 regime and which would provide a possible model for the Channel 3 licensees. Several aspects of the draft arrangements give OFT initial cause for concern, and if these points appear endemic in any form of networking arrangements we may need to reconsider urgently whether a narrower test (or one in which competition considerations are balanced against broadcasting policy objectives) is needed. It would not however be appropriate for the DGFT to retain the role of the arbiter if the nature of the test were change in this way, and that role would need to be taken on by Ministers. For policy reasons, our preference is, in any case, for a wide competition test if at all possible.

The DGFT has expressed concern to my Secretary of State about the lack of any statutory role for him in the preparation of the proposed ITC guidance to potential licensees on networking arrangements. We sympathise with this concern, and propose that the Bill, when providing for the DGFT's involvement in scrutinising networking arrangements, should also provide that the ITC, before issuing any guidance to licensees or potential licensees on networking arrangements, must consult the DGFT and modify such guidance to meet any competition concerns expressed by the DGFT. This could presumably be done without requiring the ITC to produce any such guidance, which we understand the policy intention is to avoid.

I am copying this letter to Barry Potter (No 10), the Private Secretary of members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office), Sonia Phippard (Cabinet Office) and Martin Howe (OFT).

*W. S. S.*

*B. Sloccock*

BEN SLOCOCK  
Private Secretary




 B.F. *WAM Reassign* *note comm* *3/11/90* *22/10*  
 QUEEN ANNE'S GATE LONDON SW1H 9AT

22 June 1990

*to Nick,*

FUTURE OF IBA EXPERIMENTAL AND DEVELOPMENTS  
(E&D) DEPARTMENT

*Har P10*

In my letter of 18 January, I proposed that we should give the IBA an opportunity to show that a restructured version of their Experimental and Development Department could make a contribution to the future of the private transmission company which is to inherit the IBA's transmission operation at the beginning of next year. You agreed that MISC 128 should consider any case put forward by the IBA, before deciding whether to accept the IBA's proposal or simply to retain the minimum technical development unit which the company will require.

.... I enclose a copy of the plan prepared by the future management of the transmission company, with a paper which summarises the plan's main findings. In essence, what they propose is a slimmed down E&D Department, initially dependent for about two-thirds of its income on the ITC's research budget, but increasingly funded by contracts from other organisations.

It is encouraging that the profit and loss accounts in the plan - the assumptions for which have been checked by our financial advisers, Price Waterhouse - indicate that an E&D Department restructured on this basis would be immediately profitable and that, even on a worst-case scenario under which the Department lost the best part of half of its projected income at the end of 1992, it could return to profitability very swiftly through restructuring. (In practice, such a severe loss of funding is highly improbable, since it would entail the abandonment of long-term research projects in which customers had already made a considerable investment).

The management of the company believe that, in addition to the direct financial advantages of including the restructured Department in the new company, there is likely to be considerable cross-fertilisation of ideas and business between the Department and the rest of the company, and that the Department would provide an invaluable skills base for the company.

The new Department will be heavily dependent in its first two years upon research funding from the ITC. Although the ITC has no formal existence until the beginning of next year, we have a written assurance from its members that the level of ITC funding included in the business plan for 1991 and 1992 will be forthcoming. The source of this money, the assured ITV company rentals, is secure.

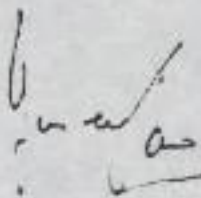
The Rt Hon Nicholas Ridley, MP.  
 Secretary of State for Trade & Industry  
 1-19 Victoria Street  
 LONDON, S.W.1.

/over....

We have included a £2 million bid in this year's PES to grant a loan to the ITC for its start-up costs. The Treasury have suggested that if this bid were not entirely successful the ITC might have to trim its whole budget slightly (although this loan would be only about 15% of its budget). It is clear, however, that E&D's projected income from external sources in 1991 and 1992 is based upon pessimistic assumptions, and that in the unlikely event of any trimming of the ITC research budget, the shortfall in income could be made up from other sources.

In summary, it appears that an E&D Department restructured along the lines proposed in the business plan would be an asset to the new private transmission company. Our financial advisers, Price Waterhouse, believe that it would be unlikely to depress, and might well enhance, the sale proceeds. Subject to your views, and those of other colleagues, I therefore propose to tell the IBA that we accept their plan.

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

A handwritten signature in dark ink, appearing to be 'L. M. A.', is written in the center of the page below the typed text.

NATIONAL TRANSCOM

BUSINESS PLAN

FOR

THE EXPERIMENTAL AND DEVELOPMENT DEPARTMENT

June 1990

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## I INTRODUCTION

1. For many years, broadcast R&D has been carried out very much on a "public service" model in the research laboratories of the major national broadcasters around the world. Almost all major broadcast developments in Europe over the past two decades have arisen not from industry, but from the broadcasters: teletext, dual-channel sound, digital studio standards, the MAC system for direct broadcasting by satellite (DBS), and compatible high-definition television (HDTV). This R&D, which has led to well-established technical standards, has benefitted broadcasters and industry alike. The technical standards have been important to ensure ease of programme interchange and to establish a situation whereby competitive procurement of interoperable equipment from manufacturers is achieved. Most of all, the broadcasters' R&D has benefitted the end consumer, since by far the major investment in the broadcast chain lies in the hands of the public and they have gained most from the planned and coherent evolution of broadcast systems and standards with new technologies. This has provided the justification for the "public service" model, though it has rarely been identified in this way.
2. The IBA Experimental and Development Department (E&D) was established in 1967 with the initial objective of developing equipment necessary for the introduction of the UHF colour service in 1969. The title E&D reflected the emphasis on development activities rather than on basic research in broadcasting. This was work which brought direct benefit to the ITV broadcasters through the speedy and efficient implementation of the new service. Later on, the work involved development of the first digital standards converter, which was put quickly into use at ITN and gave a competitive edge in rapid screening of news material live from other countries. The IBA work on the initial development of the digital video tape recorder and then through European Broadcasting Union to establish a universally-agreed, digitally-based family of recording and conversion standards was of very substantial (yet unquantified) financial benefit to broadcasters. Most recently, the development of the MAC transmission standard for DBS has set in place a major step in the competitive evolution of new television services.
3. As we enter the 1990s, the range of choice of broadcasting services available to the public is set to grow dramatically. New satellite-delivered services will offer not only wider choice, but also the prospect of fully compatible wide-screen and higher-definition television using MAC. New methods of payment, such as subscription and pay-per-view systems, will also become practicable, thanks to the secure scrambling and encryption technology made possible with MAC and related digital technology. These benefits will also be conveyed to viewers through new cable services and also perhaps by local MVDS (Multipoint Video Distribution System) services. At the same time, there is the imminent prospect of a fifth UHF terrestrial television service. Never before have there been so many diverse opportunities and new markets for broadcasters and broadcasting technology to address. The IBA's Experimental and Development Department has not only contributed greatly to the present excellence of Independent

Broadcasting within the United Kingdom, but its innovative approach to the development of new broadcast systems has had, and is continuing to have, significant impact on the broadcasting community worldwide. It is important for the success of a wide range of businesses that the UK remains at the forefront of the development of new broadcast systems for the 1990s and beyond.

4. Though E&D activities have in the past always been directed towards the evolution of new broadcast technologies and to the growth of the business base for broadcasters, they have not been carried out on a direct "customer-contractor" basis. Throughout Europe, however, R&D in most industrial sectors is now being carried out more within a customer-contractor relationship directly related to specific business interests.
5. As part of the overall restructuring of the IBA's Engineering Division and related supporting services currently being carried out to prepare for privatisation, the organisation of E&D is being reshaped so that the E&D activity can develop as a viable commercial operation with an identified customer base. The establishment is being reduced from 86 to 57. The business plan presented here is one to re-orientate and establish the IBA E&D Department as a profitable, market-orientated provider of R&D services, operating as an integral, yet separately accountable, part of Transcom.

## II THE MARKET FOR RESEARCH AND DEVELOPMENT SERVICES

6. The estimated market for broadcast-related research and development in the UK is some £14-16M per annum. This is made up as follows:

BBC	:£6M
Independent Sector	
- IBA	:£3M
- ITVA	:£1M
UK Industry, Universities, etc	:£4-6M

7. The market overlaps to an increasing extent that of telecommunications-related research and development, where much larger investments are being made by a number of major commercial organisations such as British Telecom.
8. In neither the research nor development market, however, is there much flexibility for those involved to change their market share. It is unlikely, for example that the BBC would contract out any significant amount of their research and development work. Faced with their own financial stringencies, they are more likely to try to attract external funding to subsidise their research programmes. Furthermore, much of the research and development needed by industry is by nature proprietary and only contracted out when the specific expertise required is not available in-house.
9. It is estimated therefore that the maximum external market in the UK available to Transcom for broadcast research and development is unlikely to be greater than about £4M per annum, even with the assurance of funding long-range work by the ITC.
10. However, the industrial base in broadcasting is stronger in continental Europe than in the UK and with increasing new commercial ventures in broadcasting in Europe, this European market may offer vitally important opportunities for the stability and growth of Transcom's E&D activities from their present planned level. The joint investment by Thomson and Philips of £2,140m in R&D for HDTV helps establish the scale for the broadcast R&D market in Europe. It is likely that Transcom's E&D will be looking to Europe for much of its business in the future.



### III THE POSITION OF TRANSCOM E&D IN THE MARKET

11. The core market of E&D is the provision of applied research and development services in broadcasting systems and technologies in which it has a proven track record as part of the IBA. The track record is a key strength to build on in exploiting fully and profitably the established expertise and in aiding Transcom's move into new areas outside broadcasting, such as telecommunications.
12. The following mission statement in regard to Transcom E&D activities has been formulated:
 

"Transcom will aim to be a profitable, market-oriented provider of R&D services. E&D will operate in a fully commercial environment as a strategically valuable unit of the privatised transmission company. E&D's focus will be on providing applied research and development services in advanced broadcasting systems and technologies, but it will also exploit opportunities in related areas. High quality services that are typically the first in their field will be offered."
13. To fulfil this mission statement, the following objectives have been set:-
  - (a) to establish E&D activities as a separately-accountable unit within the new transmission company, in order to assist Transcom to maintain its core business and develop its non-core business areas;
  - (b) to establish a customer-contractor working relationship with the ITC, particularly on longer-term R&D, and through high performance on ITC contracts retain the Commission and its licencees as a long-term customer;
  - (c) to develop external contracts with other customers to exploit profitably Transcom E&D expertise.
  - (d) to retain and develop its reputation for being able to provide the highest quality staff and resources on advanced technology projects.
  - (e) to maintain a skill base in advanced broadcast and communications technology to assist Transcom in diversifying its business activities.
  - (f) to produce a minimum of 10% profit margin on all external contract work in addition to making a full contribution to corporate overheads.
14. E&D is thus seen as a customer-orientated operation, in which principal customers are identified as follows:
  - (a) ITC: the ITC will require access to a long-term R&D capability to fulfil its role in defining and regulating the broadcasting technical framework, and to support its national and international role in standards setting. Transcom through its E&D activities will be well placed to provide a substantial element of these requirements.

- (b) Transcom: E&D will provide services for the transmission company's core business to improve the efficiency and effectiveness of the terrestrial transmission network. E&D will be expected to supply a flexible service, able to generate solutions to complex system problems, which can arise from the introduction of new technologies. E&D will equally provide services to support the Transmission Company's objective of developing new business areas.
- (c) Industrial or Commercial Organisations: E&D is currently providing experimental and development services to BSB, and will be in a position to provide R&D projects and consultancy services to other external parties.
15. Transcom E&D will aim to provide these customers with system or sub-system study and design. In some cases this may involve the manufacture of prototype hardware and limited production runs, making use of sub-contractors as appropriate.
16. Given the nature of the activity, it is to be expected that Transcom E&D customers will vary in the detail of their requirements. The requirement may well be a specific report or a piece of hardware. In either case it will be important to establish a contract which sets performance measures which can be monitored at defined points during the course of the project.

#### IV THE COMPETITIVE POSITION OF TRANSCOM E&D

17. Table 1 shows the likely competitors that E&D will face in providing its services to the core market of advanced broadcast systems and technologies.
18. The key points are as follows:-
  - (a) there are some potential competitors (such as the BBC and BT) with resources at their disposal that dwarf the size of Transcom E&D capability; BBC work covers all aspects of the broadcast chain; BT has a very large business base to support the widest range of research and development.
  - (b) there are potential competitors (including the universities and certain European broadcast establishments) who may be able to undercut E&D services since they certainly do not at present operate under normal commercial practices; this could apply to the BBC unless constraints are placed on their external activities.
  - (c) it is likely that as E&D develops into non-core but related services, it will meet a wider range of competitors, particularly from industry and in some cases international organisations.
19. In summary, the major immediate competitive threat to E&D would appear to come from the universities who may be able to undercut E&D services. In the longer run, there is the prospect of a substantial competitive challenge from a privatised BBC research capability and for example from BT research in areas where telecoms and broadcasting overlap. E&D can also expect to meet strong competition as it develops its services into non-broadcasting areas.
20. E&D's key competitive strength is its impressive track record. This should provide the basis for E&D to support Transcom activities successfully and retain a substantial element of the ITC research programme. E&D's expertise should also enable it to provide high value services to customers seeking to establish a strategic position in the market place.
21. Currently the major weakness of E&D's position is its vulnerability to losses of key staff. The dominant asset of E&D is its staff, who must be retained in order to provide the innovative thrust for the new company.
22. A potential weakness is loss of access to its existing IPR if these assets are not vested in Transcom.
23. More generally, E&D presently lacks experience in managing the demands of the commercial market place including experience in depth of customer/supplier relationships and experience of marketing and selling. However, with the incorporation of marketing and business development skills in the new company, this difficulty will be solved as a result of E&D being an integral part of Transcom.

## VI TRANSCOM E&D WORK PLANS FOR THE FUTURE

Work plans for the prospective customer, or customer groups, will now be reviewed.

### Work for the ITC

28. The Broadcasting Bill places certain duties on the ITC which relate to experimental and development work. These involve:
- i) representation on national and international regulatory bodies concerned with future standards setting (Clause 64);
  - ii) making arrangements for research and development work (Clause 63);
29. In regard to research and development work itself, the ITC will be required to:
- i) consult licence holders on the arrangements made for R&D;
  - ii) contract out the R&D programme;
  - iii) ensure that "to a substantial extent" the R&D contracts are financed by persons other than the ITC.
30. It is for the ITC to decide how it will carry out these duties, but it seems desirable for the ITC to set up a Research and Development Board, on which all ITC licencees would have right of representation. This Board would provide the forum for consultation with ITC licence holders, and review the work plan on an annual basis. In view of the limited tenure of ITC licencees and their differing commitments to particular research and development activity, it is essential that the ITC controls and coordinates the funding for long-range research and development. The work will involve a mix of projects, many funded on a rolling contract basis; there will be those in which the ITC has a major interest for its broadcast infrastructure planning and which may not be in the immediate interest of the existing licencees, because these projects bring into prospect changes in the competitive licensing environment; there will also be those in which the companies have a more direct interest for their medium-term business development. It is anticipated that the current, separated funding arrangements of IBA and ITVA will be brought together in this new structure, providing the mix of ITC and industry funding envisaged by government.
31. The value of contracts between the ITC and Transcom for R&D projects is planned to be £2.0 million in 1991 and 1992. This represents the level of ongoing long-range research and development work already committed in IBA plans and covered under the existing ITV programme contracts until the end of 1992. This is a reduction on the commitment of the IBA in previous years, but has been judged by those representing ITC engineering interests to be an appropriated level of

V INDEPENDENT SECTOR RESEARCH AND DEVELOPMENT FUNDING

24. At present, the experimental and development work within the IBA is planned by Engineering Division and the plans approved annually by the Authority. Revenue and capital expenditure have been at a nearly constant level for some years. For 1989-90, the total direct expenditure was approximately £3M, excluding overhead charges on accommodation and services from other Divisions (Finance, Personnel, etc).
25. Much of the experimental and development work is currently of a long-term nature, involving programmes of more than five years' duration destined to be of benefit to the independent broadcasting sector and its competitive evolution.
26. The ITV companies, encouraged by the IBA some years ago, set up three development laboratories (at Thames, Granada and Scottish Television). These laboratories comprise a total of some ten technical staff who concentrate largely on short-term projects to fulfill specific needs of the companies. However, they have one major long-term project integrated with the European Eureka HDTV initiative, on high-definition television production. The budget for these development laboratories, which currently runs at £1M per annum, is approved by ITVA Council on the basis of plans submitted by the ITVA Technical Development Board. In the uncertain economic climate faced by ITVA, there is currently no commitment to these laboratories and their funding beyond the end of this year.
27. The ITVA Technical Development Board is also the point of liaison and coordination between IBA and ITVA experimental and development activities. Progress on both work programmes is reported and discussed at the quarterly meetings of the Board. Outside these meetings, informal liaison at the working level, particularly on the Eureka HDTV programme, occurs to a large extent.

contracts, given the range of tasks involved. The IBA, at its recent meeting on 17th May agreed that:-

- (i) the IBA/ITC should endorse the assumptions in the E&D Business Plan, which has been prepared and approved by the Shadow Board of Transcom, as the basis of planning for the future of E&D;
- (ii) the ITC should place high priority as soon as possible, when ITC budgets are brought forward, on confirming the proposed expenditure with Transcom of £2 million per annum for 1991 and 1992, and on incorporating, in principle, the proposed lower levels of expenditure in the medium-term forecasts for 1993-1995.

Detailed plans for the ongoing work, which is already being run in the form of an external contract with an appointed project manager representing ITC interests, are available. We have estimated that the value of R&D contracts from the ITC may fall to about £1.3M in 1995. This fall is in recognition that some projects, such as those associated with Channel 5 and MVDS, will have terminated and that Transcom cannot expect to be the exclusive provider of R&D expertise to the ITC and its licencees.

32. The contracts are planned to cover work in the following areas:-

**Additional uses of the UHF Spectrum (Digital TV & HDTV)**

- Studies of new uses for the UHF spectrum, in particular the applications for enhanced and high-definition television and digital TV.

This work is of vital importance to the ITC in planning the evolution in use of the terrestrial UHF spectrum in the second half of the 1990s. Prospects are already in view for an overlay of digital television channels that could provide more than one franchise in each ITV region and substantially alter the competitive structure of the independent broadcasting sector. Studies will also be required to parallel those in the USA for the NTSC system on simulcasting HDTV in the UHF band.

This project, which needs to cover many areas, including frequency planning, modulation studies, video coding studies, prototype hardware development, field trials, specifications and international negotiations, is planned as a 5 year programme at a contract value of £1.0m per annum, and involves 25% of the R&D effort of the department. This represents a total of around 50 engineer man years (Note 1) on this major project which

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Note 1: For each engineer man year, there is also an appropriate level of support staff provided from within the department. In addition to this, the travel materials and sub-contract costs, as appropriate, are included in the total budget indicated.

could have a dramatic impact on the structure of television and communications in the next decade. The precise deliverables are agreed at this fixed price up to the end of 1992. Beyond that date, the contract value remains agreed in outline for a further three years, but the precise deliverables of this later phase of the work must depend on choices made by the ITC in 1992.

#### **PAL Enhancements**

- Development of enhancements to the PAL system for terrestrial broadcasting.

This work is of prime importance and interest to ITVA who are faced with competition from satellite broadcasters able to deliver wide-screen and enhanced or high-definition television. A joint IBA/ITVA task-force, coordinated through the ITVA Technical Development Board, is already working actively on this topic.

This project is planned as a 4 year programme at a contract value of £350k per annum, and involves 9% of the R&D effort of the department. This represents a total of around 14 engineer man years over the total contract period. The deliverables are agreed at this fixed price up to the end of 1992, with the broad objectives agreed to the end of 1994. At the end of 1994, it is envisaged that the taking forward of the work will no longer be the responsibility of the ITC, but will be left to licensees and industry from whom we would wish to take further contracts in this important area.

#### **Data Broadcasting**

- Studies of data broadcasting, in particular the efficient use of the Vertical Blanking Interval (VBI).

The ITC has a remit to develop the usage of the VBI in the most efficient manner, with allocation of much of it by competitive tender, but having due regard to future requirements of enhanced and high-definition television. The ITC will require a number of technical studies and perhaps some practical demonstration programmes to establish the knowledge base it will require.

This project is planned currently as a 3 year programme at a contract value of £250k per annum, and involves 6% of the R&D effort of the department. This represents a total of around 8 engineer man years over the total contract period. The deliverables for this work are agreed for the whole of the contract period, and will result in a hand over to industry of the ideas and work during 1992 and 1993.

## Microwave Frequency Planning

This work falls into two closely related parts:

- Studies of Microwave Video Distribution Service (MVDS).

This work is required by the ITC in order to establish the service area planning and technical planning aspects of local delivery licences for MVDS to be issued by the ITC in the post-1992 period.

Studies of further development of broadcasting in the 12GHz band, in particular relating to additional satellite channels and digital TV.

This work is anticipated to be in support of Home Office and DTI studies. An initial report has already been sent to experts in the Home Office and DTI.

This project is planned currently as a two year programme at a contract value of £300k per annum, and involves 8% of the R&D effort of the department. This represents total of around 6 engineer man years over the total contract period. The deliverables in terms of studies, propagation tests, field trials and reports are agreed.

## Channel 5 Interference

- Studies of factors affecting Channel Five, in particular relating to coverage and the retuning of VCRs.

The ITC will require continuation of the current studies through 1991 and 1992 on planning aspects of Channel 5 for its assessment of licence applicants.

This project is planned currently as a two year programme at a contract value of £100k per annum, and involves 2.5% of the R&D effort of the department. This represents a total of around 2 engineer man years over the total contract period. The deliverables in terms of studies, tests, field trials and reports are agreed.

## Standards Committees

- Expert representation in or briefings for relevant national and international committees.

This is not seen as a separate project as such, but an integrated part of the contracts listed above. The costs and effort are therefore included in the above items.

33. Table 2 shows the financial profile of the individual projects which are already under way and for which detailed long-term plans exist up to the end of the years indicated. At the annual reviews after 1992, some of these projects may be terminated, extended or replaced by new projects. The earliest termination dates for the projects as currently agreed are shown.



34. Table 3 shows the overall, assumed financial profile for R&D contracts placed by the ITC with Transcom. It is assumed that the ITC will continue to place contracts for around £2M per annum through 1992, but that as explained previously, Transcom cannot expect to retain the full share of this market. The profile assumes, as indicated in paragraph 31, that the projects associated with Channel 5 and MVDS will have terminated at the end of 1992, that the ITC may well wish to diversify its sources of R&D provision in 1993, but that in 1994 and beyond, E&D will continue to compete successfully for a number of the contracts as they come up for extension beyond the present limits, or as new areas of work are identified. By virtue of its expertise and previous work for the IBA/ITC, Transcom should however be in a favourable position to obtain a high level of continuing contracts.

As indicated in paragraph 31, the IBA at its Meeting on 17th May has endorsed the above work programmes as the basis of planning for the future of E&D; it has given a commitment to putting a high priority on confirming the proposed budgets of £2.0m per annum for the years 1991 and 1992 and to entering the appropriate figures into the medium term plans for the years 1993-1995.

Work for Transcom

35. Careful thought has been given to the appropriate level of R&D spending for Transcom. A company with a core business depending on relatively mature technology needs to spend less on R&D than a company which depends totally on the progressive introduction of new high-technology products. R&D expenditure varies greatly across the service and manufacturing industries from less than 1% of turnover to at least 10% of turnover. Transcom has a relatively mature core business, but will operate in an environment where technology change could have a major impact on its business. R&D to maintain position in core business areas and to develop business outside the regulated core area is thus vital to the success of Transcom.
36. Based on these factors and an analysis of project areas essential to the business of Transcom, a level of expenditure on R&D close to £1M per annum is forecast in the early years of Transcom's existence. This represents about 1½% of Transcom turnover and involves 28% of the R&D effort of the department. The £1m is calculated on the basis of full recovery of all overheads, but no allowance for a profit element since the work is internal.

The planned rate of growth of this figure is at present modest, but this aspect depends critically on the new business growth of Transcom.

37. It is convenient to describe Transcom-funded R&D in terms of that related to the "regulated" and "non-regulated" areas of business since these will have to be separately identified and accounted.

Initially there will be an equal split of resources between regulated and non-regulated R&D activities. Thus the £0.5m of "regulated" R&D activities represents about 1% of total "regulated" Transcom turnover, and the £0.5m of "non-regulated" R&D activities represents about 4% of total "non-regulated" Transcom turnover.

Projects relating to "regulated" area

38. This work is directed at continuing the current support to operations. The overall level of effort in this specific area is comparable with that for the equivalent work in recent years. The active projects are those considered to have highest priority at present. It can be expected in the future, as has happened in the past, that, in a particular year, an activity such as the design of specialist test equipment may become very important and require increased effort because of potential operational savings. The total programme of work proposed in the regulated area is planned at £500,000 p.a. and involves 14% of the R&D effort of the department. The projects relating to the "regulated" area are as follows:-

### Development of specialist test equipment

This equipment is frequently not available from industry at all and must be developed in-house. It is important to have such equipment to ensure efficient and effective transmitter maintenance. Currently planned projects are: (1) A Digital Error Logger for monitoring the performance of dual channel sound links; (2) modifications to Insertion Test Signal generators to allow increased data capacity for teletext. This programme of work is, by its very nature, ongoing, with new requirements arising, and is currently planned at an average level of £85,000 p.a., involving around 2.5% of the R&D effort of the department.

### Improvements to the efficiency of operations

This work has a direct impact on the profitability of Transcom's core business.

- Development of transmitter antenna monitoring and protection techniques.

This project is required in order to reduce the risk of serious damage resulting in interruptions to service and high cost of restoration. During the investigation phase, this programme of work is planned at £40,000 p.a., involving 1% of the R&D effort of the department. This level will need to rise if hardware development results, although this may be a joint venture with industry.

- Investigation of reduction in S1 sound carrier power.

This project will cost £85,000 in one year to determine the feasibility and carry out field trials, involves around 2.5% of the R&D effort of the department, and is aimed at achieving a £200,000 p.a. saving in electricity costs.

- Development of advanced computer systems for the efficient operation of service area planning and coverage monitoring or assessment.

A current problem in service area planning is the long time required to produce a coverage map from a transmitter. This involves complex propagation calculations using a detailed terrain data base. Planning, which may involve testing many transmitter sites and aerial configurations, can thus be a lengthy and costly process. Recent IBA work using a transputer processor has shown prospects of radical improvement in calculation times, making such planning work more of an interactive process. Further work is needed to refine the techniques and integrate them with the activities of field survey teams to spread coverage assessment or monitoring. This programme of work is currently running at £85,000 p.a. and involves around 2.5% of the R&D effort of the department.

- Studies of new technologies for the implementation of broad-band studio-studio and studio-transmitter programme links.

An important part of Transcom's business is the network interlinking its transmitters. Transcom needs to be responsive to its programme company customers in providing the future broad-band links they require. In order to have contact with and to have influence on the developments in Broadband Digital networks suited for TV distribution, the IBA is a member of the 'FUNCODE' (FUNDamentals of CODing) project of the RACE programme, a European Collaborative Project. Our effort level is at present set at around £42,000 p.a. involving around 1% of the R&D effort of the department. Part of this work is funded by the European Commission.

- Development of adaptive systems, both for control of transmitters and also for improved reception.

An increasing need in broadcast system operations is for as much of the system to respond as automatically as possible. Development work is required to make more of the system reconfigure automatically in case of failures, thereby reducing human operator workload. With increasing density of spectrum use, advantages may be obtained if better control may be achieved over signal coverage, perhaps adaptive in character according to interference or other conditions. Early IBA work on adaptive antennas was a world first in the broadcast domain.

- Use of knowledge Based Systems, in particular for improving efficiency of transmitter operation and maintenance.

Failures of transmitters or antennas are serious, costly and manpower intensive. If corrective work can be carried out before a major failure occurs, considerable savings result. Knowledge based systems, at present in their infancy, offer interesting prospects, based on careful monitoring and modelling of the system, for avoiding major failures.

The total programme of efficiency improvements as listed above is planned at £250,000 p.a. and involved 7% of the R&D effort of the department.

#### **Solutions to problems which affect the core business**

This is essentially a 'fire-brigade' activity intended to deal at short notice with problems which threaten Transcom's ability to provide a service to the customer of the required quality, in particular where new technology is being introduced.

- Dual-channel sound-in-syncs link spurious muting.

Interruptions to the dual-channel sound signal are occurring occasionally on the distribution links,

although the link equipment itself is apparently meeting specification. This project entails a study of the problem, development of instrumentation to log failures and allow analysis of mechanisms of spurious muting, and development of equipment or modifications to cure the problem. This programme of work is planned at £125,000 p.a. with a duration dependent on the problems found and solutions required, and involves around 3.5% of the R&D effort of the department.

- Development of systems to prevent unauthorised use of relay stations (anti-piracy).

Unauthorised use of relay stations by "capturing" the repeater with a locally-provided pirate signal is not common, but is a matter of concern. Systems need to be developed to increase the security of access to relay stations.

This total programme on solutions to problems affecting the core business is planned at £125,000 p.a. and involves 3.5% of the R&D effort of the department. This must, by its nature, involve areas of work which are only identified at short notice.

#### **National/International Committees**

- Liaison with industry, in particular BREMA.

This will be important to establish a constructive relationship with the manufacturing industry and also to help in broadening the business base of Transcom.

- Liaison with international bodies in various committees.

Liaison only with those bodies where Transcom has a legitimate business interest will be supported.

This total programme on liaison with industry and liaison with international bodies is planned at £40,000 p.a. and involves around 1% of the R&D effort of the department.

#### **Definition of specialist measurement techniques, in particular relating to digital technology**

Prior to development of test and measurement equipment as referred to above, the specification of the parameters involved for a particular system, coupled with a clear understanding of the methods of measurement and their relationship to system performance, is vital. Again, this is an area where special expertise, not found outside broadcast system operations, is required.

#### **Projects relating to "non-regulated" area**

39. This work involves activities directed towards new business growth and diversification. This is a relatively new area of activity and involves a modest 4% re-investment of the total Transcom "non-regulated" turnover. The total programme

of work proposed in the 'non-regulated' area is planned at £500,000 and involves 14% of the R&D effort of the department. Tasks envisaged are:-

#### Strategic R&D

Forward-looking projects intended to position Transcom for long-term profitability and growth.

- Provision of specialist "tools", for example image processing capability, for use on major study and development contracts.
- Participation in EUREKA EU95 project to develop HDTV transmission technology based on MAC.

It is felt important for Transcom to continue IBA involvement in Eureka 95. This is strongly supported by DTI. No DTI financial contribution is shown in the business plan for the period after 1991, but it is intended that this work should establish Transcom's position as an up-link operator for HDTV. This project will also allow influence on HDTV developments affecting Transcom's business.

Strategic R&D is currently dominated by the EUREKA project planned at £210,000 p.a., and involves 6% of the R&D effort of the department.

#### New Business Areas

- studies in encryption technologies, in particular relating to MAC/DBS channels.

This is a new area of business for Transcom, upon which commercially confidential discussions are under way with a broadcaster.

IBA is a major leader in this field and has key expertise in security, efficient data transmission etc. In addition to new satellite business, encryption technology may be used for subscription and pay-per-view services on terrestrial transmitters.

This programme of work is currently proceeding at a cost of £125,000 p.a., and involves 3.5% of the R&D effort of the department.

- Channel five enabling technology.

The successful launch of Channel five will depend on developing low-cost solutions for antenna, VCR interface etc in addition to other "added value" features (see below). This will give Transcom a competitive position in bidding for Channel five transmission. R&D will form part of a Channel five field-trial/demonstrator at Winter Hill.

This programme of work is planned at £125,000 p.a., and involves 3.5% of the R&D effort of the department.

- Development of services to operators of Personal Communication Network (PCN) technology, including improvements in efficient use of spectrum. This project is associated with the IBA (and in future, Transcom) involvement with PCN. IBA Engineering is currently an associate member of the British Aerospace (Microtel) PCN consortium. PCN business is seen as a major opportunity for Transcom.
- Development of test equipment for MAC systems.  
Further test equipment is likely to be required for the up-link operations activity with BSB. It is also applicable to work for other DBS operators in Europe.
- Studies of broad-band optical fibre network systems, likely as a contribution in a joint venture with other commercial/industrial partners.

The provision of a broad-band fibre optic network linking transmitter sites, programme providers and Transcom regional operations centres across the UK is a major opportunity, subject to changes that may be brought about in the telecommunications duopoly review. Substantial R&D will be required to establish the optimum system design.

The total programme of work proposed in the new business areas is planned at £250,000 p.a. and involves 7% of the R&D effort of the department.

#### **Added Value Services**

- Addition of Enhanced PAL capability to UHF transmitters.
- Development of technology relating to efficient use of the VBI for teletext services (including Closed User Groups) and including Level five teletext.  
This work is to position Transcom for new business with Additional Services Licensees in the period 1993 onwards.
- Extra sound/data channels for UHF terrestrial services including Channel five.

The total programme of work proposed on added value services is planned at £40,000 and involves 1% of the R&D effort of the department.

Work for external customers

40. Contracts are expected to total a value of at least £850k by 1992, coming from the broadcast, telecommunications and aerospace industries. A major contract, which has now been agreed and signed by both parties, is for R&D support to BSB at a level of £535k to £755k for the first year to March 91 and a commitment to negotiate further contracts at a value of £500k per annum for a further five years. This stems from a current development contract in their launch phase which has been to the value of £0.7M over the past year. Companies such as Digital Video Systems of Toronto, Canada, Thomson LGT of France, BTS in Germany, Seleco in Italy, and ITT in Germany, have made active enquiries and in some cases there is specific negotiation or already agreement on draft research contracts.
41. Areas of studies for these clients are commercially confidential. Details are not given in the main text here, but the projects include:
- Wide-screen and extended definition MAC.
  - Assistance with development of data services business using packet technology.
  - Promoting the development of advanced receiver designs including the development of new integrated circuits.
  - Design of specialist prototype hardware for converting from HDTV to "standard TV".
  - Studies of advanced transmitter concepts.
  - Possible licences to manufacture above designs.
  - Assistance in the development of new integrated circuits for teletext including levels four and five (still pictures).

The contracts agreed, or under negotiation, are described in more detail in the confidential appendix to this business plan.



VII TRANSCOM E&D STAFFING & SALARIES

42. The projects described in Section VI require a staffing of around 40 qualified R&D engineers, and, in addition, a team of support staff to provide essential draughting, wiring, purchasing and procurement, planning and clerical services. The size of the support team is based on the difficult balance of keeping internal overheads to a minimum, while keeping the engineers' efficiency to a maximum, and is believed to be the optimum given the range of business described in Section VI above.

The staffing proposed is:-

Engineering Management (includes marketing/client liaison)	3	
Development Engineers	<u>37</u>	
<b>Total - Engineering</b>	<b>40</b>	<b>40</b>
Design support (draughting, wiring, purchasing & procurement)	10	
Planning	2	
Technical Facilities Manager	1	
Secretarial/Clerical support	<u>4</u>	
<b>Total - Support</b>	<b>17</b>	<b>17</b>
<b>Total proposed staffing:</b>		<b>57</b>

The distribution of the Engineering effort across projects during 1991 is shown in Table 4. The distribution for the years 1992 to 1995 will follow the income profiles of the department as given later in this business plan. In the area of external customers, the balance of resources must be dependent on contracts finally agreed, although the basic BSB contract is already under way at the agreed level. If negotiations with commercial clients are particularly successful, then it may be necessary to recruit some temporary (contract) engineers to assist during the peaks of the business.

43. Pay comparisons for Jan 1990, as shown in Table 5, show that the salaries in BBC Research Department are approximately 8% less than those in the IBA E&D department, but that those in British Telecom Research Laboratories at Martlesham are approximately 30% more. Direct comparisons are complicated by the different structures and organisations of the different R&D laboratories, but these are based on a careful comparison of jobs with similar job descriptions.
44. Staff turnover in the last seven years is summarised in Table 6. For engineers, staff losses tend to be cyclical at intervals of around four years with an average of around 2-3 years to achieve the necessary replacement. This turnover rate, at an average of 10% of engineers per annum is believed to be higher than at BBC Research, but is considered to be an appropriate level for a Research and Development activity.

### VIII TRANSCOM E&D PROFIT AND LOSS ACCOUNT

45. Table 7 shows the summarised profit and loss account for the period 1991-1995, demonstrating the cautions assumptions on which the plan is based.
46. Various important aspects of the business plan may be drawn from this Table:
- i) the dependence of Transcom E&D on long-term ITC funding decreases sharply after the end of the current ITV contract period. By 1995, this source of income is approximately one-third of the total, a level felt to be consistent with maintaining a long-term perspective in the overall transmission business.
  - ii) the projections on contracts with BSB and others are not considered over-optimistic. The level of £700-£800k per annum initially is consistent with the fact that contracts worth over £1M per annum are currently under negotiation.
  - iii) the accommodation and overhead charges are high. These represent E&D paying a proportional share of the overheads based on its staff numbers and space occupied at Crawley Court. A sum of £2.8M has been assumed for Transcom accommodation costs at Crawley Court and include a figure of £2.0M of notional rental. E&D bears approximately 20% of these accommodation charges. The detailed analysis of the corporate overheads is given in Appendix II.
  - iv) the staff costs are based on the staffing figures of paragraph 42, and include all employer contributions (N.I., pension etc), overtime (where payable), payments for temporary (contract) staff and any other staff related employer payments. In keeping with past experience, we have allowed for real salary increases of the order of 1.5% per annum.
  - v) the E&D marketing costs are represented partly in the corporate overheads of Appendix II, but also by the direct salary costs of the senior managers of the department who are actively involved in its marketing.
  - vi) the depreciation charges are based on a detailed analysis of the department's current capital assets, coupled with a projection given in Appendix III of the proposed capital investment for the years 1990-1995. We have identified assets which have either two, three, five or ten year lives, with resulting 50%, 33%, 20% and 10% straight-line depreciation rates. This differs from present IBA depreciation policy where all technical equipment is written off over 10 years.
47. Table 7(b) shows the forecast cash flow for the years 1991-1995.
48. Table 8(a) presents a forecast of the impact on the profit and loss account of the extreme case of the complete loss of

the ITC contract at the start of 1993. The assumption made is that the contract lapses and alternative work is not obtained, so that all the staff who would have been on the contract, are made redundant with a redundancy cost equivalent to one year's payroll. These redundancy costs represent around 30% of the value of the contract lost. This must be seen as a particularly extreme situation which would be unlikely to occur. If the ITC contract continuation is not agreed by the end of 1991 for at least the year 1993, then we would develop the many new business opportunities, particularly in Europe with a view to establishing more external contracts for 1993 and beyond, during 1992. Savings in accommodation charges are shown based on the assumption that some of the floor area is released for other uses. There would be no immediate saving in corporate overheads, but there would be a necessity to consider redundancies in Transcom support staff to reduce the overheads in line with the cut in E&D business.

49. Table 8(b) presents a forecast of the cash flow in this extreme situation of the loss of all the ITC business suddenly at the end of 1992. Under this scenario we are still able to achieve a positive cumulative cash flow by the end of 1994 and to continue to contribute towards total Transcom overheads.
50. The loss of contracts other than that of the ITC would be expected to have a proportionally less serious impact on the profit and loss accounts and cash flow. Smaller contracts would also be more readily replaced.

**IX INTELLECTUAL PROPERTY RIGHTS (IPR)**

51. E&D has a wide range of patents on broadcast and related digital technology. The licences taken out by industry on these patents relate mostly to professional studio equipment, which is not manufactured in sufficiently large quantities to generate high licence revenues. The cost of patenting, maintaining the patents, licensing and monitoring infringements largely balances the revenues obtained.
52. It is important, however, for Transcom E&D to retain title and the revenue stream from these patents in future, in order to protect its position on inventions and maintain a negotiating position with manufacturing industry.
53. The MAC patents are the only ones at present that have been licensed for consumer equipment manufacture. The IBA is a member of the international consortium (GIE) which was formed to coordinate the licensing of these patents. These patents may produce significantly more revenue to E&D than others in the past, but this depends critically on the sales of MAC receivers, the continuance of activity on the evolution of MAC in Transcom, and the dilution of E&D's licensing share if new patents are added into the GIE from other sources.
54. Income from IPR has not been included in the business plan at this stage in view of the uncertain nature of this income stream and the danger of placing any reliance on it.

**X** R&D PRICING

55. It is difficult to obtain a direct comparison between what Transcom E&D charges for R&D work and that charged by other bodies which might have the expertise and be prepared to undertake the work.
56. Most organisations, such as PA Technology or ERA Technology, quote rates, not on a project completion basis, but on daily rates. These rates are in general at least as high, if not higher, than those charged by Transcom.
57. Perhaps the best comparison is the work that has been carried out for BSB who have been keen to close down much of their business with PA Technology, Ewbank Preece and Telesat, placing greater and greater reliance on IBA Engineering during the last year, and have placed the new contract on the basis of our charges. The success of the IBA Engineering work also attracted ITT and Thomson into direct contract negotiations associated with their own needs.
58. The conclusion on pricing is that E&D is competitive in the market at the rates it charges and on which the business plan is based.

