

PART 7

TEMPORARY FILE

Direct Broadcasting by Satellite

S
3504

BROADCASTING

PART 7

| Referred to | Date | Referred to | Date | Referred to | Date | Referred to | Date |
|--------------|------|-------------|------|-------------|------|-------------|------|
| PREM 19/2916 | | | | | | | |

From: THE PRIVATE SECRETARY



PS

1. ~~BI~~ Not need point
at this stage in dealing
with Murdoch or King etc
we might as well wait
to see what news actually

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

2. ~~Back to me~~

M
12/11

12 November 1990

Dear Andrew

BSB/SKY MERGER

... I attach a note of the line the Home Secretary proposes to take about the Prime Minister's meeting with Mr Murdoch when the matter is raised during this afternoon's Queen's Speech debate on home affairs.

I should be grateful to know whether the Prime Minister is content with it. If she is, the Home Secretary wonders whether you might think it worth reading over to Mr Murdoch?

Copies of this go to Martin Stanley (DTI) and Tim Sutton (Privy Council Office).

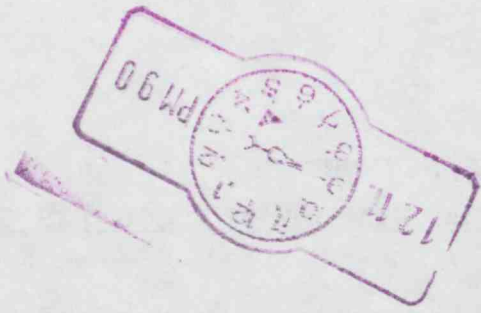
C J WALTERS

Andrew Turnbull Esq
10 Downing Street
LONDON SW1

BSB/SKY MERGER

PRIME MINISTER'S MEETING WITH MR MURDOCH [29 OCTOBER]

~~I gather that~~ At the end of the meeting Mr Murdoch mentioned the possibility of a merger, but ^{only} in the most general terms and ~~with no suggestion that anything was imminent.~~ Such a possibility had ^{already} been floated in the trade press ~~as long ago as August.~~ What has happened is a matter for the IBA and the OFT. It was not a matter for the Government a fortnight ago and it is not a matter for the Government now.



ANDREW TURNBULL

6 November 1990

BSB/SKY MERGER

Chris Scoble in the Home Office informs me that the IBA did not know of the merger until it was announced on Friday evening at 9.00 pm.

Home Office officials were informed at around 4.00 pm on Friday afternoon that a merger would be announced later that day.

Brian Griffiths

BRIAN GRIFFITHS

(110)

CONFIDENTIAL

Prime Minister

You will also want to see

Brian's postscript (Flag) which indicates some confusion in the IBA.

PRIME MINISTER

6 November 1990

AT 6/11

SKY - BSB MERGER

mt

While the details of the merger are still being worked out the following major features are agreed:

- the new company British Sky Broadcasting will be owned 50/50 by News International and BSB's shareholders (Reed International, Pearson, Granada, Chargeurs); (See Diagram)
- the Chairman of the new group is Ian Irvine, Deputy Chief Executive of Reed and Chairman of TV am (Bruce Gyngell speaks very highly of him);
- the new company will provide a 5 channel service drawn from BSB's existing 5 channels and Sky's 4 (probably 2 film channels, Sky News, one sports channel, and one entertainment channel);
- initial transmission will use both the Astra satellite (from which Sky leases its transponders) and BSB's own Marco Polo satellite: but the intention is to phase out the latter as BSB subscribers have their equipment replaced by Astra dishes.

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Reasons for the Merger

The major reason for the merger is financial. Sky has been losing £2.3 million a week and BSB has been losing £8 million a week. When the negotiations started BSB had spent £900 million and was about to draw on its tranche of loans which had severe performance clauses attached and which they would not have met. Both companies are facing a decline in advertising revenue and News International which has enormous debt (about £4 billion) faces declining markets in other parts of the world in which it operates. Meanwhile BSB had only sold 100,000 dishes and while their target was to sell 20,000 per week they were actually selling 8,000.

Murdoch's strong opinion is that BSB has been badly managed - a judgement which I think is not open to question.

Already BSB have spent £900 million with very inadequate cost controls in certain areas eg. the chief executive drove a Bentley and senior staff BMWs; the directors did not want to give a major party at the launch so the chief executive took senior staff and their families (including children) to Cape Canaveral for a weekend at a cost of £1m; BSB's studios and offices are in the Marco Polo building near Chelsea Bridge, whereas Sky is an industrial estate in Osterley!; many people who know Hollywood have told me that BSB paid very fancy prices to build up a film archive eg. for an equivalent amount of second tier movies specially made for television and due to be delivered in 1992-3 Sky has paid £1.9 million for them and BSB £74 million for them.

A few months ago the Chief Executive of BSB was quoted in the press as saying "I can't tell you how enjoyable it is to be spending other peoples money." This kind of statement raises questions about the role played by the Chairman of BSB, Sir Trevor Holdsworth and the shareholders.

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Consequences of the Merger

The merger is effectively a takeover of BSB by Sky:

- (a) The new company will be managed by the chief executive of Sky and the operating base of the company will be the old Sky.
- (b) At present the total employment of both companies is 2,000 (roughly 50/50): Murdoch is looking for redundancies of around 1,000, the major part of which will come from BSB.
- (c) The new company will use PAL technology which is used at present by Sky rather than the more sophisticated DMAC system used by BSB.

The main driving force for developing the MAC standard was the IBA research department. Although it was technologically interesting it was never commercially driven. It really arose out of the fact that in the early eighties it was thought one could not have a low power technology capable of delivering entertainment services by satellite. Technological developments in the eighties proved this wrong. America and Japan stuck with PAL. Meanwhile the difficulties in developing MAC technology was one of the reasons BSB failed to get off the ground and offer serious competition to Sky.

- (d) The arrangements for profit (which reflect the capital structure) are:
 - continuing losses 20:80 in favour of News International;
 - first £400 million of distributable profits to be paid 80:20 in favour of News International;

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- profits then divided 50:50 for twice the period it took to achieve the first £400 million;
- 80:20 pay-out in favour of BSB shareholders for a further £400 million;
- and then equality of pay-out.

Legal Position

This is complicated because in the short term it is proposed that both the Astra and BSB satellites will be used for transmission; but these involve different regulatory regimes.

The Astra satellite does not use UK allocated broadcasting frequencies (ie DBS) and is effectively outside UK regulatory control. Because these channels are carried on cable systems, basic consumer protection standards are enforced by the Cable Authority (under the 1984 Cable and Broadcasting Act). From 1 January 1991, the Broadcasting Act comes into force, and services using Astra will be regulated by the ITC as non-domestic satellite services - involving consumer protection requirements and ownership restrictions (eg prohibition on cross-ownership in DBS licenses exceeding 20%).

BSB is different. Its license to provide a DBS service (5 channels) was granted by the IBA under the 1981 Broadcasting Act. This license involves programming requirements and ownership rules. The latter stipulate that a DBS contractor cannot be controlled by a non-EC company and involves restrictions on newspaper ownership, if the IBA or Secretary of State deem this necessary "in the public interest". This contract is due to be transferred to the ITC in January 1991 and to be replaced on 1 January 1993 with a domestic satellite service license. It is expected that this will involve a prohibition on newspaper

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interests exceeding 20% in the domestic satellite license.

The merger is being examined in government by the IBA and the OFT.

Issues Facing the IBA

The IBA were not consulted in advance about the merger. The question they face is whether they should transfer BSB's existing DBS contract to the new company. This involves three issues:

(a) Control from outside the EC

A 50% interest does not give News International de jure control, but as the other 50% is held by a number of shareholders it might mean de facto control.

(b) Newspaper Interest

Newspaper shareholders must not act contrary to the public interest (Section 23 of the 1981 Broadcasting Act). Traditionally the IBA have interpreted this to mean an equity holding of no more than 20%. But they relaxed this in the case of Pearsons' holding in BSB, when Bond withdrew. In the new company they must consider the interest of both Pearson and News International.

(c) Transferring the Contract to a New Company

This will depend on legal advice as to whether it is possible under the terms of the Act.

Aside from the legal issues there are the commercial realities. The new company only wishes to use the BSB satellite for a limited period of time. If the IBA refused permission this would

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simply mean depriving some existing BSB subscribers until they have new Astra dishes.

In addition, in the past, in the cases of LWT and TV am, the IBA has allowed these companies to continue operating despite their failure to meet programme commitments.

Competition Issues

The competition aspects facing the OFT fall under the merger provisions of the 1973 Fair Trading Act.

The OFT have indicated publicly that they are thinking about the issue but they are at a very early stage. One complication is that the Sadler enquiry, which is looking at cross-media promotions involving publishing and broadcasting, and which arose out of complaints by BSB about Sky, is not due to report until the end of the year. It will cover some of the same issues.

Meanwhile the initial view of the OFT is that the merger will not significantly reduce competition. Indeed the very opposite may be true. Sky has been the most successful competition so far for the duopoly. The fact that satellite television companies are reduced from 2 to 1 but that the new company is that much stronger, (whereas Sky and BSB separately were likely to collapse) must strengthen competition in television. Despite the fact that the company has a monopoly of satellite television transmission, satellite television is only 2% of the television market.

In addition to that Astra is an 'open' system. At present it has 16 channels. It will have 32 by February 1991 and 48 by late 1992. It is quite likely that Disney, CNN and HBO will take up other channels on Astra as well as many other foreign companies. This is real competition for the duopoly.

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Apart from competition the OFT may also concern itself with the broader public interest, because of the involvement by newspapers on the new company. It would seem odd however for the OFT to review legislation in this area given that the Bill became law only last week.

Conclusions

1. Without the merger BSB would have gone bust in a matter of days.
2. Satellite television in Britain is more viable with the new merged company than previously.
3. The new company does not reduce competition in any meaningful sense: in fact it strengthens it.
4. The government's broadcasting policy objectives are not damaged by the merger: they were and remain to create a level playing field between terrestrial and non-terrestrial technologies but not to back winners. This is precisely what is happening as a result of the new Act and the merger.
5. It is highly unlikely that either the IBA or the OFT will raise objections to the merger.
6. The one issue however which will be raised in public debate is the cross-ownership between newspaper and television. There will be a vicious public campaign made up of the Good and the Great on the Left to denigrate Murdoch and everything he stands for.

When satellite television proves to be commercially successful, cross-ownership will become an issue.

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Meanwhile, when satellite TV has less than 2% of the total market, and the problem for satellite companies is survival, this is not an issue that should or need concern us now.

Brian Griffiths

BRIAN GRIFFITHS

(109)

CONFIDENTIAL

PRIME MINISTER

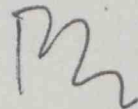
6 November 1990
8.00 pm

SKY - BSB MERGER

A curious thing happened this evening. During the late afternoon George Russell rang me from his car and we discussed the above. He said that he was keen for the merger to go ahead and saw no real problems, except that when satellite became successful there would be a problem down the road in terms of cross-ownership between newspapers and television companies. He said that he was on his way to the IBA, having been visiting companies all day.

CLOSED UNDER THE
FREEDOM OF INFORMATION
ACT 2000

My suspicion is that when he arrived at the IBA he was lobbied furiously by IBA officials to take the strongest possible action.



BRIAN GRIFFITHS

(114)

cel



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

19 September 1990

seen by AS

Dear Andrew

SATELLITE TELEVISION

at flap

Thank you for your letter of 10 September about the regulation of Satellite Master Antenna Television (SMATV) systems.

As the law currently stands, a SMATV system normally needs to be licensed under both the Cable and Broadcasting Act 1984 and the Telecommunications Act 1984. Where an application for a SMATV licence is made within a cable franchise area, the Cable Authority's practice is to offer the franchise holder the right of first refusal, irrespective of the size of the proposed SMATV system. This is because the Authority is under a statutory duty to use its licensing powers to promote broadband cable, and has taken the view that it must give cable franchise holders some protection from SMATV operators who would otherwise be in a position to "cherry pick" lucrative parts of the franchise area, thus putting the viability of the Cable operator's business at risk.

The development of a new direct-to-home satellite services has clearly changed the environment in which the Cable Authority has hitherto operated. Partly in appreciation of the changing market place, but also as a means of injecting more competition into the local delivery of services, the previous Home Secretary announced last year that the Government intended to take the opportunity of the Broadcasting Bill to relax considerably the regulation of SMATV.

Under the new arrangements, which will be implemented by an Order made under clause 71(1) of the Bill, SMATV systems covering up to 1000 homes will not need to be licensed at all by the ITC

/(which is to

Andrew Turnbull Esq
10 Downing Street

(which is to replace the Cable Authority), but they will remain licensable under the Telecommunications Act. Systems covering single buildings of whatever size, or adjacent semi-detached houses, or pairs of houses in a terrace, will be covered automatically by a class licence under the Telecommunications Act, and no further approval will be needed if the terms of the class licence are met. Individual blocks of flats, to which your letter refers, would come within the definition of single buildings for this purpose.

Systems not confined to single buildings, but covering up to the 1000 home limit, will need individual Telecommunications Act licences. Where the proposed system is in a cable franchise area, the cable (or local delivery) operator will be given a right of first refusal. The Home Secretary believes that this is necessary in order to underpin cable and local delivery franchises, particularly as the latter are to be allocated in future by competitive tender. Ministers have however made it clear that the right of first refusal should operate more briskly than at present, and in a written answer last May, Mr Forth announced that operators would be given 20 working days in which to offer to provide a comparable service, which would be expected to be fully operational within 4 months of the date of the offer of first refusal.]

These changes, which will be implemented as soon as the Broadcasting Bill becomes law, represent a significant, though not a total, liberalisation of SMATV. They have been generally welcomed as achieving a sensible balance between the interests of the cable industry and those of the SMATV operators. While they do not give Millicom all they are asking for, they should provide for easier entry into the market than is possible at the moment.

I am copying this letter to Martin Stanley (DTI).

Yours ever

John
C J WALTERS

BROADCASTING: satellite...

TU

17

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10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

10 September 1990

KW
a/satellite
b/c Michael
Fallon
(PUS DES)

SATELLITE TELEVISION

Earlier today the Prime Minister opened the new headquarters of Millicom UK Limited in Darlington. In the course of his remarks, the Chairman of Millicom, Mr Shelby Bryan, complimented the Government on the way it had established the technical and regulatory framework for personal communications. He felt this had contributed a great deal to the fact that personal communications have developed so successfully in the UK.