**XI CONCLUSIONS**

59. Over the five years of the business plan, Transcom will move through a very dynamic phase in its development. Diversification will be vitally important and the staff of E&D will play a key role in this. The contribution E&D makes in this regard is not shown in the E&D profit and loss account.
60. E&D must not become a "jobbing-shop" for R&D work. It will be a strategically important part of Transcom and its business plan will therefore have to adapt to the evolving business of the company. Some E&D staff may be drawn into the new business areas at crucial times to assist the development of these areas. E&D must therefore be a dynamic area within the company without rigid or permanent segregation of staff.
61. Care will be needed in the work undertaken by E&D on external contracts. There will be strategic choices to be made on which contracts should be taken up, to ensure that IPR and new business prospects for Transcom are properly developed and protected.
62. The business plan for E&D presented is based on the co-existence of three separate funding streams, providing a balance of work across long, medium and short-term projects and providing stability in the event of a decline of one of those funding streams with time.
63. Transcom has a major enthusiasm and commitment to the maintenance of E&D activities. It looks forward to integrating and developing this E&D business plan into its overall business plan to be produced later this year.

Table 1  
E&D Potential Competitors

Potential Competitor	Description	Competitive Threat
BBC Research	Operate as part of BBC engineering services. At least twice the size of E&D. Focus is on national service provision.	<p>Not serious until review of BBC Charter in 1996 and possible privatisation of engineering services: (provided BBC restricted to work concerned with their own services.)</p> <ul style="list-style-type: none"> <li>- currently significantly more resources at their disposal</li> <li>- only major competitor working directly in the same field</li> <li>- will seek to gain external contracts at subsidised rates?</li> <li>- track record not as successful as E&amp;D</li> <li>- ITC most unlikely to award contracts to BBC</li> </ul>
BT Research Laboratories	Operate as part of British Telecom. Many times the size of E&D.	<p>Serious threat in specialist areas:</p> <ul style="list-style-type: none"> <li>- likely to be considered by the ITC for research contracts into local delivery services</li> <li>- good integration of design and research but less flexible/more bureaucratic than E&amp;D</li> <li>- as Transcom seeks to expand into telecoms, BT is likely to consider opportunities in broadcasting</li> </ul>
ITVA and ITV Companies	Three laboratories (Thames, Granada and Scottish) funded, operated and monitored by the ITV Association. Total staff circa 10 engineers and 2 administrative staff. Annual budget of flm concentrating on digital studio development and HDTV production.	<p>Unlikely to be a serious threat:</p> <ul style="list-style-type: none"> <li>- contract only just renewed at the last round, and likely to come under pressure from new ITC licensees</li> <li>- however, existence of ITVA may hinder the development of direct funding between ITC licensees and E&amp;D</li> </ul>

Potential Competitor	Description	Competitive Threat
Universities	Vary in size and commercial awareness. Examples include Essex, currently working in packet network field and American establishments such as MIT.	Serious competitive threat (particular UK universities): <ul style="list-style-type: none"> <li>- likely to take some small ITC contracts (&lt;f200k)</li> <li>- funding problems are forcing universities to exploit commercial potential yet they are able to charge less than commercial rates</li> <li>- possible cost advantages in any case through lower salaries and overheads</li> <li>- but, lack E&amp;D's focus on broadcasting and track record</li> </ul>
Independents	Includes independently funded bodies such as E.R.A. and consultancies such as PA, Cambridge etc.	Modest competitive threat: <ul style="list-style-type: none"> <li>- more generalist research outfits with no particular focus on broadcasting</li> </ul>
Industrials	e.g. Sony, Thomson LGT.	Unlikely to be a serious threat: <ul style="list-style-type: none"> <li>- see themselves more as the customers for, rather than the suppliers of, R&amp;D services</li> <li>- unlikely to be interested in ITC sums below f0.5m; however, may have expertise in specialist areas eg MVDS</li> </ul>
European Broadcast Establishments	Continental equivalents to IBA/BBC such as IRT in Germany and CCETT in France.	Possible threat to non ITC external contracts: <ul style="list-style-type: none"> <li>- will have strong contacts with private and public continental R&amp;D funds</li> <li>- possibly able to compete at cross-subsidised rates</li> <li>- unlikely to have E&amp;D's access/experience of UK planning</li> <li>- track record not as successful as E&amp;D</li> </ul>



Table 2  
 R&D Work Programme Contracted  
 by ITC to TRANSCOM

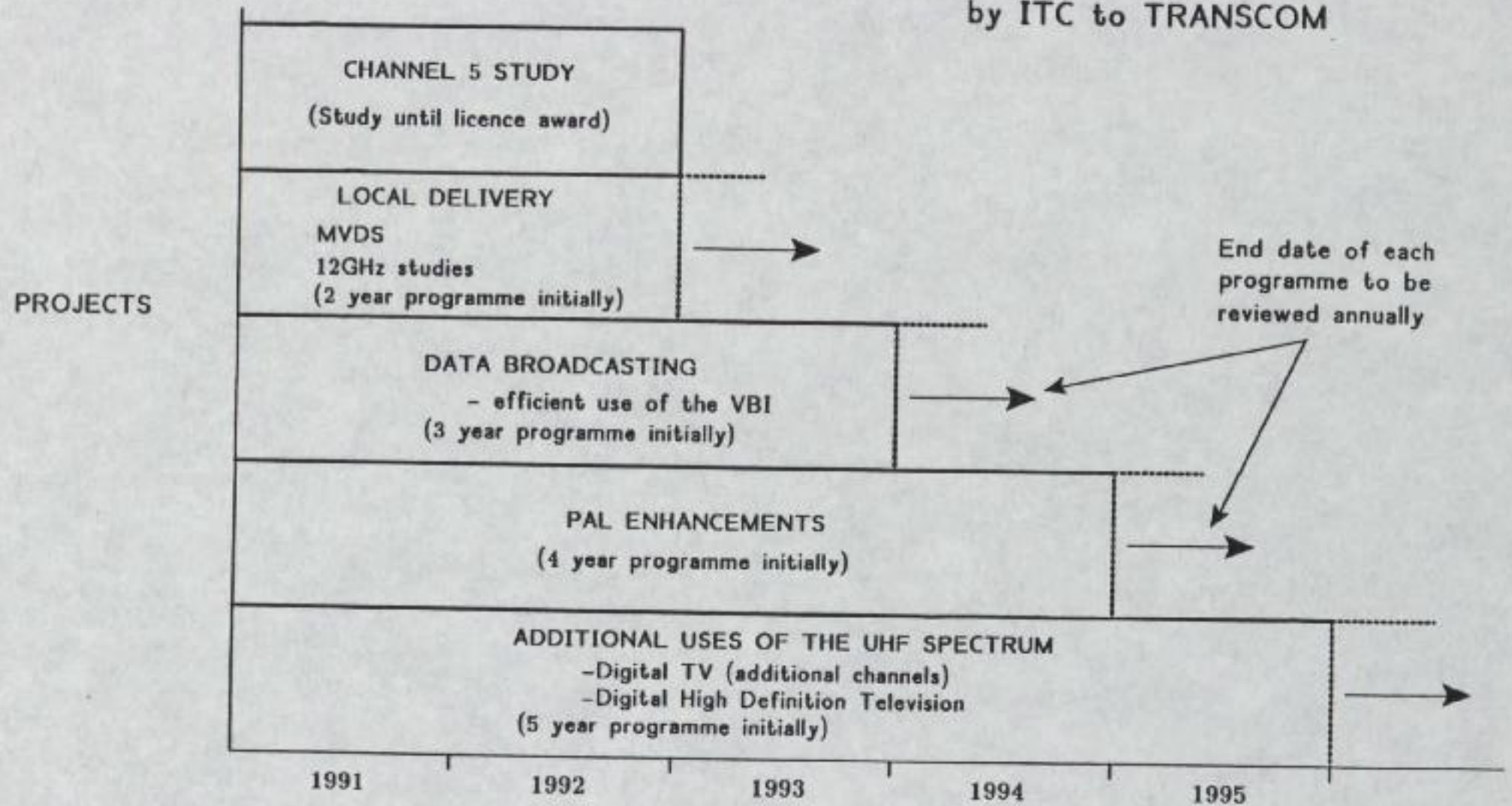
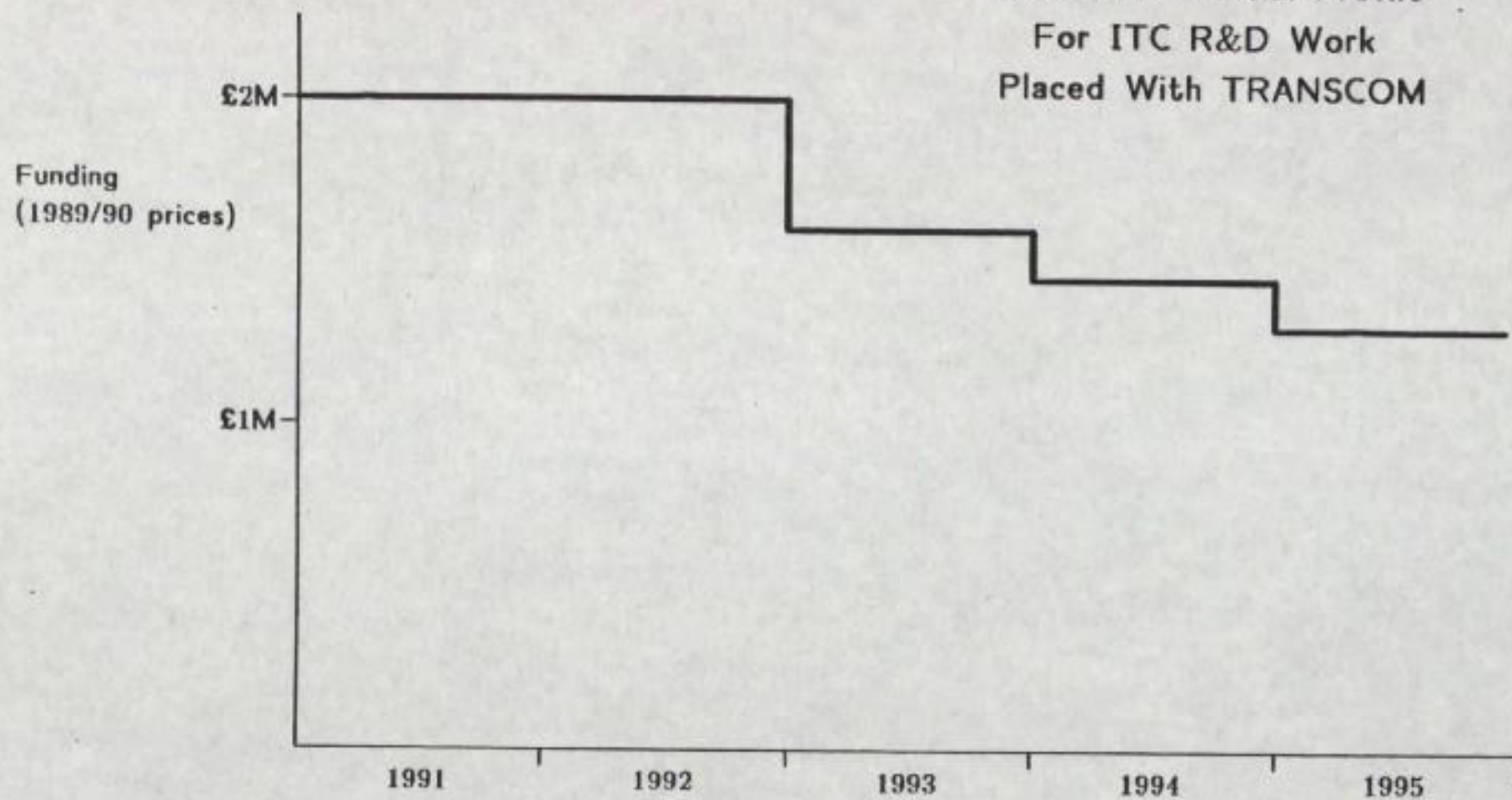


Table 3

Assumed Financial Profile  
For ITC R&D Work  
Placed With TRANSCOM



**Table 4: Proposed Distribution of Engineering Effort**

	Engineers in 1991	
<b><u>ITC</u></b>		
- Additional uses of UHF Spectrum + Digital TV	10.0	
- PAL Enhancements	3.5	
- Data Broadcasting	2.5	
- Microwave Frequency Planning	3.0	
- Ch 5 interference	<u>1.0</u>	
<b>Total Engineers - ITC</b>	<b>20.0</b>	<b>20.0</b>
<b><u>Transcom Internal</u></b>		
<b>- Regulated</b>		
- Development of Specialist test equipment	1.0	
- Improvements to efficiency of operations	3.0	
- Solutions to problems affecting the core business	1.5	
- National/International Committees	<u>.5</u>	
<b>Total Engineers - Transcom - regulated</b>	<b>6.0</b>	<b>6.0</b>
<b>- Non-regulated</b>		
- Strategic R&D (incl EUREKA)	2.5	
- New Business areas	3.0	
- Added Value Services	<u>0.5</u>	
<b>Total Engineers - Transcom - non-regulated</b>	<b>6.0</b>	<b>6.0</b>
<b><u>External Customers</u></b>		
- BSB <sup>(1)</sup> - basic contract	5.0	
- additional work (optional)	(2.0)	
- DVS <sup>(2)</sup> (initial development only to Dec 90)	1.5	
- Thomson <sup>(2)</sup>	1.5	
- ITT <sup>(3)</sup>		
- Tandberg Telecom <sup>(1)</sup> (manufacture)	0	
- BTS <sup>(3)</sup>		
- Others <sup>(3)</sup>		
<b>Total Engineers - external contracts</b>	<b>8.0</b>	<b><u>8.0</u></b>
<b>Total Engineers required</b>		<b>40.0</b>

Notes: (1) contract agreed  
 (2) contract close to agreement  
 (3) contract under discussion

TABLE 5Pay Comparisons:BBC Research Department and BT Research Laboratories

IBA Title	IBA Salary (£)	BBC Salary (£)	BT Salary (£)
Group Head	25,453-31,003	21,745-28,245	Personal Grade
Project Manager	20,200-25,275	17,120-22,225	23,500-31,355 (+personal grade)
Senior Engineer	15,812-20,212	no direct equivalent	19,607-26,143
Engineer(4-6yrs)	13,719-17,619	12,643-14,710	16,353-21,804
Engineer (new)	9,982-13,682	10,190-13,200	not available

TABLE 6TRANSCOM E&D STAFF TURNOVER 1983 - 1990

Period (Financial Year)	Engineering		Support	
	gains	losses	gains	losses
1983-84	1	3	1	3
1984-85	-	10	1	5
1985-86	5	2	4	7
1986-87	2	3	4	6
1987-88	10	3	2	1
1988-89	3	7	2	7
1989-90	4	3	0	5
<b>Total (1983-90)</b>	<b>+25</b>	<b>-31</b>	<b>+14</b>	<b>-34</b>
<b>Proposed Staffing</b>	<b>40</b>		<b>17</b>	

TABLE 7a:  
E&D FORECAST PROFIT AND LOSS ACCOUNTS 1991-1995  
 (At 1989/90 Prices)

1 June 1990	£000				
	1991	1992	1993	1994	1995
<b>INCOME</b>					
ITC Contracts	2,000	2,000	1,600	1,450	1,300
Transcom-funded projects *	1,000	1,050	1,100	1,250	1,350
Other Contracts:					
DTI/Eureka	75				
BSB	564	500	500	500	500
Other	200	350	750	800	900
	-----	-----	-----	-----	-----
Total Other	839	850	1,250	1,300	1,400
<b>TOTAL INCOME</b>	<b>3,839</b>	<b>3,900</b>	<b>3,950</b>	<b>4,000</b>	<b>4,050</b>
<b>EXPENDITURE</b>					
Payroll & Related Costs	1,496	1,518	1,541	1,564	1,587
Other Costs:					
Travel & Subsistence	60	50	50	50	55
Materials & Subcontract	285	260	260	280	300
Maintenance	140	140	140	140	140
Office Costs	20	20	20	20	20
	-----	-----	-----	-----	-----
Total Other Costs	505	470	470	490	515
Accommodation (Appendix II)	580	580	580	580	580
Corporate Overhead (Appendix II)	370	370	370	370	370
Depreciation	306	368	388	418	374
	-----	-----	-----	-----	-----
<b>TOTAL EXPENDITURE</b>	<b>3,257</b>	<b>3,306</b>	<b>3,349</b>	<b>3,422</b>	<b>3,426</b>
<b>E&amp;D PROFIT</b>	<b>582</b>	<b>594</b>	<b>601</b>	<b>578</b>	<b>624</b>
Percentage return on non-Transcom business *	20.5%	20.8%	21.1%	21.0%	23.1%
Turnover per E&D employee	£67.4K	£68.4K	£69.3K	£70.2K	£71.1K
Tax Charge	(200)	(215)	(225)	(213)	(220)
	-----	-----	-----	-----	-----
<b>Profit after Tax</b>	<b>382</b>	<b>379</b>	<b>376</b>	<b>365</b>	<b>404</b>

\* Transcom-funded projects charged at cost

REVISED

TABLE 7b:  
E&D FORECAST CASH FLOW 1991-1995  
(At 1989/90 Prices)

1 June 1990	£000				
	1991	1992	1993	1994	1995
<b>CASH FLOW PROJECTIONS</b>					
<b><u>INCOME</u></b>					
ITC	2,000	2,000	1,600	1,450	1,300
Transcom	1,000	1,050	1,100	1,250	1,350
DTI/Eureka	75				
BSB	439	500	500	500	500
Other	177	333	704	794	888
Income Received	3,691	3,883	3,904	3,994	4,038
<b><u>OUTGOINGS</u></b>					
Payroll	(1,496)	(1,518)	(1,541)	(1,564)	(1,587)
Accommodation	(580)	(580)	(580)	(580)	(580)
Corporate Overhead	(370)	(370)	(370)	(370)	(370)
Other Costs	(447)	(474)	(470)	(488)	(512)
Capital Expenditure	(355)	(436)	(352)	(497)	(335)
Tax Paid		(200)	(215)	(225)	(213)
Total Outgoings	(3,248)	(3,578)	(3,528)	(3,724)	(3,597)
Net Cash Inflow/(Outflow)	443	305	376	270	441
Cumulative Inflow/(Outflow)	443	748	1,124	1,394	1,835

**TAXATION**

Tax Charge Estimate	£000				
Profit per accounts	582	594	601	578	624
Depreciation added back	306	368	388	418	374
Disallowed expenses	3	3	3	3	3
Adjusted Profit	891	965	992	999	1,001
less Capital Allowances	(321)	(351)	(350)	(390)	(372)
Taxable Profit	570	614	642	609	629
Tax Charge	(200)	(215)	(225)	(213)	(220)

## LOSS OF ITC CONTRACT

TABLE 8a:  
E&D FORECAST PROFIT AND LOSS ACCOUNTS 1991-1995  
(At 1989/90 Prices)

1 June 1990	£000				
	1991	1992	1993	1994	1995
<b>INCOME</b>					
ITC Contracts	2,000	2,000			
Transcom-funded projects *	1,000	1,050	1,100	1,250	1,350
Other Contracts:					
DTI/Eureka	75				
BSB	564	500	500	500	500
Other	200	350	750	800	900
	-----	-----	-----	-----	-----
Total Other	839	850	1,250	1,300	1,400
<b>TOTAL INCOME</b>	<b>3,839</b>	<b>3,900</b>	<b>2,350</b>	<b>2,550</b>	<b>2,750</b>
<b>EXPENDITURE</b>					
Payroll & Related Costs	1,496	1,518	901	915	929
Redundancy Payments (estimated at 12 mths salary per employee)			502		
Other Costs:					
Travel & Subsistence	60	50	29	31	37
Materials & Subcontract	285	260	152	175	200
Maintenance	140	140	140	140	140
Office Costs	20	20	20	20	20
	-----	-----	-----	-----	-----
Total Other Costs	505	470	341	366	397
Accommodation (Appendix II)	580	580	426	426	426
Corporate Overhead (Appendix II)	370	370	370	370	370
Depreciation	306	368	388	418	374
<b>TOTAL EXPENDITURE</b>	<b>3,257</b>	<b>3,306</b>	<b>2,928</b>	<b>2,495</b>	<b>2,496</b>
<b>E&amp;D PROFIT</b>	<b>582</b>	<b>594</b>	<b>(578)</b>	<b>55</b>	<b>254</b>
Percentage return on non-Transcom business *	20.5%	20.8%	(46.2%)	4.2%	18.1%
Turnover per E&D employee	£67.4K	£68.4K	£75.8K	£82.3K	£88.7K
Tax Charge	(200)	(215)	188	(30)	(91)
<b>Profit after Tax</b>	<b>382</b>	<b>379</b>	<b>(390)</b>	<b>25</b>	<b>163</b>

\* Transcom-funded projects charged at cost

LOSS OF ITC CONTRACT

TABLE 8b:  
E&D FORECAST CASH FLOW 1991-1995  
(At 1989/90 Prices)

1 June 1990	£000				
	1991	1992	1993	1994	1995
<b>CASH FLOW PROJECTIONS</b>					
<u>INCOME</u>					
ITC	2,000	2,000			
Transcom	1,000	1,050	1,100	1,250	1,350
DTI/Eureka	75				
BSB	439	500	500	500	500
Other	177	333	704	794	888
Income Received	3,691	3,883	2,304	2,544	2,738
<b>OUTGOINGS</b>					
Payroll and Redundancy Costs	(1,496)	(1,518)	(1,403)	(915)	(929)
Accommodation	(580)	(580)	(426)	(426)	(426)
Corporate Overhead	(370)	(370)	(370)	(370)	(370)
Other Costs	(447)	(474)	(356)	(363)	(393)
Capital Expenditure	(355)	(436)	(352)	(497)	(335)
Tax Paid		(200)	(215)	188	(30)
Total Outgoings	(3,248)	(3,578)	(3,122)	(2,383)	(2,483)
Net Cash Inflow/(Outflow)	443	305	(818)	161	255
Cumulative Inflow/(Outflow)	443	748	(70)	91	346

TAXATION

Tax Charge Estimate	£000				
Profit per accounts	582	594	(578)	55	254
Depreciation added back	306	368	388	418	374
Disallowed expenses	3	3	3	3	3
Adjusted Profit	891	965	(187)	476	631
less Capital Allowances	(321)	(351)	(350)	(390)	(372)
Taxable Profit	570	614	(537)	86	259
Tax Charge	(200)	(215)	188	(30)	(91)



Appendix I  
Contracts with external customers

Much of the information in this appendix is the subject of confidentiality agreements with the clients and may not be disclosed to a third party without the client's agreement.

**A1. British Satellite Broadcasting**

The BSB contract, which was signed on Monday 21st May 1990 has four schedules of services to be provided as follows:-

**1st April 1990 - 31st March 1991**

Schedule I	:	£487,000	- fixed price
Schedule II	:	£ 50,000	- Time and Materials
Schedule III	:	£220,000	- OPTIONAL (Time and Materials)

**1st April 1991 - 31st March 1996**

Schedule IV	:	£500,000 per year	- to be reviewed and agreed annually six months before completion of the existing programme.
-------------	---	-------------------	--

These four schedules are detailed as follows:-

**Schedule I:** The IBA is to provide Manpower Resource from its E&D Department and materials for the period 1st April 1990 to 31st March 1991, to cover the following tasks. This section of the contract is on a fixed price basis to be paid in four equal parts, 3-monthly in arrears:-

I.1	W-MAC for IBC90 (based on an estimate of 83.2 man weeks + £15,000 materials)	£223,000	Fixed Price
I.2	W*-MAC for end March 1991 (based on an estimate of 93.6 man weeks + £30,000 materials)	£264,000	" "
	(All labour at £500 per day)		
	<b>FIXED PRICE TOTAL</b>	<b>£487,000</b>	(Excluding VAT)

**Schedule II:** the IBA is to provide the indicated Manpower Resource from its E&D Department for the period 1st April 1990 to 31st March 1991, to cover the following tasks on a time and materials basis:-

II.1	Further MAC System integration and Interface maintenance	£ 30,000
II.2	Demonstration support for IBC	£ 20,000
	(All labour at £500 per day)	
	<b>INITIAL ADDITIONAL CHARGES TOTAL:</b>	<b>£ 50,000</b> (Excluding VAT)

**Schedule III:** the IBA is to provide manpower resource from its E&D Department for the period 1st April 1990 to 31st March 1991, to cover the following tasks but subject to BSB requesting that this Service should be undertaken and IBA agreeing to undertake this Service as follows:

III.1 Chipset and Receiver Tests	£ 20,000
III.2 Conditional Access - Further development	£ 80,000
III.3 MAC Development related to Datavision	£ 60,000
III.4 System Performance Analysis including Interface tests	£ 60,000

(All labour at £500 per day)

<b>ANTICIPATED OPTIONAL CHARGES TOTAL</b>	<b>£220,000</b>	(Excluding VAT)
---	-----------------	-----------------

**Schedule IV:** Over the period from 1st April 1991 to 31st March 1996 there shall be further research and development services provided by the IBA which shall be reviewed and agreed annually six months in advance of the completion of the existing programme of work in order that the IBA may clarify work plans and to ensure their agreement with BSB.

It is envisaged that, each year, BSB will require such R&D services from the Experiment and Development Department equivalent to a total of £0.5M at 1990 prices, the exact sum to be agreed as indicated in the paragraph above. The particular activities and tasks covered by this Schedule will be:

IV.1 Wide screen and improved definition systems development and implementation, including later phases of work begun in financial year 1990/91 and described in the Technical Schedule to this contract. To include standards promotion, demonstrations and prototype equipment provision and operational implementation of these systems.

IV.2 Development of the BSB Datavision service by system studies of DMAC packet services and their implementation. To include full channel data transmissions, standards development, demonstrations and prototype equipment provision and operational implementation of these systems.

IV.3 System performance analysis.

The charges for the services and the details of the tasks in each financial year shall be agreed no less than six months in advance of the start of the financial year by consultation and agreed amendment to the Contract.

**A2. Digital Video Systems (Scientific Atlanta)**

Following earlier discussions, we received on 14th May 1990 from DVS a draft contract for the development and manufacture of 1125 line to 525 line video down-converters, to be incorporated into their HD-B-MAC equipment. The design is to be based on our earlier successful IBA development of a 1250 line to 625 line video downconverter.

The essential contract terms under discussion and close to finalisation are as follows:-

- I Develop the prototype and lend for demonstrations starting in late June 1990.
- II Manufacture four off units at £45,000 each for delivery in January 1991.
- III Manufacture fifth unit at £45,000 for delivery by May 1991. On delivery of this unit, the prototype is to be returned to the IBA.

The total minimum contract value is therefore £225,000 in the period May 1990 to May 1991. The precise scheduling of payments is currently being discussed and agreed. We are aware that DVS already have firm orders for three of these units.

In addition, DVS have the option to purchase up to five further units at £40,000 each, the delivery to be agreed. From their orders to date, we expect this option to be exercised. The options beyond 10 units total include an option for DVS to purchase the design or the option for us to continue manufacture at a price to be agreed.

In summary:

<b>May 1990 - May 1991</b>		
Minimum contract	- 5 units at £45,000	£225,000
<b>Beyond May 1991</b>		
Option	- up to 5 units at £40,000	£200,000
	- further units at price to be agreed	

**A3. Thomson LGT**

Following discussions with Thomson-LGT, E&D has made a proposal to LGT for a programme of work to develop certain new digital techniques particularly appropriate to their business of manufacture of TV transmitters. The area of work calls on particular areas of expertise in E&D, takes advantage of equipment which we have, and draws on patents developed at the IBA. The project splits into three phases:-

- I **Pilot Investigation:** this will involve studies of the overall system including initial theoretical studies and the detailed definition of specifications and of the work

of Phases II and III. The total effort in this phase is estimated at 0.8 man years, being 1.5 people for -0.5 years, and is at a fixed price of £84,132 plus VAT.

- II **Computer Simulations:** detailed estimates of the work involved have to be defined in Phase I of the contract. An initial estimate is for around 1.5 man years with an expected contract value of around £150,000.
- III **Full test-bed hardware:** detailed estimates of the work involved have to be defined in Phase I of the contract. An initial estimate is for 1.5 man years with an expected contract value of around £150,000.

The three phases are to be serial and will involve 1.5 to 2.0 engineers and associated support staff full-time for approximately 2 to 2.5 years.

Discussions are continuing on the details of the contract, with Thomson inviting us to carry out additional work, at additional cost, in the first phase of the contract. The work is part of a three way development contract, the other parts being two parts of the Thomson company with whom we have already worked well in the past. A meeting to discuss details of the contract has been established for 14th June in Paris.

A4. **ITT**

Discussions are currently in hand with ITT, Freiburg on a one year study for up to two people to work on adding either Level 4 Teletext (Computer Graphics) or Level 5 Teletext (Still Pictures) to one of the ITT Digivision chips. At present, the probability of this contract is estimated to be reasonably high, the key uncertainty being at ITT on the feasibility of this project. We believe ITT will be keen to identify other avenues of collaboration and contract, if this option is not possible.

A5. **Tandberg Telecom**

We have recently developed a particular technique called E7 which is implemented on a single printed circuit card. This unit is designed to be installed into Tandberg Telecom MAC encoders. We have already provided 20 units at £6000 each, which represents a full recovery of development costs.

There is now a further contract with Tandberg Telecom for the provision by us of between 10 and 25 of these "E7 units". The contract value is £4000 per unit, of which the full manufacture costs are £1500 per unit. This contract is an example of those which can result from taking existing developments for clients further to the manufacture stage.

A6. BTS (Joint Bosch - Philips studio equipment company)

BTS have a commitment with the EUREKA project to provide downconverters (1250/50/2:1 to 625/50/2:1). Their own design is not satisfactory and they have approached us and indicated our design is suitable. We have had preliminary discussions and BTS have expressed an interest in our manufacturing a limited number of these units. The activity would be complementary to that proposed with DVS. These discussions will continue in the coming month.

A7. British Aerospace

We have completed a 1 month consultancy contract on PCN matters and are currently negotiating for further work in this area. This area can be expected to develop as Transcom involvement in PCN related contracts grows.

A8. Seleco

We have been approached by Seleco (Italy) about collaboration on PAL decoding and upconversion. Discussions are at a relatively early stage.

A9. Sony Broadcast and Communications

We are in discussion with Sony Broadcast & Communications on possible R&D projects in the field of digital signal processing. Discussions are at a relatively early stage.

A10. Hitachi-Denshi

Hitachi have been impressed by our work in the field of Extended Definition Television and have expressed an interest in a possible contract in this area. Discussions are to be held in June on this topic.

A11. As indicated in paragraph 10 in the main text of this business plan, a significant number of these companies are international in nature. At this stage, we have not yet developed our marketing in Europe, but, with the scale of R&D funding in Europe, this could be a market with greater potential than that of the UK. The international reputation of the IBA is an asset here.

**APPENDIX II**  
**E&D BUSINESS PLAN NOTES**

**1. CORPORATE OVERHEADS**

- (i) Overheads have been directly allocated to Business Groups where appropriate. In other cases staff numbers or floor area has been used.
- (ii) Overheads such as mortgage subvention and staff removal costs have not been allocated to E&D.

	Total fK	E&D fK	%	Basis of Charge
<u>Human Resources</u>				
Staff costs	280			
Supplementary pension	350			
Restaurant facilities	165			
Recruitment costs	85			
Training	390			
Other	220			
	<u>1,490</u>	130	8.7	Staff nos.
<u>Finance</u>				
Staff costs	562			
Other costs	200			
	<u>762</u>	66	8.7	Staff nos.
<u>Secretary</u>				
Staff costs	483			
Property insurance	340			
Other costs including staff insurance, legal & professional fees	330			
	<u>1,153</u>	81	7.0	Staff nos. (except insurance)
<u>Computer Services</u>				
Staff costs	528			
Equipment maintenance	400			
Other costs	50			
	<u>978</u>	43	4.3	50 % to Regions. Balance on staff nos.
<u>Business Development</u>				
Staff costs	1,345			
Other costs	216			
	<u>1,561</u>	33	2.1	See note
<u>Other</u>	422	17	4.0	Various
<u>TOTAL</u>	<u>6,366</u>	<u>370</u>	<u>5.8</u>	

## Note:

Basis of allocation: E&D Other 3rd Party Income = £0.25M  
 Transcom total non core income £12.0M

	£M
2. <u>ACCOMMODATION COSTS</u>	
Notional Rent of Crawley Court	2.0
Rates	0.3
Telephones	0.2
Electricity	0.1
Maintenance	0.1
Office costs	0.1
	<u>£2.8M</u>
	—
	m <sup>2</sup>
3. <u>FLOOR AREA</u>	
Assumes one floor of technical block 57 staff @ 18m <sup>2</sup> per person	1,030
Allocation to E&D of common areas e.g. restaurant, boiler house, storage areas (on floor area)	500
Allocation of support groups - Finance, Human Resources etc. (on staff numbers)	245
Total allocated floor area E&D	<u>1,775m<sup>2</sup></u>
	—
Total Crawley Court	8,567m <sup>2</sup>
% of floor area chargeable to E&D	20.7%
Annual charge to E&D	£580K

APPENDIX III  
E&D CAPITAL EXPENDITURE 1990-95  
SUMMARY

	1990	1991	1992	1993	1994	1995	TOTAL 1991-5
<b>TWO YEAR LIFE</b>							
HDTV	30	-	-	-	-	-	
<b>THREE YEAR LIFE</b>							
Network computer system )							
General computer equipment )	90	50	250	90	-	50	440
Image sequence processor )							
Codec )							
<b>FIVE YEAR LIFE</b>							
Video equipment	60	160	30	75	45	80	390
Computer aided engineering	50	50	50	50	400	50	600
<b>TEN YEAR LIFE</b>							
Laboratory equipment )	90	125	110	130	65	140	570
Furniture )							
<b>TOTAL</b>	<b>320</b>	<b>385</b>	<b>440</b>	<b>345</b>	<b>510</b>	<b>320</b>	<b>2000</b>



BROADCASTING: Palm & TI



**dti**

the department for Enterprise

*celly*

*n. j. p. m.  
BTP  
21/6*

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

The Rt Hon David Waddington QC MP  
Secretary of State for the  
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Our ref PB3AML  
Your ref  
Date 21 June 1990

*Dear David.*

**REGULATION OF BBC TRANSMISSION ACTIVITIES**

Thank you for your letter of 14 June *at read* taking forward the correspondence about the limits on the transmission related activities we should allow the BBC to undertake.

I am pleased that you agree that to allow the BBC to maintain other broadcasters' equipment on BBC sites would be little short of providing a full transmission service. I am grateful also to you for offering to include the provision of Channel 5 sites, where there is a choice, in the list of non-permissible activities. I also agree in principle with your line on commercial research and development projects. We shall however have to be careful how we express such a restriction since I would not like the BBC to be excluded from collaborative research projects, such as the EUREKA 95 HDTV work, where its expertise is beneficial to the project as a whole. The main target of such a restriction must surely be contract R&D paid for by a third party, but it may be helpful for our officials to speak to the BBC to determine whether such a formulation takes into account what is actually likely to happen.

There remain two areas of uncertainty: the transmission of MF independent national radio and the extent of the BBC's project management activities for other broadcasters. I am concerned that if our deliberations extend any further there will be genuine timing difficulties over the issue of the BBC's



Recycled Paper

**dti**

the department for Enterprise

Telecommunications Act Licence. May I therefore propose that, instead of talking further to the BBC about these two subjects we present them with a package which allows them to transmit the INR stations from BBC sites (since the number of sites is small and, arguable, there are some economies of scale on sites where there are other BBC services) whilst excluding them from project management for other broadcasters. I think this represents a fair, even generous, deal for the BBC so long as its transmission activities remain in the public sector.

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

*John G. ...*  
*Nicholas*



Recycled Paper

BROADCASTING: Policy  
ATI

CONFIDENTIAL



FILE

EAM  
CLPS/Walters  
AM

10 DOWNING STREET

LONDON SW1A 2AA

20 June 1990

*From the Principal Private Secretary*

**BROADCASTING BILL: IMPARTIALITY**

The Prime Minister has seen the Home Secretary's minute of 14 June. She felt that the proposals in it did not go far enough, given the seriousness of the problem. While she welcomes the suggestion that the qualification 'current' should be removed from the reference to political or industrial controversy, she remains unconvinced that the proposed code is adequate for achieving balance. There are guidelines at present but, as the Home Secretary acknowledges, broadcasters are skilled at arguing that they have met its conditions.

The Prime Minister feels that the objective of ensuring balance over a series of programmes can still allow biased impressions to go uncorrected for too long. Lord Wyatt's amendment does not seek balance in individual programmes but suggests three ways of ensuring that it is achieved promptly and with certainty.

The Prime Minister remains attracted to the idea of giving responsibility for impartiality to an independent adjudicator other than the BBC and the ITC. She was also concerned that special mandate or personal view programmes create a loophole. This should be closed by bringing them within the impartiality requirement.

The Prime Minister would like to discuss these issues with the Home Secretary and the Chancellor of the Duchy of Lancaster before the House of Lords reaches the Wyatt/Cox/Orr-Ewing amendments. I will try to set up a meeting.

I should be grateful if this letter could be copied only to those who strictly need to know its contents.

I am copying this letter to Robert Canniff (Chancellor of the Duchy of Lancaster's Office).

ANDREW TURNBULL

Colin Walters Esq  
Home Office

CONFIDENTIAL

# Broadcasting Bill

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## AMENDMENTS TO BE MOVED IN COMMITTEE

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### Clause 6

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING  
THE BARONESS ELLES

Page 6, line 10, leave out ("person providing the service") and insert  
— ("persons providing the service and programmes")

BY THE BARONESS COX

Page 6, line 11, leave out ("current")

BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING

Page 6, line 19, at end insert ("subject to the following provisions,  
namely—

- (a) at the end of any programme lacking due impartiality, there shall be broadcast a discussion with a duration sufficient to demonstrate adequately the main opposing views and featuring participants qualified competently to represent those views; but this provision shall not apply to programmes of less than fifteen minutes' duration;
- (b) within one calendar month of the broadcasting of any programme lacking due impartiality, there shall be broadcast another programme or programmes on the same topic, in the same series, at a comparable time and with comparable prominence, putting forward the main arguments excluded from the initial programme;
- (c) when any programme lacking due impartiality is broadcast there shall also be broadcast an announcement stating the date and time of any subsequent programme or programmes in the same series and that this subsequent programme or programmes will contain the main views opposing those put forward in the initial programme."

( 2 )

**Clause 6—continued****BY THE BARONESS COX  
THE LORD ORR-EWING**

Page 6, line 19, at end insert—

(" ( ) Programmes which are categorised as being the 'Personal View' of particular individuals, programmes produced under the special mandate of particular television services, and programmes categorised by any other special designation, shall not be exempt from the impartiality provisions set out in section 6(1) and (2) above.")

**BY THE LORD ORR-EWING**

Page 6, line 33, leave out ("person providing the service") and insert ("persons providing the service and programmes")

**BY THE BARONESS COX**

Page 6, line 34, leave out ("current")

**Clause 85****BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING**

Page 71, line 43, leave out ("or matters of current political or industrial controversy or relating to current public policy; and")

**BY THE BARONESS COX**

Page 71, line 43, leave out ("current")

**BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING**

Page 71, line 44, at end insert—

(" ( ) that due impartiality is preserved on the part of the persons providing the service and the programmes as respects matters of political or industrial controversy or relating to current public policy; and")

Page 72, line 2, leave out ("person providing the service") and insert ("persons providing the service and the programmes")

**BY THE BARONESS COX**

Page 72, line 4, leave out ("current")

**BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING**

Page 72, line 6, leave out ("the programmes included in that service shall be taken") and insert ("a series of programmes may be considered")

Page 72, line 7, at end insert ("subject to the same provisions as set out in section 6(2)(a), (b) and (c) above")

( 3 )

**Clause 85—continued**

**BY THE BARONESS COX  
THE LORD ORR-EWING**

Page 72, line 7, at end insert—

(" ( ) Programmes which are categorised as being the 'Personal View' of particular individuals, programmes produced under the special mandate of particular radio services, and programmes categorised by any other special designation, shall not be exempt from the impartiality provisions set out in section 85(2) and (3) above."

**BY THE LORD WYATT OF WEEFORD  
THE LORD ORR-EWING**

Page 72, line 9, leave out paragraph (a) and insert—

("(a) draw up, and from time to time review, a code giving guidance—

(i) as to the rules to be observed in determining what constitutes a series of programmes for the purposes of subsection (3), and

(ii) as to the rules to be observed in other respects in connection with the application of paragraph (a) of subsection (2) in relation to any such licensed service as is mentioned in that subsection; and")

**Clause 140**

**BY THE LORD WYATT OF WEEFORD**

Page 108, line 44, at end insert ("; and

(d) standards to be observed and practices to be followed for the preservation of due impartiality in matters of political or industrial controversy or relating to current public policy.")

**Clause 142**

**BY THE LORD WYATT OF WEEFORD**

Page 110, line 7, at end insert ("; or

( ) to alleged failures on the part of such programmes to preserve due impartiality in matters of political or industrial controversy or relating to current public policy.")