He did, however, make one appeal: that the providers of satellite television (he was talking about the people who provide the dishes and connect them with dwellings rather than programme providers) should be given greater freedom to operate in competition with cable licensees. The problem, as I understand it, is that if a cable franchise has been awarded for a particular area, satellite operators such as Millicom using the Satellite Master Antenna Television (SMATV) cannot provide a dish for a block of flats unless the cable licensee gives its consent.

BF // The Prime Minister would like an explanation of how the present rules operate and an indication of what thought is being given to modifying them. One by-product of a change in the regulations would be to eliminate the proliferation of unsightly satellite dishes on blocks of flats.

I am copying this letter to Martin Stanley (Department of Trade and Industry) to whom I am grateful for the briefing material provided on the Company.

ANDREW TURNBULL

Colin Walters Esq
Home Office

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ccp

n. b. p. m.

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QUEEN ANNE'S GATE
LONDON SW1H 9AT

18 April 1990

to Nick

DIRECT BROADCASTING BY SATELLITE:
ADDITIONAL CHANNELS

Thank you for your letter of 10 April. *Das*

In view of your concerns I agree that we should submit an application for the additional channels without delay, and announce that we have done so. My officials will be in touch with yours about the arrangements.

Copies of this letter go to the Prime Minister, Foreign Secretary, other members of MISC 128 and Sir Robin Butler.

John Goss

The Rt Hon Nicholas Ridley, MP.
Secretary of State for Trade & Industry
1-19 Victoria Street
LONDON SW1H 0ET

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BROADCASTING : DBS PTA.





ccp.

the department for Enterprise

CONFIDENTIAL

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
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Enquiries
01-215 5000

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5622
Our ref NP1ASQ
Your ref
Date 10 April 1990

NBRM & his clerk

*REC
11/4*

Dear David

DIRECT BROADCASTING BY SATELLITE: ADDITIONAL CHANNELS

Thank you for your letter of 13 March, ^{has} agreeing that we should bid for additional DBS channels, but urging that we delay until BSB Ltd have completed their current discussions on further financing. I was also grateful for Norman Lamont's letter of 15 March agreeing with my original suggestion to bid now.

I do not think we should in any sense appear to be a party with BSB in withholding information about Government intentions from their possible financial backers. Naturally I would not wish to jeopardise our only DBS provider, though as you say their success must be determined by the markets. It would however be improper to hold fire on bidding for additional channels and/or withhold information about the intention to bid so that prospective lenders and guarantors of BSB's facility and loans will find themselves without access to information which would be relevant to their decision.

I therefore think that we should stick to the course that I advocated, namely submit the bid for five additional channels without delay (and announce that we have done this as soon as it is possible to do so), and that your officials (in liaison with mine), should inform BSB of our intentions and remind the company of their obligations towards the financial institutions with whom the company are currently involved.





the department for Enterprise

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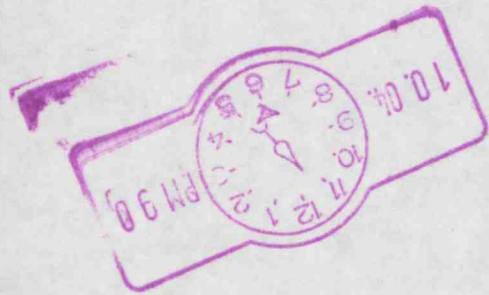
I am sending copies of this letter to the Prime Minister, the Foreign Secretary, members of MISC 128 and to Sir Robin Butler.

John
Archer



Recycled Paper

BROADCASTING: POLY PT.



CFU



Treasury Chambers, Parliament Street SW1P 3AG

The Rt Hon Nicholas Ridley MP
Secretary of State for Trade and Industry
Department of Trade and Industry
1 - 19 Victoria Street
London
SW1H 0ET

NBRM

*file
19/3*

19A
March 1990

Dear Nick

DIRECT BROADCASTING BY SATELLITE: ADDITIONAL CHANNELS

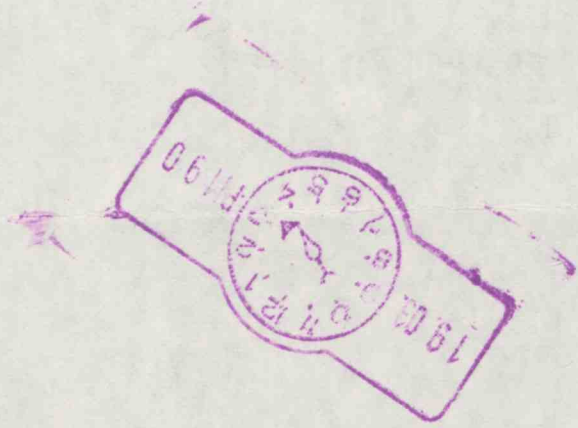
Thank you for copying to me your letter of 9 March.

2 I agree we should now bid for more Direct Broadcasting by Satellite (DBS) Channels at 31 degrees West - to help increase further the choice available to viewers.

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

NORMAN LAMONT

BROADCASTING : DBS P7A





QUEEN ANNE'S GATE LONDON SW1H 9AT

13 March 1990

NRB at this stage.

REC 6

14/3

DIRECT BROADCASTING BY SATELLITE:
ADDITIONAL CHANNELS

Thank you for your letter of 9 March.

I agree that the United Kingdom should bid for additional DBS channels at 31 W. I also agree that, other things equal, it would be desirable to submit the application before 16 March. But other things are not quite equal in this case. As you note, BSB have urged us to delay any application until their financing arrangements have been completed. Their concern is that the confusion and uncertainty which would be likely to follow a major announcement of this kind would jeopardise their chances of completing their loan arrangements.

We therefore have to weigh the risk of being pre-empted if we delay our application for additional channels until after 16 March, against the possibility of disrupting BSB's plans. As I understand it, there is no firm evidence to suggest that any other states have submitted applications since 1988 for the same channel group at the same orbital position that we have in mind. The case for an early application is, rather, to cover ourselves against the possibility that this might have happened. In view of this, I think that we should take the slight risk involved in delaying the application in the interests of avoiding any disruption to BSB's plans. It would be unfortunate if steps taken now to secure the possibility of additional DBS services several years hence, put any obstacle in the way of DBS services due to start within a few weeks.

We also have to consider the public position of the Government. BSB is a high risk venture, and it may well fail. If so, this will not of itself cause us any embarrassment: we have made clear all along that, while we wished BSB well, their success would be determined by the market. I am, however, concerned that we should not take any avoidable action which could be portrayed, in the event of an early collapse of BSB, as having materially damaged their prospects.

There are risks either way, whatever decision we take. However, I am clear that the greater risk is that we might be blamed for damaging BSB's

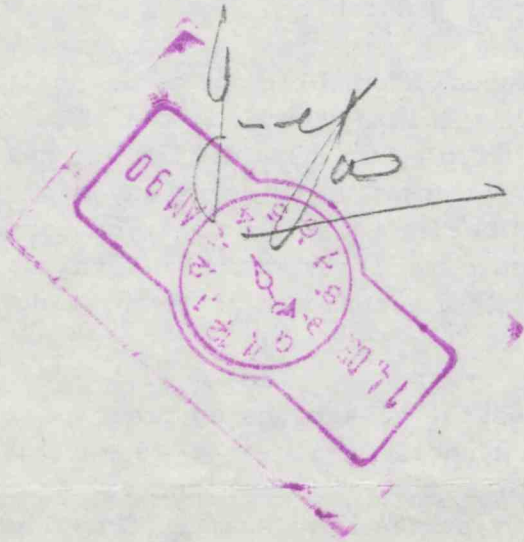
The Rt Hon Nicholas Ridley, MP.
Secretary of State for Trade & Industry
1-19 Victoria Street
LONDON, S.W.1.

/over...

2.

prospects if we make an early application. I therefore think that we ought to stay our hand until early May.

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



00

copy



the department for Enterprise

CONFIDENTIAL

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
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

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Note
No comment to
Paving Unit. NBPA
when Mrs Dept.

Direct line 215 5622
Our ref NP1APQ
Your ref
Date 9 March 1990

REC
13/1

Dear David

DIRECT BROADCASTING BY SATELLITE: ADDITIONAL CHANNELS

In 1988, MISC 128 decided in principle that the UK should seek international agreement for our use of additional channels for direct broadcasting by satellite (DBS). Action to implement this was deferred for a number of reasons. These reasons no longer hold, and it would now be desirable if a bid could be made to the relevant international body as soon as possible. If you and other colleagues agree, officials will submit the bid without delay.

The decision in 1988 to defer making the international bid for additional channels was largely because it was thought unlikely that the UK could start to make use of the extra frequencies within five years of applying for them (ie by end 1993), as was then required by the international rules. However that period has now been extended to eight years, and the prospects of the channels being used by early 1998 are therefore very much better.

The delay has entailed some risk that our bid would be pre-empted by other countries, as bids that are published by the International Frequency Registration Board (IFRB) take precedence over later bids. To date no such bids have been published, so little has so far been lost. But not all bids received since the World Administrative Radio Conference in October 1988 should be published by the IFRB on 16 March. It is clearly desirable to submit our application in time for publication then, as this will help to preserve the option of having additional DBS channels available for allocation later in the decade (though this still depends on successfully negotiating suitable use of the frequencies with the large number of other countries affected by our bid).



Recycled Paper



the department for Enterprise

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I understand that British Satellite Broadcasting Ltd (BSB) would prefer that the bid should be delayed until they have completed their present negotiations over further financing, for fear that a bid for additional channels would create confusion and uncertainty in the minds of the financial institutions involved. This would probably entail postponing the bid until early May, and while I would not wish to jeopardise the BSB operation in any way, I think that such a delay would entail too great a risk of being pre-empted, and missing the objective that we have previously set ourselves.

Turning to the substance of the bid, I propose that we should seek further channels assigned to a satellite located at longitude 31 W. This is the position of our existing five national DBS channels (on the BSB satellite - the Sky Television transmissions coming from Luxembourg's Astra satellite at 19 E). This has the advantage that, in principle at least, the new services might be receivable on BSB type aerials - thus reducing any further proliferation of satellite dishes.

At first sight bidding for additional DBS channels might be seen as posing greater competition for British Satellite Broadcasting. However I gather that BSB welcome the eventual prospect of an expanding market in equipment aimed at 31 W, (even if the company do not secure any of the additional channels themselves). Those using the Astra satellite will have similar opportunities of expansion when the second Astra satellite is launched (later this year).

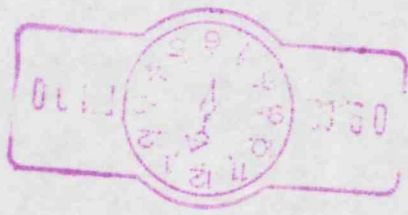
Informal soundings of the IBA indicate that they support the bid to secure additional DBS channels - the only proviso being that efforts are made to find further spectrum for ancillary services for programme makers, and for the outside broadcast links that would be displaced from the 12 GHz band. This is something that we have on the agenda in any case.

I am sending copies of this letter to the Prime Minister, the Foreign Secretary, members of MISC 128 and Sir Robin Butler.

James
Andrew



Recycled Paper



CAROLINE SLOCOCK

cc: Amanda Ponsonby

~~WDA File~~
temp files

LAUNCH OF BRITISH SATELLITE BROADCASTING

Sir Trevor Holdsworth (Chairman of BSB) rang me this morning to say that he wanted the Prime Minister to perform the launch for BSB. The date he now has is Sunday, 25 March. I told him to drop me a line and we would then arrange for the Prime Minister to consider it alongside the many other demands on her time. I told him not to be too optimistic.

PLG.

PAUL GRAY

29 January 1990



File
so

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

16 June, 1989.

SKY TV

The Prime Minister was grateful for your Secretary of State's minute of 15 June. She has noted the position set out on the various issues of concern to Sky, and is content with the way in which your Secretary of State is handling them.

Paul Gray

Neil Thornton, Esq.,
Department of Trade and Industry.

22

dti

the department for Enterprise

Prime Minister's office
You will recall the earlier

exchanges about Sky's concern. Both DTI and
Home Office introduced a number of measures
to help. DTI have now made the further detailed

PRIME MINISTER change of X, It is revising Sky's letter - unworkable
- details of Y. Content? Dec 6

You will be aware that Mr Rupert Murdoch's Sky TV PLC have
been lobbying for greater access to the UK broadcasting
market. This follows their unsuccessful attempt, in the
competition we ran last year, to become one of the six new
specialised satellite service operators and their having lost
out previously to BSB to be recognised as a national
broadcaster.

es
ms

Most recently, Sky have been urging my department to assist
them to provide better news gathering and outside broadcasting
services. I am pleased to report that I have been able to
achieve this while at the same time ensuring that we maintain
effective competition, both in satellite broadcasting and in
telecommunications. We have now assigned to them a microwave
channel for their own electronic news gathering and outside
broadcasts, which they can proceed to use without delay,
together with the necessary draft licences under the relevant
legislation. The Director General of Telecommunications has
separately decided to carry out an investigation into the
provision by BT of services in this area, another issue of
longstanding concern to Sky. We have also suggested a number
of ways of facilitating their news gathering and other
activities.

X

This has not deterred Sky from reiterating their previous
concerns and seeking further benefits. In particular they
would like to see an end to our policy of licensing only two
national public telecommunications operators, British Telecom
and Mercury, and our stated commitment that, to give Mercury
an opportunity to become established, we will not review the
policy before November 1990. They also want to see early

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PB3BFV



implementation of our proposals for further liberalisation of the market for services received from satellite master antenna systems, despite Douglas Hurd having made clear in his announcement of 27 April that this raises the issue of the Cable Authority's statutory responsibilities and will have to await the Broadcasting Bill.

I shall continue to look for ways of assisting Sky consistent with our agreed policies. For the present, I believe my department has gone a long way towards meeting their concerns. We shall now be looking to Sky to make the most of the opportunities available to them. The test of this will of course be the extent to which they are able to attract new subscribers for their service.