## PRIME MINISTER

### BROADCASTING BILL: IMPARTIALITY

I have seen the Home Secretary's note to you following his study of the Hampden Trust report. His response is extremely disappointing.

#### 1. "Current" controversy

It is welcome that the Home Secretary has agreed to the removal of the word "current". It is hard to see why this was ever inserted in the first place.

#### 2. "Bias across a Series"

The Home Secretary's note argues that it would be wrong to require balance within a programme. This is not what Lord Wyatt's amendments are proposing. Lord Wyatt has tabled amendments requiring that:

- (a) at the end of any programme of over 15 minutes which is not impartial, there should be a discussion allowing the opposing point of view to be put.
- (b) within one month, a programme will be broadcast putting forward the other side of the case.
- (c) after any ~~im~~partial programme, there will be broadcast an announcement stating when this second programme will be shown.

This is a "belt and braces" approach: either (a) or (b) and (c) would be sufficient.

I attach a copy of the amendments tabled by Lord Wyatt and Lord Orr-Ewing. The Home Secretary does not appear to have addressed them.

3. An Independent Adjudicator

The Home Secretary says that the ITC will be publishing a code specifying how impartiality should be achieved. This is no different from the television producers' guidelines already published by the IBA (attached). The problem has been that these have simply been ignored. Yet whenever a complaint has been lodged, the IBA has referred to these guidelines. If rules are to have any force, they must be in the Bill, not in a code.

Moreover the Bill maintains the position that the BBC and IBA (now ITC) are judge and jury with regard to any complaint. Lord Wyatt proposes that the Broadcasting Standard Council's remit should be extended to cover political impartiality. This is the only amendment which will also catch the BBC. David Waddington says that neither Lord Rees-Mogg nor Lady Anglesey (of the Broadcasting Complaints Commission) wish for this. It seems to me that the BSC is the ideal body to take this on - but the main thing is to have an independent body adjudicating complaints rather than the present arrangements which have proved so woefully inadequate.

4. Special Mandate / Personal View Programmes

The amendments by Baroness Cox and Lord Orr-Ewing on special mandate and personal view programmes are not addressed by the Home Secretary.

At present, broadcasters have sought to suggest that they are not required to maintain impartiality either because the programme concerned is a "personal view" or because it is broadcast under Channel Four's "special mandate" to transmit innovative programmes catering for minority interests. The amendments would close these loopholes by requiring that these programmes would not be exempt from the impartiality requirements.

If we had deregulated broadcasting, there might be no need for impartiality requirements. But the BBC and Channel Four are public service broadcasters in a privileged position. They have consistently abused this.

We will only show the broadcasters we mean business on impartiality if all these amendments are accepted. If we adopt the Home Secretary's line, the broadcasters will regard it as the green light to ignore any code or requirement for impartiality, just as they do at present. Lords Wyatt and Orr-Ewing intend to press their amendments to a division and are working hard to obtain support: we should not be opposing them.

I have shown this note to Brian Griffiths, who fully endorses it.

JAW  
✓

JOHN WHITTINGDALE

18 June 1990

**6.1** The following sub-sections indicate areas in which care is particularly likely to be needed in order to ensure fair dealing. (For guidelines on defamation and contempt of court see 10.1 and Appendix III.) There is in addition the specific requirement of the Broadcasting Act that the IBA should ensure that, so far as possible, 'due impartiality is preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy'. The term 'due' is significant: the IBA is not required to secure impartiality on matters such as drug-trafficking, cruelty and racial intolerance, for example, on which society, even today, is virtually unanimous. The requirement will also vary with the type of programme: the considerations applying to drama, for example, are different from those applying to current affairs programmes.

### 6.2 Drama

It is not unusual for plays and films on television to be concerned with matters of political or industrial controversy or with current public policy, and therefore to fall within the requirements of due impartiality. Problems are most likely to occur in connection with dramatised documentaries, when it may seem that dramatic devices are being used to convince viewers not merely of the factual accuracy of the actions portrayed but of the validity of a particular point of view or a particular explanation and interpretation of society or recent history.

Drama is by definition the personal view of the dramatist, and the IBA does not regard the transmission of a play with a contemporary political or social message as in itself an indication of lack of impartiality on the part of the company providing the programme. The due impartiality required of a play by an independent dramatist is not identical to that required of a current affairs programme produced by a company's own production team. Nevertheless difficulties could arise with a play dealing with a particular current issue which at the time of transmission had become a matter of imminent national decision. The IBA believes that each case should be treated separately on its merits; but it would be unlikely to approve the scheduling of a play commending one side or the other in a matter of public policy, such as abortion, or capital punishment, at a time when that issue was being debated in Parliament, or of a play which took sides on any aspect of industrial relations during a strike of national importance. And it would not accept any drama that was clearly designed to serve the interests of one political party.

### 6.3 Current Affairs and Documentary Programmes

Each current affairs or documentary programme dealing with matters of political or industrial controversy or relating to current public policy should normally attempt to be impartial in itself.

This does not mean that 'balance' is required in any simple mathematical sense of equal time or an equal number of lines being given to each relevant viewpoint. It requires, for instance, that the programme should not be slanted by the concealment of relevant facts, or by misleading emphasis; nor should investigation turn into a case for the prosecution or defence, or into a form of trial by television.

#### 6.3(i) THE SERIES QUALIFICATION

The Broadcasting Act's requirements about impartiality allow a series of programmes to be considered as a whole. This presupposes that the presentation, over a series, of different points of view is planned in advance, and that the intention to achieve impartiality in this way is made clear so that the viewer of one programme is not misled into thinking that he has seen the whole story.

#### 6.3(ii) PERSONAL VIEW PROGRAMMES

'Personal view' programmes are programmes on matters of topical interest in which the presenter or central person presents his or her own view. The IBA believes that, subject to the following safeguards, such programmes may be a valuable element in the schedules:

- Each such programme (or series of programmes) should be the subject of early prior consultation with IBA staff before scheduling.
- In billing and promotion, as well as within the programme itself, it should be made clear that the programme is the expression of one person's view on matters about which other views exist.
- Programme companies have an obligation to ensure that statements of fact in the programme are accurate, and that opinions expressed, however partial, do not rest upon false evidence.
- The programmes should preferably not be scheduled in the time slots normally occupied by regular current affairs or documentary programmes.
- The programmes should be drawn from a wide political and social spectrum, and a company offering 'personal view' programmes should ensure that this requirement is met within a reasonable period.
- 'Personal view' programmes on political matters should not be scheduled at times when Parliamentary or local government elections are pending.

### 6.4 Discussion Programmes

The demands of accuracy as well as those of impartiality and fairness require care to ensure that in a discussion on any matter of controversy or public policy a wide range of opinions is represented. Those chosen to speak for a point of view should be competent to represent it with proper authority. When the views of an organisation need to be represented there is no obligation to use an officially nominated spokesman. At times it may be useful to do so; at others it may appear that someone

else would be more competent to convey and explain those views to the public in a television programme. This is a matter for producer judgement.

In discussion programmes dealing with political issues the participants do not necessarily have to be spokesmen for the main political parties.

The obligation to ensure due impartiality relates to issues, not to parties, and some important issues do not divide opinion along existing party lines. Indeed there are occasions when it is preferable to confine discussion to the spokesmen of only one party; the opportunity can be taken to investigate a particular approach to an issue in depth, provided that overall in a series of programmes impartiality is maintained. On the other hand there are many issues on which the attitudes of the parties are clear cut and distinct, recognisably part of the respective party policies. In those cases competent spokesmen of known party allegiance should be chosen. They need not be official nominees, although it may occasionally, in the light of producer judgement of a specific issue, be desirable to seek advice, without commitment, from official party sources about suitable speakers.

#### 6.4(i) THE EMPTY CHAIR

It sometimes happens that, in spite of every possible effort by the production team, all likely and competent spokesmen for one of the relevant points of view in a discussion are either unable or unwilling to accept an invitation to participate. In such circumstances reference to their absence should normally be made in as detached a manner as possible, implying regret rather than criticism.

Unless the projected programme would be unrealistic without their presence, the unwillingness or inability of certain individuals or organisations to participate need not prevent a duly impartial discussion of important matters of public interest, and the programme should be allowed to proceed. It should be the duty of the chairman to give where appropriate as fair and objective an account as possible of the known opinions of the missing participants on the subject under discussion. (N.B. there are particular requirements, under the Representation of the People Act, at times of elections (see Appendix II).)

#### 6.4(ii) IMPARTIAL CHAIRMAN

When every possible care has been taken over the selection of suitable participants for a discussion programme, fairness and due impartiality will still not be achieved without suitable control of the proceedings by the discussion's chairman. On the chairman will devolve the task of ensuring that all participants – some perhaps with less television experience than others – get a fair opportunity to express their views; and that the discussion moves forward as coherently and logically as possible.

#### 6.4(iii) COMPOSITION OF THE STUDIO AUDIENCE

Studio audiences for discussion programmes should be so selected as to reflect as far as possible the spread of opinion among those members of the general public interested in the topic under discussion. In so far as they are expected to play an active role in the programme, they should be subject to the same kind of firm impartial control by the chairman as he exercises towards the main parties to the discussion. The producer should brief his studio audience on the role they are expected to play. The main speakers should always be warned in advance that a live audience will be present and told what briefing the audience has been given.

## 6.5 Conduct of Interviews

Interviews are of course subject to the normal general requirements about fairness and impartiality. In addition, it is important in normal circumstances to ensure:

- (a) that an interviewee chosen as a representative of an organised group is in a position to speak on behalf of others involved;
- (b) that, whether the interview is recorded or live, the interviewee has been made adequately aware of the format, subject matter and purpose of the programme to which he or she has been invited to contribute, and the way in which his or her contribution is likely to be used;
- (c) that the interviewee has been told the identity and intended role of any other proposed participants in the programme.

If exceptional circumstances require departure from these normal practices, there should be consultation with the IBA in advance.

Particular points for attention arise over the editing of interviews, and these are dealt with in the following section.

#### 6.5(i) EDITING OF INTERVIEWS

Factual and unscripted (or loosely scripted) programmes are likely to be better if they are pre-recorded, so that redundancies, confusions and irrelevancies can be edited out. This advantage is especially valuable in recording interviews. Some of the most useful and relevant interview material has to be obtained from persons who are unlikely to be able to spare time for lengthy preliminary briefing and rehearsal (or retakes). To minimise risks of misunderstanding, or even resentment, the producer should tell the interviewee (what almost any experienced public figure already knows) that the recording will be much longer than the edited version used in the programme. There are in addition a number of other precautions that need to be taken, if the integrity and fairness of the programme is to be maintained beyond reasonable dispute.

Care should be taken to ensure that the shortened version of the interview does not misrepresent the interviewee's contribution. Due weight should be given to any qualifying remarks

continued

that may perhaps weaken the force of an answer but to which the interviewee is likely to attach importance. There is no justification for picking out a brief extract to support a particular line of argument to which the interviewee does not himself subscribe without qualification.

The context in which extracts from a recorded interview are used is also important. It is quite defensible to run together a number of different answers made by different contributors to the same question. But an interview should not be edited so as to appear by juxtaposition to associate a contributor with a line of argument which he would probably not accept and on which he is given no opportunity to comment in the programme. Care should be taken not to present separately recorded statements by two or more persons in such a way as to suggest that they are in actual conversation with one another.

There is no general obligation to offer a preview of the edited programme to those whose contributions have been used. On the other hand it is possible that particular circumstances will make a preview by an interviewee desirable or even essential, and producers and/or managements should always give thought to this before completing their programme.

**6.5(i) USE OF RECORDED LIBRARY MATERIAL**  
Care needs to be taken over the use of library material to ensure that it is not presented in a misleading manner. For example, it should not be taken for granted that the views expressed by an interviewee on a particular subject, as recorded on a previous occasion, are still held by him when it is proposed to rebroadcast the extract in a possibly different context. When library material is included in a programme, it is important to indicate the date it was originally recorded.

**6.5(ii) STUDIO TRIAL BY TELEVISION**  
Likely to be a rarity in television, but to attract particular attention when it is arranged and presented, is the programme in which a person is answering charges of alleged criminal wrongdoing. There is an obvious need for the company to be aware in planning such a programme of the legal risks of defamation and contempt of court (see 10.1, 10.2, and Appendix III). In addition every effort should be made in the conduct of the programme to ensure fairness and the appearance of fairness. The following guidelines need to be observed:

- The subject of any accusations which are to be made must be disclosed in detail to the person who is to defend himself/herself against them, and sufficiently in advance to allow answers to be prepared.
- The person must know from whom the accusations are to come, and if he or she wishes must be allowed to have present witnesses prepared to support him/her.
- If there is to be an audience, he/she must be

told of its presence, the way in which it is to be composed, and the role allotted to it, and, if it has been arranged that the audience includes people who will be making complaints against him/her, must be able, if he or she wishes, to secure the inclusion in it of those who will defend him/her.

(d) The presenter or chairman must act, and be seen to act, in an independent and impartial manner.

(e) There must be no verdict, for even were it thought proper for a verdict to be reached through the processes of television, the time available is insufficient for the necessary sifting or completion of evidence.

## 6.6 Right of Reply

Despite all the efforts which are made by the companies and the IBA to observe fairness, accuracy and due impartiality, there may be occasions when an individual or organisation is misrepresented in a programme. A mis-statement of fact can sometimes be simply corrected, particularly if the programme is live, since there is then the opportunity for a correction to be made within the programme itself. If this is not possible, then, unless the need for correction is urgent, it may be best, if the error has occurred in a regular news or current affairs programme, to wait until the next bulletin or edition from the station in question. Corrections of factual errors should in any event be broadcast as soon as is sensibly possible after the original error.

Calls for a right of reply may also come from those who feel that a programme as a whole or in part has been misleading and unfair in a more general sense than that resulting from straightforward mis-statement of fact. Requests for such a reply may come either direct to the IBA or to the company itself. In both situations the IBA will normally need to be involved in discussion with the company before a decision is taken whether to grant a reply, and if so what form it should take. Some programme series have built-in 'access' or 'come-back' slots which offer time for comment on the content of previous programmes. Major network current affairs series cannot so easily accommodate regular replies, though brief statements can be made at the beginning or end of subsequent programmes. In some circumstances, it may be appropriate for a statement to appear instead in print. Where a complaint is not upheld by the company or the IBA it is now open to the complainant, provided he or she has a direct interest in the programme, to refer it to the Broadcasting Complaints Commission (Appendix V).



*Notes*  
The moratorium  
was agreed (reluctantly) by  
the Prime Minister.  
18/6

# Home Office

## NEWS RELEASE

18 June 1990

50 Queen Anne's Gate London SW1H 9AT  
(Night line 071-273 4595)

Contact Number

071-273 4620

### MELLOR ANNOUNCES CHANGES TO BROADCASTING BILL ON MORATORIUM ON TAKEOVERS AND ON NETWORKING

Home Office Minister of State David Mellor QC MP today announced that the Government will introduce two new provisions into the Broadcasting Bill providing for a limited moratorium on takeovers and for networking arrangements.

#### Moratorium

The Government intends to give the Independent Television Commission the power to impose a moratorium on takeovers of Channel 3 and 5 licensees from the point at which the licence was awarded until one year after the start of broadcasting.

Mr Mellor commented: "I noted the many strong arguments put forward in the Commons and in the Lords' Second Reading Debate for a moratorium on takeovers, in order to provide for a period of stability at the commencement of the new licence period. The length of the moratorium period is the one which was proposed by George Russell, the Chairman designate of the ITC. Thereafter we believe it would be right to allow takeovers of licensees. The prospect of takeovers is an important market discipline which is conducive to efficiency. But that does not mean there will be a free-for-all.

"Takeovers and transfers of licences will still be subject to ITC oversight. They will have to be satisfied that the original programme promises and licence conditions can still be met and that the new owners are people they would have been prepared to grant a licence to in the first place."

#### Networking

Mr Mellor said: "I have long recognised the need for Channel 3 to operate a network. The only question was the form of statutory provision which should underpin it. George Russell has made clear that the ITC, under such an arrangement, would not expect to devise a completely new networking scheme. Instead, they would hope simply to be able to roll forward the new networking arrangement presently being negotiated among the existing ITV companies, assuming this produces an outcome which is acceptable in terms of free access and fair competition. I hope that the ITV companies will be able soon to finalise their network arrangements for the remainder of the ITV franchise period. Such arrangements could then form the basis for the networking scheme from 1993 onwards."

It is proposed that the Channel 3 quality threshold should now include a new provision requiring a sufficient proportion of programming to derive from networking arrangements agreed between licensees for securing coordination in the production, supply and scheduling of programmes for regional Channel 3 services.

Licensees, on appointment, would be free to seek to conclude whatever networking arrangements they wished. The expectation would be that voluntary arrangements would be concluded without the intervention of the ITC. As a fallback, however, should voluntary arrangements not materialise within a specified period of the award of the licence, the ITC would be able to impose a scheme of networking on the licensees. Any imposed arrangements would last for a maximum of two years, or for such shorter period as was agreed among the licensees themselves.

Any networking arrangement, whether agreed voluntarily or imposed by the ITC, would need to be fair, and in particular should not discriminate against small companies or new entrants. Accordingly, the Office of Fair Trading would be required to confirm that such arrangements offered fair and free access by all licensees to the network. The OFT would not be expected to consider wider competition issues, but simply to ensure that the arrangements were such that the network operated on a fair basis.





Pure Minutes  
The only change by Home Secretary proposes to delete the word "current"; otherwise he believes the words provided for in the Bill will suffice.

John Whittingdale's note argues that this is insufficient.  
Content? No  
Do you want to talk to Home Sec? Yes please - I will note  
sets out the arguments well. 18/6  
HTE with BY

Prime Minister

BROADCASTING BILL : IMPARTIALITY

Thank you for your minute of 31 May about the report on broadcasting and political bias prepared by the Hampden Trust.

2. The report has two main themes. The first is that the broadcasters are failing to fulfil the impartiality requirements in existing legislation, and the second that the requirements themselves are inadequate to ensure a properly impartial service.

3. I take the first point very seriously and will be discussing with Duke Hussey and George Russell how standards in this area could be improved. I note incidentally that the BBC have now accepted publicly that one of the programmes discussed in the report, the "Timewatch" programme on Hiroshima, failed to achieve a sufficiently balanced presentation.

4. As to the second point, I believe that the problem lies with the attitude of the BBC and IBA rather than the statutory requirements. The provisions in the Broadcasting Bill relating to impartiality broadly follow previous legislation, and require due impartiality to be preserved as respects matters of current political or industrial controversy or relating to current public policy. The Bill continues to provide that, in applying the impartiality requirement, a series of programmes may be considered as a whole, but for the first time it also requires the ITC to draw up and enforce a detailed code as to the rules to be observed in relation to impartiality, including the way in which the "series" provision should in practice be operated.

5. You asked me specifically to consider the Wyatt amendments. Although these have yet to be tabled formally, I understand that Lord Wyatt has three major concerns. The first is to remove the qualification "current" from the reference to political or industrial controversy. The second relates to the provision

whereby impartiality may be achieved over a series, where I understand that Lord Wyatt considers that every single programme should be impartial in its own right. His third concern - which was the subject of an article he wrote in The Times the other day - is to give the responsibility for judging whether impartiality has been achieved to the BSC or the BCC rather than the ITC.

6. On the first point, I am content to remove the word "current" if it is thought likely to give rise to difficulty. We inserted it originally because we did not think it necessary to impose a restriction of this kind on broadcasters who were dealing with a political or industrial matter which no longer gave rise to any controversy. But I cannot see that deletion of "current" would cause any insuperable difficulties.

7. The ability to achieve balance over a series of programmes is I believe necessary. To require every programme short or long to be entirely balanced with every relevant point of view expressed would inevitably limit the extent to which issues could be critically analysed and seems in fact quite unrealistic. But I do think it important that broadcasters should be clear what constitutes a 'series' over which impartiality must be achieved, and this will be one of the matters to be dealt with in the code to which I have referred.

8. I do not think it will be right to give the BCC or BSC any role in relation to these matters. Neither Lady Anglesey nor Lord Rees Mogg would, I understand, welcome this. Lord Chalfont moreover spoke out strongly in the Lords Second Reading debate in favour of the arrangements proposed in the Bill, which he said provided an effective means for dealing with the problem of impartiality without looking to involve any other body. It is in any case in my judgment illusory to suppose that charging some other body to rule on these very difficult and sensitive issues, where opinions are often so sharply divided, would necessarily be any more likely to produce an outcome which commanded greater general confidence.

9. Nevertheless I fully understand and share the concern of Lord Wyatt and others about impartiality in broadcasting. The Hampden Trust report demonstrates that the broadcasters cannot always be relied upon to achieve satisfactory standards in this respect. One of the problems hitherto has been that neither the programme-makers nor the public have known for certain how the broad statutory requirement for impartiality is expected to be

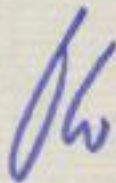
No - it  
allows  
a degree  
of  
impression  
to be  
preserved

fulfilled, and in particular the extent to which broadcasters can legitimately use the "balance over a series" provision to enable one partisan programme to be balanced later by another programme expressing an alternative view. As the report demonstrates, the broadcasters are well able to marshal arguments defending the positions that they have taken in terms of the existing rules.

What is needed therefore is a requirement for the regulators to spell out in detail the way in which impartiality is to be achieved. That is why for the first time we have included in the Broadcasting Bill a requirement for the ITC to draw up and publish a code governing impartiality. I would expect that code to specify the way in which impartiality should be achieved in different circumstances, the extent to which it might be legitimate for programmes to be partisan provided they were balanced elsewhere in the series, the nature and timescale of the series over which programmes can be considered as a whole, and a range of other associated issues.

10. This approach seems to me to offer three important advantages. First it will be possible for the first time for organisations like the Hampden Trust to understand and if necessary challenge the specific criteria used by the ITC in determining how impartiality is to be achieved. Secondly, the code will provide a yardstick against which to establish whether the ITC is properly enforcing the statutory requirements regarding impartiality. If individuals or organisation considered that a particular programme failed to conform to the impartiality requirement, they would be able to test it against the detailed criteria set out in the code. Thirdly, it will be very much harder in future for programme-makers to attempt to circumvent the statutory requirement for impartiality.

11. Subject to the point noted above about "current" controversy, I believe that the provisions in the Bill offer a sensible way forward and that the answer to the problem lies not in trying to devise some fundamentally different arrangements for securing impartiality but in making sure that the existing requirements are properly set out, understood, and enforced.



14 June 1990



Broadcasting  
policy  
8/11

CONSTITUTION





n.b.P.M.  
on Prot. of. comm. *clp*  
BHP 1570

QUEEN ANNE'S GATE LONDON SW1H 9AT

14 June 1990

*clp*

REGULATION OF BBC TRANSMISSION ACTIVITIES

I am writing following Eric Forth's letter of ~~10~~ <sup>14</sup> May in response to mine of 30 April about the permissible extent of BBC transmission-related activities. You will have seen Peter Lilley's letter of ~~14~~ <sup>14</sup> May.

I am glad that we have been able to agree on the proposals for permissible BBC activities in the paper circulated with my letter of 30 April. As Eric's reply recognises, we now need to resolve quickly the four outstanding questions identified in my letter. This is necessary in order to prevent further delays over the BBC Telecommunications Act licence and also to enable urgent work to proceed on preparation of the business plan for the privatised transmission company.

The key considerations in relation to transmission of the two MF radio channels to be reallocated from BBC use are technical feasibility and cost. The BBC have argued that the necessary isolation of their existing transmitters would involve excessive re-engineering and other opportunity costs. I think this is a subject which our officials will need to discuss further with the BBC.

On reflection, I accept that allowing the BBC to maintain other broadcasters' equipment on BBC sites would effectively amount to conducting a new transmission service. This would not be fully consistent with last year's MISC decision, and I would not wish to press the point further.

I have greater reservations about excluding the BBC from making use of the downtime of its existing staff to carry out project management for other broadcasters (an exclusion which could only be backed up by specifying Ministerial expectation). I also think that it would be difficult to justify excluding the BBC from competing at home, whilst permitting it to do so abroad, as Eric's letter suggests. However, I agree that it would be useful for officials to explore further with the BBC the nature and demand for the services involved.

On the provision of those Channel 5 sites where there is a choice between the BBC and the IBA, I recognise colleagues' reservations about the possibility of genuine competition while the BBC remains in the public sector.

The Rt Hon Nicholas Ridley, MP.  
Secretary of State for Trade & Industry  
1-19 Victoria Street  
LONDON, S.W.1.

/over...



2.

Separate accounting and the establishment of the BBC's strategic business unit should help, but I accept that, in itself, this may not necessarily guarantee fair competition. I also recognise the possible effect on the privatisation proceeds of allowing the BBC to compete. However, the volume of business is likely to be small and - in the absence of such competition - further economic regulation of the privatised company would be required. New transmission operators would be denied the advantage of a choice of sites, thus weakening their position. Nonetheless, if in the light of these considerations, and those in my letter of 30 April, colleagues still strongly favour excluding the BBC from competing for this business, I should not wish to hold out on this point.

One additional issue which has been raised by the IBA concerns competition for research and development contracts (which has a bearing on the prospects for selling the IBA's Experimental and Development Department as a viable part of the privatised transmission company). The point was not considered explicitly by MISC last summer, but allowing the BBC to compete for commercial research projects would plainly represent new transmission-related business and would materially affect the privatisation. There is no indication that the BBC expect to enter this area and, subject to colleagues' views, I think that they should be excluded.

I think the immediate priority is for our officials to discuss the main framework of permissible and other transmission-related activities with BBC staff with a view to making a formal announcement as soon as possible. The basic structure was set out in the paper circulated with my letter of 30 April. For the reasons above, I would be prepared to include in the list of non-permissible activities maintenance of non-BBC broadcasting equipment on BBC sites, and competition for the provision of Channel 5 sites (where there is a choice). As regards transmission of MF INR stations and project management for other broadcasters, I suggest that our officials seek further information from the BBC before we take a final decision.

I am copying this letter as before.

SUBJECT MATTER

CONFIDENTIAL

SN

MEETING RECORDED



a. pps/moratorium

10 DOWNING STREET cc BG

LONDON SW1A 2AA

*From the Principal Private Secretary*

14 June 1990

**BROADCASTING BILL: MORATORIUM ON TAKEOVERS**

The Home Secretary had a brief talk with the Prime Minister before Cabinet. He said that in the Commons, Mr. Mellor had succeeded in resisting demands for a moratorium on takeovers but at Second Reading in the Lords this was one of the few issues which had been contested. Lord Ferrers believed that if the Government made no move an amendment would be put down for a three-year moratorium and the Government might be defeated. There was substantial support for a moratorium including from Government peers such as Lord Whitelaw. The Home Secretary recommended that the Government should pre-emptively table an amendment for a one-year moratorium. Lord Whitelaw and Mr. George Russell believed that this could secure a consensus.

The Prime Minister expressed concern about making a concession which would undercut the position successfully defended in the Commons. (The Home Secretary assured her that Mr. Mellor agreed with his recommendation.) There was little merit in the proposal which stemmed simply from the wish of the existing franchise holders to enjoy a quiet life. She agreed, however, that a one-year moratorium should be offered but only if the Government could be sure that this would take the trick. One year was the maximum that should be conceded.

I am copying this letter to Martin Stanley (Department of Trade and Industry).

(ANDREW TURNBULL)

Colin Walters, Esq.,  
Home Office.

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MEM

CONFIDENTIAL

PRIME MINISTER

13 June 1990

When the issue came up in the Commons Mr. Mello was agreed to resist conceding a moratorium. Lord Faversham fears the Govt will lose in the Lords. Mr. Waddington wants to take your mind, either just before or just after Cabinet. It is surely too soon to think about capitulating. Better a defeat in the Lords which is overturned in the Commons.

MORATORIUM ON TAKE-OVERS

AT 13/6

This is a proposal which is being strongly canvassed by the ITV companies.

The companies have always had serious reservations about our reforms and would frankly have preferred no change. Accepting that change was inevitable they have dragged their feet on every aspect of the Bill - the quality hurdle, the 25% quota for independents, hanging on to ownership of ITN, the process of auctioning, the networking arrangements (the big five), and so on.

The proposal for a moratorium should be resisted for two reasons:

First, the Government has made major concessions to the existing franchise holders in terms of the quality threshold: the change in the Bill is very much to their advantage. When you agreed to this, you did so knowing that they would face competitive pressure from take-overs. You said at the time that you agreed to the Home Secretary's proposals for raising the quality thresholds on the condition that competition would be extended through a change in the procedure on take-overs.

Second, the timing for a moratorium makes no sense. The IBA has agreed to take-overs before the Act comes into effect ie from later this year until the end of 1991. Then we would have a moratorium for a year. And then from 1 January 1993 take-overs would again be permitted. We need to encourage

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the maximum amount of new capital to flow into UK commercial television. Any arbitrary moratorium will only be an artificial device to make the market work less effectively.

If the argument is that some companies may bid for a franchise and then immediately sell, this is an intention which should be discovered in the auction process. Given the likely potential buyers, it is highly unlikely that they will bid simply to sell.

A one year moratorium is yet another example of duopolists wanting to take us for a ride.

Recommendation

Resist strongly.

*Panama* *1/2 can*  
*Blr*

BRIAN GRIFFITHS

CONFIDENTIAL



KCW

alv

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

12 June 1990

Dear Sarah,

BROADCASTING BILL: NETWORKING

Many thanks for your letter of 5 June setting out revised proposals for networking arrangements.

I put your letter forward to the Prime Minister over the weekend. The Prime Minister has noted the proposals without comment.

I am copying this letter to the Private Secretaries to members of MISC 128, Scottish Office, Northern Ireland Office and Cabinet Office.

Yours

Barry

BARRY H. POTTER

Ms Sara Dent  
Home Office



Foreign and Commonwealth Office

London SW1A 2AH

12 June 1990

Dear Charles,

BBC World Service

You will probably have seen last week's announcement by the FCO and BBC of changes in BBC World Service output. You may like to have details.

In recent months we have undertaken a rigorous review with the BBC World Service of the prescription for languages and hours for broadcasts, as the basis for funding arrangements for the next Triennium 1991/2 - 1993/4. The review has resulted in a package of changes which are designed to make the best use of resources, taking account of foreign policy priorities. The package was agreed with the BBC who, though naturally reluctant to accept some of the cuts, have accepted that it is a sensible compromise.

The elements are:

- small increases in the hours broadcast in Russian, Mandarin Chinese and Vietnamese to bring them up to 49 hours 30 minutes, 24 hours 30 minutes, and 10 hours 30 minutes a week respectively;
- an additional half an hour a day in English regional programmes for Western Europe as the basis for a new breakfast time broadcast;
- some increases in English regional programmes for the Indian sub-continent and South East Asia (a special 15 minute programme to each region every weekday, instead of once a week as at present), and a new service (5 hours a week) for South East Asia to encourage the learning of English;
- ending the one hour a day broadcasts in Japanese. Audiences are small and declining; surveys show that our target audiences do not listen to the radio (short-wave radio even less); and there are many other sources of news and information about Britain. World Service broadcasts to Japan in English continue;
- ending the fifteen minute a day broadcast in Malay. Audiences are tiny and include few of our target listeners, who can and do listen to the World Service in English;

/- reduction

*ccpc*  
*2*  
*Jim Austin*  
*Not your favourite subject*  
*CBM*  
*13/*



- reduction of short wave broadcasts in Spanish and Portuguese for Latin America (which have low audiences, particularly because of poor reception), but with expansion of material for rebroadcasting by local stations in the region.

The net result is a reduction of one hour forty five minutes a week, giving a total of 784 hours a week broadcasting in English and all vernaculars together (the present 785 hours 45 minutes a week is an all time high). This small reduction is outweighed by the additional material for rebroadcasting in Latin America.

These prescription changes were announced with the caveat that they are part of the Triennium package. The proposed increases will therefore depend on the outcome of the PES round. The announcement was made at this stage at the BBC World Service's request, to enable the language services concerned to plan for change. Our overall bid for the Triennium - based on a thorough examination of priorities with the BBC - takes account of the need to improve programme quality so as to enable the World Service to retain its competitive position among international broadcasters.

I am copying this letter to Carys Evans (HM Treasury).

Yours,  
*Stephe Wall*  
(J S Wall)  
Private Secretary

C D Powell Esq  
10 Downing Street

②  
COPU

Prime Minister



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

Brian G. is content with ~~the~~ revised proposals on networking. The key point is that the companies would be allowed to form ~~their~~ own networking arrangements, without intervention of the ITC. Only if no agreement emerged, would the ITC be able to require the licensees to

5 June 1990

Dear Barry

M

**BROADCASTING BILL: NETWORKING**

file with CP except a particular networking scheme.

Thank you for your letter of 9 May, proposing that Home Office officials should discuss with Professor Griffiths how the difference of views over networking between the Prime Minister and the Home Secretary should best be resolved. Officials have now had a very useful meeting with Professor Griffiths, which has pointed the way to a revised approach to the networking problem.

BHJ  
7/6

The Home Secretary now accepts that it may be better to avoid giving the ITC power to specify a network arrangement in advance. Instead, he proposes that the Channel 3 quality threshold should include a new provision requiring a sufficient proportion of programming to derive from arrangements agreed between licensees for securing co-ordination in the production, supply and scheduling of programmes for regional Channel 3 services. Such a provision would focus the attention of applicants on the need to conclude suitable networking arrangements, without at that stage giving the ITC any formal power to specify a particular networking scheme. As with the other elements in the quality threshold, the ITC would be expected to give general guidance to applicants as to how this requirement might be satisfied, but this would stop well short of prescribing, and subsequently enforcing, one particular arrangement.

Licensees, on appointment, would be free to seek to conclude whatever networking arrangements they wished. The expectation would be that voluntary arrangements of this kind would be concluded without the intervention of the ITC. As a fallback, however, should voluntary arrangements not have materialised within a specified period of the award of the licence, the ITC would be able to impose a scheme of networking on the licensees. Any imposed arrangements would last for a maximum of two years, or for such shorter period as was agreed among the licensees themselves.

George Russell has made clear that the ITC, under such an arrangement, would not expect to devise a completely new networking scheme. Instead, they would hope simply to be able to roll forward the new networking arrangement presently being negotiated among the existing ITV companies, assuming this produces an outcome which is acceptable in terms of free access and fair competition. The Home Secretary has considered requiring the ITC to impose these arrangements, rather than leaving them with discretion in the matter. But although the signs are promising, we cannot at this stage be certain that

satisfactory arrangements will in the event be negotiated by the present companies, and there would clearly be no attraction in further prolonging the kind of networking arrangements currently in operation which clearly favour certain companies at the expense of others.

In order to provide reassurance that future networking arrangements were fair, and in particular did not discriminate against smaller companies and/or new entrants, the Home Secretary proposes that OPT should be required to confirm that such arrangements - whether negotiated by the licensees or imposed by the ITC - offered fair and free access by all licensees to the network.

OPT would not be expected to consider wider competition issues, but simply to ensure that the arrangements were such that the larger companies could not take advantage of their size to inflict unfair conditions on smaller companies. If colleagues agree with this general approach, the Home Secretary would propose to discuss in detail with Sir Gordon Borrie the exact role which OPT should play.

The Home Secretary hopes that an arrangement on these lines will meet the concerns which the Prime Minister had in relation to his earlier proposal. He continues to believe that a scheme of this kind, with some basic statutory underpinning for a network, is of the greatest importance in securing a satisfactory transition to the new regime.

Because of the time taken to resolve this issue, however, some of the existing ITV companies now no longer believe that the Government is likely to address networking in the Broadcasting Bill. The Home Secretary would welcome the opportunity to make clear as soon as possible that this is not so.

I am copying this letter to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

*Yours sincerely  
Sara*

MS S J DENT

Barry Potter, Esq.,  
No 10 Downing Street  
LONDON, S.W.1.

BROADCASTING: Policy Pt 1



Subject cc MASTER

CONFIDENTIAL

RG  
EK



10 DOWNING STREET

THE PRIME MINISTER

Personal Minute

No. 5/90

SECRETARY OF STATE FOR THE HOME DEPARTMENT

BROADCASTING BILL

At our recent bilateral meeting, I expressed concern at the lack of impartiality in broadcasting and asked for the Government's position towards the proposed Wyatt amendments to be reviewed.

I have now had a chance to look at the study on broadcasting and political bias by the Hampden Trust which was sent to me by Norris McWhirter. The report, a copy of which I enclose, makes a good case for changes to the current impartiality requirements. When you have had a chance to study it, could you let me know your reactions.

*Norris McWhirter*

31 May 1990

CONFIDENTIAL

EX



CONFIDENTIAL



10 DOWNING STREET

THE PRIME MINISTER

Personal Minute

No. 5/90

SECRETARY OF STATE FOR THE HOME DEPARTMENT

BROADCASTING BILL

At our recent bilateral meeting, I expressed concern at the lack of impartiality in broadcasting and asked for the Government's position towards the <sup>proposed</sup> ~~Chairman~~ Wyatt amendments to be reviewed. ~~I believe Kenneth Porter has also mentioned you about this.~~

I have now had a chance to look at the study on broadcasting and political bias by the Hampden Trust which was sent to me by Norris McWhirter. The report, a copy of which I enclose, makes a good case for changes to the current impartiality requirements. When you have had a chance to study it, could you let me know your reactions.

CONFIDENTIAL

MEETING REWRY  
"MASTER"

CONFIDENTIAL



file 26

10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

24 May 1990

*Dear Colin,*

BBC LICENCE FEE

During their bilateral today, the Prime Minister and Home Secretary discussed his minute of 11 May. The Prime Minister expressed misgivings about the proposal that the Home Office should retain consultants to examine possible ways in which the BBC might develop alternative revenues so that the discount below the RPI applicable to the licence fee after April 1991 could be larger. There were dangers in allowing a public sector body to set up commercial ventures, either on its own or with a partner, which would compete with other private sector operators. As experience with nationalised industries had shown, it was very difficult to secure fair competition. The BBC had many advantages over private sector operators; its future was secure while other operators were having to justify their commercial existence; it had a large stable income; and it was the only broadcaster with two terrestrial channels. The Prime Minister believed the increase in the licence fee could be set below the RPI without allowing the BBC to expand into new commercial activities. There was still substantial scope for reducing costs. She observed that although the "official" establishment of the BBC had fallen from 30,000 to 28,000, actual employment had risen to 31,000. She was concerned that the consultants employed would encourage BBC expansionism.

The Home Secretary said the Home Office had to take a decision on the size of the discount and had needed a source of expertise and advice which would allow it to scrutinise BBC proposals and arguments. He agreed that a discount could be justified either in relation to extra income or cost savings. He agreed to look again at the way the Home Office equipped itself to make these decisions while avoiding the dangers to which the Prime Minister had drawn attention.

CONFIDENTIAL

The Prime Minister repeated her objections to the situation under which the BBC licence fee was protected by criminal sanctions while the community charge and the subscription to Sky TV was only a civil debt. The Home Secretary said this had been discussed at their bilateral in November where it had been agreed that the issue should be deferred either to the next Criminal Justice Bill or to the review of the Charter.

The Prime Minister said she had seen the exchange of correspondence with the Chairman of the Conservative Party about the Wyatt/Chalfont amendment to the Broadcasting Bill in the Lords which sought to enforce greater balance. The Home Office had indicated that this amendment should be opposed. She, however, saw a great deal of merit in the amendment and asked the Home Secretary to look at the Government's position again.

*Yours sincerely  
Andrew Turnbull*

Andrew Turnbull

Colin Walters Esq  
Home Office



*ce/lu*

n. b. P. M.

*BHP*

21/5

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon David Waddington QC MP  
Home Secretary  
Home Office  
50 Queen Anne's Gate  
London  
SW1H 9AT

21<sup>st</sup> May 1990

*Dear David*

*file with BP*

**BROADCASTING BILL: PERFORMANCE BONDS**

Thank you for your letter of 3 May. I have also seen Eric Forth's letter of 10 May and the Prime Minister's comments of 11 May.

2 I am content with your proposal. However it will create a new incentive for licensees to arrange their affairs so that a company holding a Channel 3 licence can go bankrupt to avoid paying any termination fine, while related companies continue to trade. The effect would be to weaken the ITC's ability to enforce licence conditions, including the annual payments to the Exchequer promised at the auction. You may wish to consider reducing the scope for such potential evasion - for example by ensuring termination fines can be collected from holding companies, or directors, of licensees.

3 I am copying this letter to MISC 128 colleagues and to Sir Robin Butler.

NORMAN LAMONT

BROADCASTING: Policy Pt 11





Prime Minister <sup>2</sup>

To note.

BHP

22/5

22/5

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

21 MAY 1990

ms

Dear colleague.

In my letter of 27 March about the Broadcasting Bill and quality issues I outlined two amendments which we proposed to table for the Report Stage on the question of religious broadcasting. Now that the Bill has had its Report and Third reading you may like to have an update on the implications of the Bill for religious broadcasting.

As you will know, there is no suggestion whatsoever, contrary to some misapprehensions, that TV and radio stations should not be allowed to broadcast religious programmes. On the contrary, a number of measures to liberalise the regulation of religious broadcasting were included in the Bill at the outset.