DY

15 June 1989

DEPARTMENT OF TRADE AND INDUSTRY

176

176

15. VI. 1954
PH. 9

CONSTITUTION

RECEIVED



Prime Minister²

QUEEN ANNE'S GATE LONDON SW1H 9AT

17 May 1989

Dear John,

mf

PRIVATE MEMBERS' MOTIONS - FRIDAY, 19 MAY:
ROGER GALE'S MOTION ON DOMESTIC AND
SATELLITE BROADCASTING

Roger Gale is first order on 19 May with a Motion.

"to call attention to further developments in domestic terrestrial and transfrontier satellite broadcasting; and to move a Resolution."

As you know, Roger Gale played a prominent part in the Home Affairs Committee's inquiry into the future of broadcasting last year, and takes a close interest in developments in broadcasting technology and policy, particularly on the European front. He is sympathetic to the general thrust of our recent Broadcasting White Paper, but may be critical of its specific proposals on such topics as the BBC night hours and subscription technology. The debate itself is likely to attract considerable interest: the White Paper has elicited over 3,000 responses; and other Members have interests in, and are lobbied on, a wide range of broadcasting topics.

We do not yet know the terms of the Resolution, but given Roger Gale's previous interest in the subject it is unlikely to be hostile and there will be no need to oppose it. Tim Renton will be taking the debate and he intends to concentrate in his speech on developments on the European front, and on our proposals for broadcasting ownership (subject to agreement having been reached by Friday on the terms of the proposed announcement).

I am copying this letter to the Prime Minister, members of L Committee, Sir Robin Butler and the Secretaries to L Committee.

Yours,

Dwyer



CONFIDENTIAL



file XB
cc BG

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

10 April 1989

SATELLITE TELEVISION

Thank you for your further letter of 23 March, and for Gareth Jones' further letter of 3 April to Andrew Turnbull.

The Prime Minister has seen both these letters. She is pleased to note the progress and the further action in hand.

I am copying this letter to Gareth Jones (Department of Trade and Industry) and to Steven Catling (Lord President's Office).

Paul Gray

Miss Catherine Bannister,
Home Office.

ea

PRIME MINISTER

SATELLITE TELEVISION: COMPLAINTS FROM SKY

You will recall the list of complaints that Andrew Neil made earlier in the year. At the end of February you asked the DTI and Home Office to look into these issues.

At the end of February you saw progress reports indicating that some of Sky's difficulties were being met, and asked for a further report in due course.

I now attach further reports from the Home Office (Flag A) and the DTI (Flag B). These suggest that, although Sky are not getting everything they might have wanted, substantial progress is being achieved on their key points of concern. Further developments on some of the points will fall to be considered in the papers that will shortly be considered by MISC 128.

Content to note the progress achieved and further work in hand?

Yes
ms

Andrew Neil

PP PAUL GRAY

7 April 1989

SLHBEX

dti

the department for Enterprise

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CEPU

B

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

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

Department of
Trade and Industry

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London SW1H 0ET

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Fax 01-222 2629

Direct line 215 5422
Our ref PBLAXI
Your ref
Date 3 April 1989

Dear Andrew,

SATELLITE TELEVISION

In my letter of 28 February, I promised to report to you on the progress that had been made by the end of March with Sky Television over their various requests relating to the operation of their satellite television service. Since then, you will have seen Catherine Bannister's letter of 23 March reporting on Mr Renton's meeting with Mr Andrew Neil.

On radio frequencies, DTI's aim within the next week or so is to assign to Sky enough spectrum to meet all their requests for "in-studio" uses. We have been helped in this by the agreement of the existing broadcasters to allow Sky to share frequencies which until now have been assigned to them. The position with spectrum for outside use is even tighter, as the "new" broadcasters begin to make programmes. Officials do, however, aim to propose certain frequencies to Sky within the next month in order to satisfy the company's most urgent needs, prior to a major review of the allocation of all outside broadcast links in this new environment.

As I noted in my previous letter, there are particular pressures on the 2.5 GHz band which Sky wants to use for electronic news gathering. No allocations can be made before decisions are taken on the spectrum to be used for MVDS (microwave video distribution systems) for local delivery services. Although 2.5 GHz now appears unlikely for MVDS, Sky know that they must await the local services announcement at the end of April. If the band is not used for MVDS then officials will hope to use some frequencies out of it to satisfy Sky's demands, at least in part.

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Sky continue to press to be allowed to operate their satellite links for news gathering, rather than to be obliged to go to BT, Mercury or one of the six new specialised satellite services operators. This would be a clear breach of the telecommunications duopoly policy, to which the Government has adhered since 1983, and long-standing Government commitments. We understand, however, (not from Sky) that Sky have taken up DTI's suggestion to explore how one of the six might be able to provide them with a suitable service. Mr Neil is also meeting the Director of Telecommunications next week to discuss how OFTEL can assist them.

I am copying this letter to Catherine Bannister (Home Office) and Steve Catling (Lord President's Office).

*Yours,
Gareth Jones*

GARETH JONES
Private Secretary

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AM 9

CONFIDENTIAL

CONFIDENTIAL



CONFIDENTIAL

A

CCP/O

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

23 March 1989

Dear Paul

SATELLITE TELEVISION

Has

In your letter of 27 February you said that the Prime Minister would like a further report in due course on the position reached in relation to the representations from Sky Television. I am writing now to bring you up to date with progress following a recent meeting which Mr Renton had with Mr Andrew Neil.

The meeting covered two issues: the "must carry" rule; and SMATV. On the former, Mr Neil said that he accepted that there was some case for BSB benefitting from the "must carry" rule while Sky did not; and that he did not in any case regard this as a serious regulatory imbalance. I explained in my letter of 22 February that the Home Secretary believed that the present proposals struck the right balance between the aim to see that the rule is not perpetuated unnecessarily into the future and the need to meet BSB's legitimate expectations. Ministers here see no reason to change this assessment, particularly given the approach taken by Mr Neil.

Mr Neil said that he attached greater importance to the liberalisation of the current SMATV rules. Mr Renton said that the Government sympathised with Sky's concerns. He explained that under the present law the onus lay with the Cable Authority to change its licensing policy, taking account of its statutory duty to promote broadband cable; and he suggested that Sky should get in touch with the Authority to ensure that it was fully aware of their concerns. The Authority has now issued a consultation paper, canvassing possible relaxation of its current policy, and it has sent a copy to Sky. The relaxation proposed by the Authority would do much to ease Sky's difficulties. In the longer term, Mr Renton explained that the announcement of the Government's firm proposals for legislation on local services, which it had undertaken to make by the end of April, would cover the future arrangements for SMATV. He added that while it was unlikely that this would lead to a complete liberalisation, Sky should find the proposals very helpful. I understand that officials are still discussing the exact arrangements for SMATV in MISC 129, but that the proposals which they are likely to submit to Ministers should deal with Sky's major concern - gaining access to SMATV systems in blocks of flats.

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2.

I am copying this letter to Neil Thornton (DT) and Stephen Catling
(Lord President's Office).

Yours

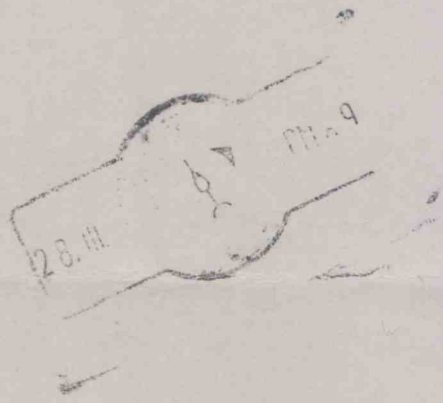
Catherine

MISS C J BANNISTER

Paul Gray, Esq.

CONFIDENTIAL

BROADCASTING : DBS PT7



dti

the department for Enterprise

call

CONFIDENTIAL

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

Rt Hon Douglas Hurd CBE, MP
The Secretary of State for
the Home Department
Queen Anne's Gate
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*BPM at
this stage.*

*REC 6
10/3*

Direct line 215 5422
Our ref PB5AXA
Your ref
Date 20 March 1989

Neil Taylor

*will review
y reviewed*

NON-EC CONTROL OF CABLE AND LOCAL DELIVERY OPERATORS

I welcome the proposals in your letter of 14 March that non EC companies should not be prevented from controlling local delivery operators and that the forthcoming broadcasting legislation should remove the comparable restriction as it applies to cable operators licensed under the Cable and Broadcasting Act 1984.

As you say this will avoid the shareholding artificialities to which the current requirements give rise.

It would be helpful if these intentions can be made known at the time of the end April statement on Local Services to which we are committed but I accept that this will depend on progress with the wider questions of ownership in the general field of broadcasting. If it is not possible to announce the local services decision at the end of April I am content with your proposed holding line.

Copies of this letter go to the recipients of your own.

J. L.
Tand

BROAD CASTING - OBS pr 7.

20. III
PH: 0

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NOTE FOR THE RECORD

MISC 128 MEETING ON 20 APRIL

I discussed with Anthony Langdon this morning the preparations for the MISC 128 meeting on 20 April. I said that as a minimum I thought that meeting needed to take stock of the outstanding issues in the light of representations on the broadcasting White Paper. But there might be some points on which detailed decisions would have to wait until a later meeting. Anthony agreed, and said that he would take this line at next week's meeting of the official group; he would then report back to me.

I told him that the Home Secretary had now written round (15 March) on the issue of non-EC control of cable and local delivery operators (Anthony's minute of 10 March refers). We agreed that there seemed no need for any meeting on this issue before the MISC 128 session on 20 April; and that hopefully the issue could be sorted out in correspondence before then. Meantime we agreed that I would not trouble the Prime Minister with the Home Secretary's letter until other Ministers had responded.

PEG.

Paul Gray

15 March 1989

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CCPD



QUEEN ANNE'S GATE LONDON SW1H 9AT

14 March 1989

*NRBM de
this stage.*

*RCC
(12/1)*

Dear David,

NON-EC CONTROL OF CABLE AND LOCAL DELIVERY OPERATORS

The White Paper said that we would be considering further the question of whether non-EC companies should be prevented from controlling local delivery operators. Having given further thought to this I am writing now to propose that we should not place this restriction on local delivery operators, and also that the forthcoming legislation should remove the restriction as it applies to cable operators licensed under the Cable and Broadcasting Act 1984.

As you know, we have been heavily lobbied on this issue by the Cable Authority and the cable industry, who have argued that the present law has inhibited investment in cable. The extent of recent North American investment interest in United Kingdom cable does rather suggest that non-EC companies who are determined to invest can find ways of living with the law as it stands, although others may have been deterred by the regulatory complexities. However, those non-EC companies who have shown an interest have had to resort to contrived and convoluted arrangements in order to satisfy the Cable Authority and comply with the letter of the law. It seems to me that if we are content to see substantial non-EC investment in UK cable, then we should frame the law in a way which openly allows it. Alternatively, if there are good arguments against the degree of non-EC influence inherent in the arrangements sanctioned by the Cable Authority then the legislation should make it clear that such arrangements would not be possible in future.

I have come to the conclusion that the consideration which led us to impose the prohibition on non-EC control of cable operators when framing the 1984 Act no longer carries sufficient weight. As cable operators (and, in future, local delivery operators) do not in the main provide television services but simply deliver and retail them, the broadcasting policy arguments for this restriction have considerably less weight than in the case of Channels 3 and 5 and DBS. We have also, as you know, been influenced in our policy on this issue by considerations of national security. While these must be taken seriously, I do not think that they are any longer decisive in this case. I therefore believe that these arguments do not now outweigh the potential benefits of making it easier for non-EC companies to invest in local delivery networks.

The Rt Hon The Lord Young of Graffham

/over.....

CONFIDENTIAL

The considerations are essentially the same for cable operators licensed under the 1984 Act as for local delivery operators licensed under the new regime proposed in the White Paper. I therefore propose that as well as making clear that we do not intend to impose a non-EC control restriction on local delivery operators, we should also indicate that we intend to legislate so as to enable operators licensed under the 1984 Act to be controlled by non-EC companies. Until this legislation is in place any operators licensed under the 1984 Act, including those who obtain licences in the period before the passage of the legislation, will of course have to comply with the present law, which may mean further convoluted company structures for new franchises. But non-EC companies proposing to invest will know that, subject to Parliamentary approval of our proposals, they will subsequently be able to restructure their companies in a more straightforward manner.

Ideally I would have liked to announce these proposals at the same time as the announcement of our firm plans for local services which we have undertaken to make by the end of April. However, I am clear that it would be a mistake to announce the position on non-EC control of cable before we are ready to make public our detailed proposals on restrictions on ownership generally. As you will know, this has proved to be one of the most controversial aspects of the White Paper, and the careful presentation of our subsequent proposals will be crucial. Although the decision on cable would probably attract little attention as part of a wider announcement on ownership restrictions, a separate earlier announcement could cause confusion and stir up controversy. It is particularly important, therefore, that none of this should become public before we are ready to make the wider announcement. I understand that officials are making good progress on working up detailed proposals on ownership restrictions, but it is possible that they will not be in their final form by the end of April. If this proves to be the case, then the announcement on local services at the end of April will have to explain that the position on non-EC control would be dealt with shortly afterwards in the context of a wider announcement on ownership.

I am sending copies of this letter to the Prime Minister, to the Chancellor of the Exchequer and to Sir Robin Butler.

Loney,
Douglas,



cefu

K02135

MR GRAY
No 10

cc Mr Mundy

I understand that the Home Secretary may be writing to the Trade and Industry Secretary shortly (with copies to the Prime Minister and the Chancellor) with some proposals about handling non-EC control of cable delivery operations.

I think it is possible that there will be some connection between this point and the other local TV service issues that MISC 128 will be asked to consider on 20 April. Unless the non-EC cable point has to be settled urgently (and I do not think this is the case) it would probably make more sense to hold it over to the meeting. Could we have a word if this letter materialises?

A J L

A J LANGDON

10 March 1989



dti

the department for Enterprise

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CEP12

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

Andrew Turnbull Esq
10 Downing Street
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Our ref PB2AOY
Your ref
Date 28 February 1989

Note

*Outline by subsequent letter
of 3 April.*

REC 6 7/4

Dear Andrew,

Thank you for your letter of 16 February following the discussion the Prime Minister had with my Secretary of State and the Home Secretary about Sky Television. The Prime Minister asked for a report on progress by the end of the month.

You will have seen Neil Thornton's letter of 20 February to Paul Gray in which he outlined the current position on those points raised in Paul's letter of 15 February that fall to DTI. Since then some progress has been made in what appear to be Sky's most pressing concerns and we have been able to help point Sky towards some possible solutions to their problems.

We have now had a lengthy and detailed working meeting with representatives of Sky about the frequencies they will need for the range of programme-making facilities associated with their news channel. In almost all areas - including some which they had either not realised they would need, or thought they could not have - we told them that we would be able to make frequencies available to them once they had identified with their equipment suppliers their preferred choice of hardware. In a number of areas we were able to suggest alternative means of achieving the same end, or of importing an element of diversity as insurance against failure of their main facility.

Whilst we have been able to offer Sky microwave links at a number of frequencies, the main difficulty lies in the provision of frequencies at or around 2.5 GHz for outside broadcast television links. The position at these frequencies is an extremely tight one, particularly in the short term.

The logo features the word "Enterprise" in a bold, sans-serif font, with "the" in a smaller font above it and "initiative" in a smaller font below it. A stylized arrow curves around the text from the bottom left to the top right.



the department for Enterprise

The existing broadcasters have a total of 12 frequencies, but the majority of them have substantial geographical restrictions on their use, whilst others overlap with the band in which microwave ovens and industrial microwave heating equipment operate, and so are liable to severe interference. The position is particularly difficult in London, which is of course where both Sky and BSB will have the greatest need for frequencies. The 2.5 GHz band has also been identified in the broadcasting White Paper as a possible home for MVDS. We have told Sky that our ability to provide even limited help at 2.5 GHz will depend on decisions, expected by the end of April, on the choice of frequency band for MVDS.

If MVDS is found an alternative home, as advice from officials is likely to recommend, we have the prospect of acquiring from the Ministry of Defence a shared use of two further frequencies, both of which should be available for more or less unrestricted use in London. We would propose to make one available to Sky, and one to BSB, which should serve to meet at least Sky's most immediate needs. We will in the meantime continue to explore with MOD the scope for extending this arrangement to other frequencies. If our discussions with MOD are not productive, or if the 2.5 GHz band is chosen to house MVDS, we shall be faced in the short term with only two choices. The first is to refuse Sky and BSB access to this most important area of the spectrum. The second is to enforce a greater degree of sharing of the already limited frequencies of the existing broadcasters. But this would severely curtail the ability of the existing broadcasters to provide live outside broadcast coverage, particularly of events in and around the capital, and would similarly provide Sky and BSB with only a fraction of their real needs.

On the specific question of satellite uplinks, DTI officials have suggested ways in which Sky might be able to use one of the six new "specialised satellite service" providers which last autumn my Secretary of State announced would be licensed to form a new more liberal market. With such competition between the six, BT, Mercury and Hull, Sky should be well placed to find a service provider to satisfy their needs on terms more satisfactory to them than BT has offered. It is now very much up to Sky to explore with BT's competitors what can be done for them. DTI officials have also strongly recommended that Sky should contact the Office of Telecommunications to discuss any problems that the regulatory regime or BT's market dominance appears to give them.



dti

the department for Enterprise

I shall report again on further progress by the end of March.

MJ SF

I am copying this letter to Philip Mawer (Home Office) and Stephen Carling (Lord President's Office).

*Yours sincerely,
Gareth Jones*

GARETH JONES
Private Secretary

CONQUEROR

the
Enterprise
initiative

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B1

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

27 February 1989

Dear Neil,

SATELLITE TELEVISION

Thank you for your letter of 20 February concerning Sky Television's complaints that they are unable to operate on a "level playing field". Thank you also to Catherine Bannister for her letter of 22 February and Steve Catling for his of 16 February.

The Prime Minister has seen all these letters and is grateful for the material in them. She has noted that various further discussions are now in hand, and she would be grateful for a further report on the position reached in two weeks' time.

I am copying this letter to Catherine Bannister (Home Office) and Steve Catling (Lord President's Office).

*Yours,
Paul*

(PAUL GRAY)

Neil Thornton, Esq.,
Department of Trade and Industry.

SMW

PRIME MINISTER

You asked Lord Young and Douglas Hurd to investigate urgently the plans put forward by Andrew Neil of Sky Television. When you spoke to them last week you envisaged the possibility of a further discussion early in March.

We have now had in comments from the Department of Trade and Industry (Flag A), the Home Office (Flag B) and, in the case of the House of Commons' sound feed, from the Lord President (Flag C). I suggest you work through the papers in that order. You will see that, on a number of points, the Departments indicate that further discussions are now under way, and that there is a possibility of some measures to help Sky. I think it would be premature to have a further discussion until that work has been completed.

Content to note these interim replies and ask for a further report in a fortnight?

REC.

Yes

PAUL GRAY

24 February 1989

DS2APE

CONFIDENTIAL

B. ccmt
 HOME OFFICE
 QUEEN ANNE'S GATE
 LONDON SW1H 9AT

22 February 1989

Dear Paul,

SATELLITE TELEVISION -Ref B

You sent Philip Mawer a copy of your letter of 15 February to Neil Thornton recording representations which had been made by Sky Television to the Prime Minister. Subsequently Andrew Turnbull sent him a copy of the letter of 16 February recording the discussion which the Prime Minister had with the Home Secretary and the Secretary of State for Trade and Industry after Cabinet. I am responding to points (iv) (licensing of SMATV systems) and (vi) (must carry rule) in your letter of 15 February.

... The detailed position is set out in the annex to this letter. On the licensing of the SMATV system Sky's difficulties stem from the licensing policy which the Cable Authority has adopted in relation to SMATV systems within cable franchise areas. This policy has not been an arbitrary one and has flowed from the Authority's statutory duty under the Cable and Broadcasting Act 1984 to promote broadband cable. We understand, however, that the Authority is considering relaxing its policy in certain ways which would ease matters for Sky. Although this is a matter for the Authority rather than directly for the Home Office, the Home Secretary has asked officials to keep in touch with the Authority about this. He believes that it should be possible for the Authority to arrive at a policy which will remove unnecessary obstacles from Sky's path while at the same time taking account of the legitimate expectations and interests of cable operators. As regards the must carry rule, the Home Secretary believes that a balance must be struck between the aim to see that the rule is not perpetuated unnecessarily into the future, and the need to meet BSB's legitimate expectations that they would be guaranteed carriage on cable systems licensed under the existing law; and he is satisfied that this balance has been properly struck in the present proposals.

/It is worth

Paul Gray, Esq
 Private Secretary
 10 Downing Street

CONFIDENTIAL

CONFIDENTIAL

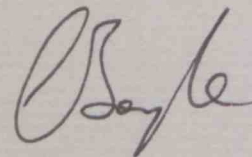
2.

It is worth bearing one general point in mind when considering complaints by Sky that the regulatory framework operates against them. BSB have chosen to use UK broadcasting frequencies, and to be part of the UK-regulated broadcasting industry. Sky have chosen to use foreign frequencies and thus to operate largely outside the sphere of UK regulation. Both these choices are legitimate, but both carry with them compensating advantages and disadvantages. BSB's choice has conferred on them certain benefits (eg the 'must-carry' rule); but it also brings with it certain liabilities and constraints (eg liability to levy, strict regulation by the IBA on technical matters, and the need to go through an open competition in order to secure additional channels). Sky's choice means that they do not enjoy some of the benefits available to BSB, but also that they are not subject to the same liabilities and constraints. In their representations to the Prime Minister on the regulatory aspects Sky have, not unnaturally, drawn attention to some of the drawbacks of their choice. But in assessing these representations it is worth taking into account the advantage they enjoy, and the fact that they made their choice with their eyes open.

As Neil Thornton noted in his reply, it is a pity that Sky, unlike some of the other satellite operators such as W H Smith Television, have not been in touch with Government earlier to discuss their perceived difficulties. Mr Renton has, however, offered to meet Andrew Neil soon to discuss the issues he has raised, and we will do all we properly can to remove any unnecessary obstacles from Sky's path. In particular, we will encourage them to pursue further with the Cable Authority, what appears to be their principal difficulty, namely the licensing of SMATV systems.

I am copying this letter to Neil Thornton and Stephen Catling.

Yours sincerely



PP MISS C J BANNISTER

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ANNEX

Licensing of SMATV systems

Any cable system serving two or more households requires a licence from the Cable Authority under the Cable and Broadcasting Act 1984, except where the system carries only BBC services or channels regulated by the IBA. This requirement would apply where two or more households were sharing a satellite dish to receive Sky. The main purpose of the licensing requirement is to enable the Cable Authority to apply controls to the content of services to make sure that acceptable programme standards are maintained on matters such as taste and decency. Our understanding is that such licences are not generally complicated to obtain or expensive. It is, however, true the Cable Authority has not generally granted them in cable franchise areas, or in areas where a franchise was being advertised. The reason for this is that the Cable Authority is under a statutory duty to use its licensing powers in such a way as to promote broadband cable. Accordingly, it generally does not licence SMATV systems in franchise areas for fear that they will 'cherry-pick' lucrative areas, thus putting the viability of the cable operator's business at risk. The preference for broadband cable built into the 1984 Act was based on the hope that cable operators would begin to provide telecommunications as well as entertainment services, and thus pose competition to BT at the local level.

We understand that the Chairman of Sky Television has met the Cable Authority to discuss this matter. The Cable Authority apparently accepts that the arrival of Sky changes matters, and that it could be open to criticism if its refusal to grant SMATV licences in areas where the cable system was not operational led to viewers being denied access to Sky. It is therefore considering relaxing its policy in certain ways.

CONFIDENTIAL

BSB's services do not need to be licensed by the Cable Authority because they will already be regulated by the IBA. To propose that they should be licensable, as some cable interests have, would amount to pointless double regulation.

'Must Carry' rule

under the 1984 Act all cable systems above a certain capacity are required to carry BBC and IBA services (including BSB's services). The reason why the 'must-carry' rule was applied to DBS as well as to the four terrestrial channels was that it was conceived of as an extension of public service broadcasting. It is perhaps unlikely that the rule would be applied to DBS if the regulatory framework were being designed afresh now; and indeed the new framework for local services proposed in the White Paper does not contain a must-carry rule at all. But BSB signed their contract with the IBA on the basis that they would benefit from the rule (though given the slow growth of cable so far this is unlikely to be a significant benefit), and any change at this stage would leave Government open to the charge that it had unfairly moved the goal posts. In the response to the report of the Home Affairs Select Committee on broadcasting, the Home Secretary accordingly indicated that any cable systems licensed under the existing law would continue to have must-carry obligations for the remainder of the term of their licences.

<kd>js/dr/ltr/Gray



dti

the department for Enterprise

CFU
BJ

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

Paul Gray Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1A 2AA

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Direct line 215 5422
Our ref MM2ACF
Your ref
Date 20 February 1989

Dear Paul,

slap

Thank you for your letter of 15 February about Sky Television's complaints that they are unable to operate on a "level playing field".

I should first point out that there are two ways organisations can aspire to being satellite television providers. One is by applying in an open competition to use those frequencies allocated to the UK for Direct Broadcasting by Satellite (DBS) and operating as an authorised broadcaster under the auspices of the IBA. This is the route chosen by BSB. The alternative route, taken by Sky, is to provide a service using a foreign satellite operating on frequencies allocated to another country and thus largely avoiding the UK broadcasting regulatory regime. The route chosen by BSB gives it certain advantages but with them come real obligations such as regulation, especially of content and technical standards, and liability to levys, none of which apply to Sky. Sky's complaints should be seen in this context.

That said, it is no part of our purpose to put gratuitous difficulties in Sky's way. Our aim is to help Sky find a way through their problems, within the realms of what is possible. My Secretary of State met Andrew Neil last month to discuss this and, last Tuesday there were further discussions at official level which are now being taken forward in detail.



the department for Enterprise

Whilst Sky Television have clearly been under a great deal of pressure to achieve the early launch of their television services and have clearly achieved a great deal in a very short period, it does seem a pity that they should only last Tuesday have taken up my Secretary of State's suggestion to speak to DTI officials about the whole range of their problems, despite some prompting on our part. The Tuesday meeting was a useful one and, while we may not be able to meet all Sky's wishes, now that we have been informed about them we should be able to help provide a solution to a significant number of their problems.

The paper at Annex A gives the position on the specific points made in your letter.

I am sending copies of this letter to Philip Mawer (Home Office) and to Stephen Catling (Lord President's Office).

Yours ever,

Neil Thornton

N R THORNTON
Private Secretary

ANNEX A

(i) ALLOCATION OF FREQUENCIES

Sky require not only microwave links in two or more frequency bands to accommodate varying circumstances and lengths of link, but the full range of communications needed to make programmes. These include radio microphones, exclusive channels for communication between a director and his camera crew or for on-air instructions to a presenter or interviewer, telemetry channels for camera control, and engineering communications. A common feature of all these requirements is that either because the need is for voice or video communication of programme quality or for the channel to be exclusive to avoid break through from other users, they are very greedy of spectrum compared with normal business use. A certain amount of spectrum has been made available to the established broadcasters who have set up complex sharing arrangements to maximise its use. Even though long foreseen, we are stretched to find even a modest dowry of such spectrum for BSB, as a regulated broadcaster, to bring to these sharing arrangements.

In due course we shall also have to accommodate the reasonable needs of the franchisees of the two remaining DBS channels, TV5 and the tier of commercial radio. We have therefore to look at Sky's requirements against this background. Further, we have also to service the needs of the expanding independent programme sector. Other Astra channels may also shortly come with similar requests.

Having said that we stand ready to see how we can satisfy Sky's needs. Because of the speed with which the Astra operation has been set up, Sky do not themselves appear to have yet formulated with precision the range of facilities they will require. But a detailed working session with them has been scheduled for next week after which we should be able to decide fairly quickly how best to meet their needs within the substantial constraints on spectrum availability. We have in fact already negotiated the "loan" of a limited amount of spectrum from the broadcasters with which to meet at least some of Sky's most urgent short term requirements.