First, the Bill removes the automatic ban on religious advertising contained in Schedule 2 to the Broadcasting Act 1981. Secondly, the Bill removes the existing mechanisms under the 1981 Act for disqualifying religious groups from owning radio stations. This radical change means that Christian and other religious groups in the UK can not only make programmes for radio but for the first time will be able to hold licences to run their own radio stations. Thirdly, there is the scope which the Bill opens up for many new channels and stations, and thus many new outlets for religious programmes. Alongside these changes, the BBC remain committed to continuing to provide religious programmes on both TV and radio.

As promised in my letter of 27 March, we tabled Report Stage amendments proposing two further important changes. These have now been included in the Bill.

#### Safeguard for religious broadcasting

Following debates in the Committee on religious broadcasting, and in the light of representations from a number of Christian and other religious groups, I agreed to consider whether there was a need to include in the statutory requirements for Channel 3 and Channel 5 licences a specific reference to religious programmes. A Government amendment has now been included in the Bill under which Channel 3 and Channel 5

/licensees will

licensees will be required to give a sufficient amount of time to religious programmes. This provides for the first time an express guarantee that religious programmes will continue to be shown on the main independent terrestrial services, as they will on the BBC. As I said in my letter of 27 March, religious broadcasting, by its very nature, has a special claim for protection, which I thought right to acknowledge on the face of the Bill. This undertaking has now been fulfilled.

### Ownership

The second key area is that of ownership. The Bill as introduced marked a major development by removing the existing mechanisms for disqualifying religious groups from owning radio stations. We think this departure from the past is justifiable because of the prospect that there will be 200-300 more radio stations by the end of the 90s which, because of the licensing criteria, will provide a great diversity of programming. In the case of television, although new channels will proliferate, this will not be on the same scale as radio, and services such as Channel 3 and Channel 5 will remain very powerful and influential for years to come. I do not believe it would be right to leave open even the theoretical possibility that such channels could fall into the hands of religious extremists or fanatics. There was no support in the Standing Committee for the proposition that religious groups should be able to own Channel 3 or 5 franchises. The same line of reasoning applies to the proposed new national commercial radio stations. But I undertook, in the light of discussion in the Committee, to bring forward a Report Stage amendment giving the Independent Television Commission the power to allow religious groups to own cable and non-DBS satellite channels where satisfied that this would be appropriate. This undertaking has also been met, and a suitable provision has now been included in the Bill. We propose to seek to bring the radio provisions into line in the Lords by giving the Radio Authority discretion to allow religious ownership of all kinds of independent radio stations other than the national ones.

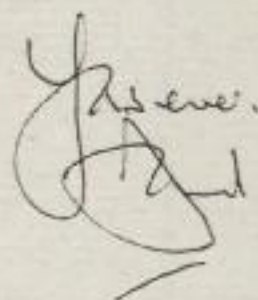
### Content requirements

A further issue which we discussed during the Report Stage was the question of what content safeguards there should be against abuse of broadcasting by, for instance, religious extremists or fanatics or people aping the worst sort of US TV evangelists. The Bill contains a number of safeguards, most of which derive from similar provisions of long standing in previous broadcasting legislation. For instance, all broadcasting licensees would have to be fit and proper persons; abide by codes covering advertising, sponsorship and appeals for donations (among other matters); and comply with the core consumer protection requirements on taste, decency, offensiveness and encouragement of crime or disorder. Under the Bill as it stands all licensees would additionally have to avoid editorialising on religious as well as political matters; and

/radio stations

radio stations and, at the ITC's discretion, local licensable programme services, would also, in relation to both religious and political matters, be subject to a no undue prominence requirement. It is common ground that most of these requirements are necessary and should remain in place. But some concern has been expressed about the application of the no editorialising and no undue prominence rules to religious broadcasting. These are less restrictive requirements than some have feared. For instance, they would not automatically rule out the broadcasting of church services, as some have suggested. Nevertheless, I recognise that some concern remains about how these tests would operate in practice. We have no wish to inhibit, still less stifle, lively new ideas for Christian and other religious broadcasting provided such services are responsible. I therefore indicated during the Report Stage that the Government was prepared to consider a revised approach to the safeguards in relation to religious broadcasting. What I have in mind is that the undue prominence and no editorialising requirements would cease to apply to religious broadcasting for any sort of licensee, and would be replaced by a new tailor-made requirement relating to the content of religious output. The main ingredients would be that any treatment by licensees of religious matters must be responsible and not exploitative. We are considering further the detailed formulation of this new requirement. It would be open to the ITC and Radio Authority to flesh it out in their codes on programme standards. The requirements relating to fit and proper persons, offensiveness, advertising and donations would remain unchanged, and would all be capable of application to religious broadcasting. My aim would be to ensure that any revised approach along these lines should provide sufficient safeguards against abuse of religious broadcasting while ending any remaining uncertainty about what might otherwise have been the effects of applying the no editorialising and no undue prominence rules to religious matters. In this way I hope we can open the way for good quality, reasonable broadcasters whilst keeping the door firmly shut on the cults or unscrupulous American tele-evangelists. The relevant amendments will be made in the Lords to sort out the last remaining area of concern.

All in all I hope you will agree that the Bill now does everything reasonable people could hope by way of permitting reasonable religious programmes to flourish, and I am grateful for the help of so many colleagues in passing on to me their constituents' views and helpful suggestions.

A handwritten signature in dark ink, appearing to read 'David Mellor', written in a cursive style.

DAVID MELLOR



PRIME MINISTER

BBC SUBSCRIPTION AND LICENCE FEE

The attached minute (Flag A) from the Home Secretary is rather inconclusive. In essence he argues that:

- (1) the Government had intended that licence fee increases after April 1991 should be held below the RPI; but
- (ii) the BBC was expected to get extra income from subscription services; and this venture has in practice failed; *That is their fault.*
- (iii) a search is needed for other sources of income for the BBC. *No*

The minute is not persuasive that such other sources can be found. By implication Mr Waddington appears to be seeking continuation of RPI index-linking the television licence after April 1991.

At Flag B is a convincing note from Brian Griffiths. He argues that an RPI minus x formula is appropriate for the BBC. *Agreed*

There is no need for action now. The Home Secretary is coming in for a bilateral next Thursday and wishes to discuss this then.

I will arrange for appropriate briefing in due course.

*BHP*

(BARRY H. POTTER)

17 May 1990

a:\economic\BBC (srw)

*mt*

BBC SUBSCRIPTION AND LICENCE FEE

The BBC management has clearly been getting at Home Office ministers.

The BBC and Broadcasting Reform

The BBC is a privileged and dominant player in British broadcasting. The Broadcasting Bill strengthens the position of the BBC and because of increased competition and deregulation weakens its commercial rivals:

- The BBC will be the only television company with two territorial channels, now that C4 has been separated from C3.
- The BBC has enormous hidden capital (property and land, masts, not least in the regions) which it could sell or mortgage. It faces none of the uncertainties of the auction.
- The BBC has a licence fee income of nearly £1 billion which is independent of the quality of its programmes or management.
- While some ITV companies may lose their franchise in the auction, the brand name BBC continues.
- The BBC has a unique archive of old programmes and newsreels which is extremely valuable.

At the same time the BBC has shown itself reluctant to enter the new world of broadcasting:

- It has accepted the 25% quota for independents and the need

to provide information with which Government can monitor its progress with great reluctance, which is why the 25% initiative required statutory backing.

- It has refused to privatise its transmission system until after 1996.
- Although the published figures claim it has reduced employment from 30,000 to 28,000, this is simply in the number of official 'posts': in reality employment in the BBC has increased over recent years from 30,000 to 31,000! (This is not publicly known but a great embarrassment to management.)

The strategy being pursued by the BBC is to take advantage of its own strengths and exploit the weaknesses of its rivals. It has been eager for some time to move into new areas and/or start joint ventures with the private sector, eg rent mast space to new broadcasters, engineering consultancy services, foreign satellite ventures, television world news service.

Meanwhile the Government has granted the BBC permission to expand into one new area - subscription - which has been a failure. The BBC set up a medical information service run by a commercial company (BMTV), which has gone bankrupt! It now plans to re-launch its subscription services next year.

#### The Home Office Proposals

Because of the failure of the subscription service to get off the ground the Home Office propose:-

- Nb*
- (a) that the BBC should be allowed to go into other private ventures than subscription;
  - (b) the Government should employ a firm of management

consultants to second guess the BBC's projections.

I believe there are serious disadvantages to going down this road.

*under  
current  
8 weeks*

The most serious danger of all is that we risk creating unfair competition. To allow a nationalised industry with a guaranteed income of £1 billion a year and substantial capital assets to flex its muscles could prove very damaging to private sector commercial television companies all of which are facing great uncertainty. (C3 companies because of the auction, C5 as it gets started, the independents as they fight to make the 25% a reality and the satellites (Sky and BSB) as they fight for their very survival).

If we go down the Home Office route we would be going against the grain of our policy to nationalise industries generally, which is that we should not encourage public sector bodies to exploit their power against private companies.

Moreover such a change will distract the BBC from facing up to the hard decisions it must make over its future direction. The BBC is like a huge broadcasting department store which wishes to produce and sell every conceivable broadcasting service all of which put pressure on the licence fee. By contrast over recent years private television companies have focussed on their strategy accordingly. This the BBC needs to do badly. These current proposals will not help at all.

#### The Licence Fee after April 1991

How then should the licence fee be set after 1991. The best that we can do in the public interest is to bring pressure on the BBC to cut costs and face up to the fact that in the 1990s it will have to introduce fundamental reforms.

This suggests a formula such as  $RPl-x$  when  $x$  is at least 2 and

hopefully 3. The BBC has plenty of fat which needs to be shed and we should help them get rid of it.

Brian Griffiths

BRIAN GRIFFITHS

*cel/h.*



Treasury Chambers, Parliament Street, SW1P 3AG

*N.S.P.M.  
BAP  
6/6*

The Rt Hon David Waddington QC MP  
Secretary of State for the Home Department  
Home Office  
Queen Anne's Gate  
LONDON SW1H 9AT

*14* May 1990

*Dear David*

**REGULATION OF BBC TRANSMISSIONS ACTIVITIES**

I have seen your letter of 30 April which proposes a dividing line between transmission related activities in which the BBC should be allowed to engage and those from which it should be excluded.

I support most of your proposals and have reservations on just one point - whether the BBC should be allowed to offer site access and mast space to Channel 5 and VHF radio transmitter operators in competition with the privatised transmission company. Such competition would have to be heavily regulated to ensure the BBC was not using its publicly funded assets to compete unfairly; so the transmitter operators are unlikely to be given a significant choice of terms. And any putative gains to the licence payer from rentals would mean a corresponding reduction in the value of the IBA transmission company and thereby depress the likely privatisation proceeds, to the detriment of taxpayers. On balance I doubt whether we should let the BBC compete for this transmission business.

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

*Yours ever  
Peter*

PETER LILLEY

Broadcasting  
Policy  
Pt 11



PRIME MINISTER

BBC SUBSCRIPTION AND LICENCE FEE

The existing formula for increasing the BBC licence fee expires in April 1991. We need to consider what arrangements should be made from that point on, and I should be grateful to have your views on the way forward before I put detailed proposals to colleagues. The present formula (increases in line with RPI as recommended by Peacock) has worked well. It has removed the political steam from licence fee increases. And because broadcasting inflation is higher than RPI it has put a squeeze on the BBC.

2. The need for new arrangements links with our policy on subscription. Paragraphs 3.10 - 3.11 of the Broadcasting White Paper said that we would be looking to encourage the progressive introduction of subscription services by the BBC. As a financial incentive, licence fee increases after (i.e. as from) April 1991 would be held below RPI - or discounted - "in a way which takes account of the BBC's capacity to generate income from subscription".

3. The BBC have made some progress in developing subscription services. A new company - Subscription TV Ltd - has been formed, and a Managing Director appointed. Discussions are underway with a number of possible commercial partners with a view to providing specialist updating or information services on the BBC2 night hours. Parallel discussions are aimed at providing niche leisure services - "video magazines" and so on - on the BBC1 night hours.

4. Clearly, though, subscription is still at a very early stage. The BBC's pilot project, a medical information service run by a commercial partner (BMTV), was recently suspended after



difficulties with decoding equipment prompted the withdrawal of BMTV's major shareholder. Work is now in hand on improved decoders which can be used by all future commercial partners. A range of services will probably start operating next year; profits will not emerge before 1992/93 and they are likely to be very small in the first few years.

5. I have therefore been considering whether the discount on the licence fee should be broadened. It would, I think, be a mistake to push the BBC into daytime subscription before we have seen what progress SKY and BSB make. But we might extend the discount to cover any new commercial activities undertaken by the BBC without being seen to depart too far from the terms of the White Paper. The kinds of activity I have in mind are the rental of mast space to new broadcasters; engineering consultancy services; and foreign satellite ventures such as BBC TV Europe. If we did go down this road we would have to define very clearly the activities we were trying to catch. If you agree, I will explore this possibility further.

6. Whatever the scope of the discount, we need to be able to form a realistic view of the profits which might derive from the activities covered. We also need to assure ourselves that the BBC are not dragging their feet. In doing this we shall not have the benefit of outside comparisons, since there is no experience anywhere in the world of a night hours service for downloading onto VCRs. We therefore need to find some way of second-guessing the BBC's projections. It seems to me that this exercise is best done by outside consultants.

7. The terms of reference for the consultancy would obviously bear some thought. But the focus could be on the BBC's plans for subscription services, and their profit projections. We would want to know that the BBC's plans were sufficiently ambitious, and that the pace of development was reasonable. If you agree in principle, I will ensure colleagues are consulted about the precise terms of reference.

*JW*

11 May 1990



CONFIDENTIAL



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apu

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

11 May 1990

*Dear Sonia,*

**BROADCASTING BILL: PERFORMANCE BONDS**

The Prime Minister has seen a copy of the Home Secretary's letter of 3 May to the Chief Secretary about performance bonds. Subject to the views of the Chief Secretary, she would be content to abandon the performance bond requirement in the Broadcasting Bill and instead take powers to impose termination fines on the licensee.

I am copying this letter to the Private Secretaries to members of MISC 128 and to Sonia Phippard (Cabinet Office).

*Young,*

*Barry*

**BARRY H. POTTER**

Ms. Sara Dent,  
Home Office.

✓

dti

the department for Enterprise

2.5 P.M.  
BHP

cc/4

14/5

Eric Forth MP  
Parliamentary Under Secretary of State for  
Industry & Consumer Affairs

Department of  
Trade and Industry

Rt Hon David Waddington QC MP  
Secretary of State for the Home Department  
Queen Anne's Gate  
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Direct line 071-215 4301  
Our ref AM12  
Your ref  
Date 10 May 1990

*David Iard*

**REGULATION OF BBC TRANSMISSION ACTIVITIES**

In Nicholas Ridley's absence <sup>top</sup> abroad I am replying to your letter to him of 30 April about the extent of transmission - related activity that we should allow the BBC to undertake.

Your letter highlights four areas of activity for which the arguments for and against allowing the BBC to compete are finely balanced. As you know, our aim is to avoid, wherever possible, public sector bodies competing with the private sector since, however well the public body is regulated, its status and guaranteed source of income will always ensure that it enjoys a competitive advantage. I recognise that there is a case for allowing the BBC to offer its services where it has a genuine national resource which is scarce or even unavailable elsewhere or where its involvement genuinely increases the choice to the customer, although we have to keep in mind the need to encourage new private sector entrants to the market. There is also the MISC 128 decision and public announcement that the BBC should not be allowed to compete for "new transmission business".

Turning to the particular, each of your proposals causes me some difficulty and taken as a whole they would significantly increase the activities the BBC can undertake, in many cases with little effective regulation. I fully accept the need to ensure that the equipment currently used by the BBC to broadcast two of its MF stations should be made available for

the  
Enterprise  
initiative



Recycled Paper

broadcasting the two MF national commercial radio stations. I do question, however, why this should necessarily imply that the BBC has to undertake its operation and maintenance. There seems to be a parallel between these MF sites and the VHF TV sites where the IBA and BBC each operate and maintain their own transmitters but often share a common aerial. Whilst I appreciate that the MF sites were not built with separate operation in mind, I should need to be convinced that satisfactory isolation between the transmitters does not already exist or could not be achieved by installing some comparatively simple electronics. As you mention, a number of MF frequencies currently used by the BBC for local radio will be used for independent radio. This may lead to BBC - owned sites having more independent than BBC radio transmitters on them. Such a result only increases the case for insisting that the BBC allows other operators to maintain these transmitters.

The problem I have with your second proposal is one of definition. You propose that the BBC should be allowed to maintain other broadcasters' equipment on BBC sites. In practice this would apply largely to local radio stations, since TV and national radio will tend to have full transmission contracts with Transcom or another transmission company. For local radio, there is, however, little, if any, difference between maintenance and a "full transmission" service since, once installed the transmitter can be left to run unattended until it requires repair or maintenance. I suspect, therefore, that by allowing the BBC to enter this area we would, in practice, enable them to offer a transmission service to the new local radio stations and others, counter to the MISC 128 policy.

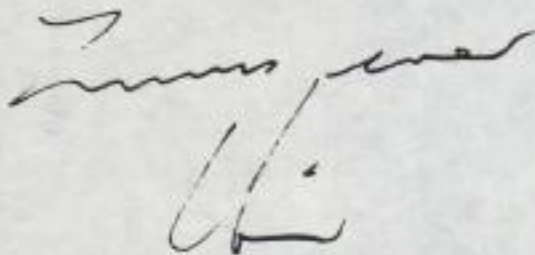
Project management is an area where we need to strike the right balance between preventing the BBC closing out any competition and allowing the BBC to provide services for which there is a genuine demand and which cannot easily be obtained elsewhere. Perhaps the BBC could be pressed on what exactly might fall into this category. I understand that the BBC's spectrum planning computer database is particularly strong in the area of UHF TV but that the IBA and others can provide similar services to that from the BBC in respect of radio where I expect much of the business will fall. My inclination would be to exclude the BBC from providing project management services but to encourage them to exploit their database at a fair price to others providing such a service. I would accept, however, that we should probably not prevent the BBC from offering such a service to overseas customers.

Allowing the BBC to compete with Transcom to provide certain sites for Channel 5 and VHF, could, as you say, be seen as giving the new channels extra choice. The benefit of that choice to the franchisees would however be limited. In terms of coverage the "alternative" BBC and Transcom sites are only

alternatives because similar coverage can be achieved from each. Competition should however, keep down the site rental charged to the franchisees. However, one has to wonder whether it would be genuine competition where one player is a public sector corporation. I am therefore not convinced that this is sufficient justification to allow the BBC to compete for sites beyond those which are the only ones suitable.

Apart from these four areas, I can confirm my agreement to the other proposals in the paper attached to your letter. I hope that we can soon take a final view on the extent of the BBC's activities so that discussions with the BBC over their Telecommunications Act licence can continue.

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

A handwritten signature in black ink, appearing to read 'Eric Forth', is written over a horizontal fold line in the paper.

ERIC FORTH

BROADCASTING

Policy

14 11



dti

the department for Enterprise

*Handwritten initials/signature*

Eric Forth MP  
Parliamentary Under Secretary of State for  
Industry & Consumer Affairs

*n. b. P.M.*

*ETM*

*10/5*

Department of  
Trade and Industry

Rt Hon David Waddington QC MP  
Secretary of State for the Home Department  
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Your ref  
Date

10 May 1990

*Handwritten signature: Sir David*

Copies to:  
External  
Prime Minister  
Members of MISC 128  
Sir Robin Butler  
Internal  
As minute  
Mr Abraham TP1c  
(on file)

**BROADCASTING BILL : PERFORMANCE BONDS**

*with SP/14 request  
: P reqd.*

I have seen a copy of your letter of 3 May to Norman Lamont about performance bonds, to which I am responding in Nicholas Ridley's absence overseas.

I am happy to agree to your revised proposals which should remove a significant burden from the Channel 3 licensees and lower the barriers to entry for potential new players.

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

*Handwritten signature: Eric Forth*

ERIC FORTH

the  
Enterprise  
initiative







Like etc

bc. B G



10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

9 May 1990

Dear Sara,

**BROADCASTING BILL: NETWORK**

I was grateful to Peter Storr for his further letter of 4 May on the proposals for networking in the Broadcasting Bill. As you know, I submitted the letter to the Prime Minister yesterday evening.

The Prime Minister remains unhappy with the Home Secretary's proposals in this area. She believes that the Government should make it easier for the small companies to compete: Home Office proposals seem to be too heavily weighted on the side of the larger companies.

The Prime Minister has therefore proposed that Professor Griffiths should discuss with Home Office officials as soon as possible how this difference in views might best be resolved.

I am copying this letter to the Private Secretaries to Members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

Yours

Barry

(BARRY H. POTTER)

Ms. Sara Dent,  
Home Office.

h

*ccp*



Treasury Chambers, Parliament Street, SW1P 3AG

*n.b. P.M.*

*BHP*

*8/5*

The Rt Hon David Waddington QC MP  
Home Secretary  
Home Office  
50 Queen Anne's Gate  
London  
SW1H 9AT

8 May 1990

Dear Home Secretary

LOCAL DELIVERY SERVICES

*flat*

Thank you for copying to me your letter of 2 May.

2 I agree all cable operators should be able to extend their licences provided they perform satisfactorily and, on renewal, pay the annual fee set by the ITC.

3 I also agree the ITC should be able to award local delivery licences to operators proposing substantially higher coverage than the highest bidder. I would expect the winning promises to be incorporated into the licence conditions with any breaches penalised with fines at least sufficient to make up any loss to the Exchequer.

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

*Yours sincerely*

*Norman Lamont*

NORMAN LAMONT

*approved by the Chief Secretary  
and signed in his absence*

BROADCASTING: Percy pr 11



dti

the department for Enterprise

CC PM

n. b. P. M.

BHP

8/5

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

Rt Hon David Waddington QC MP  
Secretary of State  
Home Department  
Queen Anne's Gate  
London SW1H 9AT

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Enquiries  
071-215 5000

Telex 8811074/5 DTHQ G  
Fax 071-222 2629

Direct line 01 215 5622  
Our ref PB5ADQ  
Your ref  
Date 8 May 1990

*Dear David*

#### LOCAL DELIVERY LICENCES

Thank you for your letter of 2 May about two Report Stage amendments that Peter Blaker has tabled to the Broadcasting Bill.

I have to say that it seems rather disingenuous for the cable industry to claim now, that without the assurance that their licences will be renewed, they will not invest. As you say in your letter, all those cable franchise holders who had applied for their franchises before the publication of the Broadcasting White Paper will be given the opportunity to become local delivery operators. The line was drawn at that point specifically because those companies had applied for franchises in ignorance of our proposals for a new broadcasting regime. That was not true for the 100 or so subsequent cable franchise applicants, whom Peter Blaker's amendment essentially addresses.

Nonetheless, I have never been attracted to the idea of fixed period franchises after which a company has had to bid for the right to continue its business. Such an arrangement tends to introduce unnecessary uncertainty, which is particularly significant in an industry with such high infrastructural costs.

I therefore have some sympathy with the cable companies' underlying case, provided that licences are only renewed if the licensee has fully met the conditions in his existing licences including, in time, I hope, those related to the provision of telephony services and that, as far as possible, he pays a market price for the new licence. On this basis, I am content to go along with your proposal.



**dti**

the department for Enterprise

Your second proposal causes me greater concern since I can see it leading to the ITC having an unacceptable degree of discretion in the award of franchises and to the return of some of the opaqueness of the present system. As you acknowledge, the ITC will already have a general duty to ensure the availability of a wide range of services throughout the country which should allow it to use coverage as a reason to use its "exceptional circumstances" powers. To go beyond this and make the discretion overt would inevitably lead to a greater expectation that those powers would be used and would give the ITC an unreasonable degree of discretion.

Whilst I recognise that coverage itself may be an objective criterion, it is difficult to see how ITC might weigh this together with other factors. There seems to be a clear risk that, the more discretion that is provided, the more opaque the process becomes. In my view it is essentially for the market to make a case for the areas to be covered, not for the ITC to influence this by introducing further criteria.

I do however recognise that there are arguments in favour of introducing some specific reference to coverage and, if colleagues support your proposals, I would not wish to stand in their way.

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

*James*

*Wanda*





Broadcasting

Policy

Pt 11

From: THE PRIVATE SECRETARY

Prime Minister

CFU



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

4 May 1990

The attached note from  
Brian G. advises that you continue to  
object to the Home Office proposals on  
networking - which would favour the  
large over small companies for the Channel 3 network. Home Office  
are pressing for an agreement as the Broadcasting Bill goes into  
Report Stage. Do you want:

Dear Barry,

**BROADCASTING BILL: NETWORKING**

Thank you for your letter of 26 April recording the Prime  
Minister's views on the Home Secretary's proposals contained  
in my letter of 18 April. The Home Secretary has also seen  
Mr Rifkind's letter of 26 April.

The Home Secretary is grateful for the Prime Minister's  
acknowledgement that the Bill may need to make some provision  
for networking. He notes that the Prime Minister is not  
attracted to the approach he has proposed, but would prefer to  
see a scheme involving approval by the Office of Fair Trading  
(OFT). He sees no difficulty about including in the Bill a  
power for the OFT to approve networking arrangements, and  
indeed his own proposal involved the OFT assuming this role.  
However, while the OFT would be well placed to determine  
whether a particular network arrangement was fair, the Home  
Secretary does not consider that they would have sufficient  
knowledge or experience of broadcasting themselves to specify  
a network arrangement in advance which could subsequently be  
imposed in the absence of agreement among the licensees to  
some other arrangement.

The Home Secretary therefore remains concerned that, if  
the matter is left on the basis of the OFT simply approving  
network arrangements devised by the licensees, with no power  
to impose an arrangement in the absence of agreement amongst  
the licensees, neither of the considerations which underlay  
his original proposal will have been addressed. At the  
application stage neither the applicants nor the ITC could  
have any idea what, if any, network arrangements might emerge.  
It would therefore be very difficult for the ITC to judge  
whether applicants' proposals, which would be bound to assume  
the existence of some sort of network, were capable of being

to operate. The  
/realised. Home Office  
proposed is on  
the side of the  
big better than  
not

Barry H Potter, Esq  
Private Secretary  
10 Downing Street  
LONDON, SW1

Mr Mellor (Brian G.) for a short further discussion?

BHP  
8/5

come  
(1). I am  
sure  
Brian  
is right  
about  
this.  
we must  
make it  
clear for  
the small  
companies



realised. Moreover, in the time available to the licensees after their appointment it might not be possible for them to agree, and have approved, network arrangements which would enable a fully functional network based programme service to begin on 1 January 1993.

One possibility would be for the legislation to specify that licensees must participate in programme sharing arrangements, on a basis to be approved by the OFT. This would not however be of any assistance to the ITC in the context of their assessment of bids; and without a further power for the ITC to determine the basic requirements for the network, including in particular the number of hours of networked programmes, it could not guarantee to bring about the form of networking which was needed particularly by the smaller regional licensees who on any assessment are bound to be heavily dependent on the existence of a network to supply the majority of their programming.

The Home Secretary therefore continues to believe that the proposal set out in my letter of 18 April offers the best means of resolving the problems with which he is concerned. That proposal gives the ITC a limited role in specifying the form of networking that would apply, in the absence of agreement to the contrary by the licensees. But under this scheme the ITC's discretion would be very tightly constrained. The arrangement to be specified by the ITC would require the advance approval of the OFT. It would remain in force for a maximum of two years. And it could be replaced at any time before this by agreement among the licensees: indeed, it need never come into operation at all if agreement to an alternative scheme could be reached by licensees before the start of broadcasting.

The Home Secretary hopes that, against this background, the Prime Minister will be prepared to look again at his earlier proposal, which he believes to be essential if the successful start of Channel 3 is not to be prejudiced. The Government will inevitably be pressed hard on this issue during the Report Stage of the Bill next week, and it is important that the matter should have been resolved before then. I should be grateful therefore for a reply before midday on 8 May at the latest.

I am copying this letter to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (NIO) and Sonia Phippard (Cabinet Office).

Yours ever,

*Paul Storr*

P R C STORR

BROADCASTING : Policy P. 1.





File 66  
copy

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

4 May 1990

*Dear Sara,*

**LOCAL DELIVERY LICENCES**

The Prime Minister has seen a copy of the Home Secretary's letter to the Secretary of State for Trade and Industry on local delivery licences.

Subject to the Industry Secretary's views, the Prime Minister would be content to take the line on the two amendments to the Broadcasting Bill set out in the Home Secretary's letter.

I am copying this letter to the Private Secretaries to other members of MISC 128 and to Sonia Phippard (Cabinet Office).

*Yours*

*Barry*

(BARRY H. POTTER)

Ms. Sara Dent,  
Home Office.

*SN*



Prime Minister  
I understand that DTI

Minister believe these proposals are sensible.

QUEEN ANNE'S GATE LONDON SW1H 9AT

Contact, subject to view of Chief Secretary?

5 May 1990

BHP  
915

Dear Chief Secretary

Yes

**BROADCASTING BILL: PERFORMANCE BONDS**

As a result of recent discussions with the financial institutions and within the broadcasting industry, I have come to the conclusion that the benefits of the system of performance bonds which we currently envisage are likely to be outweighed by the disadvantages. I therefore propose that we adopt instead a simpler alternative.

Following our earlier exchange of correspondence in February, we agreed that the performance bond required of Channel 3 licensees should be set at 7% of qualifying revenue, and should be liable to be called in only in the event of withdrawal of the licence.

A performance bond of this size would range from about £2 million for the smallest company to about £15 million for the largest. Such a bond could be raised in one of three ways.

The first possibility would be an insurance-based bond, under which, in return for regular premiums, the insurance company would undertake to pay the full value of the bond if it were called in. We understand that an insurance company might charge an annual premium of about 8% of the value of the bond. The problem with this arrangement, from the public policy standpoint, is that it does not create the necessary incentive to stick with the licence. Once the licensee has paid the premium, he himself would suffer no further consequences in the event that the bond were called in. The only purpose of a bond of this kind would be to protect the Treasury against the loss of tender payments. Government does not normally insure itself against such risks; and since the premiums, as a known charge on the licensee, would in effect be reflected in lower tender prices at the outset, it is hard to see that the Treasury would benefit from such an arrangement.

The second possibility would be for the bond to be provided by a financial institution on the basis of readily realisable assets held by the licensee. The difficulty here is that companies would not necessarily have sufficient assets to offer as security. New entrants, in particular those planning to operate as publisher-contractors, would be particularly poorly placed. Even where a licensee had sufficient assets, it would not necessarily be sensible to require them to be used in this way, since the companies would in that event be precluded from using them to secure further borrowing.

The Rt Hon Norman Lamont, MP.  
Chief Secretary  
Treasury Chambers  
Parliament Street, S.W.1.

/over....

Bearing in mind that a bond of the size proposed could represent up to 30% of the assets of a large ITV company, this is a very real problem.

The third approach would be for the bond to be provided in the form of cash collateral. The company, or its shareholders, would deposit the necessary amount with a financial institution, which would hold it on deposit and undertake to pay the money to the ITC if the bond were called upon, or to return it to the company at the end of the licence period. Enquiries we have made suggest that, taking account of the fee which would be charged by the institution, and the fact that the deposit would not attract as favourable a rate of interest as that available elsewhere, the licensee would in effect be paying some 4% of the value of the bond each year in order to keep the arrangement in force. Over the whole licence period, therefore, a sum equal to 40% of the value of the bond would be incurred, even though the bond itself was never called upon. A loss of this size would again be reflected in depressed tender proceeds.

Against this background, I question whether bonds of this kind are a sensible way to secure our objective of providing a disincentive to licensees from walking away from their licence obligations. Given that in normal circumstances a company which gets into difficulties or is no longer performing efficiently is likely to be the subject of takeover, it should be a relatively rare situation in which a licence is actually revoked by the ITC with the result that the bond is called in. It is highly questionable whether we should require licensees to incur the heavy price of establishing a bond in order to guard against a situation which we ourselves already recognise to be fairly unlikely.

I therefore propose that we should abandon the bond requirement and provide instead that where the ITC revokes a licence it should have power to impose a termination fine on the licensee of up to 7% of qualifying revenue (the level that the bond itself would have represented). This would mean that a company would have to raise this money only in the event that the licence was revoked. Clearly if that happened because the licensee had gone bankrupt there would be little hope that the fine (which would be enforceable as a civil debt) would be paid. But the bond arrangement was never itself intended to guard against bankruptcy. The intention was to stop the licensee who was capable of providing a service from choosing instead - perhaps because he could see that his future prospects were deteriorating - from walking off the patch. In these circumstances a termination fine would in principle be readily enforceable.

Such a scheme seems to be greatly preferable to the performance bond proposal. It will remove a substantial barrier to entry - a point which Nicholas Ridley raised in the earlier correspondence; it will result in higher tender proceeds; and yet it will retain the essential disincentive effect which the performance bond was intended to offer.

I recognise that, presentationally, abandoning the bond provisions will be difficult. But we would find it impossible, in my judgment, to defend the present proposal in the Bill if it is challenged in the Lords, and there is every advantage in keeping the initiative by coming forward ourselves with a better alternative now, rather than having to do so in response to damaging criticism later.

I hope, therefore, that you and other colleagues will be prepared to agree to this proposed change.

I am copying this letter to MISC 128 colleagues and to Sir Robin Butler.

Yours sincerely

David Dent

(Approved by the Home Secretary  
and signed in his absence.)





10 DOWNING STREET

LONDON SW1A 2AA

From the Head of the Prime Ministers Policy Unit

3. v. 1990

Benny Potter

Local Delivery Licenses

I agree with both the proposals made by the Home Secretary to Sec. St. Trade & Industry re. the above.

Indeed my whisky came to see me about the matter before Earth.

Both proposals are very



Sensibles - to ensure a lively  
investment programme ~~suitout~~  
and some regulation but without a  
heavy hand or coverage.

Primo huff in

PRIME MINISTER

2 May 1990

BROADCASTING BILL : NETWORKING

The Home Office seem determined that the ITC have a role in specifying the networking arrangements for Channel 3.

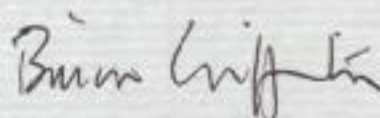
Yet they still seem unable to make a convincing case why this is necessary. The argument that the ITC would need to know in a detailed way the form of networking which would emerge among C3 companies, before allocating the licences is simply not true.

Such an arrangement can be left to the companies themselves subject of course to OFT approval, which is the crucial check on any exploitation of the smaller companies.

Recommendation

Providing that the ITC in advertising the franchises for C3 stipulate involvement in a networking agreement as a condition of obtaining a license, which would then have to be ratified by the OFT, there is no need whatever for them to have any more detailed involvement.

Reject the Home Secretary's proposal.



BRIAN GRIFFITHS



QUEEN ANNE'S GATE LONDON SW1H 9AT

*chb*

2 May 1990

Prime Minister

*These proposals were discussed with Brian G. in advance. He believes they are a sensible means to ensure a timely market programme, without heavy-handed regulation.*

Dear Secretary of State

LOCAL DELIVERY LICENCES

I am writing to seek your agreement, and that of other colleagues, to the line we should take on two amendments which have been tabled for the Report Stage of the Broadcasting Bill. As these amendments may be reached on 8 May, I should be grateful for a response by close of play on Friday, 4 May.

*BHP  
3/5*

The first point concerns the transitional arrangements for cable operators licensed under the existing law. Those operators who obtained franchises before the date of publication of the White Paper will be able to opt to become local delivery operators. Any operators who take up this option will benefit from the renewal provisions in clause 72 of the Bill: that is, they will be able to apply for renewal of their licenses; and the ITC will be obliged to grant renewal provided the licensee agrees to pay an annual amount set by the ITC (representing its estimate of the market value of the franchise), unless it proposes to change the franchise areas. But those operators who obtained their franchises after publication of the White Paper - the great majority - will simply have their cable licences honoured. These licences last 15 years. Those operators with 23 year Telecommunication Act licences will be able to apply for an eight year extension to their cable licences at the 15 year point, as the existing law already provides. But when the cable licences finally expired - whether after 15 or 23 years - these operators would have to apply afresh for a licence under the law then prevailing. This would mean bidding in a competitive tender for the right to continue their business.

A delegation led by Peter Blaker and Ray Whitney, and including representatives of almost all the major North American investors in cable, has met David Mellor to express serious concern about this. They argue that most cable operations will barely have moved into cumulative profit after 15 years. Investors will therefore need to be confident either that the operator will have his licence renewed provided he has performed satisfactorily, or that he will be able to sell his cable system to the new operator who replaces him. The Bill clearly cannot provide any certainty on the first point since the new licence would be allocated by competitive tender. Nor does it offer certainty on the second since, under the technology-neutral framework in the Bill, the new operator might use MVDS and thus have no need for a cable system. Faced

The Rt Hon Nicholas Ridley, MP.  
Secretary of State for Trade & Industry  
Department of Trade & Industry  
1-19 Victoria Street  
LONDON, S.W.1.

/over....

with this prospect, Peter Blaker's delegation said that investors would simply not commit funds. They therefore urged that all existing cable operators should be subject to the clause 72 renewal procedure provided they had performed satisfactorily. Peter Blaker has tabled an amendment to this effect.

Although the amendment as it stands cannot be accepted, I think we should indicate that we agree with the underlying point, for two reasons. First, David Mellor's assessment is that the anxieties of investors have to be taken seriously. It may be that they have underestimated the likelihood that a cable operator would win a new licence at the 15 year point; officials' assessment is that they would be in a strong position in the competitive tender. But the key point is that investors plainly consider there to be sufficient uncertainty as to constitute a barrier to investment. Given the difficult history of cable until recently it would be unfortunate if any provisions in the Bill, albeit inadvertently, deterred the major investment which now appears to be coming forward.

Second, quite apart from any anxieties in the industry, there seem to be good arguments on the merits for the proposal they have put forward. Given the huge investment required to construct a cable system, and the long pay-back period, it seems right that operators should enjoy a reasonable certainty of tenure, provided that they perform adequately. The position of cable operators can be distinguished from that of the ITV companies, on the basis that the main asset which would remain to them if they lost their licence - their cable systems - is not as marketable as programme libraries or studios, and might in some circumstances become worthless.

The second point, on which Peter Blaker has also tabled an amendment, is the part which the level of coverage proposed by applicants should play in the procedure for the allocation of local delivery licences. As the Bill stands, the pre-qualification conditions in clause 69 - the counterpart to the quality threshold for Channels 3 and 5 - do not stipulate minimum coverage levels. They simply require the ITC to satisfy itself that the technical means by which the applicant would achieve his proposed level of coverage would be acceptable. It follows that an applicant proposing a cable system with 100% coverage could fail to win the licence if narrowly outbid by one proposing to "cherry-pick" lucrative areas and achieve only, say, 50% coverage. Indeed, it can be argued that the Bill skews the franchise award procedure in favour of applicants of the latter type since their lower capital costs will put them in a position to submit higher cash bids.

The fact that the scheme in the Bill could have this consequence has been widely criticised. David Mellor resisted amendments at the Committee Stage which would have enabled the ITC to specify minimum coverage requirements when advertising franchises. I am clear that we should not go down

this road: the lesson from the experience of the present regime is that high coverage levels imposed by regulation can raise entry costs to the market and hold back the development of delivery systems. It is preferable that operators should be able to specify their own coverage targets.

I am, however, equally clear that the Bill needs to take more explicit account of the fact that applicants may propose very different coverage levels. In the example cited above, I think it would be generally agreed that it would not be desirable for the franchise to be awarded to the applicant proposing 50% coverage. Such an outcome would be against the interests of viewers, the providers of programme services, and advertisers. To the extent that we hope that local delivery operators will in due course provide competition to BT in the local loop, it would also frustrate our telecommunications policy objectives. It would certainly be difficult to continue defending in Parliament a scheme which could have these results. Arguably, the ITC would as the Bill stands be able to award the licence to the applicant proposing 100% coverage, by using the "exceptional circumstances" proviso, since it would be obliged, in determining whether or not the circumstances were exceptional, to be guided by its duty under clause 2 (2)(a)(i) to "ensure that a wide range of such services is available throughout the United Kingdom". But if we want the ITC to be able to do this, there is a strong case for sending it clearer statutory signals. Peter Blaker's amendment would do so by providing explicitly that the ITC could regard circumstances in which an applicant was proposing substantially higher coverage than the highest bidder as exceptional.

Although the amendment as it stands is unacceptable, I am attracted by the underlying principle. I do not think that it would make the franchise award procedure subjective or opaque since coverage is objectively measurable. I would, therefore, welcome agreement that we should undertake that the Government would bring forward an amendment on these lines in the Lords. My officials would, of course, consult yours about the terms of the amendments.

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

Yours sincerely  
 Lord Dent

(Approved by the Home Secretary  
 and signed in his absence.)





*n. b. P.M. -*  
*Seek P.V. advice. JHP +15*  
*CEP*  
QUEEN ANNE'S GATE LONDON SW1H 9AT

30 April 1990

*Nick*

#### REGULATION OF BBC TRANSMISSION ACTIVITIES

... I am writing in order to draw your attention to the enclosed working paper which has been prepared by our officials and to try to resolve one or two points on which they were unable to reach agreement.

*filed 179* *relevant papers and bundles attached*  
Following consideration by MISC 128 last summer, my predecessor's statement of 4 July announced that the BBC would not be allowed to compete for the transmission of new broadcasting or telecommunications services while its transmission operations remained in the public sector. The target date for the privatisation of the IBA's transmission operation is early 1991; the statement noted that the BBC would retain their transmission responsibilities until after the Royal Charter expires in 1996, unless the BBC wished to divest themselves of these sooner. Although the point was not spelt out in Douglas Hurd's statement, it was recognised that the restriction on the BBC would not exclude the provision of transmission-related facilities where this was a matter of practical necessity. The enclosed paper seeks to establish a workable framework for the BBC's activities in the light of these decisions.

The main recommendations of the working party are listed in the appendix to the paper, and I shall not attempt to summarise them here. It is plainly sensible for the BBC to provide (and charge a reasonable price for) access to their sites and masts if the market is not to be unduly inhibited; and in the case of spare capacity services there is no practicable alternative to transmission by the BBC. It is equally clear that for the BBC to maintain other operators' equipment on non-BBC sites would represent a significant

/expansion

The Rt Hon Nicholas Ridley, MP  
Department of Trade and Industry  
Victoria Street  
LONDON, SW1

expansion of activities, which would go well beyond the efficient use of existing resources, and that this should not be permitted.

The arguments for and against allowing the BBC to engage in the final three areas listed in the appendix are more finely balanced and I think that efficient use of existing resources must be an important consideration. In the case of transmission on the two MF radio channels, excluding the BBC from operation and maintenance would, for technological reasons, impose significant opportunity costs. In addition, whilst the position may eventually change as local radio MF frequencies currently used by the BBC are re-allocated, the fact is that at present the only national operators so far to have declared a firm interest would prefer the BBC to operate and maintain the service. In the circumstances I think it is right that the BBC should be permitted to enter this area, but that its activities should be subject to economic regulation.

Our officials have agreed that the BBC should be permitted to conduct maintenance work for non-broadcasters on its own sites, provided it uses only the downtime of existing staff. Strictly speaking extending this to maintenance of other broadcasters' equipment on the same sites would represent an expansion of the BBC's activities. However, there would be a clear opportunity cost in preventing the BBC from turning its existing resources to full account, on its own sites, where there was a call for this from other operators. (The time required to maintain broadcast transmitters is falling and, whilst engineers need to be on call at base for emergencies, they have little to do; there is therefore scope for productivity savings). On balance I favour allowing the BBC to compete subject to a similar proviso about using only existing staff resources.

As the paper indicates there are strong arguments either way in the case of project management services (planning etc) for broadcasters. The BBC would clearly be in a strong position and exclusion would be the cleanest solution. On the other hand, the same drawback arises of preventing the BBC turning its existing skills to full account, even where there is clear demand for these. On balance I think that the BBC should be permitted to carry out project management for both non-broadcasters and broadcasters, but again restricting this to using the downtime of existing staff.

Allowing the BBC entry, subject to restrictions, into these last three areas would encourage them to make full use of their assets and skills to earn as much income as possible and so to reduce its independence on the licence fee. In the case of MF radio the BBC could be subjected to strict regulation by OFTEL, via its Telecommunications Act licence. In the case of maintenance and project management it could be made clear to the BBC that the Government expected that they



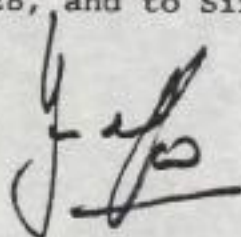
would restrict their activities to the use of existing staff. This would ensure that the principle of preventing the BBC exploiting its position to expand into major new areas of transmission-related activity is maintained.

Since the preparation of the paper, one further issue has come to our attention. It has already been agreed that, in order to ensure adequate national coverage, the BBC should be obliged to grant mast space to the new privatised transmission company, and OFTEL. This is because the large majority of BBC and IBA transmission sites are effectively local monopolies. It looks, however, as if there may be a small number of cases involving Channel 5 and VHF radio in which a transmission operator would have an effective choice between sites owned by the BBC and the privatised transmission company.

We need to consider whether the BBC should be allowed to offer site access and mast space in such cases (but not any other services), in competition with the privatised transmission company. On balance, I believe that they should. Fledgling transmission operators should be given as much choice as possible as they begin to enter a market initially dominated by two well-established organisations; and there is the argument that the BBC should be allowed to turn the surplus site and mast space to good use for the benefit of the licence payer. Furthermore, allowing the BBC to compete with Transco in this market would reduce the need for detailed and intrusive price regulation of Transco. Finally, the business involved would be small in terms of the total transmission business.

Our officials are already in touch with the BBC about their draft Telecommunications Act licence. Subject to colleagues' agreement, I propose to inform the BBC of the framework we envisage. Further discussion of the detailed regulatory mechanisms and the preparation of the necessary licence conditions can then be conducted at official level. In particular, we shall need to ensure that the Strategic Business Unit which the BBC proposes to set up for its transmission business is run in such a fashion that OFTEL can be satisfied that there are no unfair cross subsidies.

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

A handwritten signature in black ink, appearing to be 'J. G. S.', is written below the typed text.

## WORKING PARTY ON THE PRIVATISATION OF THE TRANSMISSION SYSTEM

## REGULATION OF BBC TRANSMISSION ACTIVITIES

At the Working Party meeting on 22 November the Home Office undertook to circulate a paper with a view to establishing an acceptable dividing line between transmission-related activities in which the BBC should be allowed to engage and those from which it should be excluded, in the light of the decisions announced by the Home Secretary on 4 July. This paper explores the main areas where demarcation is difficult, and proposes a division between permissible and non-permissible activities.

The broad policy

2. Ministers agreed that it was the Government's intention to privatise the BBC and IBA transmission systems as soon as it was in a position to do so. In the BBC's case this would not be before the expiry of its Royal Charter in 1996 (unless the BBC chose otherwise) although the position would be reviewed beforehand. In the meantime, the BBC would be largely restricted to transmitting its own services, and in particular would not be allowed to compete for new broadcasting transmission business, or to enter into joint telecommunications ventures with the private sector. Although the point has not been explicitly spelt out, Home Office Ministers have accepted that the restriction on the BBC's entering significant new areas of transmission related business should not exclude the provision of facilities (eg space on transmission masts) to new and existing television and radio services where this was a practical necessity.

3. There are three main considerations in turning these broad Ministerial decisions into practical policy:

- (i) how best to ensure that the BBC does not enter any unacceptable areas of transmission-related activity;
- (ii) allowing the BBC to carry out activities (eg rental of existing facilities) where it would be impossible for new broadcasters to go elsewhere, or where to do so would involve disproportionate additional costs;
- (iii) how far in practice under any available regulatory mechanisms it would be possible to impose, and to enforce, particular restrictions.

The BBC has accepted the basic policy decision to exclude it from new transmission activities. The rest of this paper seeks to assess the less clear cut areas of where it may be acceptable or necessary for the BBC to be allowed to have a role, in the light of the three considerations above.

4. One further development relevant to these issues is the decision by the BBC to take steps to set up its transmission operation as a strategic business unit. This unit would 'charge' the television and radio arms of the BBC for transmission services. The intention is that there would be no cross-subsidy of the unit by the rest of the Corporation. It would however be acceptable for any profits the unit may make to be used to enhance licence fee income and to pay for programming.

#### Access to masts and sites

5. Access to BBC masts was considered by the Working Party. In the case of new broadcasters it was agreed that the BBC

should not only be allowed to rent them mast space etc but required to do so, where reasonably practicable. (A refusal to allow access could frustrate the development of new services). The BBC control about half the best sites and operators will frequently need to look to the BBC for mast space where they have no other choice. Price regulation is therefore necessary. One model would be a requirement to allow broadcasters access to its sites at an agreed rate (and subject to Oftel arbitration) as a condition of the BBC's Telecommunications Act licence. This would be similar to the arrangement envisaged for the IBA's privatised successor. The position for non-broadcasting operators (eg cellular radio) is more competitive. The BBC sites are only one of a number of possible sets of sites (including water towers and other tall buildings) which such operators can use. Allowing the BBC to make its existing mast space available would help the development of the growing market for new telecommunications services. It will however be necessary to look more closely at the wider competitive framework and the availability of other sites before deciding whether price regulation would be necessary.

#### Maintenance

6. At present the BBC rents space to telecommunications operators on many of its sites and masts. Where it does this, it often contracts with the operator to maintain their equipment as well. An explicit Ministerial decision has not been taken on whether to allow the BBC to carry out such maintenance for new broadcasters on its sites. If it was decided to exclude the BBC from this area the only feasible way of doing so would be by means of a clear Ministerial expectation along the lines envisaged in paragraph 7. The BBC's own Telecommunications Act licence could require it to allow access to other companies' maintenance crews. Excluding the BBC from competing would be consistent with the objective of not permitting them to expand into new areas. But, against that, to prevent the BBC from providing such services where there was a demand for them, could

impose additional costs on operators. The provision of such services would also provide an additional source of non-licence fee income and add value to the transmission assets.

7. There is clearly no question of requiring the BBC to stop providing maintenance services for non-broadcasters on its own sites under existing contracts. Nor does there seem to be a compelling reason for prohibiting the BBC from taking on any new contracts of such sorts, subject to one proviso. That proviso is that the BBC should not take on new staff to carry out work under such contracts, but should only use the downtime of existing staff. This limitation would ensure that any new activity in this area would amount only to a turning to account by the BBC of its assets. It follows that the BBC should be excluded also from maintenance work on all non-BBC equipment on non-BBC sites (since it would go beyond turning their assets to account). We have not been able to identify any feasible means of enforcing such an exclusion. The way forward is probably to make it clear to the BBC that there is a clear Ministerial expectation that its maintenance activities should be confined to its own sites, and to the use of existing assets and staff.

#### Project management

8. The BBC also conducts project management work (eg planning installations and arranging procurement of equipment) for some of the telecommunications operators currently renting its mast space. It is possible again to differentiate broadcasting from other telecommunications. In the case of non-broadcasting services, there appears to be no strong reason to require the BBC to withdraw from an activity in which they are already engaged, and where the market is an open one. It would however be consistent with Ministers decisions to discourage the BBC from extending its activities by restricting these to using the down time of existing staff. Although this could be difficult to police at the margin, a clear Ministerial expectation could be signalled.

9. As regards broadcasting services, arguably the cleanest solution would be not to allow the BBC to enter this new field at all. As the provision of project management services is not itself a licensable activity (and does not appear to be controllable through the licences held by other operators), the only obvious way of enforcing this restriction would be for Ministers to indicate to the BBC that they did not wish them to enter this area. The main drawback is that this would prevent the BBC undertaking work even where other broadcasters might wish them to do so and they could do so more cheaply.

Transmission: spare capacity services

10. Ministers have already agreed to one exception to the general policy that the BBC should not be allowed to provide transmission services for other broadcasters. They have agreed that part of the spare capacity on the BBC's television and national radio signals should be assigned to the ITC, who will allocate it by competitive tender to private operators. The BBC will need to be required to transmit the new services on behalf of other operators (because transmission of spare capacity services cannot be separated from transmission of the main service). Transmission of these spare capacity services will require price regulation. This could take the form of an agreed rate formula, with arbitration by Oftel in case of disagreement.

Transmission: national MF radio services

11. Under the Broadcasting Bill three sets of radio frequencies will be allocated by the Radio Authority to independent national radio (INR) stations. Two of these are existing MF radio channels now used by the BBC (for Radios 1 and 3) for which the BBC has its own transmission system. This system has relatively recently been refurbished, and now has an estimated working life of at least ten years. Two questions arise:

- a. should the operators of the two INR stations have access to the existing transmission system; and, if so, how should this be arranged; and
- b. should the BBC be allowed to bid for the operation and maintenance of the system?

12. Given the sunk investment in the existing system it seems clear that the new INR stations should have access to it. Home Office Ministers have recently received representations to this effect from ITN (who are planning to bid for one of the MF frequencies). Consultants working for ITN have estimated the cost of constructing a new system at £12-15m (excluding land) for one channel (the second would cost less provided it used the same masts). These costs could well make the INR stations unviable. As it is, there is already concern that these licences will not attract significant cash bids.

13. It does not necessarily follow, however, that the BBC would have to maintain and operate the transmitters in order for the INR stations to have access to them. In principle, it would be possible for the BBC to sell or lease the transmitters on the basis that the INR stations, or some other operator on their behalf, would operate and maintain them (although the BBC could not be obliged to do this). This would, however, add to the costs of the INR stations. The existing transmitters are integrated with other equipment on the BBC transmission sites: their output is combined with that of the other high-power MF transmitters and radiated from the same antennas. Careless maintenance of one of the transmitters could therefore affect the output from the others. (It might be possible for a new user to obtain insurance against liability for damage but the risk of unacceptable disruption would remain). The BBC have said that, if the transmitters were to be maintained by non-BBC staff, they would wish to protect their position either by supervising these people (which, since the sites in question are not regularly manned, would involve additional costs) or by

insisting that the transmitters should be made capable of being isolated when being maintained (which would involve modifications to the existing equipment). This appears to be a reasonable position for the BBC to take. Maintenance by anyone other than the BBC would therefore impose additional costs on the INR stations, though the scale of these costs is not clear at the moment (a proper engineering study would need to be undertaken to determine the cost of isolating the transmitters). ITN have indicated that they would prefer to be able to go to the BBC for maintenance services, on grounds of simplicity and cost. They estimate the cost of an all-in transmission service from the BBC at £0.8-1.2m p.a.

14. The arguments for and against allowing the BBC to bid for the operation and maintenance of the MF transmission system are clear. It would be more consistent with broad Ministerial decisions not to allow them to do so. Against that, any other solution would add to the costs of two INR services the viability of which is anyway in question. To the extent that positive tenders were forthcoming, the tender proceeds would be likely to be depressed. It would be difficult to defend imposing avoidable additional costs on the INR stations particularly if they preferred to go to the BBC for operation and maintenance services. Much will however depend on how many local radio MF frequencies currently used by the BBC will eventually be re-allocated to the Radio Authority since they will be able to broadcast from the same existing BBC sites as the two national MF networks. A situation could arise where more independent MF stations were being broadcast from many BBC sites than were BBC ones, thus weakening argument for the BBC to maintain those networks. If the BBC was permitted to enter this area, price regulation by Oftel would be necessary.

Transmission: national FM radio service

15. The third new independent radio channel will be on an FM frequency not currently in use. No transmission system has yet



been constructed although the necessary sites - all owned by the BBC - have already been earmarked. Frequency planning has been done on the basis that these sites would be used. The BBC argue that its staff are uniquely qualified (unlike the IBA's) by virtue of their experience in maintaining other high-powered FM equipment to provide a full transmission service. This claim is questionable. There are several potential new operators (including Marconi and the IBA's privatised successor) which either have, or could acquire, the necessary expertise. The FM INR station is likely to need to transmit from the BBC's sites; and the BBC will be required to grant access to them (para 4). However, there does not appear to be a good reason in this case for departing from the general policy of not permitting the BBC to provide transmission facilities for new broadcasters.

#### Conclusion

16. The Working Party's conclusions about the dividing line between permissible and non-permissible BBC transmission activities, discussed in paragraphs 5-15, are summarised in the attached Appendix.

Home Office  
December 1989

RBBCTA.MK2

DRAFT STRUCTURE FOR BBC ACTIVITIES

Required

1. Providing access to BBC sites and masts for other broadcasters. (Para 5)
2. Providing full transmission service for spare capacity licensees. (Para 10)

Permissible

1. Rental of existing BBC mast space to non-broadcasters. (Para 5)
2. Maintenance of non-BBC equipment on BBC sites (non-broadcasters). (Para 7)
3. Project management for non-broadcasters. (Para 8)

Non-permissible

1. Maintenance of any transmission equipment on non-BBC sites. (Para 7)
2. Full transmission service for anyone other than spare capacity licensees. (Paras 2 and 10)

To be resolved

1. Transmission of MF INR stations. (Paras 11-14)
2. Maintenance of non-BBC broadcasting equipment on BBC sites. (Para 6)
3. Project management for other broadcasters. (Para 9)

BROADCASTING Policy Bill



**dti**

the department for Enterprise

*clp*

*n. 5. P. M.  
BHP  
4-15*

Eric Forth MP  
Parliamentary Under Secretary of State for  
Industry & Consumer Affairs

David Mellor Esq QC MP  
Minister of State  
Home Office  
Queen Anne's Gate  
LONDON  
SW1H 9AT

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Direct line 01-215 4301  
Our ref AM9  
Your ref  
Date

*30* April 1990

*Eric Forth*

REGULATION OF PRIVATISED IBA TRANSMISSION COMPANY : DRAFT  
TELECOMMUNICATIONS ACT LICENCE

Thank you for your letter of ~~19~~ *file with BP* April agreeing to the formula  
I proposed for announcing our policy on ownership restrictions  
for the privatised IBA transmission company.

I am content for you to make the announcement during the  
Report Stage of the Bill.

I am copying this letter to the **Prime Minister**, the Chief  
Secretary, the Chief Whip, Sir Robin Butler and  
Sir John Fairclough.

*Eric Forth*

ERIC FORTH

the  
**Enterprise**  
initiative



Recycled Paper

BROADCASTING POLICE LTD.





SCOTTISH OFFICE  
WHITEHALL, LONDON SW1A 2AU

copy

Rt Hon David Waddington QC MP  
Home Secretary  
Queen Anne's Gate  
LONDON  
SW1H 9AT

n.b. P.M.  
BHP  
27/4

26 April 1990

Dear David,

**BROADCASTING BILL: TRANSITIONAL NETWORKING ARRANGEMENTS**

Thank you for copying to me your minute of ~~30~~<sup>14</sup> March to the Prime Minister proposing amendments on Report to introduce transitional network arrangements for Channel 3. I have also seen the Prime Minister's views and those of Nicholas Ridley and the subsequent refinement of your proposals dating from 18 April.

I am very much in agreement with you that there should be no delay in establishing a satisfactory network on Channel 3 and I am keenly aware of the problems which this might create, not least for smaller regional companies seeking access to the network alongside those in a stronger market position. There has been considerable concern in Scotland about the working of network arrangements both now and for the future and I feel that it is important that some steps are taken to ensure that a form of networking agreement exists at the start of the new contract period in 1993. Clearly in the absence of agreement among the Channel 3 companies only the ITC can hope to produce a practical networking arrangement. For it to be successful, however, we must, I fear, give the ITC powers to enforce it.

I do, however, share the Prime Minister's concern that the existing large ITV companies could influence the shape of the network arrangements and I believe there is a case for placing a statutory responsibility on the ITC to ensure that any networking arrangements which it imposes on the Channel 3 companies for a transitional period must give adequate access to the network to all the Channel 3 companies who wish to make programmes for it.

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

MALCOLM RIFKIND

BROADCASTING: Pouch Pm





FILE MEM

K.P.U.

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

26 April 1990

*Dear Sonia,*

**BROADCASTING BILL:**  
**TRANSITIONAL NETWORK ARRANGEMENTS**

Thank you for your letter of 18 April on this subject. I submitted this to the Prime Minister yesterday evening.

The Prime Minister is not attracted to the revised proposals put forward by the Home Secretary.

Instead, the Prime Minister would prefer to pursue an approach which involved the Office of Fair Trading approving the network arrangements but no role for the ITC. She would be grateful if your Secretary of State could construct an approach along these lines.

I am copying this letter to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

*Yours,  
Barry*

BARRY H. POTTER

Miss Sara Dent,  
Home Office

*K.*



25 April 1990

Broadcasting Bill:  
Transitional Networking Arrangements

The Home Secretary's revised proposals still give unnecessary power to the ITC.

A networking arrangement for C3 under the new regime will be to the advantage of all C3 companies. Hence, it will be in their commercial self-interest to set up such an arrangement.

What is important is that such an arrangement, does not as at present, discriminate in favour of the largest five companies and against the five middle sized companies. The Home Secretary proposes therefore that any such arrangement should be approved by the OPT. This is sensible and very important.

In view of both these points I cannot see any reason why the ITC should publish a specification for a networking system (covering hours of networked programmes, cost-sharing arrangement, mechanism for commissioning and scheduling) when they invite applicants for Channel 3 licenses. This is typical bureaucratic interference by regulators.

Under a commercial arrangement, the new C3 companies would get together, work out an arrangement among themselves and submit it to the OPT for approval. The ITC is best kept out of the process completely - the danger being that they become a lobby for the largest companies.

Recommendations

- (i) Accept the proposal that the OFT must approve the networking arrangement. ✓
- (ii) Reject the idea that the ITC be involved. ✓

Brian Griffiths

BRIAN GRIFFITHS



*C. P. A.*  
HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

19 APR 1990

n. b. P. M.

BHP

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*Dewar*

REGULATION OF PRIVATISED IBA TRANSMISSION COMPANY: DRAFT  
TELECOMMUNICATIONS ACT LICENCE *See memo PA*

Thank you for your letter of ~~30~~ March.

I am grateful for the formula you propose for announcing the ownership restrictions, and am happy to accept it.

If you agree, we would aim to make the announcement during the Report Stage of the Broadcasting Bill.

I am copying this letter to the Prime Minister, the Chief Secretary, the Chief Whip, Sir Robin Butler and Sir John Fairclough.

DAVID MELLOR

Eric Forth Esq MP  
DTI, 1-19 Victoria Street  
London, SW1H 0ET

BROADCASTING: Pouch P. 11



CPH



Prime Minister

The attached Policy Unit note recommends that you reject the Home Secretary's revised proposals. Instead the proposed package would be

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

18 April 1990

- ✓ - OFT to approve the networking arrangement; but
- ✓ - no role for the ITC.

Dear Barry

Are you content to put the Policy Unit proposal to the Home Secretary? BHP 2574 Yes totally.

**BROADCASTING BILL:  
TRANSITIONAL NETWORKING ARRANGEMENTS**

The proposals in the

I am writing in response to Paul Gray's letter of 3 April, conveying the Prime Minister's views on the Home Secretary's minute of 30 March. The Home Secretary has also seen Mr Ridley's letter of 10 April.

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The Home Secretary fully understands the Prime Minister's concern that his proposals for a transitional networking arrangement involve giving excessive additional powers to the ITC. He believes however that the scheme can readily be modified to meet this point while still achieving the essential objective, to which he continues to attach great importance, of ensuring that a satisfactory networking arrangement is in place on 1 January 1993.

What he now proposes is that the ITC should be required when inviting applications for the Channel 3 licences to publish a specification of a networking system. This would set out the number of hours of networked programmes, the cost-sharing arrangements, and the mechanism for commissioning and scheduling. Applicants would be required to ensure that their proposals were consistent with the specification, but they would not be precluded from seeking to negotiate alternative programme sharing arrangements if they so chose. The expectation would be that voluntary arrangements of this kind would in the event be concluded without the intervention of the ITC. As a fallback, however, the ITC would have the power to impose the arrangements originally specified on licensees if, by a specified date, they had not themselves formed their own alternative networking agreement. As before, the imposed

/arrangement would

Barry Potter, Esq  
Private Secretary  
10 Downing Street  
LONDON  
SW1A 2AA

arrangement would last for a maximum of two years, or for such shorter period as was agreed between the licensees.

The Home Secretary recognises that networking arrangements are likely to amount to restrictive trade practices and would thus in the normal course be liable to registration with the OFT under the relevant legislation. The Home Secretary would not wish under this proposed arrangement to remove networking from the OFT's ambit, and accordingly he envisages that the ITC's network specification, and any alternative scheme agreed by the licensees, would both fall to be approved by the OFT.

The Home Secretary believes that a revised arrangement on these lines should meet the specific points raised by the Prime Minister and Mr Ridley. First, it clearly places the onus of agreeing network arrangements on the licensees, leaving the ITC with a fallback power only in the event that no agreement is reached. Thus the network budget and cost-sharing arrangements could be imposed by the ITC only in those circumstances. Secondly it makes clear that any networking arrangement will be subject to restrictive trade practices legislation and it thereby places responsibility for approving the practical arrangement for the operation of the network on the OFT rather than the ITC. Thirdly, it prevents the possibility that the large ITV companies could abuse their dominant market position by holding out for unfair programme sharing arrangements by enabling the ITC to step in to impose the OFT-approved scheme if agreement is not reached in reasonable time through collective negotiation. It is, of course, precisely to avoid the possibility of abuses of this kind that the need for a power for the ITC to specify network arrangements arises.

The Home Secretary hopes that the Prime Minister will be prepared to agree to a revised scheme on these lines.

I am copying this to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (NIO) and Sonia Phippard (Cabinet Office).

Yours sincerely  
Sara Dent

MS S J DENT

BROADCASTING : POLICE PTI





*u/p*  
n. b. P.M.

BHP

7/4

Treasury Chambers, Parliament Street SW1P 3AG

Eric Forth MP  
Parliamentary Under Secretary of State  
for Industry and Consumer Affairs  
Department of Trade and Industry  
1 - 19 Victoria Street  
London  
SW1H 0ET

17<sup>th</sup> April 1990

*Dear Sir*

POST OFFICE: COLLECTION OF TV LICENCE FEES

Thank you for your letter of ~~20~~<sup>17</sup> March.

I am content for you to give consent to the Post Office to permit the collection of TV licence fees and the issuing of TV licences on behalf of the BBC, in place of the current arrangements undertaken on behalf of the Home Office.

I am copying this letter to the Prime Minister, David Mellor and Sir Robin Butler.

A large, stylized handwritten signature in black ink, appearing to read 'N. Lamont'.

NORMAN LAMONT



BROADCASTING: BBC Finance Pt



c.e. Prof. ~~Gwyneth~~



R27/4

MARGARET DOUGLAS  
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WITH COMPLIMENTS

## BROADCASTING BILL

### BBC Briefing

There are a number of issues, highlighted by the Committee stage, where the BBC would like to see amendments as the Bill continues its progress through Parliament.

#### The Background

Following publication last December, the Director-General, Michael Checkland, welcomed the Bill and had this to say :

"The BBC is asked to be the cornerstone of British broadcasting. I want the BBC to be the cornerstone of a very strong British broadcasting industry and I think it's important for the BBC that we're challenged across all our programming, so I want to see the quality of programmes maintained, not only in the BBC (I'm determined that we shall do that) but throughout the rest of the industry."

The strengthening of the quality threshold for ITC licensees, foreshadowed in debates at the Committee stage, will help the BBC fulfil its own rôle as a quality broadcaster under the overall framework to be established by the Bill.

The BBC was pleased that the Minister also seemed willing to accept amendments to some of the legal and regulatory provisions of the Bill. The BBC accepted the application of obscenity and public order legislation to broadcasting, but sought changes to make the proposed legislation more appropriate to the medium. The Minister accepted arguments that broadcasting, with its topical as well as creative and artistic aspects, merited a broader "public good" defence than that applied to films, and that it should be recordings of programmes which constituted evidence of transmission, not scripts as would be the case for theatrical performance. He said he would also bring forward at Report amendments making police powers in regard to obscenity and public order legislation subject to judicial authority.

However, there remain a number of issues of particular concern to the BBC for which we feel it important to seek further Parliamentary consideration.

#### 1. Independents (Clauses 171 and 172)

The BBC will achieve the target of 25% of production of designated programmes by independent producers from 1993 onwards, as required by the Bill. The quota is the same as that required of the commercial companies licensed by the ITC, but in the case of the BBC alone, the achievement of the quota is to be monitored by the Office of Fair Trading.

At present, the BBC makes regular reports to the Home Secretary on the targets for independent production which have already been agreed. (This year, for example, we will be reporting that our independent transmissions from April 1989 to March 1990 have met the agreed target of 360 hours. Targets for the next 2 years are 482 hours and 600 hours respectively.) This system of monitoring and reporting is in line with the BBC's traditional responsibilities to Parliament, and the details of progress with independent production are currently included in the Report which we lay before Parliament annually. The Board of Governors has a regulatory as well as a broadcasting rôle, and is responsible for ensuring that the BBC meets its statutory duties. The detailed powers given to the OFT to make reports to the Home Secretary on the BBC's implementation of the target and to require the production of related documents will constitute an unnecessary, time-consuming and expensive duplication of the powers and responsibilities of the Board.

If it is useful to have a system of additional oversight to represent the interests of independent producers and fulfil a more general monitoring role it should be applied across the television industry as a whole.

## 2. Programme listings (Clause 164, Schedule 14)

The Bill introduces a statutory licensing system to permit publishers to reproduce programme information, in which the broadcasters retain the copyright, on payment of a mutually-agreed fee. In the event of disagreement between rights owner - i.e. Radio Times and TV Times - and publisher, the latter would be able to pay what he considered a reasonable amount to the rights owner pending adjudication by the Copyright Tribunal.

The BBC welcomed the overall proposal to open up a market in programme information, but remains concerned that the market should be orderly and that the right balance should be struck between the interests of copyright holder and publisher. For example, rights owners should be offered protection against unreasonable self-assessment. Under the Bill's present proposals, publishers will be under no incentive to reach any agreement. Indeed, a group of prospective publishers have already committed themselves to the proposition that payments to rights holders should be no more than minimal.

An arrangement by which customers (i.e. the publishers) set their own price does not constitute a fair market. The BBC welcomed the reassurances on the way the system will operate which the Minister gave in Committee, but remain concerned about the confidentiality of information, the timing of its

release and the proposal for self-assessment without safeguards. At the very least, publishers who self-assess should lodge a 'bond' pending adjudication by the Copyright Tribunal and there should be a "cooling-off" period before self-assessment can be implemented as an incentive to agree reasonable terms.

### 3. "Must Carry" (Clauses 65-75)

The Bill repeals the provisions of the 1984 Cable and Broadcasting Act which obliged broadband cable operators to carry BBC channels on their cable or ensure they are available to customers as part of the package. There was a potential problem for MVDS providers offering a limited number of channels and for some cable systems, since the 1984 Act required them to carry nine channels designated as public service channels (including ITV and DBS) in addition to their own services.

We believe BBC-1 and BBC-2, and Channel 4, which remain designated as public service broadcasting channels under the Bill, should continue to be available to all the audience, however they receive their television signal. At present these channels are available to 99% of the population through terrestrial transmitters. But transmission systems are changing. Experience in other countries, such as the United States, has shown that aeriels are no longer properly maintained once areas are cabled. Indeed, legislation currently being considered by Congress would ensure "must carry" protection for public service channels, taking account of the capacity of cable services. If such safeguards are not incorporated in our own legislation, cable operators will be able to take advantage of the removal of the "must carry" requirement by dropping one or more of the terrestrial services, and licence-payers will find that they no longer have access to public service channels.

Cable operators would no doubt wish to offer BBC-1 as part of any package designed to attract customers. But BBC-2 and Channel 4 could be less attractive commercially than, for example, a revenue-earning subscription service offering a share to the cable operator. The "must carry" requirement has until now been part of the regulatory framework for broadcasting in this country, and the requirement should continue for the public service channels for at least the duration of the current Charter.

### 4. Listed Events (Clause 168)

The Home Secretary designates a list of sporting events of national importance. These are : the Olympic Games, Wimbledon, the Grand National, the Derby, Test Matches when

played in this country, the FA Cup Final, the Commonwealth Games when held in this country, the football World Cup finals, the Oxford-Cambridge Boat Race, and in Scotland, the Scottish FA Cup Final. Under the terms of the 1984 Cable and Broadcasting Act, cable and satellite operators can show these events only if the terrestrial broadcasters - BBC and ITV - have first had the opportunity to acquire the rights on equal terms. Under the terms of the Bill, the only safeguard for listed events is the prevention of their transmission on a pay-per-view basis. There is no safeguard against transmission on other forms of service which are not universally available. Hence, the risk that an event which is now recognised as being of national importance by the Home Secretary will in future only be available to an extremely restricted audience.

The only certain way of ensuring that the "national" nature of these "listed" events is reflected by truly nationwide availability is by incorporating appropriate safeguards into the Bill. It is not sufficient to assume that the sporting bodies themselves would not wish to see their television audience restricted; this might well place these bodies in the invidious position of having to weigh an excessively high cash bid (in market terms), with its offer of immediate benefits to the sport concerned, against the less quantifiable benefit of universal availability on the small screen.

The BBC has already completed a number of arrangements involving terrestrial and satellite coverage, including the current West Indies Test series. In its payment to the rights-owner for highlights and news access, the BBC had contributed one third of the cost of the operation which has resulted in Sky's live coverage. Such arrangements can result in the extension of the services available to viewers. But we remain concerned at any moves which would, on the contrary, restrict what is presently available to all viewers. The undesirability for viewers of any such restriction is recognised and reinforced by Article 9 of the European Convention on Transfrontier Television, to which the United Kingdom is a signatory. Article 9 states :

"Each Party shall examine the legal measures to avoid the right of the public to information being undermined due to the exercise by a broadcaster of exclusive rights for the transmission or retransmission, within the meaning of Article 3, of an event of high public interest and which has the effect of depriving a large part of the public in one or more other Parties of the opportunity to follow that event on television."

On all the above questions, the BBC would welcome further Parliamentary consideration of the issues raised.

10 April 1990

dti

the department for Enterprise

ccp

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

Rt Hon David Waddington QC MP  
Secretary of State for the Home  
Department  
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SW1H 9AT

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Fax 01-222 2629

Direct line  
Our ref  
Your ref  
Date

215 5623  
PE4ARM

10 April 1990

*NRBpm will  
Have office respond  
to my letter 13/4.*

*Dear David*

*Rec 6  
11/4*

**BROADCASTING BILL : TRANSITIONAL NETWORKING ARRANGEMENTS**

Thank you for copying to me your minute of <sup>11/4</sup> 30 March to the Prime Minister about networking for Channel 3.

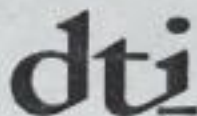
It seems clear that a Channel 3 system of regional licensees together providing national coverage is not commercially viable without some networking arrangements. The terms of such arrangements should be a matter of commercial negotiation between the Channel 3 licensees but I agree that it would help both the tendering process and the subsequent transition from ITV to Channel 3 to have some minimum assurances about the network. I therefore support your proposal that the ITC should have the power to establish a network subject to the following reservations.

First, it will be important to ensure that any networking agreement between the Channel 3 licensees should be such that it would not contravene restrictive trade practices (RTP) legislation. An agreement made under the ITC's power to settle disagreements could potentially be excluded from the scope of the legislation while the statutory approval was in force. Whether excluded in this way or not, I hope you will agree that it should in any case be consistent with our restrictive trade practices policy. This could most simply be achieved by requiring the ITC to obtain clearance from the Director General of Fair Trading to that effect before it approved or settled any agreement.

Secondly, I am uneasy about the power you propose to give to the ITC to specify the proportion of each licensee's total revenue he would be expected to contribute to the network in advance of the tendering procedure. The expectation must be that the ITC would base these figures on current practice, thus effectively maintaining the present networking arrangements and giving the new



Recycled Paper



the department for Enterprise

licenses no scope to make their own arrangements. So long as the ITC has the ultimate power to ensure a network exists, I do not think the power to shape the network in advance is necessary, nor indeed desirable.

Finally, whilst I see the ITC's power to "approve" networking arrangements as a useful means of ensuring that their effect is examined from an RTP angle, provided that the licensees have agreed a networking arrangement between themselves I do not envisage the IT having any further role to play. In particular I would not like the ITC to have the power to veto an arrangement that had been agreed by all the licensees and had been approved by the DGFT for RTP purposes.

I am copying the letter to the Prime Minister, other members of MISC 128, Malcolm Rifkind, Peter Brooke and to Sir Robin Butler.

James  
Butler



Recycled Paper



BROADCASTING: POLICE PTI





Northern Ireland Office  
Stormont Castle  
Belfast BT4 3ST

The Rt Hon David Waddington QC MP  
Home Secretary  
Queen Anne's Gate  
LONDON  
SW1H 9AT

9 April 1990

NBem

ARC6

10/4

Dear David

Thank you for copying to me your minute of <sup>12</sup> April to the Prime Minister.

The proposed amendment to the Broadcasting Bill seems likely to provide a much broader and diverse range of programmes on the three commercial radio channels without the need for intrusive regulation. This greater variety will, I imagine, be welcomed by most people in Northern Ireland as elsewhere in the United Kingdom and I fully support the proposed amendment.

My only concern is that the statutory provision you envisage - that one of the stations must be substantially speech-based and another must include a substantial proportion of music other than popular music - may prove either uncertain or unhelpfully rigid. There may be a case for putting these specifications in subordinate legislation, and this may in any case be your intention.

I am copying this letter to the Prime Minister, Members of MISC 128, Kenneth Baker, Malcolm Rifkind, Peter Walker and to Sir Robin Butler.

*Leven*  
*PM*

PB

LD/SOFS/2357

BROADCASTING: POLYMER PTH



CONFIDENTIAL

FILE PM



bc P.U.

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

3 April 1990

*Dear Colin,*

BROADCASTING BILL: TRANSITIONAL NETWORKING ARRANGEMENTS

The Prime Minister was grateful for the Home Secretary's minute of 30 March. She has noted that the Home Secretary proposes to make it clear that the ITC would play no part in the actual operation of the transitional networking arrangements proposed. She is, however, concerned that the proposals would involve additional large powers for the ITC. In particular, she wonders why the ITC's approval for the practical arrangements for the operation of the network during the transitional period should be required. She is concerned that giving an additional power to the ITC of this sort could reinforce the influence of the existing large ITV companies.

I am copying this letter to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

*Yours,  
Paul*

PAUL GRAY

Colin Walters, Esq.,  
Home Office.

CONFIDENTIAL

KK

PM

CONFIDENTIAL



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

3 April 1990

*Dear Colin,*

BROADCASTING BILL: NATIONAL COMMERCIAL RADIO

The Prime Minister was grateful for the Home Secretary's minute of 2 April and agrees that the Broadcasting Bill should be amended in the way he proposes.

I am copying this letter to the Private Secretaries to members of MISC 128, to Robert Canniff (Chancellor of the Duchy of Lancaster's Office), Jim Gallagher (Scottish Office), Stephen Leach (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

*Yan,  
P*

PAUL GRAY

Colin Walters, Esq.,  
Home Office.

CONFIDENTIAL

*6*

col. V.



Pine Minute

This now formally proposes the idea that Brian Griffiths cleared with you following his talk with Alun Chalfont. Brian ~~is~~ has no further comments. Content for the amendment to be added at report stage.

Prime Minister

BROADCASTING BILL: NATIONAL COMMERCIAL RADIO

This minute proposes that the Broadcasting Bill should require the new national commercial radio channels not just to cater, in each case, for a variety of tastes and interests, but also to be different from each other.

Rec 6  
44  
Yes not

Background

Our radio Green Paper (February 1987) was well received; and the radio provisions in the Bill have generally been less contentious than their television counterparts. David Mellor has successfully resisted Opposition attempts to import subjective quality criteria into the radio licensing procedures. The proposal that the national licences should be allocated by competitive tender has not been seriously challenged.

The one point of real difficulty in Committee has been the programming remit for the three national channels. The Bill would require each of them to provide a diverse programme service appealing to a variety of tastes and interests.

As you know, Alun Chalfont strongly holds the view - which is shared by some Government supporters - that the economics of radio will mean that the result of competitive tender, on the basis of the Bill as drafted, will be three

/national pop

2.

national pop music channels with the minimum necessary diversity. He makes the points that there is already plenty of pop music available on radio, and that the overheads of a worthwhile news and information service or well-balanced arts or classical music service are much greater than those of a pop service, while a pop service is likely to generate more advertising revenue. Alun Chalfont has discussed his concerns with Brian Griffiths. I see much force in them.

Proposal

I share Alun Chalfont's view that the right answer would not be to build up the "internal" diversity requirement for each channel. This would depress tender proceeds, be unpopular with advertisers and would-be new entrants, and would make it more difficult for national commercial radio as a whole to provide effective competition to the BBC. There was strong pressure in Committee for the Bill to include a requirement that the three national services should be different from each other. This is the solution which Alun Chalfont favours, and which I recommend.

While this proposal would go some way towards meeting Alun Chalfont's concerns, he considers that a further change is needed. His proposal is that the Radio Authority should be able to specify the character of service which was being advertised for tender in each case. The problem is that this would take us back in the direction of regulatory prescription. But the proposal does try to address an important issue. This is that, even if tendering of the second and third licences were staggered (as seems sensible, and also inevitable for frequency availability reasons), bidders would otherwise be in the dark as to the basis for

/their business

3.

their business plans and bids, bearing in mind that there will be no equivalent of a Channel 3-type quality threshold. The argument is that entrepreneurs would be deterred from constructing a bid for, say, a news and information service to compete with Radio 4 if they knew in advance that a rival bidder for, say, an easy listening service (who would have lower overheads and greater revenue potential) was also likely to satisfy the requirement to be different from the service offered by the winner of the first tender.

7. <sup>must</sup> It should be possible to solve this problem without re-introducing regulatory discretion or subjective quality requirements. This could be done by providing in the Bill that:

- (i) the three national commercial radio stations should be different from each other; and
- (ii) one of the stations must be substantially speech-based and another must include a substantial proportion of music other than popular music.

The legislation would not allow the Authority, when advertising the service, to make programme quality stipulations or otherwise go beyond the legislative requirements envisaged in (ii). The effect of these proposals should be to make the competitive tender procedure more transparent and less uncertain. They should also ensure that the new national services taken as a whole were genuinely diverse and provided competition to the BBC on a number of fronts rather than just to Radio 1. That is the main justification for the

/particular



4.