(ii) FIXED LINKS

Under the telecoms duopoly policy, to which the Government is committed, fixed links (by microwave or any other means) can only be provided by BT or Mercury. They do, however, have to be provided on fair terms, and this is a matter on which Oftel can advise. At his meeting with Andrew Neil last month, my Secretary of State recommended that he should speak to the chairmen of BT and Mercury and, if he was dissatisfied with what was offered, that he should approach Oftel. This Sky has not yet done.

(iii) SATELLITE UPLINKS

It is quite true that Sky News is unable to operate its own "uplinking" to transmit live pictures from an outside location. Under the telecoms duopoly regime, uplinks to satellites can only be run by BT, Mercury and now Kingston Communications (Hull) and the six "specialised satellite service operators" whom DTI announced last autumn it would license to provide services within the UK. News International were one of 27 to apply for such a licence, incidentally, but were unsuccessful. The The Director General of Telecommunications was not persuaded that their application was as good as those from the six winners but Sky have the consolation that they can now do business with those winners as well as Mercury and BT. At a meeting with DTI officials on Tuesday, it was apparent that Sky had not explored in as creative a way as it might, all possibilities for using one of the new licensees and has believed there were difficulties which are not, in practice likely to arise. Once DTI officials were told Sky's problem in detail, they were able to offer suggestions as to how this problem, at least, might be solved. Sky has also been advised very strongly to discuss its requirements with Oftel since that too could help point up possibilities which the company have yet really to explore.

(iv) LICENSING

If one or more households share an aerial to receive television programmes they are technically running a telecommunications system and, as such require a Telecommunications Act licence (from DTI) and, in some cases,

a Cable and Broadcasting Act licence, primarily to regulate programme content (from the Cable Authority).

For the DTI's part, we run a liberal regime for such systems. Once a system has the necessary Cable and Broadcasting Act licence it will either be automatically covered by an existing Telecommunications Class licence (which the operator of the system does not need to apply for) or, in the case of a system covering more than one building, by a readily available standard licence.

Sky's concern relates to the licences issued by the Cable Authority who are, I understand, reviewing their policy in this area. I know that the Home Office are replying in more detail on this point.

(v) **PLANNING PERMISSION**

Again, Sky are correct. Subject to certain conditions, any one satellite dish of up to 90 cm can be installed on a house without planning permission. As an environmental safeguard however, permission is required for a second dish. The requirement was drawn up at a time when the need for more than one dish was considered unlikely. It is now clear that viewers wanting both Astra and BSB services will almost all need two dishes.

Since Sky have launched their programmes before BSB, this requirement seems more likely to impact upon BSB. The requirement forms part of the Town and Country Planning General Development Order and officials from DTI, the Home Office and the Department of the Environment are exploring ways in which it might be eased.

(vi) **"MUST CARRY"**

Arrangements for "must carry" are for the Home Office who, I understand, will cover this in their reply.

(vii) **MOVIE SOUND FEED**

Likewise, Sky News' problems over the sound feed from the House of Commons are a matter for the Lord President's Office.

BROADCASTING: direct broadcasting

pt 7.



(4) PLANNING PERMISSION

(41) "MORE CARE"

(41) "MORE SOUND BOLD"



10 DOWNING STREET
LONDON SW1A 2AA

February 20, 1989

From the Press Secretary

Mr Andrew,

Thank you for your further letter of February 14 setting out Irwin Stelzer's version of the threats to your competitive position. As I mentioned on the 'phone, your representations are being pursued.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Bernard Ingham'.

BERNARD INGHAM

Andrew Neil Esq
Executive Chairman
Sky Television PLC



C

act

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

16 February 1989

- 1. AG - to see
- 2. no like which will DTI ad for office repaid.

PRCCG vbr

Dear Paul

attached

SATELLITE TELEVISION

You copied to me your letter of 15 February to Neil Thornton raising a number of difficulties being experienced by Sky Television in its current operations. The last of these concerned access to the sound feed from the House of Commons. The Lord President is well aware of the problem, which arises, as you note, from the fact that the Select Committee on Sound Broadcasting has not been reconstituted in the present Parliament. There are some sensitivities here, including the need for resolutions to be passed by the House, which preclude an immediate solution but the Lord President is confident that the problem can be sorted out fairly quickly. I suggest any reply might therefore include the following:

"You also raised the question of access to the sound feed from the House of Commons which, as you say, cannot be considered at the moment because the Select Committee on Sound Broadcasting has not been reconstituted in the present Parliament. John Wakeham is aware of the problem and is pursuing it within the House. I understand he has discussed with Andrew Neil what needs to be done to provide Sky with access to the feed, while making it clear that too much publicity at this stage would undoubtedly be detrimental."

I will, of course, let you know when we have sorted this out.

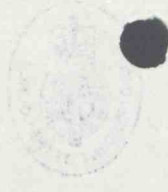
I am sending copies of this letter to Neil Thornton (Department of Trade and Industry) and Philip Mawer (Home Office).

Yours
Steve Catling

STEVE CATLING
Private Secretary

Paul Gray Esq
PS/Prime Minister

THIRD CLASS OFFICE
BRISTOL LONDON 2/11/21



16. 11.
1 PM 29

THIRD CLASS OFFICE

CONFIDENTIAL

SUBJECT
CC MASTER.



RG
SH

cc: BF

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

16 February 1989

Dear Neil

SATELLITE TELEVISION

The Prime Minister discussed briefly after Cabinet with your Secretary of State and the Home Secretary the problems being encountered by Sky Channel - the points at issue were set out in Paul Gray's letter to you of 15 February. She was concerned that an enterprising initiative should not be obstructed by excess bureaucracy or worse, by favouritism of other operators. Your Secretary of State accepted this but said there was another side to the story. Unlike BSB and Channel 5, Sky was not part of the system licenced and regulated in the United Kingdom. It had chosen to go into the sky, thereby avoiding various requirements and obligations. The Government should not do for Sky what it was not prepared to do for BSB, C5 or any other offshore operators that followed. He had recently spoken to Sky and urged them to enter negotiations with BT and Mercury, meetings which DTI were ready to facilitate. But Sky had still not done so. Also meetings had been offered with Mr. Alistair McDonald in his department, but again these had not been followed up.

BF |

Concluding the discussion, the Prime Minister asked your Secretary of State and the Home Secretary to work on the points raised and to report back at the end of the month so that there could be a further discussion early in March.

I am copying this letter to Philip Mawer (Home Office) and Steven Catling (Lord President's Office).

Yours sincerely

Andrew

ANDREW TURNBULL

Neil Thornton, Esq.,
Department of Trade and Industry

CONFIDENTIAL

2

CONFIDENTIAL



file B

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

15 February 1989

Dear Neil,

SATELLITE TELEVISION

It has been put to the Prime Minister that in a number of respects Sky Television is not currently able to operate on a level playing field. It has been suggested that a number of these difficulties arise from the regulatory framework. The Prime Minister would be grateful for an early report on the following points:

i. It is said that Sky News is unable to obtain its own microwave frequencies from the DTI for live outside broadcasts, whereas the BBC and ITV have been allocated many such frequencies, often on an exclusive basis. The BBC and ITV are said to have declined to share these frequencies with Sky News.

ii. Without access to microwave frequencies, Sky News has been obliged to use BT facilities for live broadcasts; it has been unable to obtain from BT contract prices on a bulk user basis.

iii. Sky News has been unable to obtain an allocation of 'uplink' frequencies to receive live pictures from an outside location, and has to rely on BT's ground receiving facilities, which are priced at 10-20 times the equivalent cost in America. The alternative, for Sky to obtain a feed from the competitors to BT who have been granted uplink licences, is said to be denied by DTI regulations.

iv. Whereas individual homes are permitted to install a satellite receiving dish, two or more households who wish to share a single dish require a special licence known as SMA TV. It is suggested that such licences are complicated, expensive and unavailable - except to cable operators - in any area which has been franchised for cable or is under consideration for cable franchising in the near future. More than seven million homes in 51 areas franchised or advertised for cable franchise are said to be off limits as a result. And although in most of the country no cable is being laid, the suggestion is

CONFIDENTIAL

that the Cable Authority will not allow anybody else to SMA TV buildings, even on a temporary basis. It is also suggested that the Cable Authority regulations do not apply to British Satellite Broadcasting's DBS service.

v. Planning regulations are said to present further restrictions because, for example, although individual homes are permitted to install a small satellite dish without planning permission, such permission is required for two dishes.

vi. The arrangements by which regulations require cable and SMA TV operators to make BSB's signals available to cable subscribers, but there is no such 'must carry' rule for Sky and other non-DBS satellite programme services.

vii. The situation whereby Sky News has been unable to obtain the sound feed from the House of Commons as the authorising body, the Committee for Sound Broadcasting, has not been reconstituted since the last General Election.

I am sending copies of this letter to Philip Mawer (Home Office) and to Stephen Catling (Lord President's Office).

Yer.
Pa

PAUL GRAY

Neil Thornton, Esq.,
Department of Trade and Industry



10 DOWNING STREET

Prime Minister

SAS Trade and Industry
and Home Sec have been
asked to stand by after
Cabinet to discuss Sky Channels
problems.

They will not have answers
by then but you will want

(1) to make sure they have
taken delivery of the points
in Paul's letter attached

(2) to impress upon them
we need to deal with them
fast.

AG

15/2

Prime Minister!

While Andrew Neil is no doubt racking his brains, some of these points do seem pretty obvious. Contact for us to pursue with Dept.?

1. MR GRAY
2. PRIME MINISTER

REC 6
13/2
Y
is not

SKY TELEVISION - OBSTACLES

Andrew Neil is not your favourite Sunday editor. He is also chairman of Sky Channel and in that capacity has written to me, attached, on his many woes in getting the venture on to the nation's screens.

His catalogue of problems raises the question as to why in heaven's name Sky launched its services before it had sorted out its problems.

Be that as it may, you should read the attached account of the formidable obstacles in Sky's way. It suggests Britain is still pretty effectively organised to block competition and innovation even in hi-tech areas.

Essentially, Mr Neil makes three points on live broadcasting:

Sky can only cover events live at prohibitive cost because:

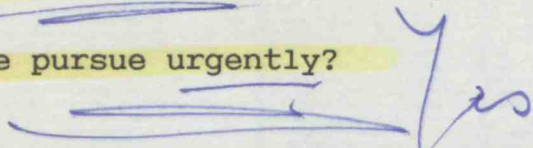
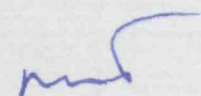

- (a) DTI won't give it microwave frequencies and BBC and ITV won't share theirs with Sky
- (b) British Telecom won't give it a bulk user price for its frequencies
- (c) six licences of uplink frequencies are prohibited from competing with British Telecom to supply Sky.

So far as getting a Sky picture on the screen once it has got a signal to its satellite Sky is confronted with:

- i) restrictions on sharing satellite dishes among multiple dwellings eg flats
- ii) unavailability of satellite dish licences in any area which has been franchised for cable or is even under consideration for cable franchising. [NB - Mr Neil says 7million homes are in the existing 51 cable areas and are consequently off limits to Sky].
- iii) regulations favouring BSB as well as Cable at Sky's expense because BSB's service can be shared among multiple dwellings.
- iv) there is no "must carry" rule for Cable and other operators in respect of Sky though there is for BSB.
- v) Sky can't get the House of Commons sound feed until John Wakeham has secured Parliamentary permission (as he is trying to do) by vesting authority in the Services Committee in place of the Broadcasting Committee which has not yet been reconstituted. We shall have to watch Labour venom against Rupert Murdoch here.

You may well feel that we should refer Mr Neil's complaints to DTI and British Telecom for urgent comment and the Home Office for consideration in relation to the Broadcasting White Paper.

Agree we pursue urgently?

 Yes 


BERNARD INGHAM
February 13, 1989



CF - m.

31-36 FOLEY STREET, LONDON W1P 7LB. TEL. 01-636 4077 TLX. 268395 FAX 01-499 1656

PRIVATE AND CONFIDENTIAL

Bernard Ingham Esq
Press Office
10, Downing Street
London
SW1

A. Perry.
For your file
As you see, I have acknowledged
J 20/2

14th February 1989

Dear Bernard,

I enclose a copy of a memo our Consultant, Irwin Stelzer, has sent to Woodrow Wyatt. It puts rather more pithily what I said in my letter to you : the way the Cable Authority has chosen to thwart SMATV is a major threat to our competitive position. It effectively sterilises at least 2 m flats, and maybe as many as 7 m (1/3 of all homes in Britain), from receiving Sky. Moreover, it is unfair : no licenses will be needed for those who switch to SMATV apartment blocks to take BSB. No greater handicap faces us in our efforts to bring multi-channel television to Britain.

With best wishes,

Andrew Neil
EXECUTIVE CHAIRMAN

Enc.

SKY TELEVISION PLC

HEAD OFFICE: 31-36 FOLEY ST., LONDON W1P 7LB. TEL. 01-636 4077 TLX. 268395 FAX 01-499 1656
REGISTERED ADDRESS P.O. BOX 495 VIRGINIA STREET, LONDON E1 9XY REGISTERED NUMBER 1518707 ENGLAND VAT REG NO. 440 6274 67

Have mine

While Andrew Neil is no doubt navigating his problems, some of these points do seem pretty run. Contact for us to pursue with Depchets? _____

1. MR GRAY
2. PRIME MINISTER

REC 6
13/2
Y
es mb

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You may well feel that we should refer Mr Neil's complaints to DTI and British Telecom for urgent comment and the Home Office for consideration in relation to the Broadcasting White Paper.

Agree we pursue urgently?

Yes not

John

BERNARD INGHAM
February 13, 1989

IRWIN M. STELZER

||||||| ASSOCIATES, INC. |||||
126 EAST 56TH STREET, NEW YORK, NY 10022
TELEPHONE: (212) 826-1175

VIA FAX

RECEIVED
14 FEB 1989
Ans'd.....

TO: Woodrow Wyatt
FROM: Irwin M. Stelzer
RE: SMATV
DATE: February 10, 1989

Many households in Britain receive their television programs by a group, rather than an individual, aerial. These are known as Master Antenna Television systems (MATV), usually found in blocks of flats. Generally, the cost of maintaining these systems is paid for by the users in their rent, at a rate of something like 15 - 20 pence per week. And, as a rule, these flats are owned by local housing authorities.

These MATV systems can be converted to SMATV (Satellite Master Antenna Television systems, pronounced "smat-vee") by putting a few bits of equipment on the roof. This, of course, Sky would like to do, as would most of the operators of the MATV systems. The incentives are obvious: in the case of the four basic Sky channels, Sky would get an audience of some 2 million households very quickly; the systems operators would enhance their standing with the local authorities, when contract renewal time comes around, and might be able to get a bit of an increase in their charges; and both parties would eventually be able to make the pay channels available to these households.

But the cable authority will not grant licenses to install the necessary equipment in areas in which it has issued a cable franchise, or in which it is considering issuing a cable franchise, whether or not cable service is available to those buildings. The effect of this is that the Sky channels, which would be available at no charge or almost no charge in the case of basic, are denied to some 2 million households, which must wait for cable service to come along, for which they will then have to pay many pounds per month.

Another interesting effect is that the cable authority has defined as a SMATV system any two or more households connected to a single dish. This means, for example, that if I want to install a dish on the roof of my building, and have it service everyone in the building, I cannot do so without getting a license from the cable authority. And the cable authority has told us quite clearly that it will not issue such licenses, because it wants to reserve the market for cable.

Apparently, the government's theory is that it can "pick winners," in this case broad-band cable technology, which it sees developing into a two-way communications system. But it fears that, if people sign up for satellite service via SMATV systems, the cable systems will never be built. I spoke with the chairman of the cable authority, and he told me that this is not a situation in which the government plans to let market forces operate.

The result of all this will be that some 2 million households will not have an increased choice of television stations; dishes will proliferate, since sharing of dishes is



impossible; and, eventually, people who want more than the current four channels will have to take expensive cable service rather than the less costly Sky service.

The unfortunate sufferers will be primarily blue collar workers living in council flats or in houses owned by local housing authorities.

Is this Thatcherist free enterprise?

IMS:FM

bcc: Jonathan Miller
Ray Gallagher
Andrew Neil



31-36 FOLEY STREET, LONDON W1P 7LB. TEL. 01-636 4077 TLX. 268395 FAX 01-499 1656

10 February 1989

Mr. Bernard Ingham
The Press Office
10 Downing Street
London S.W.1.

Dear Bernard,

Sky Television's four new networks (Sky Channel, Sky News, Sky Movies and Eurosport) are now up and running. Later this year we will add two more (Disney and Sky Arts). It took Britain almost 50 years to get to four channels. We will more than double that within six months. We are rather proud that our launch on February 5 was such a success, and done in record time. Nobody has launched so many channels at once and done it so quickly.

We believe Sky is consistent with the government's desire to increase the diversity and quality of British television, and to see that done by private sector funds. We receive no state subsidy or licence fee, nor do we enjoy a monopoly of advertising revenues. We are risking our own funds, and we will fail or succeed on the quality of what we can provide.

The main problem we face is that, though the government has made it possible for more channels to broadcast, the rules and regulations governing the telecommunications essential to a television service remain highly restrictive. This is especially true of Sky News, Europe's first 24 hour news channel. Our aim is to produce a British CNN. That means having the ability to go "live" to breaking news events. Current regulations severely handicap our ability to do that. Unless the regulations can be loosened up there will never be a British CNN.

Our ability to go "live" has been hampered in several ways:

1. Microwave frequencies

Sky News cannot obtain its own microwave frequencies from the DTI for live outside broadcasts. Without them we cannot get our pictures back. The BBC and ITV, of course, have been allocated many such frequencies, often on an exclusive basis, by the DTI. We were sent by the DTI to see if they would share them with us. Not

SKY TELEVISION PLC

HEAD OFFICE: 31-36 FOLEY ST., LONDON W1P 7LB. TEL. 01-636 4077 TLX. 268395 FAX 01-499 1656
REGISTERED ADDRESS P.O. BOX 495 VIRGINIA STREET, LONDON E1 9XY REGISTERED NUMBER 1518707 ENGLAND VAT REG NO. 440 6274 67

Surprisingly, they said no. So, Sky News is caught in a limbo between the DTI having handed over these frequencies to our rivals, and they refusing to co-operate. It's as if, as editor of The Sunday Times, I had to go to The Observer, for ink and paper, whose supply it controlled.

2. British Telecom tariffs

Without frequencies from the DTI, Sky News has been forced to use BT facilities for live broadcasts. This is enormously expensive and puts us at a severe disadvantage vis-a-vis BBC and ITV. Moreover, BT has refused to give us a contract or to quote prices which reflect our position as a bulk user of their service. Instead, we can only book frequencies on an ad hoc basis, at a cost of around £3,000 a day. This risks bankrupting Sky News within months and puts us in no better a position than, say, Zaire TV, which might use BT once a year.

3. Satellite Newsgathering (SNG)

The most efficient way to give live pictures from a location (e.g. Lockerbie) to our studios will often be to bounce them off a satellite. But, again, we are not allowed an allocation of such "uplink" frequencies and we are forced back again on BT's ground receiving facilities, which are prohibitively expensive (10 to 20 times the equivalent cost in America). True, uplink licences have been granted to six competitors to BT, but DTI regulations prohibit their feeding news from location to us which Sky could then retransmit on our news channel. The rationale behind these rules is too obscure to explain; but their effect is that the six licencees cannot compete with BT to provide us with an SNG service. So we then looked at buying our own portable dishes, to be moved to wherever a major story was breaking. Under present rules, we'd still have to lease the frequencies from BT at enormous cost, and they would want to send along two BT "minders" for the day at £250 a man, even though they'd have nothing to do. The ethos of the dock labour scheme seems to be well established in telecoms!

There are other rules and restrictions which affect the ability of Sky Television as a whole to operate effectively:

1. Restrictions on Sharing Satellite Dishes

While individual homes are permitted to install a satellite receiving dish, sharing a single dish among two or more households (whether two residents in terraced housing or a semi-detached home, or adjacent flats in the same block) requires a special licence known as "SMATV" (Satellite Master Antennae TV i.e. putting a dish on the roof of a tower block and wiring up each flat) from the Cable Authority (CA). These licenses are complicated, expensive and unavailable (except to cable operators) in any area which has been franchised for cable or is even under consideration for cable franchising in the near future.

These regulations exist solely to favour cable technology and contravene the Government's approach, stated in the Broadcasting White Paper, not to pick winners or artificially determine the relative success of different technologies. A number of cable operators are developing SMATV services and Sky hopes to be on them. But in most of the country no cable is being laid and yet the Cable Authority will not let anybody else SMATV buildings, even on a temporary basis. The result is that most people who live in flats will not be able to receive Sky.

More than seven million homes are currently in 51 areas franchised or advertised for cable franchises and are therefore "off-limits", except to cable operators (several of whom have held cable franchises since 1984 and have yet to build systems). Many more homes will be off-limits as the CA undertakes its programme to grant franchises for most remaining areas in the next year or so. Even outside cable areas, the cost (a minimum annual fee of £115) and complexity of licensing (e.g. filing Ordnance Survey maps and a 4 page application form) is prohibitive.

Lastly, these regulations do not apply to British Satellite Broadcasting's DBS service. BSB's service can be shared amongst multiple dwellings using a single dish without CA licensing, a major inequity as DBS is functionally identical with Sky. All we ask for is a level playing field.

2. Planning Restrictions

Planning regulations present further restrictions. Individual homes are permitted to install a small satellite dish without planning permission, but not two dishes - regardless of how unobtrusive. And there is discrimination against flats. To take the example of a row of two-storey terraced houses, any which have been converted into flats require planning permission - while neighbours with externally identical homes do not. Furthermore, even purpose built flats - if under fifteen metres in height - require planning permission and are limited to a maximum of two antennas regardless of the size of the blocks.

These regulations clearly place an unnecessary burden on local planning authorities to determine planning applications which are not strictly necessary, confuse the public as to when planning permission is required for the erection of satellite antennas (and why), and will generally hinder the development and growth of satellite broadcasting.

3. Must-Carry Regulations

Another inequity are regulations by which cable and SMATV operators are required to make BSB's signals (and future UK DBS channels) available to cable subscribers. There is no such "must-carry" rule for Sky and other satellite programme

services, despite their functional similarity. This can be a serious competitive disadvantage, particularly where cable and SMATV systems have channel limitations and must carry BSB's service before Sky's. Essentially, television distribution from DBS and non-DBS satellites requires regularity parity. Again, a level playing field is all we ask.

4. House of Commons Sound Feed

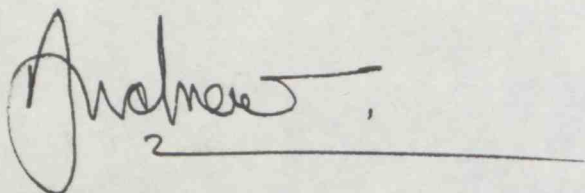
Sky News has been unable to obtain the sound feed from the House of Commons as the authorising body, the Committee for Sound Broadcasting, has not been reconstituted since the last General Election. This prohibits Sky News from broadcasting prime minister's questions, which we'd like to do twice a week. Again we are stuck in regulatory limbo: only the committee can grant permission and it does not exist. John Wakeham has promised to do what he can. My fear is that, without a speedy resolution, Sky News will be unable to cover the budget.

We are also concerned that Sky may not receive access to experimental television coverage of the House if principal authority is given to BBC and IBA contractors (the latter including BSB as well).

I'm sorry this has turned out longer than I thought. But the restrictions are many and the rules complicated. There have been times in the past few months when I thought I was still living in the old Britain of the 1960s and '70s. I'd be grateful for any help you can give us.

With best wishes.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Andrew F. Neil". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

ANDREW F. NEIL
Executive Chairman

ABC-PA

From: THE PRIVATE SECRETARY

£29/11



Prime Minister²

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

29 November 1988

Dear Charles

**DRAFT COUNCIL OF EUROPE CONVENTION
ON TRANSFRONTIER TELEVISION**

The Prime Minister will have seen press reports of the outcome of last week's Conference of Council of Europe Broadcasting Ministers, at which Mr Renton represented the UK, and may be interested to have a fuller account of the position now reached on the draft Convention on Transfrontier Television.

It was clear from the outset that there was a strong desire on the part of most Council of Europe states to reach agreement on the outstanding points on the draft Convention, and a recognition that unless the Conference made real progress towards this end it was unrealistic to expect that there would be a Convention in the foreseeable future. We argued strongly that it was necessary to have a broad framework of Europe-wide regulation in place now, before the first of the new satellites was launched, otherwise it would be too late. In the event, most of the time of the Conference was devoted to the Convention and we are, as a result, now within sight of finalising the text.

From the point of view of the UK, the most significant outstanding issue in the Convention was that of advertising breaks. Following bilateral discussions with the Germans we had earlier produced a compromise text which subsequent consultations with our own broadcasters and advertisers suggested would be acceptable domestically. We decided to table this formulation early on with a view to assisting the discussions on the Convention as a whole, but in doing so we indicated that we would withdraw it if other countries could not accept it as it stood or if by the end of the Conference resolution of the other major issues had not been achieved.

At the same time other countries put forward their own major demands. The French argued for a system of numerical quotas for European works and for a text on the subject of the distribution

/hierarchy for

Charles Powell, Esq
Private Secretary, No10

hierarchy for films as between cinema and television release. Belgium sought to establish a mechanism whereby transfrontier broadcasters could be expected to contribute to audio visual production in receiving countries. Italy and Luxembourg sought the deletion of an article in the draft text regulating advertising aimed exclusively at a single state. In the light of this discussion it was agreed that the Chairman and Secretariat should come forward with a new text reconciling as far as possible the different points that had been put forward.

On the second day of the Conference, therefore, following informal discussions with a number of delegations, including ourselves, a compromise package was tabled covering all the main articles which gave rise to difficulty. This incorporated our own proposal on advertising breaks and included new wording on the other issues previously discussed. In the discussion that followed this package received general support. Some countries reserved the right to study it in more detail later and perhaps propose drafting amendments before finally endorsing it. We, for example, while welcoming the package, said that the new wording on European programming quotas should make it clear that pay-tv and subscription services were excluded from the scope of the provision. But the Swedish Chairman, Mr Goransson, was able to sum up to the effect that the package formed a valid basis for the conclusion of the outstanding issues on the text, and that the Conference requested the Committee of Ministers to complete the work of finalising the Convention on the basis of these proposals with a view to the Convention being opened for signature early next year.

This is in our view a satisfactory outcome. We have safeguarded our essential interests, particularly on the question of advertising where we now have a much improved provision which, unlike the previous text, will not harm our commercial television channels. The provisions on programme standards, to which we attach particular importance, have not been challenged. And while there is new wording on some other matters we do not believe this will cause us any practical difficulty.

It now remains for the draft Convention to be finalised and opened for signature by the Ministers Deputies of the Council of Europe. They will have the matter on the agenda for their meeting next week. We cannot of course rule out the possibility that some countries may at that meeting seek to reopen specific issues, but the expectation is that any further discussion should now be confined to minor points of drafting. In particular as a result of the Conference the earlier threats by some countries such as France and Luxembourg to block the Convention seem now to have disappeared.

/Agreement on

Agreement on the Council of Europe Convention does not necessarily rule out the possibility of the EC draft Directive on Broadcasting being concluded successfully. Although a number of Member states are likely to suggest that a Convention diminishes the need for a Directive, the Commission can be expected to argue strongly in favour of a Directive as part of the approach to 1992. It is not an argument which carries much weight at present, however, as the current provisions in the Directive impose more restrictions than they reduce.

You may also wish to know that the Commission have suggested that the present text of the Convention is in some respects incompatible with EC law, and that the Directive should precede, not follow, the Convention. Member states of the Council of Europe see little force in these arguments, which they believe the Commission have introduced because of their own failure to make progress. They are satisfied there are no legal impediments to the conclusion of a Convention in advance of a Directive.

The latest position reached on the Directive is that it was discussed briefly at the Internal Market Council on 18 November, but made little progress. A number of Member states, including the UK, have fundamental objections to some of the provisions and there appears to be little prospect of these being resolved in the near future.

I am copying this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Secretary of State for Trade and Industry and the Minister for Arts, and to Sir Robin Butler.