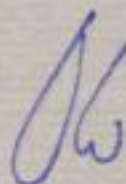
particular legislative requirements proposed in (ii). There is a good prospect that they would command a consensus in Parliament and the industry. For these reasons I recommend these changes.

We are certain to be pressed on these matters on Report. The proposed changes would in my judgement significantly enhance the popularity of our radio proposals and help us with the handling of the Bill as a whole.

Conclusion

I accordingly propose that the Bill should be amended in the way outlined in paragraph 7; and that the necessary amendments should be tabled for Report. In view of this timing it would be helpful to have an early response.

I am copying this minute to Members of MISC 128, to Kenneth Baker, Malcolm Rifkind, Peter Brooke and Peter Walker, and to Sir Robin Butler.



2 April 1990

BROADCASTING BILL: NETWORKING ARRANGEMENTS FOR CHANNEL 3

At present the 15 ITV companies operate a networking agreement, under which the five largest companies provide the bulk of network programmes, at prices decided by themselves.

The middle five companies resent this arrangement, claiming it is a cartel which keeps them from supplying programmes for the network. They also claim that the costs of the largest companies are considerably in excess of their own.

When MISC 128 discussed this issue, it decided that under a deregulated regime for C3 neither the Government nor the ITC should impose a network agreement on the channel.

The Home Secretary now proposes that there should be a networking agreement, imposed by the ITC but only for a 2 year transitional period. The basis of the argument is that if the ITC does not have such a responsibility, we may end up with the dominance of the new system by the five largest companies. In other words we cannot assume that the licensees left to themselves will devise a networking agreement which is both fair and competitive.

I believe that the Home Secretary's judgement on this issue is correct.

Two dangers to be avoided

The Home Secretary puts forward a specific proposal under which the ITC would include in the award of licenses specific conditions on three issues:

- (a) the number of hours to be supplied by those companies who wanted to provide network programmes;
- (b) the cost to each company of taking network programmes;
- (c) the granting of powers to the ITC to approve the arrangements.

This is fine as far as it goes. But there are two dangers:

- the ITC may be tempted to extend its time period for more than two years;
- when the "terms of trade" for the new system are drawn up, the five large companies may lean so heavily on the ITC, that they are biased against medium-sized companies and independents.

#### Recommendation

Accept the Home Secretary's recommendation but ask him to stress two points:

- the strictly limited nature of the arrangement;
- the absence of any discrimination against middle-sized C3 companies or independents.



BRIAN GRIFFITHS



cc [initials]

NBPm

PL 16 3/4

Treasury Chambers, Parliament Street, SW1P 3AG

David Mellor Esq MP  
Minister of State  
Home Office  
Queen Anne's Gate  
LONDON  
SW1H 9AT

2 April 1990

**PRIVATISATION OF THE IBA TRANSMISSION SYSTEM**

Thank you for your letter of 29 March. I am content for you to write to the IBA as you propose.

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

*Ben Jubbar*

PP PETER LILLEY

*Agreed by the Financial Secretary and signed in his absence.*



BROADCASTING :

Policy PG-11.



AA

10 DOWNING STREET  
LONDON SW1A 2AA

2. iv. '90.

Paul Gray.

I have no comment on the  
note from Home Sec. to PM - "Broadcasting  
Bill: National Commercial Radio".  
It follows very closely my  
earlier note.

Brian Haffis  
—

Eric Forth MP  
Parliamentary Under Secretary of State for  
Industry & Consumer Affairs

Department of  
Trade and Industry

David Mellor Esq QC MP  
Minister of State  
Home Office  
Queen Anne's Gate  
LONDON  
SW1H 9AT

1-19 Victoria Street  
London SW1H 0ET  
Enquiries  
01-215 5000

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

Direct line 01-215 4301  
Our ref AM6  
Your ref  
Date

30 March 1990

*WBBM at his stage.*

*(Note: no contact  
has been taken)*

*REC6*

*John Dore*

*REC6  
2/4*

*3/1*

REGULATION OF PRIVATISED IBA TRANSMISSION COMPANY : DRAFT  
TELECOMMUNICATIONS ACT LICENCE

*page 10*

In his letter to you of 28 February, Nicholas Ridley suggested that we should consider the circumstances under which the ownership restrictions on the privatised IBA transmission company might be lifted, in the light of your letter of 27 February and Peter Lilley's of 26 February. I have also now seen Mr Gray's letter of 27 February.

I continue to believe that there should not be an expectation that the restrictions will last forever. Once the initial sale of the company has been completed, issues of market dominance should be dealt with under normal mergers legislation and regulation by OFTEL under the Telecommunications Act. The timing of any removal is, however, difficult and I can understand your concern that we should not commit ourselves now to removing them at a particular time. I would not, however, wish to rule out the possibility of dispensing with either restriction at any time should circumstances permit.

I propose, therefore, that in announcing the ownership restrictions on BT and the Channel 3 and 5 franchisees we state:

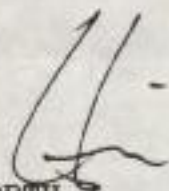
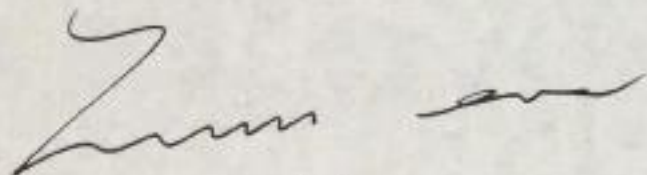
- (i) that our long term aim is to remove both restrictions when the market allows;

(ii) that Ministers will review the need for either restriction when they consider that circumstances have changed in such a way as to justify such a review; and

(iii) if the need for either restriction has not been reviewed prior to the privatisation of the BBC's transmission system, it will be reviewed then.

I hope that you can agree to such a formula and that we can make an announcement in the near future.

I am copying this letter to the Prime Minister, the Chief Secretary, the Chief Whip, Sir Robin Butler and Sir John Fairclough.



ERIC FORTH



BROADCASTING

Policy

Pt II



070



Prime Minister  
Brian Griffiths (not Selar)  
supports this proposed transitional  
~~strategic~~ networking arrangements

CCP/PL

subject to: ① stressing it is strictly time-limited  
② no discrimination against medium-sized  
companies or independent.

PRIME MINISTER

Contact to agree on that basis?

BROADCASTING BILL:  
TRANSITIONAL NETWORKING ARRANGEMENTS

Recc  
4/4

As you know, the Bill makes no provision for a Channel 3 programme network. When we discussed this in MISC 128, the Group was clear that licensees must be left to make their own arrangements for the supply and acquisition of programmes, and that there should be no role for the ITC in specifying or regulating the form of such arrangements.

I accept that this is the right approach to follow once the new Channel 3 system is firmly in place. But I am concerned about how, in the absence of any known and enforceable system for programme sharing, it will be possible to manage the period of transition from the present system to the new Channel 3 regime.

In the regionally based federal system which we envisage for Channel 3, no single licensee will be able to supply all his own programmes. The system will continue to be inter-dependent. Even the largest of the present ITV companies makes or commissions only about 30% of its scheduled output itself, and much of this is only undertaken in the knowledge that production costs can be recouped from the network. The smaller the company the more it depends on an agreed and reliable basis of network supply. Many of the smaller companies make very little more than six or so hours a week of regional programming. By contrast, about 150 hours of programming a week is taken from the network.

Satisfactory federal programming arrangements will be crucial to the way in which Channel 3 generates the flow of new material which is essential to a quality network. Because programmes commissioned to be shown on the network have the assurance of reaching a nationwide audience, they will have higher production values, and greater attractions for writers and

performers. They will therefore represent the big earners on which the Channel will rely, and which of course appeal to viewers and advertisers alike. Any delay in creating a national network on Channel 3 would give a massive competitive advantage to the BBC, who could negotiate for artists, writers and producers, and acquire film rights, secure in the knowledge that they, unlike an individual Channel 3 licensee, could automatically guarantee nationwide exposure. In this situation Channel 3 would inevitably lose audience share to the BBC, and past experience suggests that it would not be won back quickly.

It is therefore of the utmost importance that there should be no hiatus in establishing a satisfactory network on Channel 3. Up to now, our assumption has been that we can safely leave this to the licensees, once selected, to sort out among themselves on fair and competitive principles. But I see a number of problems about this in the short term. In particular:

- (a) the bidding process will be made difficult and unstable if applicants do not know what, if any, federal programming arrangements there will be. They will be unable to make realistic calculations about the prices they would pay or receive for programming, or to offer meaningful undertakings about the character of their proposed programme service as a whole. This uncertainty could be expected to depress the financial bids;
- (b) the short timescale - about a year - between the announcement of the award of licences and the commencement of broadcasting might not be sufficient for adequate networking arrangements to be determined, if all licensees had to start network negotiations from scratch. Uncertainty as to the identity of the eventual licence holders will limit the scope for any provisional agreements made at the bidding stage;

- (c) those licensees with a stronger market position would be able to hold out for an arrangement which suited them best. Smaller licensees, and those who had not previously held a television franchise, under pressure to acquire programmes quickly in order to meet their programme undertakings, could find themselves obliged to accept unsatisfactory conditions.

Considerable concern has been expressed in Committee about these matters, and the arguments will inevitably be raised again on Report and in the Lords.

I regard the problem entirely as a transitional issue, since in the longer term I am sure that MISC 128 is right that these matters are best left to commercial negotiation. But to avoid the dangers I have indicated I believe that there is a strong case for including in the Bill a strictly time-limited transitional power for the ITC to specify the shape of a network lasting for at most the first two years of the new licence period, or such shorter period as may be agreed by the licensees themselves. Once the transitional networking arrangement came to an end, licensees would be entirely free to make any alternative arrangements they wished.

I should make it quite clear that the ITC, under this proposal, would play no part in the actual operation of the networking arrangements. They would not be involved in any way with decisions about the commissioning or scheduling of programmes on the network, which would remain matters for the licensees alone. All they would be able to do would be to include in the licence specifications three basic parameters:

- (a) the minimum number of hours to be supplied federally, which the licensees would be able to allocate to specific types of programme on the basis of collective agreement;

By powers

- (b) the proportion of his total revenue which each licensee would be expected to contribute to federal programme expenditure;
- (c) the power for the ITC to approve (or in the absence of agreement between licensees to settle) the practical arrangements for the operation of the network during the transitional period.

why?

I believe that arrangements of this kind are essential if we are to achieve an orderly transition to the new system and to get Channel 3 off to the best possible start. The additional powers which the ITC would be given would be limited, and would in no way resemble the IBA's present powers over the schedules. Nor is there any question here of providing an inside track for existing ITV companies. All the new licensees, whether incumbent companies or newcomers, stand to suffer if we do not get this aspect of the new regime right. The main losers, however, will be the viewers, who could find themselves deprived of a strong and competitive national commercial channel.

I hope, therefore, that you will agree that we should introduce amendments on Report to give effect to this proposal.

I am copying this minute to other members of MISC 128, to Malcolm Rifkind and Peter Brooke, and to Sir Robin Butler.

There are max  
big powers for ITC.

Why should their approval  
be required? Is it to

*fw*

30 March 1990

restoring the big Co's? <sup>not</sup>  
But it seems to me that  
if ITC are already being influenced  
by the big Co's. <sup>not</sup>



CONFIDENTIAL

*copy*



Treasury Chambers, Parliament Street SW1P 3AG

The Rt Hon David Waddington QC MP  
Home Secretary  
Home Office  
50 Queen Anne's Gate  
London  
SW1H 9AT

*N BLM*

*Rec'd*

*2/4*

29 March 1990

*Dear David*

**BROADCASTING BILL: PERFORMANCE BONDS**

Thank you for your letter of 28 February.

2 I am grateful to you for accepting that a forfeit performance bond should not be used to subsidise regional services or legal costs. For my part I am content for the bond to be used to indemnify the Treasury only for loss of revenue incurred as a result of the withdrawal of a licence. This approach will give the bond - provider a financial interest in ensuring the ITC reauction the licence as soon as possible, minimising the period to which viewers are provided with a substitute service.

3 I am copying this letter to MISC 128 colleagues and to Sir Robin Butler.

*Norman Lamont*  
NORMAN LAMONT

Blomdastina: Polen P11







Price Minister 2  
Brian Griffiths has no  
comments on this.

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

22 JAN 1980

David Mellor

ffr6

30/3

will require if required  
not

PRIVATISATION OF THE IBA TRANSMISSION SYSTEM

In your letter of 20 January, you suggested that we should consult our financial advisers about the kinds of incentive schemes we might try to secure for staff on the privatisation of the IBA's transmission system. We have now done so, and our officials have discussed the matter.

The IBA is to announce its manpower plans and voluntary redundancy package to its staff on 5 April. It would be very helpful if, at the same time, the IBA could report the Government's intention to invite bidders for the new company to include proposals for employee incentives in their bids.

... I attach a draft letter, which I should like to send to the Chairman of the IBA. You will see that it makes no commitment either to the size or form of the employee incentives, nor does it absolutely commit the Government to accepting only a bid including an incentive package. Nonetheless, I think it would be a useful means at this stage of encouraging highly skilled staff to stay: we must avoid a haemorrhage of staff in the run up to the privatisation.

Our officials have agreed that consideration of the cost of any incentive package, and its form, should wait until the time comes to invite and consider bids - we shall, of course, keep your officials closely informed. I share your view that any diminution in the purchase price as a result of offering an incentive scheme must be kept to a minimum.

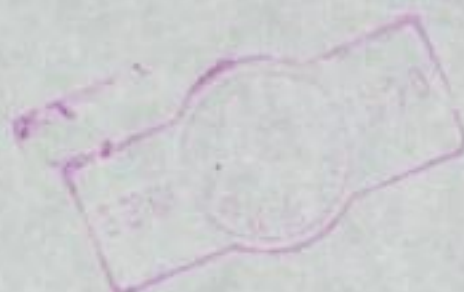
In order to be able to make the necessary announcement to the IBA, I am afraid I must ask for responses by 2 April.

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

  
DAVID MELLOR

Peter Lilley Esq

George Russell Esq  
Independent Broadcasting Authority  
70 Brompton Road  
LONDON  
SW3 1EY



In my letter of 20 March, I explained the assurances which we could give to the IBA's employees about their terms and conditions of service when they were transferred to the successor bodies.

I understand that you will be making announcements on 5 April to staff about the manpower plans. I thought it might be helpful if you were able to make use of the following statement about the Government's intention to encourage those bidding for the new transmission company to include plans of employee incentives.

The Government is keen to ensure that employees of the privatised transmission company are given the opportunity to participate in the company's success. There are a number of ways in which this can be achieved, including profit sharing schemes, a variety of share ownership schemes, and incentive payments.

The precise form of such schemes can be only settled closer to the sale date, in consultation with those bidding for the company. However, the Government will be inviting bidders to include such schemes in their bids for the company.



NOTE FOR THE RECORD

cc. Professor Griffiths

**BROADCASTING BILL: DIVERSITY IN RADIO**

Following the Prime Minister's reaction to Brian Griffiths' note of 23 March, Brian spoke to David Mellor's Office in the Home Office to give the Prime Minister's reaction.

I was subsequently rung by Colin Walters in the Home Secretary's Office who said that they would much prefer No.10 to send out a letter on this point rather than for the Home Secretary to initiate correspondence. If so, they would like No.10 not only to point to the need for diversity in awarding the franchises for new national independent radio stations, but also to the desirability of a power for the radio authority to make stipulations about the types of programming. I agreed to reflect on this proposition.

Having discussed the position with Brian Griffiths, I spoke to Sara Dent in the Home Secretary's office again today (in Colin Walters' absence) and said that:

- it would be much more appropriate for the Home Office to initiate this correspondence rather than for No.10. If they did so, then the Prime Minister would be prepared to welcome a proposal for diversity.
  
- she was not, however, likely to welcome a proposal that the radio authority could stipulate types of programming. This would go well beyond the aim of securing greater diversity, and raised all the objections about greater quality criteria that had been discussed in the ITV context.

*Rec.*

PG

28 March 1990

jd c:griffiths



CC 14  
HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

MBM

Blub  
2/1

27 MAR 1990

Dear Colleague,

#### BROADCASTING BILL

Many colleagues have written to me setting out their concerns about whether the Broadcasting Bill does enough to safeguard quality. In the light of the discussion of this issue in Committee, I recently announced a number of changes which we propose to make to the Bill in order to respond to these concerns, and I thought it would be helpful to provide this account of what we now intend.

I should make clear immediately that we have never proposed that licences to operate television services should simply be auctioned to the highest bidder. As the Bill stands, applicants for a Channel 3 or Channel 5 licence would not have their financial bids considered unless they had first crossed a formidable quality threshold which, in the words of George Russell the Chairman-designate of the new Independent Television Commission, is a Becher's Brook. Bidders will have to satisfy the ITC that they will give a sufficient amount of time in their service to news programmes and current affairs programmes of high quality, as well as to other programmes of high quality; in the case of Channel 3, that there will be a sufficient range of regional programmes, including regional news, a suitable proportion of which are made in the licence area; and that their planned programmes are, when taken as a whole, calculated to appeal to a wide variety of tastes and interests. These requirements are essentially the same as those contained in the present legislation, except that for the first time we have embodied the requirements for regional programming in statute.

We have, however, received many representations from groups with interests in particular types of programming, who would like us to include specific guarantees for such programmes in the legislation. I listened carefully to the arguments which were put to me both in Committee and at Second Reading. To meet these points I announced to the Committee on 8 March three ways in which the Bill would be strengthened in relation to quality.

/The first proposal

The first proposal I announced relates to the licence award process. As I have indicated, only applicants who have crossed the formidable, and now enhanced, quality threshold will be eligible to have their financial bids considered. Even so, there is already a provision in the Bill which enables the ITC, in exceptional circumstances, to award the licence to an applicant other than the one offering the highest bid. We had not further defined the concept of exceptional circumstances, since by definition when circumstances are exceptional they are not always easy to specify in advance. But it was clear to us that the exceptional circumstances provision must of course include those circumstances in which the quality of programming offered by one applicant was exceptionally higher than that of the applicant offering the highest cash bid. However, a number of colleagues pointed out that there would be fertile ground for legal argument unless this point were made clear in the Bill. I have therefore agreed to make it explicit in the Bill that exceptional circumstances can, indeed, include those circumstances where the quality of programming offered by one applicant is exceptionally higher than that of the applicant offering the highest cash bid.

Secondly I undertook that we would specify in the Bill that Channel 3 and 5 licensees must include a suitable amount of childrens' programmes and religious programmes in their schedules. It was inconceivable to me that a Channel 3 or 5 licence could be awarded to someone who was not offering childrens' programmes, since the requirement in the Bill to cater for a wide variety of tastes and interests must on any analysis include children, who comprise such a significant proportion of the viewing audience. I felt however that it was worth making this quite clear in the Bill. It was also likely that religious programmes would have been included as part of the diversity requirement. But, by its very nature, religious broadcasting has a special claim for protection, which I thought right to acknowledge on the face of the Bill. This formal requirement for religious programming, taken in conjunction with our decisions to allow religious ownership of local radio stations, and to give the ITC the discretion to allow religious groups to own channels not using UK broadcasting frequencies, such as the Vision Channel, shows our commitment to ensuring that responsible religious broadcasting is allowed to develop and flourish in the 1990s. I attach a note which expands on the implications of the Bill for religious broadcasting.

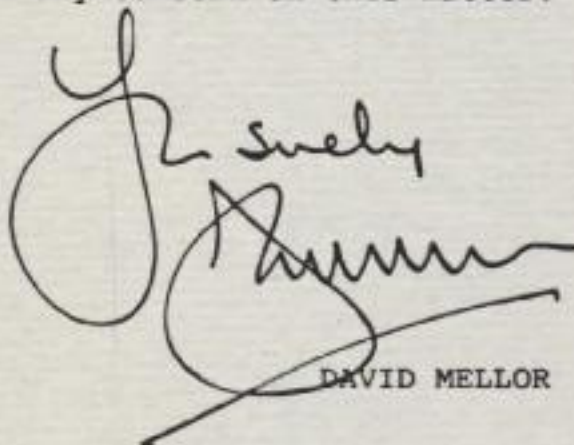
Thirdly, I agreed to strengthen the regional requirements in the Bill by requiring that the regional news that Channel 3 licensees will be required to broadcast be of high quality, in line with the parallel high quality requirements for national

/and international news.

and international news. We attach a lot of importance to preserving the unique regional character of Channel 3, and this amendment will help to reinforce the important regional dimension of the Channel 3 service.

I know colleagues will also have received a lot of correspondence about teletext and I have recently announced a further change to deal with this matter. In drafting the Bill, we were anxious to remove the constraints imposed by the existing law on developing the full potential of the data-carrying capacity of broadcast signals. We therefore proposed that this spare capacity should be licensed separately by the ITC on the basis of competitive tender. Since we published these proposals, concern has been expressed that the result might be the disappearance of a commercial teletext service from our screens. Following the debate on this matter in Committee, we decided that it would be right to make continuing provision for commercial teletext. This need not involve earmarking all the spare data carrying capacity of the Channel 3 and 4 signals, some of which can still be made available for other uses. But I propose that the ITC should be under a duty to advertise a teletext service using such part of this spare capacity as they, with the agreement of the Secretary of State, think appropriate. This proposal does I believe represent a constructive response to the concerns expressed about this matter and will ensure the continuation of an ORACLE-type service.

These amendments which I propose to make to the Bill at Report Stage demonstrate our continuing commitment to the high quality of British broadcasting. The Bill as a whole seeks to provide an enabling framework for a new and more competitive broadcasting regime. I see no reason at all why this need entail any risk to quality - rather the reverse. I hope that the changes I have announced will reassure those who have expressed any concern on this matter.

The image shows a handwritten signature in dark ink. The signature is written in a cursive style and appears to read 'David Mellor'. Below the signature, the name 'DAVID MELLOR' is printed in a simple, sans-serif font. A long, thin horizontal line is drawn across the bottom of the signature area, extending from the left side of the page towards the right.

DAVID MELLOR

## BROADCASTING BILL: RELIGIOUS BROADCASTING

### Religious programming

1. There is no suggestion that TV and radio stations should not be allowed to broadcast religious programmes. The BBC are clear that they will continue to provide religious programmes on both TV and radio. There is no statutory requirement at present for religious programmes to be shown on ITV. However, following the debate in the Committee on religious broadcasting, I agreed to consider whether there was a need to include in the statutory requirements for Channel 3 licences a specific reference to religious programmes. We have now concluded that such a requirement is needed. It will form part of the positive programme requirements in Clause 16 of the Bill. We have also decided that it would be better to follow the long regulatory tradition in British broadcasting in applying the concept of "religious" broadcasting in a way which reflects the range of religious views in the UK while giving proper weight to the traditions of Christian belief in our society rather than in a specific reference to Christian broadcasting.

2. Furthermore, as more outlets become available, for instance through cable, microwave and satellite, the number of religious programmes overall should increase.

### Consumer protection safeguards

3. The "no editorialising requirement" prohibits the showing of programmes which are straightforward expressions of the views and opinions on religious matters of the people providing the service. Although this is a matter for the regulators it will not prevent the showing of religious programmes whose content happens to coincide with the religious beliefs of the programme maker or the owner of the service. For example, the requirement will certainly not preclude a radio station owned by a C of E group from relaying a C of E service.

4. Similarly the "no undue prominence" provision for radio and local licensable programme services is a safeguard against abuse, which falls far short of a due impartiality requirement: it will not hamper the expansion of the kind of responsible religious broadcasting which most people will want to see.

### Sponsorship and advertising

5. Religious organisations will be allowed to sponsor programmes and to advertise on both television and radio, provided they comply with the codes on advertising and sponsorship which are to be drawn up by the Independent Television Commission and the Radio Authority.



## Ownership

6. The Bill makes a major concession to religious broadcasters by permitting them to own independent radio stations provided they stay within the rules on programme content. This is a radical departure from the past. We think it is justifiable because of the prospect that there will be 200-300 more radio stations by the end of the 90s which, because of the licensing criteria, will provide a great diversity of programming.

7. Television is a more powerful and potentially exploitative medium than radio. Although new channels will proliferate, this will not be on the same scale as radio, and services such as Channel 3 and Channel 5 will remain very powerful and influential for years to come. I do not believe it would be right to leave open even the theoretical possibility that such channels could fall into the hands of religious extremists or fanatics. There was no support in the Standing Committee for the proposition that religious groups should be able to own Channel 3 or 5 franchises.

8. However, following the strength of feeling expressed in Committee I am intending to bring forward a Government amendment which would give the ITC an exceptional discretion to disapply the prohibition of religious ownership of TV channels where satisfied that the Channel's programming or programme plans were unexceptionable. This discretion would not apply in the case of Channel 3 and Channel 5 or local delivery systems but would apply not just for local cable channels such as the Vision Channel but for all TV channels not using broadcasting frequencies. The automatic bar in the Bill on religious groups from entering the expanding satellite television market would thus be lifted.



26. 11. 90

10 DOWNING STREET

Paul Gray

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Agreed with  
Home Office.

134

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- ① Advice
- ② ~~Adv~~ ~~Adv~~ Spanish bank - also on POP
- ③ Advice on auto vehicle  
a type of insurance

PRIME MINISTER

Prime Minister!  
Would you be content for the Office Ministers  
to put forward this "extended diversity" test?

23 March 1990

Dec 6  
21/3  
Yes  
not

BROADCASTING BILL: DIVERSITY IN RADIO

Lord Chalfont, who is Chairman of the Radio Authority came to see me about one aspect of the radio of the Bill, which he and a number of others feel strongly.

The Problem

The Broadcasting Bill sets out the framework within which applications for franchises for new national independent radio stations will be considered by a new Radio Authority.

The franchise for each station will be awarded to the highest cash bidder who has passed the "internal diversity" test - summarised in Clause 92(3)(b) as "providing a service which consists of a diversity of programmes calculated to appeal to a variety of tastes and interests".

An "internal diversity" requirement means that there has to be a limited degree of variety within stations. The result of this could be that the three new radio stations due to be established in 1991 might all broadcast very similar programmes.

If that were to happen - and since each franchise will be awarded separately, there would be nothing to stop that happening - it would mean that the increase in competition as a result of the Bill was limited: if all three stations were, for example, offering pop music, there would be a great deal of competition with Radio 1, but none with Radio 2, 3 or 4.

## The Way Forward

Any system of allocating franchises must clearly be open and fair and realise the full commercial worth of a very valuable resource. But it must also increase competition and choice. The "internal diversity" test alone will not deliver this.

The proposal from Lord Chalfont is that in addition to the internal diversity test we should require variety between the three new stations - an external diversity test.

One way of achieving this would be to stagger the award of the three franchises and make each different. Each franchise would still be awarded on the basis of the conditions contained in the Broadcasting Bill. The only difference would be that if, for example, the winner of the first franchise were a pop station, then the second franchise would have to be for something different; and so on.

The advantages of this approach would be:

- the return to the Treasury would be maximised. Applicants for each station would still have to bid as much as they could afford: and there would be three different audiences to appeal to;
- competition would be extended - existing radio services would be challenged on a number of fronts;
- the Government could demonstrate that it was increasing choice and attracting new listeners to radio.

I have talked to the Home Office about Lord Chalfont's proposals and apparently the Home Secretary and David Mellor are strongly supportive and have been planning to minute you on this matter.

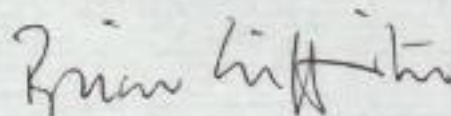
#### Conclusion

If we wish to guarantee greater choice in radio programmes as a result of the Broadcasting Bill then we need an external diversity test as well as an internal diversity test.

But such a test does not seek to judge the quality of either individual stations or programmes. It simply ensures diversity.

#### Recommendation

I believe there is considerable merit in this proposal - which unlike some others from the Home Office would not increase the powers of the regulatory bureaucracy.



BRIAN GRIFFITHS



QUEEN ANNE'S GATE LONDON SW1H 9AT

23 March 1990

NBLam

PLC 6  
23/3

BROADCASTING BILL

Thank you for your letter of 9 March. *prop*

I can certainly give you the assurances which you seek that in normal circumstances licences will be allocated by the ITC on the basis of the monetary bid, once the quality hurdle has been surmounted. The ITC will only be able to award a licence to a bidder other than the highest bidder in exceptional circumstances. All that the Bill will now do is to indicate that those exceptional circumstances can include an exceptional quality difference. Where the ITC invoke this provision they will be required to give their reasons. Clause 17(11) of the Bill already provides for this.

As you know, the Prime Minister invited me to reconsider my original proposal that the high quality test should extend over main programme type. I am still thinking about this, and will come forward with further proposals if I conclude that it is indeed worth pursuing.

I have some sympathy with what you say about the ITC appointments. It is obviously necessary that there should be some continuity of membership between the IBA, the Cable Authority and the ITC, and indeed we appointed George Russell and Alun Chalfont to the IBA with that specifically in mind. I am, however, now taking steps to identify as candidates some vigorous entrepreneurial people, unconnected with the broadcasting establishment. I hope to announce further names before too long.

I am copying this letter to the recipients of yours.

The Rt Hon Norman Lamont, MP.  
Chief Secretary  
Treasury Chambers  
Parliament Street  
LONDON, S.W.1.



Broadcasting

Policy

Pt 11

MEETING RECORD

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Subject cc NOVATEK



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10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

20 March 1990

Dear Colin,

**BROADCASTING BILL - CROSS-OWNERSHIP RESTRICTIONS**

The Prime Minister held a meeting earlier today to discuss whether to modify the provisions in the Broadcasting Bill limiting to 20% the interests of satellite services not using United Kingdom frequencies in UK-based television and radio services. Those present were the Home Secretary, the Secretary of State for Trade and Industry, the Chief Whip, Mr Mawer and Mrs Bailey (Cabinet Office) and Professor Griffiths (No 10 Policy Unit). The meeting had before them the Trade and Industry Secretary's letters of 16 January and 7 February, the Home Secretary's letters of 25 January and 8 March, the Chancellor of the Exchequer's letter of 25 January, and the Chief Secretary's minute of 16 March.

The Home Secretary said that schedule 2 of the Broadcasting Bill provided inter alia that no operator of a non-DBS satellite service receivable in the UK would be permitted to have more than a 20% interest in a DBS, UHF TV or national radio licence. These arrangements were in accordance with decisions taken by the Ministerial Group on Broadcasting Services (MISC 128) and announced by his predecessor on 19 May 1989. The announcement had been generally welcomed at the time as meeting the recommendation of the Home Affairs Select Committee, in its report on The Future of Broadcasting, that it was imperative that ownership of extra-territorial services based outside, but receivable in, the UK be taken into account in provisions regarding ownership of UK-based channels.

The matter had been discussed at length by the Standing Committee considering the Broadcasting Bill. Simon Coombs MP had moved an amendment to delete the proposed 20% limit. He had been briefed by W.H. Smith, who, with two Astra channels and a 21% interest in the Yorkshire Television franchise, had existing interests which would not be permitted under the Bill. However, the pressure from the other Conservative members of the Committee was, if anything, for greater restrictions on cross-ownership arrangements. While he was not opposed in principle to some relaxation in the rules, to reopen the issue at this stage would be detrimental to the smooth passage of the Bill. A change in policy would be seized on by the Opposition as a dilution of the Government's proposals, and would provoke disquiet among Government supporters. It would also cause serious handling problems in the House of Lords.

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The Secretary of State for Trade and Industry said that a blanket 20% limit was very strict and likely to prevent much otherwise welcome commercial activity in the broadcasting field. This regulatory approach was inconsistent with the Bill's objective of liberalising the broadcasting industry as far as possible. He had identified a possible means of tackling undue concentration of ownership in the broadcasting industry using the existing MMC framework, similar to the special mergers arrangements for the water industry. This would be coupled with a discretion on the part of the ITC to decide initial bids on criteria consistent with those to be applied by the MMC. The Chancellor of the Exchequer had favoured some relaxation of the existing rules, although he had been opposed to extending the discretion of the ITC. An alternative approach might be to take power to vary the cross-ownership restrictions in the Bill by order. This would allow the rules to be altered in the light of experience, which should ease any immediate Parliamentary handling difficulties.

In discussion, the following main points were made:

a. The Bill's provisions must create the conditions necessary to extend competition in the broadcasting field. To proceed with the blanket 20% limit might risk undermining the Government's objective of maximising competition and hence choice in the broadcasting industry.

b. On the other hand, a relaxation in the cross-ownership rules would inevitably arouse opposition in Parliament. In particular, it would reopen the debate on the right of newspaper proprietors to hold controlling interests in non DBS channels. The Opposition had already pointed to the lack of symmetry between the rules applying to the ownership of domestic broadcasting interests, and those applying to non-UK based media. While it could be argued that the balance between these two groups should be redressed by removing all restrictions, this would be entirely counter-productive in Parliamentary terms.

c. Although they appeared to have accepted the position, W.H. Smith were understandably aggrieved that the Bill would prevent them retaining their controlling interests in two Astra channels and their 21% stake in the Yorkshire television franchise. They viewed the rules as a constraint on the ability of the Company to develop their home market prior to entering the wider European market. However, in practice the Company could, under the Government's proposals, own one large and one small Channel 3 franchise while retaining substantial non-DBS satellite television investments, provided that these did not amount to control. Alternatively, it was open to the company to reduce their shareholding in Yorkshire Television by just 1%, and to expand their involvement in non-DBS broadcasting when the second Astra satellite became available.

d. Any European competitor controlling a non-DBS satellite service receivable in the UK would, under the Government's proposals, be prevented from owning more than 20% of a DBS,

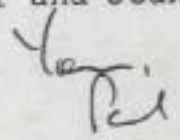
UHF TV or national radio licence. Any relaxation of the cross-ownership restrictions might, however, open the way for European competitor companies with interests in non-DBS channels to acquire significant interests in major UK broadcasting services. While there were no formal cross-ownership restrictions in most European countries, it was most unlikely that British companies would in practice be given similar opportunities to acquire major stakes in European broadcasting services.

The Prime Minister, summing up this part of the discussion, said that, with hindsight, it was perhaps unfortunate that the Government had agreed to the relatively strict arrangements for limiting cross-ownership involving satellite services not using UK frequencies now embodied in Schedule 2 of the Broadcasting Bill. There was a danger that those with the knowledge and resources to stimulate greater competition and choice in domestic broadcasting services would in practice be prevented from doing so. Nevertheless, it was clear that, in terms of the Parliamentary handling of the Bill, a relaxation in the cross-ownership rules at this stage would bring real difficulties. Against that background, it would be best to proceed on the lines envisaged in the Bill as drafted.

On a separate issue, the Prime Minister said that at a recent lunch with the Newspaper Society, concern had been expressed about the practical effect of the proposed restrictions on those with controlling interests in local newspapers to a maximum 20% interest in local broadcasting services where the newspaper circulation area and the area of the broadcasting service overlapped.

In a brief discussion, it was noted that the present wording of schedule 2 part IV paragraph 2(2) applied the cross-ownership restrictions to local newspaper proprietors in any circumstances where the newspaper and the service each served an area which was "to any extent" the same as that served by the other. This was unreasonably restrictive. It should, for example, be possible for a newspaper proprietor to acquire a controlling interest in a local radio station in a case where the overlap of services was not significant. The Prime Minister, summing up the discussion, said that the Home Secretary had indicated that he was looking again at the issue. He should take steps to ensure that the Bill's provisions gave a sufficient degree of flexibility at the local level.

I am sending copies of this letter to Martin Stanley (Department of Trade and Industry), Carys Evans (Chief Secretary's office), Murdo Maclean (Chief Whip's office), and to Sonia Phippard, Philip Mawer and Joan Bailey (Cabinet Office).

  
(PAUL GRAY)

Colin Walters, Esq.,  
Home Office.

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~~DRAFT LETTER TO COLIN WALTERS~~

*GL*  
*in type for my signature.*  
*P.*

BROADCASTING BILL - CROSS-OWNERSHIP RESTRICTIONS

The Prime Minister held a meeting ~~earlier today~~ ~~on 20~~ ~~March~~ to discuss whether to modify the provisions in the Broadcasting Bill limiting to 20% the interests of satellite services not using United Kingdom frequencies in UK-based television and radio services. Those present were the Home Secretary, the Secretary of State for Trade and Industry, the Chief Whip, Mr Mawer and Mrs Bailey (Cabinet Office) and Professor Griffiths (No 10 Policy Unit). The meeting had before them the Trade and Industry Secretary's letters of 16 January and 7 February, the Home Secretary's letters of 25 January and 8 March, ~~and~~ the Chancellor of the Exchequer's letter of 25 January, *and the Chief Secretary's minute of 16 March.*

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report on The Future of Broadcasting, that it was imperative that ownership of extra-territorial services based outside, but receivable in, the UK be taken into account in provisions regarding ownership of UK-based channels.

The matter had been discussed at length by the Standing Committee considering the Broadcasting Bill. Simon Coombs MP had moved an amendment to delete the proposed 20% limit. He had been briefed by W H Smith, who, with two Astra channels and a 21% interest in the Yorkshire Television franchise, had existing interests which would not be permitted under the Bill. However, the pressure from the other Conservative members of the Committee was, if anything, for greater restrictions on cross-ownership arrangements. While he was not opposed in principle to some relaxation in the rules, to reopen the issue at this stage would be detrimental to the smooth passage of the Bill. A change in policy would be seized on by the Opposition as a dilution of the Government's proposals, and would provoke disquiet among Government supporters. It would also cause serious handling problems in the House of Lords.

The Secretary of State for Trade and Industry said that a blanket 20% limit was very strict and likely to prevent much otherwise welcome commercial activity in the broadcasting field. This regulatory approach was inconsistent with the Bill's objective of liberalising the broadcasting industry as far as possible. He had identified a possible means of tackling undue

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concentration of ownership in the broadcasting industry using the existing MMC framework, similar to the special mergers arrangements for the water industry. This would be coupled with a discretion <sup>on</sup> the part of the ITC to decide initial bids on <sub>L</sub> criteria consistent with those to be applied by the MMC. The Chancellor of the Exchequer had favoured some relaxation of the existing rules, although he had been opposed to extending the discretion of the ITC. An alternative approach might be to take power to vary the cross-ownership restrictions in the Bill by order. This would allow the rules to be altered in the light of experience, which should ease any immediate Parliamentary handling difficulties.

In discussion, the following main points were made:

- a. The Bill's provisions must create the conditions necessary to extend competition in the broadcasting field. To proceed with the blanket 20% limit might risk undermining the Government's objective of maximising competition and hence choice in the broadcasting industry.
- b. On the other hand, a relaxation in the cross-ownership rules would inevitably arouse opposition in Parliament. In particular, it would reopen the debate on the right of newspaper proprietors to hold controlling interests in non DBS channels. The Opposition had already pointed to the lack of symmetry between the rules applying to the ownership

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of domestic broadcasting interests, and those applying to non-UK based media. While it could be argued that the balance between these two groups should be redressed by removing all restrictions, this would be entirely counter-productive in Parliamentary terms.

c. Although they appeared to have accepted the position, W H Smith were understandably aggrieved that the Bill would prevent them retaining their controlling interests in two Astra channels and their 21% stake in the Yorkshire television franchise. They viewed the rules as a constraint on the ability of the Company to develop their home market prior to entering the wider European market. However, in practice the Company could, under the Government's proposals, own one large and one small Channel 3 franchise while retaining substantial non-DBS satellite television investments, provided that these did not amount to control. Alternatively, it was open to the company to reduce their shareholding in Yorkshire Television by just 1%, and to expand their involvement in non-DBS broadcasting when the second Astra satellite became available.

d. Any European competitor controlling a non-DBS satellite service receivable in the UK would, under the Government's proposals, be prevented from owning more than 20% of a DBS, UHF TV or national radio licence. Any relaxation of the cross-ownership restrictions might, however, open the way

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for European competitor companies with interests in non-DBS channels to acquire significant interests in major UK broadcasting services. While there were no formal cross-ownership restrictions in most European countries, it was most unlikely that British companies would in practice be given similar opportunities to acquire major stakes in European broadcasting services.

The Prime Minister, summing up this part of the discussion, said that, with hindsight, it was perhaps unfortunate that the Government had agreed to the relatively strict arrangements for limiting cross-ownership involving satellite services not using UK frequencies now embodied in Schedule 2 of the Broadcasting Bill. There was a danger that those with the knowledge and resources to <sup>simulate order</sup> ~~take advantage of new opportunities for~~ competition in domestic broadcasting services would in practice be prevented from doing so. Nevertheless, it was clear that, in terms of the Parliamentary handling of the Bill, a relaxation in the cross-ownership rules at this stage would bring real difficulties.

*and done* ~~There was also a danger that the issue of newspaper proprietors' interests in non-DBS channels would be reopened.~~ Against this *fact* background, it would be best to proceed on the lines envisaged in the Bill as drafted.

On a separate issue, the Prime Minister said that at a recent lunch with the Newspaper Society, concern had been expressed about the practical effect of the proposed restrictions

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on those with controlling interests in local newspapers to a maximum 20% interest in local broadcasting services where the newspaper circulation area and the area of the broadcasting service overlapped.