Yours

Catherine

MISS C J BANNISTER

CONFIDENTIAL

cc/PU



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Tony Newton OBE MP
Chancellor of the Duchy of Lancaster
and Minister of Trade and Industry
Department of Trade and Industry
1 - 19 Victoria Street
London
SW1H 0ET

MBM
RC/6
11/11

11 November 1988

Dear Chancellor of the Duchy, ac for

TV LICENSING ORGANISATION: NEW BUSINESS

Thank you for your letter of 3 November in which you propose that TVL be allowed to extend its activities to compiling and operating subscriber registers for the new satellite broadcasting organisations. I have also seen the Prime Minister's comments in Paul Gray's letter of 7 November. — *TOP ENCL*

I agree with your view that TVL should undertake this new work only on a contractual basis and that the organisation should not itself invest directly in the necessary resources. On that basis, I am content with your proposal.

I note that you see TVL as a good candidate for early privatisation and that you will be asking the Post Office to include in their next Corporate Plan, a detailed strategy for achieving this by end 1990-91. I think it will also be essential to have City advice on the best method and timing of sale before we take final decisions and I am sure you have this in mind. No doubt you will be writing further to Norman Lamont on how you plan to proceed.

I am copying this letter to the Prime Minister, Douglas Hurd, members of E(NI) and Sir Robin Butler.

Yours sincerely,
P. Walters

pp JOHN MAJOR
(Approved by the Chief Secretary
and signed in his absence)

BICOSTALS

DBS

PZ



CONFIDENTIAL



Edm
FILE
cc P.D.

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

7 November 1988

Dear Peter,

TV LICENSING ORGANISATION: NEW BUSINESS

The Prime Minister has seen the Chancellor of the Duchy's letter of 3 November to the Chief Secretary. Subject to the views of colleagues, she agrees that an early announcement should be made indicating that the Government is content for TVL to compete for subscription work for satellite broadcasting services on a contractual basis.

I am copying this letter to Philip Mawer (Home Office), Private Secretaries to members of E(NI) and to Trevor Woolley (Cabinet Office).

Yours,
P.G.

PAUL GRAY

Peter Smith, Esq.,
Office of the Chancellor of the
Duchy of Lancaster

CONFIDENTIAL

Edm

25/10

The Rt. Hon. Tony Newton OBE, MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147
Our ref
Your ref
Date

3 November 1988

Prime Minister
George Grieve and I agree
that this is a sensible idea which
should be allowed pending the more
general discussion of Counters'
privatisation. Content?

Yes - I agree
Rec 6
4/11

Dear Chief Secretary,

TV LICENSING ORGANISATION: NEW BUSINESS

You will recall that Kenneth Clarke wrote to you on 21 July proposing that he should allow the Post Office to extend its Counters business in a number of areas. The Prime Minister commented that any extension of Counters services should not result in unfair competition with the private sector and that it needed to be considered within the context of an overall plan for privatisation. You also expressed concern over the future size and form of the Counters network. I very much share these reservations. I therefore made it clear to Sir Bryan Nicholson that I could not consent to any formal extension of Counters' powers before we had had the opportunity to take a broader look at options for the future of the Post Office's businesses and except within the context of an agreed strategy for privatisation of Counters. I shall be including this in the paper which I hope to bring to E(A) shortly.

Sir Bryan Nicholson has, however, persuaded me that there is one limited area of Post Office activities where I should agree to some limited relaxation. He has convinced me this would not lead to unfair competition with the private sector and that, were I not to agree, the prospects that currently exist for early privatisation of the subsidiary concerned could not be realised.

EM1AAD

at Harp

The particular subsidiary is the TV Licensing Organisation (TVL). As its name suggests, its present work concerns the issue and enforcement of TV licences. TVL has 1,350 employees. With Sir Bryan's agreement it has been informally discussing proposals for diversification with potential private sector partners. One of the proposed new activities is the compilation and operation of a subscriber register for one, or more, of the new satellite broadcasting organisations. I understand that both TV Direct Limited (TVDL) and British Satellite Broadcasting (BSB) have expressed an interest in TVL carrying out subscription management work. Other areas of possible TVL involvement which have been raised include compiling and monitoring a national register of football supporters and a national mortgage register independent of the major lenders and financial institutions, designed to reduce the scope for mortgage fraud.

I have made clear to Sir Bryan that I am only prepared at this stage to countenance a possible extension of TVL's activities to satellite broadcasting work. I have also emphasised that there can be no question of my agreeing to TVL investing directly in these new activities itself but should only undertake new business for the private sector on a purely contractual basis. Within these limits, I believe there are strong reasons for allowing Sir Bryan to proceed.

First, TVL is a small, self-contained profit centre within the PO's corporate organisation. If its commercial future is assured, it would be an ideal candidate for early privatisation. If, however, its sole area of business is TV licence collection, issue and enforcement, its days would seem numbered to any potential private sector purchaser. Subject to your agreement that I should consent to the present proposal, I propose to ask Sir Bryan to provide details in the next Post Office Corporate Plan of a detailed strategy for TVL to be privatised by the end of 1990/91.

Secondly, as both Douglas Hurd and Tim Renton have pointed out to me, provided TVL was capable of diversifying without detriment to the effectiveness of TV licensing work, there would be benefits to both Government and the BBC. By allowing TVL to spread its overheads between TV Licensing and other contractual work, the costs of the licensing operation could be significantly reduced. I believe that TVL will be able to satisfy the Home Office that it will be able to maintain its present level of efficiency.

Finally, I believe that any risk of unfair competition between a TVL in the public sector, before privatisation, and the private sector would be minimal. If it undertook satellite broadcasting work, it would not use the equipment or the software developed for TV licensing purposes. It would merely exploit the expertise it has acquired in building up files of addresses. This expertise is, of course, already widely available in the private sector, eg through mail order firms. Moreover, as Douglas Hurd has pointed out to me, it would be unfortunate to impose unnecessary costs on the private sector if TVL can provide the best service at the best price; and particularly unfortunate in the case of the satellite broadcasting organisations given the high risk nature of the business and the substantial forward investment needed.

If we consent to diversification by TVL on a contractual basis, this does not in my view prejudice any future decision which we may wish to take on the proposed extension of activities by Post Office Counters Ltd. TVL is at present a 'one-product' organisation whose future is very clearly and directly linked with the future of TV licensing. The Home Office, I believe, recognises it to be an efficient organisation, and one which is potentially able to undertake other activities without detriment to its licensing work. TVL itself recognises that, with a wider range of activities, it would be well suited for transfer to the private sector, and would welcome that opportunity.

If you and colleagues agree that I should indicate to the Post Office that I am content for TVL to compete for subscription work for satellite broadcasting agencies on a contractual basis, I would propose to make an early announcement to this effect. Publication of the White Paper on Broadcasting next week will demonstrate our commitment to establishing a more competitive environment for broadcasting. An extension of TVL's contract work for satellite broadcasters could be presented as enabling it to adapt to, and benefit from, this new more competitive environment.

I am copying this letter to the Prime Minister, Douglas Hurd, members of E(NI) and Sir Robin Butler.

Yours sincerely,

Peter Smith

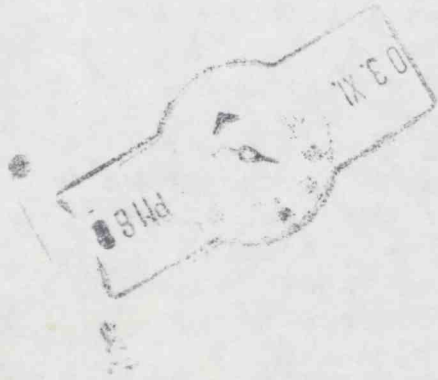
PP TONY NEWTON

*(Approved by the Chancellor
and signed in his absence)*

POST + TECS: Post

Office future

H U





QUEEN ANNE'S GATE LONDON SW1H 9AT

19 October 1988

Dear Nigel,

DBS CHANNELS 4 AND 5

Thank you for your letter of 17 October about my proposal that we should announce in the White Paper that the remaining two DBS channels would be allocated as soon as possible. *with PG?*

I am glad that you support this proposal. I am grateful for your suggestion that we might use this opportunity to give a further stimulus to subscription. In general we are in the White Paper leaving it to operators of commercial TV stations (including BSB) to choose for themselves the best mix between advertising and subscription, and I think this is right. But it is, I believe, open to the IBA to refuse to permit advertisements to be carried on one or both of these DBS channels. I assume that it is accordingly open to them to announce this fact at the time they advertise the contract. However, though I have not yet discussed the matter with the IBA, I anticipate that they will take the view that they could decide that this course was right only after considering the broadcasting scene in general, and the commercial television scene in particular. Obviously they will not be in a position to do that until our White Paper is published. Accordingly, if we want to administer a further nudge towards subscription the White Paper might say that we are interested in the possibility of using DBS Channels 4 and 5 to give a further stimulus to subscription and that we propose to discuss how this might be done with the IBA. If colleagues believe this to be the right approach I would be happy to agree to it.

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

Tom,
Dylin.

The Rt Hon Nigel Lawson, MP.



19. X. 1919
MIR

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

COMMERCIAL IN CONFIDENCE

Rt Hon Douglas Hurd CBE MP
Home Secretary
Home Office
50 Queen Anne's Gate
London SW1

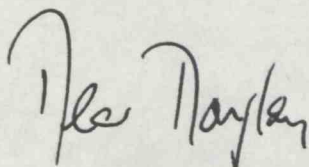
Department of
Trade and Industry

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Fax 01-222 2629

Direct line 215 5422
Our ref DW2ATX
Your ref
Date 18 October 1988



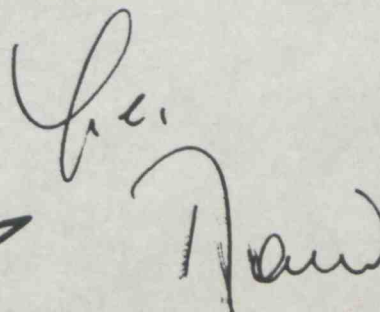
DBS CHANNELS 4 AND 5

Thank you for your letter of 10 October ^{with PG?} about BSB's request that the moratorium on the allocation of DBS channels 4 and 5 be lifted.

I am encouraged by the more aggressive competitive stance which BSB are now adopting, and that they no longer feel the need for a protective moratorium. I welcome the prospect of the early introduction of further new services by UK DBS, and the further impetus this is likely to give to the take-up of new broadcasting technology. I am happy therefore that you should proceed as you propose.

I have seen Nigel Lawson's suggestion, in his letter of 17 October, that the IBA might require proposals to include a certain amount of subscription programming. Even though there is some prospect of infrastructure sharing with BSB, the new contractors will still be making a significant investment and I believe it would be right to allow them to decide their own mix of subscription and advertising. Given particularly that BSB will be putting a sophisticated conditional access system into the field, I would be surprised if subscription did not play a fairly significant part in most potential contractors' proposals in any case.

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



PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T.59c/88



824

cc: Ho
Flo

SUBJECT
C-maste
of

10 DOWNING STREET
LONDON SW1A 2AA

THE PRIME MINISTER

18 October 1988

Dear Prime Minister,

I am most grateful for your letter of 9 September and your invitation to take part in the European Ministerial Conference on Mass Media Policy in Stockholm on 23 and 24 November.

I accept the invitation with pleasure on behalf of the British Government. The Minister who will represent us at the Conference is Mr. Timothy Renton, Minister of State at the Home Office. He will be accompanied by his Private Secretary, and by Mr. Christopher Scoble, Assistant Under Secretary of State, Broadcasting Department, Home Office and Mr. Paul Wright, Assistant Secretary, Broadcasting Department, Home Office.

Yours sincerely

Margaret Thatcher

His Excellency Mr. Ingvar Carlsson

DS

*ce/lu*

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

17 October 1988

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

Dear Secretary of State

DBS CHANNELS 4 AND 5

Your letter of 10 October proposes announcing in the Broadcasting White Paper that the remaining two DBS channels would be allocated as soon as possible given that BSB were willing to see the moratorium lifted.

Like you, I think that the opportunity to enable new programme services to be introduced more quickly - if that is what the market wants - outweighs the disadvantages of allocating the franchise under the existing legislation rather than by competitive tender. I therefore support your proposals.

I also wondered whether this would be an opportunity to give some further stimulus to subscription. I note that all but one of the contenders for the original three DBS channels envisaged a mix of advertising and subscription. Would it be possible for the IBA either to require a certain amount of subscription programming or at the very least to have regard to the amount of subscription proposed in allocating the channels? Together with the subscription element in BSB and its development on night hours BBC services, this would offer the opportunity of establishing the more varied, competitive market in subscription services that we earlier hoped to secure on the BBC and ITV night hours.

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

Yours sincerely,

Muir Wallace

PP NIGEL LAWSON

(Approved by the Chancellor
and signed in his absence.)



12X
PM 8/8



From: THE PRIVATE SECRETARY

R14/10

CR



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

14 October 1988

Dear Dominic
file with PG

I am replying to your letter of 10 October to Lyn Parker about the Swedish invitation to the European Ministerial Conference on Mass Media, since a Home Office Minister will be attending the conference.

... I enclose a draft letter of reply for the Prime Minister to consider.

I am copying this letter and the enclosure to Lyn Parker.

Yours

Catherine

MISS C J BANNISTER

Dominic Morris, Esq



DRAFT LETTER TO:

Mr Ingvar Carlsson
Prime Minister's Office
S-103 33
Stockholm
SWEDEN

for signature by: PRIME MINISTER

I am most grateful for your letter of 9 September and your invitation to take part in the European Ministerial Conference on Mass Media Policy in Stockholm on 23 and 24 November.

I accept the invitation with pleasure on behalf of the British Government. The Minister who will represent us at the Conference is Mr Timothy Renton, Minister of State at the Home Office. He will be accompanied by his Private Secretary, and by Mr Christopher Scoble, Assistant Under Secretary of State, Broadcasting Department, Home Office and Mr Paul Wright, Assistant Secretary, Broadcasting Department, Home Office.

<mc>Dr/Sub/CB/Ivtn/Stkhm/Conf/ENC2

BROADCASTING

DBs at 7

PC/on



*NBA at this stage.
A. BIF 14/10.
PRIG
12/10*

QUEEN ANNE'S GATE LONDON SW1H 9AT

10 October 1988

Dear David,
DBS CHANNELS 4 and 5

will request if required

.....
We had a word at Cabinet about Sir Trevor Holdsworth's letter of 30 September to me summarising British Satellite Broadcasting's views about the White Paper. In that letter he indicates that BSB would now be willing to see the three year moratorium on the allocation of DBS Channels 4 and 5 lifted, and would indeed wish to see the early allocation of the two channels so that they would be in use by the summer of 1990. I enclose a copy of the relevant extract from the letter for the benefit of colleagues who will not have seen it.

The sole purpose of the undertaking which I gave to BSB last year, with the agreement of colleagues, that DBS Channels 4 and 5 would not be allocated until they had been operational for at least three years, was to offer them a measure of protection from competition in their early years. As the intended beneficiaries of the moratorium now no longer want this form of protection it would be paradoxical to maintain it. Furthermore, it would delay unnecessarily the introduction of new programme services. The IBA has indicated that they would support the allocation of the two channels, on condition that BSB make arrangements to enable other operators to use their receivers without necessarily being tied into the same subscriber management system. I therefore propose, subject to the resolution of the point identified by the IBA and the agreement of colleagues, to tell BSB that the channels will be released for allocation as soon as possible. Releasing the channels at this stage would not give BSB an inside track. Although they intend to apply for them if they are advertised, they accept that there would be open competition. And while the BSB would be obliged to consider any application from BSB, my officials have been told that the present thinking of the Authority is that it is very unlikely that BSB would be awarded the franchise.

Releasing the channels in advance of legislation would, of course, mean that the franchise would have to be allocated by the IBA in accordance with the procedures laid down in the Broadcasting Act 1981 and the Cable and Broadcasting Act 1984, rather than by competitive tender as the draft White Paper envisages for future DBS channels. I do not believe in practice that this will make any significant difference. Any prospective satellite operator will have the option of leasing transponders on a medium-powered satellite like Astra or Eutelsat II which would not involve paying for frequencies (which is what competitive tender would effectively amount to in this context). So even if we delayed the release of DBS Channels 4 and 5 so that they could be allocated by competitive tender it seems unlikely that the

The Rt Hon The Lord Young of Graffham

/over....

2.

market would value them highly. To the extent that allocating them in advance of legislation would involve foregoing revenue, this would be offset to some degree by bringing forward the date from which the operator could be expected to start paying levy and tax. Allocation of the channels in advance of legislation would also imply awarding the franchise on the basis of the existing regulatory regime for DBS, which we are proposing to relax slightly. This awkwardness already applies of course to BSB; and the draft White Paper notes that discussions with them about the transitional arrangements will be necessary. Whatever arrangements are devised can be applied similarly to the operators on the two additional channels.

..... The natural opportunity to announce a decision that the two channels were to be allocated would be the White Paper. I attach draft paragraphs for this purpose.

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

Yours,

Douglas

2. DBS Channels 4 and 5

In making a response to the Government's ideas about the possible transfer of BBC2 and Channel 4 to DBS, BSB made a number of suggestions about alternative uses of DBS Channels 4 and 5 - including the creation of a Pay-Per-View Channel on a common carrier basis. We indicated our willingness to discuss the lifting of the three year moratorium. Since that time there has been one preliminary exchange with officials and a more detailed series of discussions with the IBA. For two reasons we would now urge the allocation of the Channels with a view to them broadcasting by Summer 1990.

- i) Although the two additional Channels will siphon some potential revenue from BSB they can be distinguished from new terrestrial competition in that they will reinforce the appeal of satellite broadcasting during whatever window of opportunity you allocate to us. Furthermore, leaving aside the Press backing available to the Murdoch and Maxwell Channels, the only strength which Astra has over BSB is its ability to offer up to eleven English language Channels. The UK DBS position of 31 degrees West would be strengthened by a five, rather than three, Channel offering; and
- ii) If DBS Channels 4 and 5 are not allocated until after the inception of the Fifth Channel and, perhaps, MMDS services, there is a very significant chance they will not be viable and will remain unallocated for some years - leading to wastage of a national resource.

BSB would wish to apply for these Channels but allocation would naturally be subject to competition. BSB would be willing to negotiate constructively with other operators if they were chosen by such a process about the possibility of carriage on the BSB satellites. We understand that the IBA would support earlier allocation, subject to discussion of practicalities.

DRAFT PARAGRAPHS FOR WHITE PAPER

Replace Chapter VI paragraph 27 by:

The Government gave BSB an undertaking last year that the UK's fourth and fifth DBS channels would not be allocated until BSB's service had been in operation for at least three years. BSB have, however, recently indicated that they would be willing to see this moratorium lifted. The Government has therefore decided to make these channels available for allocation as soon as possible. The IBA expect to advertise the contracts for the use of these channels in January next year and to have awarded the franchise by June, with a view to the service starting in mid-1990.

This will account for all the DBS channels so allocated to the UK. The Government believes however that it would be sensible to make legislative provision against the possibility that the UK is allocated any additional DBS channels in future. It envisages that the ITC will allocate licences for any future DBS services. These services will be subject to the viewer protection requirements described in paragraph 10. They will also be required to meet the positive requirements on independent production and on EC material described in paragraph 11. The Government does not believe it right to impose the diversity requirement, and clearly the regional programming requirement would be inapt. The Government is inclined not to require any future DBS services to show news and current affairs, though it would consider carefully any contrary views.

<wk>J/Q/ltr/fm/BSB





me pm

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

10 October 1988

I attach a copy of a letter the Prime Minister has received from Mr. Ingvar Carlsson, Prime Minister of Sweden.

I should be grateful for advice and a draft reply to reach me by Monday 17 October.

Could you please co-ordinate your draft reply with Nick Sanderson (Home Office) to whom I am copying this letter.

⊗ Home Office ARE DEALING WITH

Dominic Morris

Lyn Parker, Esq.,
Foreign and Commonwealth Office.

off



PRIME MINISTER

**PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T138ai/88**

*SUBJECT CC MASTER
OPS*

Date

September 9, 1988

Dnr

R7/10

The Rt Hon Margaret Thatcher MP
10 Downing Street
London SW1

Dear Prime Minister,

I have the honour, on behalf of the Government of Sweden, to invite your Government to take part in the Second European Ministerial Conference on Mass Media Policy to be held in Stockholm on 23 and 24 November 1988 at the Stockholm Conference Centre.

The theme and sub-themes of the Conference shall be as follows:

Theme: European Mass Media Policy in an international context.

General introduction: Sweden

- I. European implications of the development of national and multinational media systems

Rapporteur: Portugal

- II. International circulation of European audio-visual works

Rapporteur: United Kingdom

Apart from consideration of the aforementioned themes and sub-themes, the Conference will also have the opportunity to hear a communication from the presidency of European Cinema and Television Year on the principal conclusions to be drawn from the main events organised in the framework of the Year's European programme.

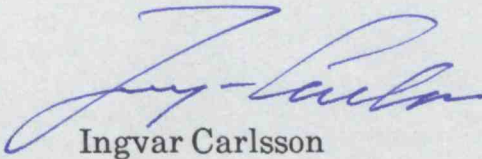
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The Governments of all the member States of the Council of Europe, as well as Finland and the Holy See, shall be invited to take part in this Conference. The Nordic Council of Ministers and the European Broadcasting Union shall be invited to attend in an observer capacity. A delegation of the Parliamentary Assembly of the Council of Europe and of the Commission of the European Communities, as well as the Chairmen of the Steering Committee on the Mass Media and of the Council for Cultural Co-operation shall also be invited to attend.

I would be most grateful if you would inform me whether you are able to accept this invitation and indicate the Minister or Ministers who will attend the Conference as well as the names of the other members of your Government's delegation.

The full draft agenda, the Conference Programme and the working documents will be forwarded in due course to participants.

Please accept, Prime Minister, the assurance of my highest consideration.



Ingvar Carlsson

PROVISIONAL CONFERENCE PROGRAMME

Tuesday, 22 November 1988

8.00 pm Buffet-dinner given by the Swedish Government
at the Ministry of Foreign Affairs

Wednesday, 23 November 1988

9.00 am Opening of the Conference by the Secretary General of
the Council of Europe, Mr Marcelino Oreja

followed by: Address by ...

Address by the Secretary General of the Council of
Europe, Mr Marcelino Oreja

Election of the Chairman

Election of two Vice-Chairmen

Adoption of the Agenda

9.45 am European Mass Media Policy in an International Context -
general introduction by the Swedish Delegation

followed by: European implications of the development of national
and multi-national media systems - presentation of the
report of the Portuguese Delegation

International circulation of European audio-visual
works - presentation of the report of the British
Delegation

European Cinema and Television Year - communication by
the Presidency of the Year

(short interval)

11.00 am
(in closed
session) Debate on the report presented by the Portuguese
Delegation

1.00 pm Luncheon offered by the Secretary General of the
Council of Europe for Ministers and other Heads of
Delegation

3.00 pm
(in closed
session) Debate on the report presented by the Portuguese
Delegation (continued)

LOBBY 1988

5.00 pm
(in closed session) Debate on the report presented by the British Delegation

6.00 pm Close of Session

6.45 pm Departure by coach to Uppsala

[7.30 pm Possible meeting of the CDMM]

8.00 pm Dinner given by the Swedish Government at Uppsala castle

Thursday, 24 November 1988

9.00 am
(in closed session) Debate on the report presented by the British Delegation (continued)

11.00 am
(in closed session) Debate on, and adoption of the Draft Resolutions and Declaration

12.30 pm Closing speech by the Chairman

12.45 pm Close of the Conference

1.00 pm Press Conference

CONFERENCE CENTRE:

FOLKETS HUS

Address:

Barnhusgatan 12-14
S-111 23 STOCKHOLM

Phone:

(8) 791 66 00

Telecopy:

(8) 209648

Telex:

19431

file

CONFIDENTIAL

KK



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

21 July 1988

Dear Jeremy,

**TRANSFER OF TERRESTRIAL TV SERVICES
TO SATELLITE**

The Prime Minister was grateful for your Secretary of State's minute of 20 July. She is content that the broadcasters should be informed of the conclusion that it is not practicable to pursue further the possibility of transferring BBC 2 and Channel 4 to DBS.

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

*Yours,
Paul*

(PAUL GRAY)

Jeremy Godfrey, Esq.,
Department of Trade and Industry.

05

dti

the department for Enterprise

Prime Minister

You were already aware that this idea of Lord

Young's had fallen on stony ground. Content for

the Broadcasters to be told the idea has been dropped?

CONFIDENTIAL

PRIME MINISTER

Y as mb

PRCB 20/7

TRANSFER OF TERRESTRIAL TV SERVICES TO SATELLITE

This minute reports the outcome of the discussions Douglas Hurd and I have had with BSB and the broadcasters about the possibility of transferring BBC2 and Channel 4 to DBS.

2. Douglas and I outlined the proposition to the Chairman of BSB on 9 June and the Chairmen of the BBC and the IBA on 10 June. Officials have since had more detailed discussions with BSB and the broadcasters, and have also met the Independent Television Association.

3. We now have formal written responses from the BBC, the IBA and the Board of Channel 4. None of them want to take up the opportunity they have been offered: indeed, the responses express a number of misgivings. We have not yet heard formally from BSB, but we know that they are at best lukewarm. I understand they are working on some counter-propositions, but as far as we can judge none of them would achieve the basic objective of freeing spectrum for more terrestrial services at UHF on any reasonable timescale.

4. In the light of this reaction I conclude - and Douglas Hurd agrees - that it is not practicable to pursue the proposition further. Douglas and I both believe it would be right to inform the broadcasters of this conclusion as quickly as possible - not least to prevent any further nugatory work by BSB. I hope you and MISC 128 colleagues will agree that we should now do so.



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5. I am naturally disappointed that neither the broadcasters nor BSB have sought to make more of the opportunity we offered them. We shall now need to redouble our efforts to deal with the advertising problem through other approaches to new programme services. I understand Douglas Hurd hopes to put forward, for consideration at the meeting of MISC 128 arranged for 28 July, some proposals which officials might be asked to work up in more detail over the summer.

6. I am copying this minute to other members of MISC 128, and to Sir Robin Butler.



D Y

20 July 1988

DEPARTMENT OF TRADE & INDUSTRY

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Date 1 July 1988

*MBPM
at his steps.*

*Rec 6
4(7)*

Nigel

ADDITIONAL DBS CHANNELS

Thank you for your letter of ~~13~~ ¹⁷ June. I have also seen Geoffrey Howe's minute of ~~17~~ ¹⁷ June and Douglas Hurd's letter of ~~20~~ ²⁰ June. *fiap*

You suggest that before deciding whether to seek additional DBS allocations within the existing plan we should review the balance of advantage between that course and supporting early moves towards an international replanning of the DBS allocations. Perhaps the best way forward is for officials to examine the issue first in the light of the outcome of the consideration currently being given to the possibility of transferring TV services to DBS and report to MISC 128 once the outcome of WARC-ORB 88 can also be assessed.

Transfrontier beams undoubtedly hold attractions, as Geoffrey Howe indicates. However, we should have to be very sure that BSB's plans were not put in jeopardy. Besides, there may be other, commercial reasons for favouring national footprints for the time being - for example, the question of film rights.

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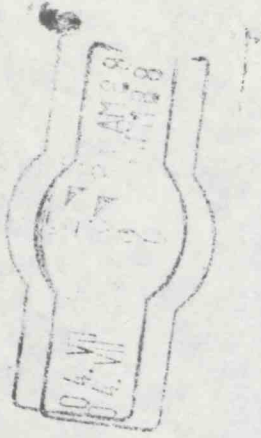
We must also not overlook the fact that our geographical position gives us better prospects than most continental European countries of securing additional channels. If the band were radically replanned, we might well find that the total number of English speaking channels was less than we might be able to secure under the present arrangements (though viewers would gain access to non-English speaking ones). In any case, given the ITU conference programme, the earliest prospect for a fresh planning conference is likely to be well into the mid 1990s. In the meantime, the overwhelming international pressures on us would be to put on ice any plans we might have for channels additional to our present allocation of five.

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

J. G. H.
Howe

the
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Initiative

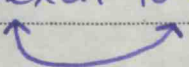
BROADCASTING : DBS PT6



● PART 6 ends:-

HOMG SEC to SS/DTI. 20.6.88

PART 7 begins:-

CH. EXCH to SS/DTI. 1.7.88




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