In a brief discussion, it was noted that the present wording of schedule 2 part IV paragraph 2(<sup>2</sup>理) applied the cross-ownership restrictions to local newspaper proprietors in any circumstances where the newspaper and the service each served an area which was "to any extent" the same as that served by the other. This was unreasonably restrictive. It should, for example, be possible for a newspaper proprietor to acquire a controlling interest in a local radio station in a case where the overlap of services was not significant. The Prime Minister, summing up the discussion, said that the Home Secretary had indicated that he was looking again at the issue. He should take steps to ensure that the Bill's provisions gave a sufficient degree of flexibility at the local level.

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**dti**

the department for Enterprise

CCP/11

Eric Forth MP  
Parliamentary Under Secretary of State for  
Industry & Consumer Affairs

**Department of  
Trade and Industry**

1-19 Victoria Street  
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Rt Hon N Lamont MP  
Chief Secretary  
HM Treasury  
1 Parliament Street  
LONDON  
SW1P 3AG

Direct line 01-215 4301  
Our ref AM5  
Your ref  
Date

20 March 1990

*Mr. Lamont  
Stg.*

*RR 16 10/1*

*Ja Lamont,*

I am writing to inform you that I propose to give consent to the Post Office under Section 7(1)(f) of the Post Office Act 1969 as amended by the British Telecommunications Act 1981 to permit the collection of TV licence fees and the issuing of TV licences by Post Office Counters Limited on behalf of the BBC.

As you will be aware, the Broadcasting Bill contains provision to transfer the responsibility for administering the TV licence system from the Home Office to the BBC with effect from 1 April 1991. Post Office Counters Limited currently sells 9.6 million licences out of a total of 19.5m licences held, and 397m TV licence saving stamps worth £198m. The Post Office is not currently permitted to carry out services for the BBC in post offices other than to sell publications, gifts, stationery products and records. Although in general I have reservations about extending the powers of the Post Office, I am satisfied in this case that the consent which I propose to grant does no more than maintain the status quo in the light of the change in legislation and will not lead to an increase in the size or scope of the public sector.

Since the transfer of responsibility to the BBC is still some way in the future I propose at this stage to indicate to the Post Office that I agree in principle to grant this consent but that I will withhold the formal Letter of Consent until it is required by the Post Office. I hope that you will find these arrangements acceptable.

dti

the department for Enterprise



I am copying this letter to the Prime Minister, David Mellor and to Sir Robin Butler.

A handwritten signature in black ink, appearing to read "Eric Forth".

A second handwritten signature in black ink, which is more stylized and difficult to decipher.

ERIC FORTH

~~XXXXXXXXXXXXXXXXXXXX~~



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PRIME MINISTER

CROSS-OWNERSHIP RESTRICTIONS IN THE MEDIA

You saw at the weekend the main papers for tomorrow's meeting summarised in my note immediately below.

There are two other notes now available:

Flag D - a note from Norman Lamont, who is unable to attend, supporting some relaxation of the rules affecting W H Smith;

Flag E - a note by Brian Griffiths.

*Paul*

PAUL GRAY

19 March 1990

C:\ECONOMIC\CROSS.DAS

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PRIME MINISTER

19 March 1990

BROADCASTING: CROSS-OWNERSHIP RESTRICTIONS

We need to keep four principles to the fore in thinking about restrictions on cross-ownership:

- (a) the rules should be as simple as possible;
- (b) they should be designed to create as much competition and to stimulate as much commercial activity as possible (because of changing technology there is great potential here);
- (c) they should limit to the minimum the ITC's involvement in this area;
- (d) their key concern should always be the interests of the viewer.

The meeting on Tuesday raises two issues.

- (i) Cross-Ownership Restrictions on Satellite Television not Using UK Frequencies (ie non-DBS)

At present the Bill proposes two restrictions in this area:

- no operator of a non-DBS satellite service receivable in the UK (eg Sky) can have more than 20% interest in a DBS or terrestrial broadcasting service;
- no national newspaper proprietor can have more than a 20% interest in a DBS or terrestrial broadcasting service.

These proposals would mean that W H Smith (which own two nonDBS channels and 21% of Yorkshire TV) would be forced either to reduce

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their interest in Yorkshire to 20% or sell the other channels. This would not be onerous. But I suspect that W H Smith have much greater ambitions for the future and would expect to win a franchise at the auctions for either C3 or C5. This rule would then prove onerous to them.

The Home Secretary's argument against changing the present terms of the Bill is that to disturb for present arrangements could open the door for unwelcome pressure to change in the wrong direction. In other words, back benchers in the Commons or the Lords might try and force Murdoch to divest himself of Sky.

In view of the tiny share which Sky has in the UK television market at present, and also in view of the enormous stimulus which it provides to deregulation of the British television industry, this would be most unwelcome.

If you believe that proposing a change to the rule would open up these larger issues and that the government might be defeated by so doing, it is clearly not worth proceeding.

But Nicholas Ridley has already set up an inquiry into cross-ownership in the media. Before even discussing any change in the rules for companies such as Sky, it is important for the government to consider the report.

Meanwhile if the changes proposed to solve the problems facing W H Smith were seen to be fair, it is not clear that our own supporters would be provoked need be provoked into action.

The particular recommendation made by Nicholas Ridley is not to abandon the 20% rule, but to allow the holder of a terrestrial franchise to own a few but not many non-DBS satellite channels eg say two non-DBS channels and either Channel 5 or two Channel 3 franchises.

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This could easily be defended as in the public interest it increases choice and service - yet without any undue restriction of competition.

Recommendation

The Home Secretary's position is unduly cautious. In view of (a) the existing inquiry into cross-media ownership and (b) the limited nature of the Ridley proposal, the latter should be accepted.

(ii) Local Newspapers & Local Radio and Television

The issue here is whether a newspaper should be allowed to own a broadcasting (radio or TV) station in its own area, providing competition already exists. Under existing proposals it cannot.

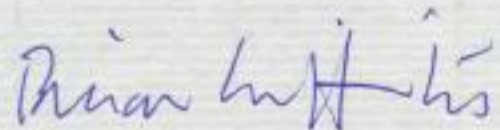
The key test in this area must be the extent of competition. If a particular change in ownership will not adversely affect the extent of competition in an area adversely, there is no reason for ownership rules to be over-restrictive.

The appropriate bodies to decide on the extent of competition are the OFT and MMC - not the ITC.

Recommendation

The ownership rules for local radio and TV stations should be liberalised to include ownership by local newspapers, providing this does not adversely affect competition in the area as a whole.

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BRIAN GRIFFITHS

CONFIDENTIAL

FROM: P J C MAWER  
DATE: 16 March 1990

PRIME MINISTER

CROSS-OWNERSHIP RESTRICTIONS ON SATELLITE TELEVISION  
SERVICES NOT USING UNITED KINGDOM FREQUENCIES

DECISIONS

You are to chair a meeting after the Budget Cabinet on Tuesday to consider whether to modify the provisions in the Broadcasting Bill limiting to 20% the interests of satellite services not using United Kingdom frequencies in UK-based television and radio services.

2. The questions for decision are:

- i. Should the existing provision be removed or relaxed as both Mr Ridley and the Chancellor of the Exchequer favour? Mr Waddington is not opposed in principle, but is worried about the Parliamentary consequences.
- ii. If so, how should any relaxation be couched? The Chancellor and Mr Ridley have proposed that the rule should be relaxed to allow one Company to control a restricted number of satellite channels in addition to an Independent Television Commission (ITC) licence.
- iii. Is existing competition law adequate to ensure that the rules continue to maximise media ownership? At one stage Mr Ridley indicated that they might need strengthening.
- iv. What will be the Parliamentary consequence of any change in the Bill and how can this best be handled?



You will wish to ensure that the outcome is in line with the Government's basic objectives in their broadcasting reforms of maximising ownership and therefore the choice available to the viewer and listener.

#### BACKGROUND

3. Schedule 2 of the Broadcasting Bill provides inter alia that no operator of a non-DBS satellite service receivable in the United Kingdom will be permitted to have more than a 20% interest in a DBS, UHF TV or national radio licence. (This is in addition to a provision barring national newspaper proprietors from holding more than 20% of any DBS, UHF TV or national radio franchise.) These limitations on cross-ownership were agreed in MISC 128 last April and announced by the then Home Secretary in a written answer on 19 May 1989 (copy at Annex A attached). The announcement was generally welcomed at the time as meeting the recommendation by the Home Affairs Select Committee in its report on The Future of Broadcasting that it was imperative that ownership of extra-territorial services based outside, but receivable in, the UK should be taken into account in the provisions regarding ownership of UK-based channels.

#### The case for change

4. Mr Ridley is concerned that the blanket 20% limit will prevent otherwise welcome commercial activity in the broadcasting sector. In his letter to Mr Waddington of 16 January, he proposed the introduction of a discretionary regime for dealing with cross-ownership questions, designed in particular to meet the problems of W H Smith which has two channels on Astra and a 21% share in the Yorkshire Television franchise. Mr Ridley argued that undue concentration of ownership could be tackled through normal competition and mergers arrangements, with qualifying mergers being considered by the Office of Fair Trading (OFT) and the Monopolies and Mergers Commission (MMC) in the

normal way. Some strengthening of the regime might be necessary, however, to ensure that audience size and the need to ensure the accurate presentation of news and free expression of opinion were taken into account. Because an MMC reference would create an unacceptable delay, the ITC should also be given discretion to consider ownership issues in reaching decisions at the initial licensing stage.

5. In his letter of 25 January, the Chancellor of the Exchequer said that he favoured relaxing the rules at the margin so that a company owning a small percentage of the channels broadcast by any type of satellite (such as W H Smith) could also own terrestrial television channels. He was not in favour, however, of the ITC being given any discretion to deal with difficult cases.

#### The case against change

6. The Home Secretary is not opposed in principle to some relaxation of the cross-ownership rules, but is worried about the Parliamentary consequences. He has argued (his letter of 25 January to Mr Ridley) that the rules in the Bill have been widely welcomed and opposed only by W H Smith. Any European competitor who controlled satellite channels receivable in the UK would also be caught by the proposed 20% limit and W H Smith could, under the Government's proposals, own a large and a small Channel 3 franchise while retaining substantial non-DBS satellite TV investments provided that these did not amount to control.

7. Mr Waddington's letter of 8 March indicates that he would have least difficulty with a proposal on the lines that a person might be free to own, for instance, both the Channel 5 franchise, or two Channel 3 franchises (if not contiguous or both large) and up to, say, two non-DBS satellite services. Ownership of more than two satellite services would have the effect of applying the 20% limit currently in the Bill to any interests in

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Channel 3, Channel 5, National Radio or DBS. Both the limit of two satellite services and the 20% limit would be capable of variation in subordinate legislation. The Government could consider raising the limit of two satellite channels as the market expanded. All of this would be without prejudice to general competition legislation.

8. The Home Secretary believes, however, that an amendment even in this modified form would run into substantial Parliamentary opposition, including from Conservative backbenchers. A change would also be seized on by the Opposition as dilution of the Government's proposals on cross-media ownership, and could be expected to run into trouble in the Lords. In the Home Secretary's view these handling considerations outweigh the policy case for change and he would prefer to maintain the proposed 20% limit undiluted.

MAIN ISSUES

Relaxing the cross-ownership rules

9. You will wish to establish whether the meeting agrees that the present rule in Schedule 2 should be relaxed in order to avoid unnecessary regulation and to free up the market. Can this be done while avoiding unacceptable concentration of media ownership? Would such a change unduly jeopardise the Parliamentary handling of the Broadcasting Bill?

The form of relaxation

10. If the meeting agrees that the rule should be relaxed, is it content for the change to take the form of the proposal in the Home Secretary's letter of 8 March (which builds on the suggestion made by the Chancellor in his letter of 25 January which was subsequently picked up by Mr Ridley in his letter of 7

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February). This would meet W H Smith's problem, but is there a case for going further?

Safeguards

11. Would any relaxation on these lines require compensating strengthening of the merger regime as applied to broadcasting services? Mr Ridley suggested that some strengthening was required in his letter of 16 January, but that may not be necessary given the more limited form of the relaxation envisaged in the later correspondence. It would seem preferable to avoid an ownership regime for broadcasting which gives undue discretion to the ITC, and which creates the possibility of conflict between the ITC on the one hand and the OFT and MMC on the other.

Parliamentary handling

12. Assuming the meeting agrees that some relaxation in the cross-ownership rules is desirable, you will wish to consider the form and timing of any change in the provisions of the Bill. In the debate in Standing Committee on Simon Coombs' amendment to remove altogether the 20% limit on non-DBS satellite interests in UK-based services, Mr Mellor undertook to consider without commitment whether there was any scope for fine-tuning the provisions in the Bill. It would seem sensible for any change to be made by means of a Government amendment on Report, which could be represented as a response to the debate in Committee.

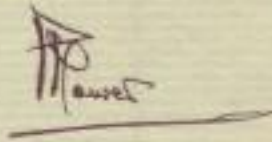
HANDLING

13. You may wish to open the meeting by inviting MR RIDLEY to make the case for a change in the present ownership restrictions in the Bill, and then invite the HOME SECRETARY to respond. The meeting could then work through the main issues in the order set out in this brief. THE CHIEF SECRETARY will no doubt wish to

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support Mr Ridley's case for some change in the Bill. THE CHIEF WHIP will be concerned about the implications for the Bill's Parliamentary handling, including in the House of Lords.

A handwritten signature in dark ink, appearing to read 'P J C Mawer', with a horizontal line drawn underneath it.

P J C MAWER

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granted (i) asylum and (ii) exceptional leave to remain in the United Kingdom, in each of the years 1985, 1986, 1987 and 1988.

**Mr. Renton:** The information requested is not readily available and could be obtained only at disproportionate cost.

**Mr. Darling:** To ask the Secretary of State for the Home Department how many people were refused entry to the United Kingdom at ports of entry; and how many of those refused entry subsequently applied for asylum in the United Kingdom, in the years 1985, 1986, 1987 and 1988.

**Mr. Renton:** The total number of passengers refused leave to enter and removed from the United Kingdom in 1985, 1986 and 1987 is published in table 4.2 of the Home Office publication "Immigration Nationality and Passports, October 1988", a copy of which is in the Library. The total in 1988 was 20,871. Information on the numbers of these passengers who subsequently applied for refugee status in the United Kingdom is not readily available and could be obtained only at disproportionate cost.

**Mr. Darling:** To ask the Secretary of State for the Home Department what was the average Home Office decision time for asylum applications made at ports of entry in 1985, 1986, 1987 and 1988 and at the current time.

**Mr. Renton:** The available information is given in the table. Information for 1988 is not yet available.

*Estimated average length of time<sup>1</sup> taken to reach a decision on an application<sup>2</sup> made at a port, for refugee status in the United Kingdom, for cases decided during the year.*

	Average time in months
1985	28
1986	16
1987	11

<sup>1</sup> Excluding the time accounted for by an appeal where practicable, although this cannot be done in all cases.

<sup>2</sup> Excluding dependants.

<sup>3</sup> The 1985 figure may be an underestimate.

**Mr. Darling:** To ask the Secretary of State for the Home Department what discussions he has had with other EC Governments regarding harmonisation of asylum procedures in preparation for the implementation of the Single European Act in 1992; and if he will make a statement.

**Mr. Renton:** Asylum procedures have been discussed in regular meetings of Ministers responsible for immigration, held on six occasions since December 1986. For details of the two most recent meetings, I refer the hon. Member to the replies my right hon. Friend gave to my hon. Friends the Members for Romsey and Waterside (Mr. Colvin) on 14 December 1988 at columns 576-7 and for Portsmouth, South (Mr. Martin) on 17 May 1989 at column 208.

My right hon. Friend and I have also discussed asylum matters in various bilateral contacts with Ministers from other member states.

### Broadcasting (Ownership)

**Mr. Robert G. Hughes:** To ask the Secretary of State for the Home Department if he will make a statement about the proposals in the White Paper on broadcasting ownership.

**Mr. Hurd:** The White Paper made clear our determination that ownership in the independent broadcasting sector should remain widely spread, and that unhealthy concentrations of ownership and excessive cross-media ownership should be prevented. We are grateful to those who responded to the invitation to comment on the scope and formulation of the rules needed to achieve this objective.

The White Paper envisaged (paragraph 6.51) that the same group would be permitted to hold two, but not more than two, regional Channel 3 licences. Many of those commenting thought it would be undesirable if the same group could control two large or contiguous Channel 3 regions. It has also been argued that some flexibility is needed to take account of the ways in which independent terrestrial television might develop.

In the light of these responses we propose to strengthen the rules envisaged in the White Paper in the following way. Power would be taken to prescribe in subordinate legislation limits on the number of Independent Television Commission or Radio Authority licences within each main licence category which any one body or group would be permitted to hold or control. In the case of regional Channel 3 licences the initial limit would be set at two, as envisaged in the White Paper. But these limits would be capable of further restriction by reference to audience share and contiguity of licence area. The Government does not envisage that the same group should be allowed to own two large franchises or two franchises for contiguous areas.

Paragraph 6.53 of the White Paper proposed clear reciprocal limits on broadcasting and newspaper cross-holdings. Taking account of comments on the White Paper, we propose that no proprietor of a national newspaper should be allowed to have an interest exceeding 20 per cent. in any DBS, UHF TV (including regional Channel 3) or national radio franchise. We also see a strong case for debarring national newspaper proprietors from having a significant financial interest in more than one such franchise. These limits also apply reciprocally to the holders of such franchises investing in groups controlling national newspapers. No regional or local newspaper would be allowed to have more than a 20 per cent. interest in any regional or local Independent Television Commission or Radio Authority licensee with whose area it substantially overlapped, and vice versa.

Paragraph 6.53 of the White Paper proposed, following a recommendation by the Home Affairs Committee, that ownership of satellite channels not using United Kingdom broadcasting frequencies but receivable in the United Kingdom (whether based here or abroad) should be capable of being taken into account by the Independent Television Commission and the Radio Authority in operating their controls. We propose that no operator of such a service should be permitted to have more than a 20 per cent. interest in a DBS, UHF TV (including regional Channel 3) or national radio licensee, and that cross-interests exceeding 20 per cent. between DBS, UHF TV and national radio licensees should not be permitted. Similarly, cross-interests exceeding 20 per cent. would not be permitted between regional Channel 3, local delivery operator and local radio licensees whose areas substantially overlapped. These limits would be expressed in subordinate legislation and would be capable of variation. We envisage that legislation would also leave open the possibility of limiting other forms of cross-holding.

In line with paragraph 6.49 of the White Paper, local authorities and bodies whose objectives are wholly or mainly of a political or religious nature (and also bodies which are affiliated to or controlled by such bodies) would be disqualified from holding any ITC licence. Local authorities and political bodies would similarly be disqualified from holding any Radio Authority licence: as envisaged in paragraph 7.10 of the radio Green Paper, religious bodies would be allowed to have a financial interest in radio stations provided this did not lead to bias or editorialising on religious or controversial matters.

We propose that no ITC or Radio Authority licence may be held or controlled by a non-EC company or individual not ordinarily resident in the EC, with the exception of local delivery licences and any operators licensed under the Cable and Broadcasting Act 1984. In the case of these exceptions, concerns about editorial and cultural influence, which are less applicable to local service delivery, are outweighed by the advantages for investment which the possibility of non-EC control would bring about.

While the Government does not envisage that the ITC or Radio Authority would have a wide discretion in dealing with ownership questions, it does propose that they should be given the enforcement powers needed to police the rules effectively. These would include the ability to include licence conditions requiring licensees to give advance notice of, and seek prior consent for, changes in shareholdings. The ITC and Radio Authority would also be able, for the purposes of enforcing the ownership rules, to require changes in a company or group as a condition of its being awarded, or retaining, a licence, and to withdraw licences if declarations to them proved false.

Transitional account will be taken, in framing the rules, of the position of shareholders in franchises awarded under existing legislation.

#### Magistrates Clerks

**Mr. John Morris:** To ask the Secretary of State for the Home Department how many magistrates courts' days have been lost or shortened because of the inadequacy in numbers of available clerks.

**Mr. John Patten:** This information, not available at present, is now being obtained from magistrates courts committees on a quarterly basis. I shall write to the right hon. Member as soon as the first set of returns has been collated.

#### Drugs

**Mr. Vaz:** To ask the Secretary of State for the Home Department what is the total value of goods seized under the Drug Trafficking Offences Act 1986.

**Mr. John Patten:** The best available information relates to confiscation orders. For the value of such orders to date, I would refer the hon. Member to the reply my right hon. Friend gave to a question from my hon. Friend the Member for Lewes (Mr. Rathbone) on 11 May at column 986.

**Mr. Butler:** To ask the Secretary of State for the Home Department what information his Department has with regard to the proportion of burglaries committed by drug addicts (a) in the Wirral, (b) in Merseyside and (c) nationally.

**Mr. Douglas Hogg:** The information requested is not available nationally. However, a Home Office research study "opioid use and burglary", published in 1986 estimated that in 1983, 1 per cent. of adult males convicted of burglary in a dwelling at Liverpool magistrates court, and 15 per cent. convicted at Wirral magistrates court were drug addicts notified to the Home Office. Other research has suggested that in 1985 at least half of the adult males convicted of burglary in the Wirral may have been drug misusers.

#### Lone Occupants (Names and Addresses)

**Mr. Nicholas Baker:** To ask the Secretary of State for the Home Department if he will take steps to limit publication of names and addresses of lone occupants of houses.

**Mr. Douglas Hogg:** We have no plans to do so. The only published official source in England and Wales from which such information might be inferred, so far as I am aware, is the electoral register. It is not, however, a comprehensive guide as to who lives at a particular address or whether a person on it is a lone occupant. We have no evidence of widespread misuse of the register for criminal or other illegitimate purposes. If my hon. Friend is aware of a particular problem, perhaps he would write to me about it.

#### Segregated Prisoners

**Mr. Irving:** To ask the Secretary of State for the Home Department how many (a) male and (b) female prisoners on the most recent convenient date were segregated under rule 43 of the prison rules (i) for their own protection and (ii) for reasons of good order and discipline.

**Mr. Douglas Hogg:** The numbers of prisoners (sentenced and unsentenced) so segregated on 31 March 1989 was as follows:

	Own protection	Good order or discipline
Male	2,193	227
Female	21	8

#### Immigration

**Mr. Darling:** To ask the Secretary of State for the Home Department, pursuant to the answer of 20 December 1988, *Official Report*, column 178, what representation he has received about the legal validity of the powers used by immigration officers to sign notices of intention to deport under the Immigration Act 1971; what response he has made; if he will review these powers; and if he will make a statement.

**Mr. Renton [holding answer 17 May 1989]:** This issue has been raised in a number of appeals before the independent appellate authorities. The immigration appeal tribunal has now endorsed the view that the service of notices of intention to deport authorised by members of the immigration service not below the rank of inspector is valid.

We have also received two other letters about the delegation of the powers of the Secretary of State. A reply was sent to the first letter in November 1988 in similar

UNCLASSIFIED



Handwritten notes: "EPRU Backup" and a red "D" in a circle.

FROM: CHIEF SECRETARY  
DATE: 16 March 1990

PRIME MINISTER

CROSS-OWNERSHIP RESTRICTIONS ON SATELLITE TV SERVICES  
NOT USING UK FREQUENCIES

Unfortunately I will be unable to attend your meeting on 20 March due to the Budget.

2 Restrictions on cross-ownership can only be justified where they help promote choice for viewers. It is therefore right that Sky TV - which dominates English broadcasting from the ASTRA satellite - and BSB should not be allowed to bid for Channel 3 or 5 franchises. But W H Smith do not dominate broadcasts from any satellite and there is no good reason why they should not be allowed to bid for a terrestrial TV franchise - indeed they are ideally placed to do so.

3 I hope you will conclude that it would be right to relax the rules so a company owning just one or two satellite channels is allowed to bid for ITC licences - as proposed by John Major on 25 January.

4 I am copying this letter to members of MISC 128 and to Sir Robin Butler.

A handwritten signature in blue ink, appearing to be "N. Lamont".

NORMAN LAMONT



PRIME MINISTER

CROSS OWNERSHIP RESTRICTIONS IN THE MEDIA

You saw some of the enclosed papers earlier in the week, and decided to have a small meeting with the Home Secretary, Mr. Ridley, a Treasury Minister and the Chief Whip. We have now set this up for Tuesday morning following the Budget Cabinet.

There are two specific issues to cover:

- (i) The restrictions on satellite television services not using UK frequencies, on which the latest position is set out in the Home Secretary's letter at Flag A. A new brief from the Cabinet Office (Flag B) covers the key points.
- (ii) the point raised with you by the Newspaper Society about the restrictions on newspapers owning radio and television stations in conurbations (Flag C). I have alerted those attending to the fact that you may wish to raise this.

You may, however, also want to use the meeting to take stock of where things are on the Broadcasting Bill, and to check that there are no other outstanding issues which require collective discussion.

*face*

PG

16 March 1990

jd c:cross

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file



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

16 March 1990

*Dear Sara,*

**BROADCASTING CROSS OWNERSHIP RESTRICTIONS**

The Prime Minister will now be holding a meeting next Tuesday morning to discuss the issue of cross ownership restrictions on satellite television services not using UK frequencies, in the light of the Home Secretary's letter to the Secretary of State for Trade and Industry of 8 March.

The Home Secretary and other Ministers attending the meeting should also be aware that the Prime Minister may wish to discuss another issue that was raised with her at her recent lunch with the Newspaper Society. Those present recognised that changes had been made such that, although newspapers could own only 20 per cent of a broadcasting station in their circulation area, they could own up to six radio or television stations outside that area. Concern was, however, expressed about the application of the 20 per cent restrictions within the circulation area in relation to conurbations where, it was suggested, far from there being no newspaper monopoly, there is considerable competition. In these circumstances, the argument was that newspapers should have the right to own a broadcasting station within their circulation area.

I am sending copies of this letter to Martin Stanley (Department of Trade and Industry), Carys Evans (Chief Secretary's Office, HM Treasury), Murdo Maclean (Chief Whip's Office), and Sonia Phippard (Cabinet Office).

*Yours  
Paul*

PAUL GRAY

Ms. Sara Dent,  
Home Office.

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BROADCASTING: Policy



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

15 March 1990

**CORRESPONDENCE ON CHANNEL 5**

Thank you for your letter of 6 March which the Prime Minister has now seen. She is content for Home Office Ministers to respond to the letters from businessmen along the lines you indicated.

I am copying this letter to Ben Slocock (Department of Trade and Industry),

(PAUL GRAY)

Ms. Sara Dent,  
Home Office.

PRIME MINISTER

CHANNEL 5

You have received quite an avalanche of letters from companies actively involved in television advertising who are lobbying against a predicted delay in the initial transmission of Channel 5. These seem to have been co-ordinated by the advertising industry. I have asked Home Office Ministers to reply to all these letters on your behalf. But before doing so I also asked the Home Secretary's office to let me have a note on the line they intended to take.

The attached Home Office letter meets that remit. Brian Griffiths has seen it and supports their line. The key point is to ensure that Channel 5 is launched on the basis of a competitive rather than a monopoly transmission system. And, as the last paragraph of the letter indicates, there is no need to assume this will delay the start of Channel 5 transmission by as much as the protagonists are suggesting.

Content for Home Office Ministers to take the line indicated in the attached letter?

*Rec.*

(PAUL GRAY)

14 March 1990

a:\economic\channel (srw)

*Yes*  
*mt*



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

13 March 1990

**CROSS OWNERSHIP RESTRICTIONS ON  
SATELLITE TV SERVICES NOT USING UK FREQUENCIES**

Further to my telephone call, I am writing to confirm that a meeting on the above subject will be held here at No.10 on Tuesday 20 March at 1130 (or as soon as the Budget Cabinet meeting is over).

I am copying this letter to the Diary Secretaries to the Secretary of State for Trade and Industry, the Chief Secretary, the Chief Whip and to Philip Mawer (Cabinet Office).

(MRS. AMANDA PONSONBY)

Miss Helen Murray,  
Home Office.

CONFIDENTIAL



file MRM

(C:1 Economic TV)

10 DOWNING STREET  
LONDON SW1A 2AA

bcs P.U.

From the Private Secretary

12 March 1990

CROSS OWNERSHIP RESTRICTIONS ON  
SATELLITE TV SERVICES NOT USING UK FREQUENCIES

The Prime Minister has seen the Home Secretary's letter of 8 March to the Secretary of State for Trade and Industry. She wishes to hold a small meeting on this issue; this office will be in touch to fix a time, probably next week.

I am copying this letter to Martin Stanley (Department of Trade and Industry), Carys Evans (Chief Secretary's Office), Murdo Maclean (Chief Whip's Office) and Sonia Phippard (Cabinet Office).

✓HS  
✓DTI  
✓CS  
✓CW

PAUL GRAY

Ms. Sara Dent,  
Home Office

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*MB*  
*RRG*  
*143*

Treasury Chambers, Parliament Street SW1P 3AG

The Rt Hon David Waddington QC MP  
 Home Secretary  
 Home Office  
 50 Queen Anne's Gate  
 London  
 SW1H 9AT

*9<sup>th</sup>* March 1990

*Dear David*

**BROADCASTING BILL**

Thank you for your letter of 5 March. I have since seen the record of your discussion with the Prime Minister on 6 March and David Mellor's statement for use in Committee yesterday.

2. I was somewhat reassured to see that in your view there is "no question of extending the discretion which the Bill already gives the ITC" and also that the changes would have little substantive effect on the new regime. I hope that you can also assure us that any new powers in the Bill will be drafted in a way which will make it absolutely clear to licence bidders that:

(i) the normal basis of allocation will be a monetary bid once the common quality hurdle has been surmounted; and

(ii) that the ITC's use of the "exceptional circumstances" provision on quality grounds will remain exceptional.

3. The first of these points seems to me to rule out the extension of the high quality test to each programme type. I was pleased to see that you are already reconsidering. It would radically change the nature of the auction process and subsequent ITC monitoring. On the second point, I support the point you made to the Prime Minister about the need to ensure that the onus is clearly on the ITC to justify their use of the exceptional circumstance provision.

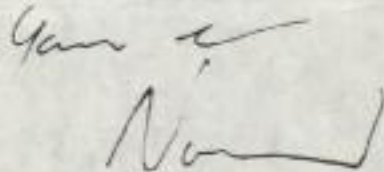
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4. I believe both these points are important if we are to avoid confusion about the rules of the game among those who might bid for licences. There are already signs that the changes we are contemplating are being interpreted as retreat from our attempt - for which in the short-term Channel 3 is the flagship - to create a more open and competitive industry. My impression is that this concern is being reinforced by the appointments which have so far been made to the ITC. They are all seen as "old guard" appointees whose experience of broadcasting is rooted in the current discretionary regime. I hope that the remaining appointments you have in mind will signal strongly our commitment to a more competitive framework within which the ITC will exercise its light touch regulatory powers.

5. I am copying this letter to the Prime Minister, other members of MISC 128, Kenneth Baker, Malcolm Rifkind, Peter Brooke and Sir Robin Butler.



NORMAN LAMONT

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PRIME MINISTER

CROSS OWNERSHIP RESTRICTIONS IN THE MEDIA

There have been intermittent exchanges over the last six months, in the context of the Broadcasting Bill, about the cross-ownership restrictions between different parts of the media.

All this started with the concerns expressed about the promotion of Sky TV by newspapers in the Murdoch group. Because Sky is a non-DBS channel, it is not caught by cross-ownership rules; whereas BSB, which is a DBS channel, would be subject to a 20 per cent limit on newspaper shareholdings.

At one stage, Nicholas Ridley wanted to ease this position by liberalising the position on DBS channels. But it was decided this would not be appropriate. In the Standing Committee on the Broadcasting Bill, there were contrary pressures to try to limit newspaper interests in non-DBS satellite services like Sky. But David Mellor has been able to resist this. So, hopefully, the Sky issue has now been laid to rest.

The focus of the more recent Ministerial exchanges has shifted to another aspect, namely the 20 per cent limit on non-DBS satellite interests in Channel 3, Channel 5, National Commercial Radio and DBS. W.H. Smith are caught by this rule because they are both an Astra satellite promoter and hold 21 per cent of Yorkshire TV. Both Nicholas Ridley and Brian Griffiths have supported W.H. Smith's case for a relaxation of this cross-ownership rule.

When Nicholas Ridley last wrote round on this point, you indicated you would like to take an early meeting with those most concerned, to consider an assessment of the best way forward in the light of discussions in Committee.

The Home Secretary's letter at flag A responds to that remit. He would still prefer to do nothing about the W.H. Smith point, but it would seem he may be open to persuasion to make a modest amendment along the lines suggested earlier by Nicholas Ridley and the Chancellor. The Home Secretary says he is very happy to discuss all this.

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Meantime, another aspect of the complex set of cross-ownership rules cropped up at your lunch with the Newspaper Society on Wednesday. You agreed (see Bernard's note at flag B) to look at a detailed point they had raised about cross-ownership rules between newspapers and local radio stations in conurbations. You will want to consider how best to carry that point forward. One possibility would be to raise it in a wider meeting on cross-ownership restrictions, if you still want to have one.

If you do want to have a meeting, either about the W.H. Smith point or the conurbations point, you will need to consider who to invite; I would suggest the Home Secretary, Nicholas Ridley, a Treasury Minister and the Chief Whip.

- (i) do you want me to set up a small meeting with this cast list to take stock of all the cross-ownership issues and in particular to cover the W.H. Smith and conurbation points?

*Yes mt.*

OR

- (ii) prefer me to minute out saying you support the Major/Ridley compromise on W.H. Smith and to ask the Home Secretary to look at the conurbation issue?

*pe 16.*

PAUL GRAY

9 March 1990

C:\wpdocs\economic\broadcasting

DUPLICATION: May 11

NOTE FOR THE RECORD

The Prime Minister had lunch with the senior management of the provincial press on Wednesday, March 7, 1990, under the umbrella of the Newspaper Society (NS). Her host was Fred Johnston, president of the NS and chairman and chief executive of Johnston Press.

The list of those attending is attached.

The first and main topic under discussion concerned cross media ownership in connection with the provisions of the Broadcasting Bill.

Mr Dugal Nisbet-Smith, Director of the NS, explained that under the existing discretionary system, administered by the IBA, newspapers are allowed to take only 20% of the equity of a local radio station. No newspaper has a larger holding.

For some time they had been seeking to persuade the Home Office that this was inequitable because, while newspapers were prevented from becoming broadcasters, broadcasters could become newspaper publishers without restriction.

The Broadcasting Bill had dealt with this iniquity. Newspapers could now own only 20% of a broadcasting station in their circulation area but could own up to six radio or television stations outside.

The NS was however concerned about the application of this restriction in conurbations where, far from there being no newspaper monopoly, there is considerable competition. In these circumstances the NS was seeking the right of a newspaper to own a broadcasting - ie either radio or television - station.

(NB - Mr Nisbet-Smith later explained to me that regional newspapers were particularly interested in entering the local television market).

The Prime Minister reiterated the Government's philosophy - namely, that unless there were some regulations cartels would be formed. But she said that she would have a look at their point about broadcasting ownership in conurbations where there is substantial media competition.

Other issues discussed were:

- EC - control over advertising content;
- social charter
- VAT

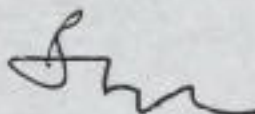
This part of the discussion gave the Prime Minister an opportunity to brief the NS in familiar terms on her approach to the EC - free, open, non-bureaucratic organisation of co-operating States - and the cultural differences between ourselves and most of the other members of the EC. On VAT she said that there would be a "real fight" in the EC to retain zero rating. The NS urged the Prime Minister to add newspapers to the list of pledged commitments - eg children's shoes - to zero rating. She did not respond.

- Self regulation versus legislation of the media. At this point Mr James Evans, past chairman of the Press Association, gave an interesting and frank account of the efforts to make the Press Council more effective. He said that this depended entirely on the will of the industry and he left no doubt that it was the will of the regional and local press to make it work. Their objective was to secure an effective Press Council without statutory backing but he said bluntly that unless the industry showed it had turned over a new leaf many believed that there would be legislation.

The Prime Minister stated her position quite clearly: she wanted effective self regulation and had no appetite for legislation, even assuming it would work; she seriously doubted whether it would work in connection with right of reply.

- Government advertising - The NS raised their familiar complaint that they get too little (4% they said) of Government advertising. The Prime Minister showed some interest in this and expressed the belief that the provincial press should be the vehicle for such advertising as on community charge rebates etc.

(NB - On the return journey I promised the Prime Minister to write to the COI to get a definitive answer on this)



BERNARD INGHAM  
March 8, 1990

LIST OF THOSE ATTENDING LUNCH

**Fred Johnston:** President of the Newspaper Society and Chairman and Chief Executive of Johnston Press plc

**John Aldridge:** Junior Vice-President of the Newspaper Society and Managing Director of the Leicester Mercury; this man is the Northcliffe Group representative

**Donald Anderson:** Chief Executive of Reed Regional Newspapers; he is about to become Chairman of Reed Regional Newspapers and was formerly with United Newspapers.

**Christopher Dicks:** Managing Director of Joseph Woodhead and Sons Ltd; Woodheads are the publishers of the Huddersfield Examiner and Associated Newspapers and are one of the very few independent groups left in England.

**James Evans:** Past Chairman of the Press Association and Director of Thomson Regional Newspapers

**Martin Lusby:** One of three Chief Executives of East Midlands Allied Press (EMAP) plc; his responsibilities are mainly concerned with publications on the South Coast.

**Jim Plugh:** Chief Executive of Ingersoll Publications Ltd; this organisation owns the Birmingham Post and Mail; Ingersoll are from North America.

**Roger Ridley-Thomas:** Managing Director of Thomson Regional Newspapers Ltd.

**David Sneddon:** Managing Director of Trinity International Holdings plc; this group owns the Liverpool Post and Echo and has substantial interests in North America.

**Hew Stevenson:** Chief Executive of Westminster Press Ltd.

**Sir Richard Storey bt:** Chairman of Portsmouth and Sunderland Newspapers.

**Ray Tindle:** Chairman of Tindle Newspapers Ltd; as you are aware, he is a substantial contributor to Conservative party funds.



Robert Winfrey: Deputy Chairman of EMAP plc

Dugal Nisbet-Smith: Director of The Newspaper Society

Norman Walker: Deputy Director of the Newspaper Society

David Newell: Head of the Society's Government and Legal Dept

Michael Unger: Editor of the Manchester Evening News

BROADCASTING: Policy pt II



cc [unclear]  
[unclear]

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

- 8 MAR 1990

Dear Mr Stanley,

NBM  
R266  
8/3

**BROADCASTING BILL**

I attach a copy of a statement which Mr Mellor will be making at the opening of the Standing Committee sitting this afternoon about the changes to the Bill which were agreed at the meeting between the Home Secretary and the Prime Minister on 6 March. In the normal way Mr Mellor would have preferred to have been able to give colleagues more notice of an impending announcement of this kind. But it was clear at this morning's proceedings on the Broadcasting Bill that there were likely to be pre-emptive and possibly unhelpful press stories about the changes. No 10 have therefore agreed that these decisions should be announced without delay.

I am copying this letter to the Private Secretaries to members of Misc 128, Robert Canniff (Office of the Chancellor of the Duchy of Lancaster), Jim Gallagher (Scottish Office), Stephen Pope (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

Yours sincerely

JANE HARRISON  
Private Secretary

Martin Stanley Esq  
PS to Secretary of State  
for Trade and Industry

BROADCASTING BILL : STANDING COMMITTEE F

Statement by Mr Mellor

Quality

As the Committee will be aware I have undertaken to consider a number of issues which have arisen during our scrutiny of the Bill, and, where I judge this appropriate, to bring forward amendments at Report Stage. Among the matters of this kind to which I know the Committee attaches particular importance are the various proposals that have been made for strengthening the safeguards for quality in relation to the allocation of Channel 3 licences. I thought therefore that it would be for the convenience of the Committee if I were to indicate now the view my colleagues and I have reached on these matters.

First we have decided that it would be right to specify that Channel 3 licensees must include a suitable amount of childrens programmes and religious programmes in their schedules. Our debates showed that there was support on all sides for providing guarantees for the continuance of these programme types. I hope in particular that the proposal in relation to religion, coupled with the discretion which I have already announced for the ITC to allow religious ownership of channels like the Vision Channel not using UK broadcasting frequencies, will be seen as representing a genuine desire on the part of the Government to respond to the concerns expressed about the future of religious broadcasting.

Secondly we have decided that it would be right to strengthen the regional requirements in the Bill by requiring the regional news which Channel 3 licensees will be required to broadcast to be of high quality, in line with the parallel high quality requirements for national and international news.

Thirdly we will bring forward an amendment to clause 17(3) of the Bill to make clear that the reference to "exceptional

circumstances" in which the ITC could award a Channel 3 licence to someone other than the highest bidder included the circumstance where the quality of programming offered by one applicant was exceptionally higher than that of the applicant offering the highest cash bid. As I have explained to the Committee I am in no doubt that the existing wording would allow the provision to be used in this way; but we accept that there would be advantage in making this clear on the face of the Bill.

Taken together these amendments will, I am convinced, give reassurance to all those who have expressed any concern at all about the quality requirements in the Bill. Once again they serve to demonstrate the willingness of my rt hon Friend the Home Secretary and myself to listen to reasoned argument and to respond to the debate with sensibly judged proposals.

I hope the Committee will understand if I do not today indicate the outcome of my consideration of the many other matters which I have undertaken to look at. The issues I have mentioned seemed to me to be those which the Committee would most wish to know about. I have certainly not forgotten about the wide range of other matters of concern to individual members, and I repeat the undertakings I have already given to come back with a considered view on these at Report Stage.

DSQUAL.SB





M

# Home Office

## NEWS RELEASE

50 Queen Anne's Gate London SW1H 9AT  
(Night line 01-273 4595)

8 March 1990

Contact Number: 01-273 4620

### MELLOR CONFIRMS QUALITY CHANGES TO BE INCLUDED IN BROADCASTING BILL

Home Office Minister of State David Mellor QC MP today made the following statement in the Committee stage of the Broadcasting Bill:

"As the Committee will be aware I have undertaken to consider a number of issues which have arisen during our scrutiny of the Bill, and, where I judge this appropriate, to bring forward amendments at Report Stage. Among the matters of this kind to which I know the Committee attaches particular importance are the various proposals that have been made for strengthening the safeguards for quality in relation to the allocation of Channel 3 licences. I thought therefore that it would be for the convenience of the Committee if I were to indicate now the view my colleagues and I have reached on these matters.

"First we have decided that it would be right to specify that Channel 3 licensees must include a suitable amount of childrens programmes and religious programmes in their schedules. Our debates showed that there was support on all sides for providing guarantees for the continuance of these programme types. I hope in particular that the proposal in relation to religion, coupled with the discretion which I have already announced for the Independent Television Commission to allow religious ownership of channels like the Vision Channel not using UK broadcasting frequencies, will be seen as representing a genuine desire on the part of the Government to respond to the concerns expressed about the future of religious broadcasting.

"Secondly we have decided that it would be right to strengthen the regional requirements in the Bill by requiring the regional news which Channel 3 licensees will be required to broadcast to be of high quality, in line with the parallel high quality requirements for national and international news.

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"Taken together these amendments will, I am convinced, give reassurance to all those who have expressed any concern at all about the quality requirements in the Bill. Once again they serve to demonstrate the willingness of my rt hon Friend the Home Secretary and myself to listen to reasoned argument and to respond to the debate with sensibly judged proposals.

"I hope the Committee will understand if I do not today indicate the outcome of my consideration of the many other matters which I have undertaken to look at. The issues I have mentioned seemed to me to be those which the Committee would most wish to know about. I have certainly not forgotten about the wide range of other matters of concern to individual members, and I repeat the undertakings I have already given to come back with a considered view on these at Report Stage."



CONFIDENTIAL

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CC Pbt



QUEEN ANNE'S GATE LONDON SW1H 9AT

8 March 1990

*Nich*

CROSS-OWNERSHIP RESTRICTIONS ON SATELLITE  
TV SERVICES NOT USING UK FREQUENCIES

Thank you for your further letter of 7 February on this topic. I have also seen John Major's letter of 25 January, and the letter of 12 February from Mr Gray at No 10.

Discussion in the Standing Committee has in general confirmed my judgment that much of the political pressure - including from our own supporters - would be for us to add to rather than subtract from the ownership rules proposed in Douglas Hurd's announcement of 19 May 1989. Much of the discussion of Schedule 2 was taken up by a bid to limit newspaper interests in satellite services such as Sky. David Mellor successfully resisted this, and also an Opposition proposal to tighten all the 20% limits on cross-holdings in Schedule 2 to 10%.

On the point raised in your letters, Simon Coombs moved an amendment sponsored by WH Smith TV to remove altogether the 20% limit on non-DBS satellite interests in Channel 3, Channel 5, national commercial radio and DBS. This was opposed as going too far by John Greenway, and received no support from other members of the Committee on either side. David Mellor made the point, in replying, that paragraph 43 of the Home Affairs Committee's report of June 1988 had argued that it was "imperative" that the ITC should be able to take account of satellite ownership in relation to the ownership of UK-based channels. We are, indeed, committed by paragraph 6.53 of the White Paper to meeting this recommendation. David did, however, undertake to consider without commitment whether there was any scope for fine-tuning. On this basis the amendment was withdrawn.

The one player which has opposed the 20% rule in paragraph 5(2) of Part III of Schedule 2 is WH Smith TV. For the reasons given in my letter of 25 January I do not find their case for some relaxation overwhelmingly strong. As you acknowledge, any European competitor who also controlled satellite channels intended for reception in the UK would similarly be caught by the proposed 20% limit. I do take the point that in some cases potential European competitors may not at present face comparable restrictions through domestic

The Rt Hon Nicholas Ridley, MP,  
Secretary of State for Trade & Industry  
1-19 Victoria Street



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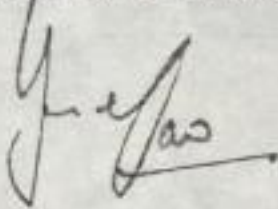
legislation in their home markets. But I note that countries such as Italy are seeking to tighten up their own cross-media ownership rules. And I do not think it follows that it would be either desirable or politically sustainable if the Bill provided no means of preventing one person from owning, for instance, both Channel 5 and all the channels on Astra. Simon Coombs' amendment would have had this effect.

Of the various options for more limited relaxation of the rule which have been canvassed, the one with which I would have the least difficulty in principle is that proposed by John Major and by you in the first paragraph of page 2 of your letter of 7 February. On this basis a person might be free to own, for instance, both the Channel 5 franchise, or two Channel 3 franchises (if not contiguous or both large) and up to, say, two non-DBS satellite services. Ownership of more than two such satellite services would have the effect of applying the 20% limit currently in the Bill to any interests in Channel 3, Channel 5, national radio or DBS. Both the limit of two satellite services and the 20% limit would be capable of variation in subordinate legislation. We could in particular consider raising the limit of two satellite channels as the market expanded. All of this would be without prejudice to general competition legislation.

An amendment along these lines would, I acknowledge, go a long way towards meeting WH Smith's case. But we have to weigh this against the Parliamentary handling aspects. The present provision in paragraph 5(2) can hardly be said to be devastating to WH Smith's interests: it would simply require them to reduce their stake in a Channel 3 franchise from 21% (their present stake in Yorkshire) to 20%. Against this, a number of Conservative members of the Committee who did not speak have indicated that they think the 20% rule is right as it stands. Paragraph 5(2) has been widely welcomed as the Government's response to the Home Affairs Committee's recommendation. Any change would inevitably be seized on by the Opposition as dilution of the Government's proposals on cross-media ownership. It could also provoke disquiet among our own supporters, including those who served on the Home Affairs Committee's inquiry into the future of broadcasting. Any such change would also run into trouble in the Lords.

These handling considerations weigh with me more strongly than the point of policy at issue, on which I have no strong views. My preference, therefore, would be to maintain the proposed 20% limit undiluted: David Mellor could then see Simon Coombs to explain our position. I should be very ready to discuss these matters further at a meeting, as suggested by the Prime Minister.

I am copying this letter to the recipients of yours.




dti

the department for Enterprise

cc: PA

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

The Rt Hon David Waddington QC MP  
Secretary of State for the Home  
Department  
Queen Anne's Gate  
London  
SW1H 9AT

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

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Direct line 215 5622  
Our ref NP1APS  
Your ref  
Date 8 March 1990

NRBPM

RACG  
8/1

Dear David

BROADCASTING BILL: TELETEXT

flp

Thank you for your letter of 7 March about additional services.

As you know, our proposals in this area were designed to create a market in the spare capacity on broadcast signals which is a valuable and scarce commodity. Any limitation on the use to which the capacity can be put will naturally restrict the market. Nonetheless, I can understand your wish to reassure those concerned that they will lose access to a competitor to CEEFAX and, indeed, there may be advantage in ensuring that there is such a competitor. I am thus content to endorse your proposal, in particular that the size of the teletext allocation should be subject to the Secretary of State's approval. I would hope, however, that, at the time, you make it clear to the ITC that you would expect them to make a realistic estimate of the amount of spare capacity needed for a viable teletext service. In particular, I do not think we should accept an allocation higher than the 50% which the IBA put forward as a compromise.

I am also content with your proposal to widen the grounds on which the ITC can decline to renew additional service licences to allow them to allocate some spare capacity to the TV licensees for the purpose of enhancing the quality of their signals. It is impossible to predict what technological developments there will be in broadcasting over the next twelve years but this small extra degree of flexibility could be useful in enabling advanced transmission techniques to be adopted.



Recycled Paper

**dti**

the department for Enterprise

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

*Johnson*

*Answer*



BROADCASTING: Policy PT 8.



Note

Discussed in his letter,  
also approach to Home Office  
approach. FCCC 14/3

PROFESSOR GRIFFITHS

CHANNEL FIVE

We have had a large number of letters, clearly co-ordinated by someone or other, complaining about an alleged delay in the launch of Channel 5 following decisions made on transmission. I attach the latest example from Rowntree Mackintosh (most letters have been rather longer than this but with the same essential points).

I have sent all these letters to the Home Office for their Ministers to deal with, but asked them first to let us have an note on the policy point at issue, so that I could check that the Prime Minister was content with the line being taken. This has now arrived in the form of Sara Dent's letter of 6 March attached. Could you cast your eye over it and let me know, within the next day or so please, whether you see any reason for the Prime Minister to object to this approach?

*Paul*

PAUL GRAY

7 March 1990

c:/economic/channel (kk)

Oio

CC/PU



Note

Discussed in Brian  
Gifford's alleged NBSA  
when DTI object.

QUEEN ANNE'S GATE LONDON SW1H 9AT

7 March 1990

Nick,

ARC6  
2/1

BROADCASTING BILL: TELETEXT

Following the debate in Committee on 20 February on the additional services clauses of the Bill, I am writing to suggest two modifications to our proposals on additional services.

Under the Broadcasting Act 1981, the only permitted use of spare capacity on television signals is teletext. The Bill liberalises the present law by providing that the operators who acquired, by competitive tender, the right to use spare capacity on broadcasting signals would be free (subject to prevailing telecommunications policy) to use them to provide any telecommunications service they chose. Although it would be open to them to provide a public teletext service, they would be under no obligation to do so. As ORACLE (the IBA teletext service) is now profitable, there must be a good chance that at least some spare capacity would continue to be used for teletext. But there is no guarantee that this would be the case. Indeed, if it was concluded after the review of the duopoly policy that this spare capacity could be used for closed-user group data services, this might turn out to be a more profitable application than teletext. With this possibility in mind, our proposals sought to protect the interests of those who have bought teletext sets by ensuring that the BBC continues to have sufficient capacity to provide its CEEFAX service.

It is clear from the Committee debate that there is anxiety about these proposals, including among our own supporters. It was argued strongly that viewers should not run the risk of losing access to one of the two current teletext services, especially given the scale of investment in teletext sets (there are now about six million teletext sets; and teletext capacity adds about £50 to the cost of a set). The amendments debated in Committee envisaged in effect that all the spare capacity on the Channel 3 and 4 signals would be earmarked for teletext. The IBA have put forward a compromise (under which it would be split 50:50 between teletext and other uses), which was favoured by our supporters on the Committee.

I am clear that we need to make some movement on this question. I am not attracted by the proposition that all the spare capacity on the Channel 3 and 4 signals should necessarily be allocated to teletext. Equally, I think that it would be a mistake to go firm at this stage on the proportions in which the spare capacity should be allocated. We need to consider further

The Rt Hon Nicholas Ridley, MP.  
Secretary of State for Trade & Industry  
1-19 Victoria Street  
LONDON, S.W.1.

/over....

the amount of capacity which a public teletext service would require in order to be viable. I therefore propose that the ITC should be required to advertise a teletext service using part of the spare capacity on the Channel 3 and Channel 4 signals, with the exact amount to be subject to the approval of the Secretary of State.

There was also some discussion in Committee of the use of spare capacity for enhancing the quality of terrestrial PAL signals. Under the Bill it would be open to Channel 3, 4 and 5 licensees to bid for spare capacity for this purpose, but it would not be allocated to them automatically. David Mellor opposed the various propositions put forward that capacity should be allocated to these licensees for this purpose, either from the beginning of their licence period or at a later stage. However, we do see advantage in enabling the ITC, at the stage when it comes to consider whether or not to renew additional services licences, to determine that some of the spare capacity should be allocated to its television licensees for the purpose of enhancing the quality of their signals. This would require a slight widening of the grounds on which the ITC can decline to renew licences.

I hope you can agree to these proposals. As we would like to be able to table suitable amendments for Report Stage, I should be grateful for a response by 8 March.

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

*John Gifford*





R713 ECAT



HOME OFFICE  
 QUEEN ANNE'S GATE  
 LONDON SW1H 9AT

6 March 1990

Dear Paul

NOT NECESSARY

CORRESPONDENCE ON CHANNEL 5

Thank you for your letters of 23 February, 26 February and 4 March, enclosing a number of letters from businessmen about the start date of Channel 5. You asked for a short note on the policy point at issue, before Home Office Ministers replied to these letters.

The White Paper envisaged that Channel 5 would come on stream from the beginning of 1993. The Broadcasting Bill is framed in such a way as to enable this to happen; and DTI plan to have secured international agreement for the use of the frequencies by then. However, the installation of a transmission system is clearly a pre-condition for the launch of the service. The IBA expect that the Channel 5 licence will be awarded by around March 1992. They estimate that, if preparations on the installation of a transmission system are not made in advance of that date, Channel 5 will not come on air until late 1993, and will not reach its full 70% coverage until the end of 1994 or early 1995.

They therefore proposed that they should be authorised to start advance preparations now, by installing aerials at five main transmitting stations. The cost of these aerials would, they estimate, be about £1.3 million (out of a total system cost of £17.5-£20 million). This cost would be met out of public funds initially, but would subsequently be reimbursed by the Channel 5 licensee. The IBA projected that this might enable Channel 5 to come on air in early 1993 and reach full coverage by early 1994.

Ministers considered this proposition carefully, but rejected it for two reasons:

- (a) it would give the IBA's privatised successor an inside track in the competition to provide transmission facilities for Channel 5. Although Channel 5 will, for frequency planning reasons, need to be transmitted from existing IBA (and BBC) sites, it does not follow that only the IBA's successor would be able to provide a full transmission service. Other new entrants could do so by using IBA and BBC sites (to which, under the regulatory arrangements we are making, the IBA and the BBC would be obliged to give them access). But if the Government were to authorise an advance

investment by the IBA in aeriels this would give the privatised company a clear advantage over any competitors. In practice, the scope for competition would have been closed off. As Channel 5 is the only major area where there is scope for competition in television transmission, except in the longer term (when the BBC's system is privatised), this would seriously dent the overall transmission policy;

- (b) as the transmission system will crucially affect the Channel 5 licensee's business he should have freedom to determine its nature. But under the IBA's proposal he would inherit from them certain major investment decisions. For instance, it would lock him into five transmission sites, for four of which alternatives would be available.

Ministers thought that these objections outweighed any short-term benefits of bringing forward the likely launch of Channel 5. In reaching that view they took account of the wide range of other new services which will be operating by 1993 (Sky, BSB, other satellite channels, and some cable-only channels); and of the fact that, whatever arrangements were made for transmission, there could be no guarantee that Channel 5 would be ready to launch by early 1993.

Finally, Ministers do not accept that the launch date will necessarily be as delayed as the IBA suggest. As the Prime Minister will recall, the aim is to privatise the IBA's transmission system by mid-1991. Channel 5 will be one of the main potential growth areas for the new company; and the purchasers may well decide to maximise their chances of winning the contract by making advance preparations on the installation of aeriels. This could bring forward the launch date by around six months.

I am copying this letter to Ben Slocock (DTI).

*Yours sincerely*  
*S J Dent*

MS S J DENT

Paul Gray, Esq.,  
No 10 Downing Street  
LONDON, S.W.1.





R71-

## Rowntree Mackintosh Confectionery

The Rt Hon Margaret Thatcher MP  
10 Downing Street  
London  
SW1

6 March 1990

Dear Prime Minister

We have noted that the launch of Channel 5 is likely to be delayed by a minimum of two years as a decision on transmitter location has to be left to the Franchisees.

We see Channel 5 as an important element in the de-regulation of commercial television and the fostering of competition. My company is a heavy user of television advertising and is keen to see the new channel on stream as soon as possible.

Could you possibly please ask the Cabinet Committee dealing with this matter to reconsider their position and authorise the building of some transmitters early.

With thanks.

Yours sincerely

G MILLAR  
Managing Director

GM/dpc



*Handwritten initials and scribbles*



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

6 March 1990

*Dear Paul*

*NOT NECESSARY*

CORRESPONDENCE ON CHANNEL 5

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investment by the IBA in aerials this would give the privatised company a clear advantage over any competitors. In practice, the scope for competition would have been closed off. As Channel 5 is the only major area where there is scope for competition in television transmission, except in the longer term (when the BBC's system is privatised), this would seriously dent the overall transmission policy;

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I am copying this letter to Ben Slocock (DTI).

Yours sincerely  
S J Dent

MS S J DENT

Paul Gray, Esq.,  
No 10 Downing Street  
LONDON, S.W.1.

CONFIDENTIAL

SUBJECT CL MASTER



slu

87

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

6 March 1990

Dear Colin,

**BROADCASTING BILL**

The Prime Minister and the Home Secretary had a discussion this evening about the proposals set out in the Home Secretary's minute of 22 February. Professor Brian Griffiths was also present. The Prime Minister and Home Secretary also had before them the Chief Secretary's minute of 2 March, the Secretary of State for Trade and Industry's letter of 5 March and the Home Secretary's letter to the Chief Secretary of 5 March.

The Prime Minister said that she shared the concerns about the Home Secretary's proposals which had been set out by the Chief Secretary and the Secretary of State for Trade and Industry. She saw no great difficulty with the proposal that Channel 3 licensees must include a suitable amount of children's programmes and religious programmes in their schedules. But the Home Secretary's other proposals further to tighten the quality requirements presented greater difficulties. The judgment of quality was inevitably subjective and the danger was that, with the further concessions envisaged, the ITC would become a body little different from the IBA. The difficulties would particularly be marked if the ITC was asked to make an assessment of "high quality" in each of the main programme types; the original idea of a quality threshold had been envisaged as an across the board test relating to concepts such as diversity of provision, not a procedure requiring precise judgment about the quality of, say, game shows.

The Home Secretary said that the key problem which had to be faced was the Parliamentary difficulties in securing passage of the Bill. He took the view that, while the changes proposed would overcome that problem, they would have little substantive effect on the new regime given that this would be operating within a much more competitive framework than in the past. It was important to bear in mind that assessment of "quality" was already inherent in the Bill as presently drafted. The worries expressed by the Prime Minister and other colleagues about possible use by the ITC of "exceptional quality difference" were met by the fact that the ITC would have to justify its use of such a power in circumstances which would be open to judicial review; although a further look might be taken to ensure that under any judicial review the onus would clearly be placed on the ITC to justify why they had overridden the highest bid. He

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continued to feel that, with one exception, it was essential to proceed with the amendments he proposed if the passage of the Bill was to be secured; he would however consider further whether it would be sensible or desirable to apply across the range of main programme types the requirement that a suitable proportion of programmes must be of high quality.

Following further discussion the Prime Minister said that, with considerable reluctance, she was prepared to accept the Home Secretary's judgment that he should proceed with the proposals in his minute of 22 February, except for the extension of the quality test across the range of main programme types which the he had agreed to reconsider.

I am copying this letter to the Private Secretaries to members of MISC 128, Robert Canniff (Office of the Chancellor of the Duchy of Lancaster), Jim Gallagher (Scottish Office), Stephen Pope (Northern Ireland Office) and Sonia Phippard (Cabinet Office).

*Yes,  
Paul*

(PAUL GRAY)

Colin Walters, Esq.,  
Home Office.





QUEEN ANNE'S GATE LONDON SW1H 9AT

5 March 1990

*Mr Norman,*

BROADCASTING BILL

Thank you for sending me a copy of your minute of 2 March to the Prime Minister, commenting on my own minute of 22 February. I have also just seen Nicholas Ridley's letter of 5 March.

I think it important to stress that the proposals I set out in my earlier minute do not in any way change the philosophy or underlying principles on which we have based our decisions. They are aimed only at what is already implicit in the Bill as drafted. Unless we are able to demonstrate a degree of flexibility on these very limited issues we shall undoubtedly face very serious problems with the Bill, particularly in the Lords.

I was glad to see that you and Nicholas are able in principle to support my proposals that the diversity requirement should be expanded to include children's and religious programmes, and that the regional news required of Channel 3 licensees should be of high quality. There is obviously a tactical question as to whether the necessary amendments should be put down now or later. My judgement is that if we delay doing so, the momentum of the campaign against our proposals will grow, to the point where the concessions we presently envisage would no longer be seen as sufficient. From discussions David Mellor and I have had with those who will be concerned with these issues in the Lords, I am confident that, with well-timed amendments at Commons Report stage, we will be able to resist demands for further concessions later in the Bill's passage.

You and Nicholas saw difficulties with my other two proposals, which were to amend the Bill so as to make clear that the "exceptional circumstances" provision could include circumstances where there was an exceptional quality difference; and to make clear that the high quality requirement should apply across the range of main programme types.

On the issue of exceptional circumstances, I must make it clear that there is no question of extending the discretion which the Bill already gives the ITC. MISC 128 recognised that there might be exceptional circumstances, of which quality was one, where the ITC ought to have a discretion to award the licence to a bidder other than the one offering the highest bid. The Bill accordingly provides for this. For the reasons set out in my earlier minute,

The Rt Hon Norman Lamont, MP.  
Chief Secretary  
Treasury Chambers  
Parliament Street, S.W.1.

/over...

however, we need, in my judgment, to be able to demonstrate that the "exceptional circumstances" provision can indeed be used, as we all along envisaged, in relation to quality, amongst other things. I therefore think it important that we should make this clear on the face of the Bill.

You suggest that to go down this road would, in effect, mean that Channel 3 franchises would be awarded on the basis of quality rather than the cash bid. I do not accept this. In a case where the exceptional circumstances provision was invoked, the highest bidder could be expected to apply for judicial review. If he could demonstrate that the difference in the quality was anything other than truly exceptional, he would have a good case for having the ITC's decision set aside. Just because quality is not defined in the Bill does not mean that the ITC would be able, unchallenged, to act on the basis that minor quality differences were in fact "exceptional" and hence within the scope of their discretion to override the highest bid. To suggest that the ITC could find exceptional quality differences in the case of most or all franchises is therefore highly implausible. Were they to do so, this in itself would be an argument that failed applicants could be expected to use in judicial review proceedings.

Nor do I think that you are right to say that the ITC could not ensure that promises to deliver quality programmes were honoured. The Bill is clear that such promises will constitute enforceable conditions of licence, and we have deliberately equipped the ITC with a wide range of sanctions, culminating in licence withdrawal, to ensure that these conditions are maintained. Unlike the IBA, the ITC will not be a broadcasting authority, and I have little doubt that they will be prepared to act decisively where necessary to enforce standards.

Nicholas made two further points on this matter. First he pointed out that the amounts of the respective cash bids should be considered alongside the difference in quality. I quite agree. The circumstances may well be exceptional precisely because a substantial quality difference exists as between two fairly similar cash bids. That would be implicit in the concept of exceptional. But I am anxious to avoid any formal requirement on the ITC to offset price against quality, because I simply do not see in practice how this would work. How much quality would outbid how much money? Were we to make any explicit statutory reference to the difference in the value of the cash bid, we would, I believe, be drawn down a road which it would be much better to avoid.

Secondly Nicholas suggested that my proposal would favour the existing ITC companies who would be led to put in minimal cash bids in the expectation that they would ultimately win on quality. This it seems to me would be an exceptionally risky strategy for any applicant to follow. It assumes that the company concerned could demonstrate a quality of service exceptionally better than that of the applicant submitting the highest bid.

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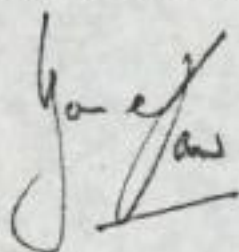
This would be extremely difficult to count upon. Moreover, our proposals for multiple bidding and dual ownership of franchises mean that incumbent ITV companies are in any case liable to find other ITV contractors bidding against them for their own franchise. In these circumstances the only safe strategy would be for companies to aim to compete both on money and quality, as we of course intend they should.

Turning now to my proposal to apply the high quality requirement across the range of main programme types, this is intended to avoid the absurd situation where a licence applicant could circumvent the requirement by purporting to confine it to an unacceptably narrow range of popular programming. That is not what we intended in introducing this provision, and I believe therefore that we must reformulate the requirement so as to meet this difficulty by saying clearly that some programmes of each main type should be of high quality.

You and Nicholas argue that it would not be possible to define programmes of high quality. I acknowledge that quality is very much a subjective matter, but we have to accept that a requirement for high quality programmes is already a feature of the Bill. It is implicit in the way the Bill has been drafted that the ITC will have to determine whether this requirement has been met. I do not, therefore, think that we can argue that it would not be possible for the ITC to determine whether an applicant had offered high quality programmes in each of the main programme types. Nor do I think that the change I propose would in practice give the ITC more discretion to rule out bidders for failing to cross the quality threshold. The object is rather to make clear to applicants exactly what is expected of them in relation to this requirement.

I shall be putting forward a separate minute shortly in relation to the point raised by Nicholas about cross-ownership restrictions between terrestrial television licensees and providers of non-domestic satellite services.

I am copying this letter to other members of MISC 128, to Kenneth Baker, Malcolm Rifkind and Peter Brooke, and to Sir Robin Butler.

A handwritten signature in dark ink, appearing to read 'James Law'. The signature is written in a cursive style with a large initial 'J' and a long horizontal stroke at the end.

BROADCASTING - Policy Pt 10





CCPU

NORTHERN IRELAND OFFICE  
WHITEHALL  
LONDON SW1A 2AZ

SECRETARY OF STATE  
FOR  
NORTHERN IRELAND

Rt Hon David Waddington QC MP  
Home Secretary  
Queen Anne's Gate  
London  
SW1

NBPM

REC G

6/3

5 March 1990

*Dear David*

**BROADCASTING BILL**

*wilks?*

Your minute of 22 February 1990 to the Prime Minister sought colleagues' agreement to a number of modifications to the Bill which you feel are necessary to secure its passage through Parliament.

Two of the amendments have a particular significance for Northern Ireland. I have always taken the view (as outlined in my letter to you dated 8 August 1989) that high quality regional news is a matter of overriding policy interest in Northern Ireland. Your suggestion to include a specific requirement to that effect is, therefore, one which I warmly welcome.

Religion occupies an important place in the lives of many people living in Northern Ireland. As you know, representations have been made directly to your Department from Northern Ireland interests about the omission of a requirement to broadcast religious programmes. In my view the proposed requirement that Channel-3 licensees should include a suitable amount of religious programmes is right and will be widely welcomed in Northern Ireland, and elsewhere in the UK.

Although the other changes proposed may not have distinctly Northern Ireland implications I believe they will provide an opportunity to strengthen support for the Bill without any loss of principle. It is important that our new regime, while preparing for the new broadcasting environment, is seen not to jeopardise unnecessarily features of the present arrangement to which importance is attached. Accordingly, these proposals also have my support.

I am copying this minute to the Prime Minister, other members of MISC 128, Kenneth Baker, Malcolm Rifkind and to Sir Robin Butler.

*J*  
*even*

*Prin*

PB

BROADCASTING: Policy  
# 10



CONFIDENTIAL

PRIME MINISTER

BROADCASTING BILL: QUALITY: BILATERAL WITH THE HOME SECRETARY

You are seeing the Home Secretary tomorrow afternoon to discuss the proposals in his minute (flag A) for various concessions on "quality" in the handling of the Broadcasting Bill.

You decided at the weekend that you would not invite Ministers from other Departments to the meeting (and as you will recall Mr. Mellor is not coming). But, as requested, notes are now available from Mr. Ridley (flag B) and the Chief Secretary (flag C). Both these interventions support your doubts about the Home Secretary's proposals.

You may also want to have to hand the earlier note from Brian Griffiths (flag D) - whose views are very close to those of the DTI - and your own notes on the Home Secretary's paper when you first saw it (flag E).

Handling

I have alerted the Home Secretary's office to your doubts about his proposals, although I have not at this stage recorded them in any detail. You may want to give him an initial chance to set out his assessment of the Parliamentary difficulties. The discussion will then need to focus on whether these Parliamentary concerns merit any weight as against the objections in principle to the sort of concessions proposed.

You will need to consider the next steps in the light of tomorrow's discussion:

- (i) If you can reach an agreement with the Home Secretary, you may want me simply to minute out the position reached and dispense with any wider meeting of colleagues on the "quality" issues (although a separate meeting probably will be needed at some point on the issue of cross-ownership restrictions to which Mr. Ridley's letter also refers).

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(ii) Alternatively, if you and the Home Secretary are unable to reach an agreement, you may want to convene a wider meeting, either:

- MISC 128; or
- an ad hoc group comprising the Home Secretary, and Messrs. Ridley and Lamont.

Other issues

If time permits you may want to take the Home Secretary's mind on the handling of various issues relating to Family Policy. The Policy Unit (flag F) have prepared a note suggesting that you should convene a Ministerial group on family policy, which would bring together a whole range of issues, and focus on the run up to the next Manifesto as well as more immediate decisions.

You will want to consider whether you judge the time is right for such an initiative. The coverage suggested by the Policy Unit would include the issue of child benefit/child tax allowances which we have already tentatively arranged that you would discuss with the Chancellor and Tony Newton after the Budget.

On the handling of the proposed Ministerial group the Policy Unit suggest that, in your absence, it should be the Home Secretary rather than the Lord President who should deputise.

*PLG.*

PAUL GRAY  
5 March 1990

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The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

The Rt Hon David Waddington QC MP  
Secretary of State for the Home Department  
Queen Anne's Gate  
London  
SW1H 9AT

Department of  
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Telex 8811074/5 DTHQ G  
Fax 01-222 2629

Direct line 215 5622  
Our ref NP1APB  
Your ref  
Date 5 March 1990

Dear Secretary of State,

**BROADCASTING BILL**

I have seen your minute of 22 February to the Prime Minister about the progress that has been made on the Broadcasting Bill and the concessions you consider necessary to ease its passage through both Houses.

I have to say that your proposals cause me some concern. I am worried in particular that their general effect will be to increase the barriers to entry for new competitors thereby reducing choice. There is a real possibility that the quality hurdle and tender elements of the allocation process will become so entwined that the system will be little different from that at present and the role of the ITC will become more and more like that of the IBA.

You have suggested that the "exceptional circumstances" provision should be clarified by having on the face of the Bill an illustration of how it might be used in respect of quality. Whilst MISC 128 acknowledged that quality could be an element in the use of the "exceptional circumstances" power it did not envisage it being spelt out. Nor did it envisage the ITC using the power purely on the basis of exceptional quality without reference to the value of the relevant tenders. Rather, it felt that there might be a case for using it when there were two similar bids, the slightly lower of which proposed significantly higher quality programming. The danger of basing any clarification merely on "exceptional quality difference" will be to encourage applicants and put in



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minimal bids. This would be particularly attractive to the existing ITV companies who would probably find it easier to convince the ITC of the quality of their applications based on their past record than would a new entrant. It is also important to ensure that any power in this area remains a wholly exceptional one and is not allowed to become the norm.

Turning to your proposal that Channel 3 licensees should be required to devote sufficient time in their schedules to programmes of high quality across the range of main programme types, I am not sure that this would involve simply a drafting amendment. My main concern is that it would significantly increase the ITC's scope to disqualify applications on the inevitably subjective judgement of what is or is not of high quality. Whilst this may just be defensible when considering an application as a whole, it could be used very arbitrarily when applied to particular classes of programming. I find it difficult to imagine how the ITC could tell whether or not the proposals for, say, sports coverage or soap operas in a particular application were of high quality.

A similar argument could, of course, apply to regional news although I accept that this is a much more restricted category of programme and that there is some logic, and presentational advantage, in putting regional news on the same basis as national and international news. I do, however, continue to believe that regional news should not be excluded from the scope of the independent production initiative. As I have previously pointed out, its exclusion would effectively reduce the scope from 25% to under 20%.

I can see the force of your arguments in respect of children's and religious broadcasting and I can imagine that any amendments would be well received. I wonder, however, whether now is the best time to introduce these or any other concessions that we agree. Is there not a case for waiting until the Lords has had the opportunity to debate the Bill and then to table our amendments? If we give way at this stage, we face the prospect of pressure for yet more concessions later.

Finally, I was disappointed to see that you did not include in your minute the question of the cross-ownership restrictions between terrestrial TV franchisees and providers of non-domestic satellite channels about which we corresponded a few weeks ago. As I said in my letter of 7 February, I hope that we can make some progress towards a degree of relaxation based on the ideas in John Major's letter of 25 January, which would allow a company to control a small number of non-domestic satellite channels without being disqualified from applying for a major terrestrial ITC licence.

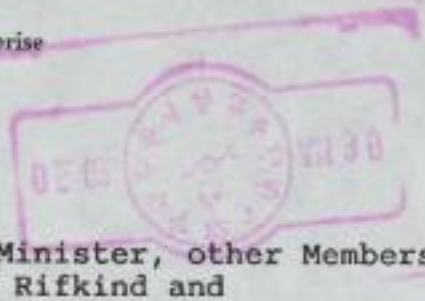


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I am copying this letter to the Prime Minister, other Members of MISC 128, to Kenneth Baker, Malcolm Rifkind and Peter Brooke and to Sir Robin Butler.

Yours sincerely  
Rosalind Ate.

(Approved by the Secretary of State and signed in his absence.)



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BROADCASTING-  
Policy Pt 10





FROM: CHIEF SECRETARY  
DATE: 2 March 1990

PRIME MINISTER

BROADCASTING BILL

David Waddington's minute to you of ~~22~~<sup>with a</sup> February suggests amendments to the quality threshold.

2. I am content with his suggestions that the diversity requirement be expanded to include children's and religious programmes; and that the regional news required of Channel 3 licensees should be of high quality. But I have serious reservations about the practicability and desirability of the other proposals.

3. It is suggested that the ITC be explicitly allowed to award a Channel 3 licence on the basis of an exceptional quality difference. I have several difficulties with this approach. If it were adopted the ITC would be free to award all the Channel 3 franchises on the basis of quality rather than cash bid - so companies would not know whether their bid would be finally judged according to the quality of programmes offered or the cash bid. Because quality has not been defined it would be impossible to constrain the ITC's use of the power to cases where the quality difference was very large. The ITC would find it impossible to ensure the winners' promises to deliver "quality" programmes were honoured. And the companies themselves would, whatever promises were given during the auction process, have to maximise profits or face being taken over.

4. There are similar problems with the suggestion that bidders be required to produce "high quality" programmes across the whole range of main programme types. The ITC would find itself with more discretion to rule out bids for failing to cross the quality

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threshold, even though most bidders will be expecting to purchase much of their output from other Channel 3 licensees - whose identity will be unknown before the auction. And, because quality cannot be objectively defined, promises to produce high quality programmes would be unenforceable.

5. For all these reasons I believe we should keep to our original policy of setting a quality threshold with consumer protection and quantified, rather than qualitative or aspirational, requirements with the winner determined by the size of the cash bid - save in exceptional circumstances. If we develop policy in the way now proposed there is a grave danger we will end up in an indefensible muddle.

6. I am copying this minute to other members of MISC 128, Kenneth Baker, Malcolm Rifkind and Peter Brooke, and to Sir Robin Butler.



NORMAN LAMONT

BS

PRIME MINISTER

BROADCASTING BILL: QUALITY

You saw last weekend my note at flag A below attaching a minute from the Home Secretary and comments from Brian Griffiths, about proposed changes to the quality requirements for ITV. You decided you wanted to talk about this to Home Office Ministers.

We now have a slot in the diary for you to see the Home Secretary next Tuesday afternoon. I had originally also invited Mr. Mellor, but the Home Secretary asked his office to tell me he would prefer to see you alone without Mr. Mellor present. As it happens, Mr. Mellor has commitments in the House next Tuesday that clash with our present diary slot.

So as things stand, you are scheduled to have a bilateral with the Home Secretary. But his original minute was copied to all members of MISC 128. And others have discovered that your Tuesday meeting is taking place. As a result, the Chancellor has asked whether the Chief Secretary could come to your meeting; the minute from the Chief Secretary at flag B indicates he would be supporting your serious reservations about the Home Secretary's proposals. And Mr. Ridley flag C has also sent a letter suggesting there should be a collective discussion, possibly extending to some other outstanding items of broadcasting business such as the cross-ownership rules.

I assume you would not want to have a full-blown meeting of MISC 128, at any rate at this stage, but would prefer to handle this in a smaller meeting. I think there is also a good deal to be said for handling the "quality" issue separately from other bits about standing business. The two main options are:

- (i) stick with the present arrangement for Tuesday of a bilateral with the Home Secretary; and then, if appropriate, bring in other colleagues at a later stage.



- ( ii) invite Mr. Ridley and the Chief Secretary to Tuesday's meeting, but not include any other MISC 128 colleagues.

Which option would you prefer?

*Recd.*

PAUL GRAY

*mark*  
2 February 1990

*I will have this meeting with Home Sec but would appreciate letter from Norman Lamont and Nick Ridley*

*mg*

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dti

the department for Enterprise

CEFO

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

Rt Hon David Waddington QC MP  
Secretary of State for the  
Home Department  
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*MAN*  
*at the*  
*store.*  
*REC*  
*5/3*

Direct line 215 5623  
Our ref PE3AJQ  
Your ref  
Date 1 March 1990

*Dear David*

*file with PH*

**BROADCASTING BILL**

I have seen your minute of 22 February to the Prime Minister about the progress that has been made on the Broadcasting Bill and the amendments that you consider necessary to ease its passage through both Houses.

I think it would be helpful for a meeting of Ministers to be arranged to discuss your proposals. The meeting could also perhaps consider other related items of business such as the cross-ownership regime between terrestrial TV licensees and the providers of non-domestic satellite services about which we corresponded some weeks ago.

I am copying this letter to the Prime Minister, to other Members of MISC 128, to Kenneth Baker, Malcolm Rifkind, Peter Brooke and to Sir Robin Butler.

*James*  
*Andrews*



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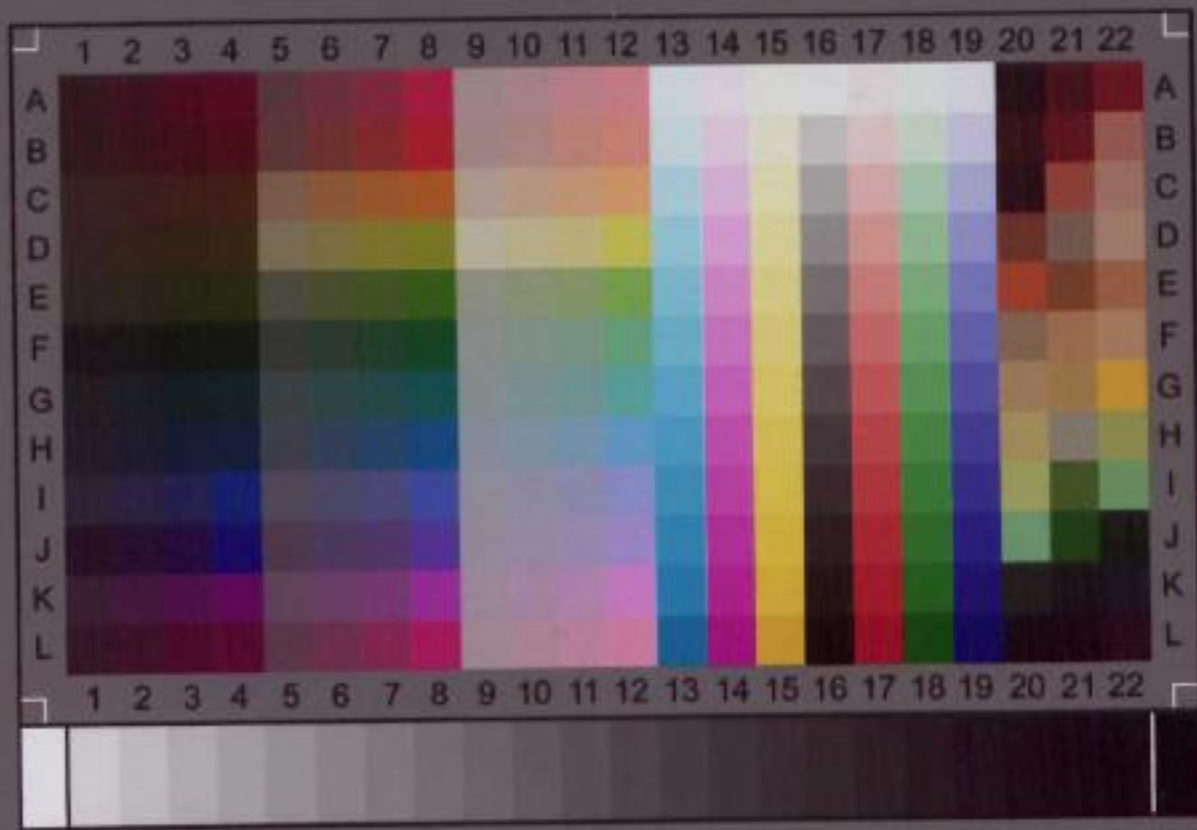


PART 10 ends:-

Home sec to SS/STI 28/2/90

PART 11 begins:-

SS/STI to Home sec 1/3/90



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