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PREM 19/2030

TELEVISION LICENCE FEES

FINANCES OF THE BBC

PAY OF THE BBC

WORLD TELEVISION NEWS
(STUDY ON SUBSCRIPTION T.V IN ATTACHED FOLDER)

BROADCASTING

PART 1: JULY 1979

PART 5: SEPT. 1987

PREM 19/2030

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~4.9.87~~							
~~15.9.87~~							
~~18.9.87~~							
~~28.9.87~~							
~~1.10.87~~							
~~12.10.87~~							
~~14.10.87~~							
~~16.10.87~~							
~~27.10.87~~							
~~29.10.87~~							
~~2.11.87.~~							
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~~6.11.87~~							
~~6.11.87~~							
~~21.11.87~~							
~~22.11~~							
~~16.12.87~~							
23.12.87							
PTS							
ENDS							

PART 5 ends:-

HOME OFFICE to DN 23.12.87.

PART 6 begins:-

Darlow to ChEx 4-1-88

~~MGA to HOME OFFICE. 5.1.88~~

Published Papers

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

Home Office
Subscription Television
A study for the Home Office
Printed by HMSO ISBN 0 11 340855 2

Signed _____ Date 15/01/2015

PREM Records Team

From: THE PRIVATE SECRETARY

Prime Minister 2 cc DG

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

23 December 1987

Dear David,

STRUCTURE OF BROADCASTING

I am sorry we have not responded before now to your letter of 2 November about the Prime Minister's interest in the operation of the IBA, and her question whether this could be improved, and if so, how?

The Home Secretary agrees that this is an important issue, which needs to be addressed. There is a lot of action already under way. First, the bulk of the IBA's resources is committed to its responsibility for transmission of television signals. Ministers have already agreed that transmission arrangements in relation to both the IBA and the BBC should be reviewed, including the scope for privatisation. That review, on which the next step is a discussion at the Official Group (MISC 129), will therefore focus on matters central to the IBA's existing responsibilities. Second, many of the IBA's functions will be crucially changed as a result of decisions Ministers are now taking on new broadcasting legislation. Ministers have recently decided that the IBA should no longer have responsibility for radio. The work now done by the IBA on the television side will depend on the arrangements for the award of ITV contracts, the future structure of Channel 4 and the provision of news, which are all under discussion. The networking system too will operate very differently from 1993 onwards.

The Home Secretary therefore proposes in the New Year to return, in the light of progress on the transmission system and other matters now being considered by Ministers, to the question of the nature and scope of the IBA's operations, bearing in mind that Lord Thomson's term of office as Chairman expires at the end of 1988.

I am copying this letter to the Private Secretaries to the other members of MISC 128 and to Sir Robert Armstrong.

Yours sincerely,

Philip Mawer

P J C MAWER

David Norgrove, Esq.,

BROADCASTING : BBC Finance PTS

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

22 December 1987

Dear Jeremy,

INDEPENDENT PRODUCTION INITIATIVE

The last meeting of the Ministerial Group on Broadcasting (MISC 128) invited the Home Secretary to prepare, in consultation with your Secretary of State, a revised reply to Mr Darlow of the Independent Access Steering Committee and to clear it in correspondence with the Group.

The Home Secretary is conscious that developments are still afoot in the negotiations between the independent producers and the ITV companies: both parties are meeting the IBA today. He believes that it would be premature to send a substantive reply to Mr Darlow at this stage, particularly as he would wish it to disclose Ministers' thoughts on requiring the BBC and IBA periodically to publish information about the contracts made with independent producers, if indeed in the light of the further work which MISC 128 put in hand Ministers agree that that is the right way forward. In the circumstances I have therefore sent Mr Darlow a brief holding reply, a copy of which is attached.

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

Yours sincerely,

P J C MAWER

Jeremy Godfrey, Esq.,

QUEEN ANNE'S GATE LONDON SWIH 9AT

22 December 1987

Dear Mr Darlow,

INDEPENDENT ACCESS STEERING COMMITTEE

The Home Secretary has asked me to thank you for your letters of 8 December to him and other Ministers about your negotiations with the independent television companies.

The Home Secretary is actively considering the position you describe with his colleagues, and in doing so will wish to take into account the outcome of the discussions which he understands you are having with the IBA today. He will write to you himself in the New Year.

Yours sincerely,

P J C MAWER

M Darlow, Esq.,

FILE
ECL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

21 December 1987

SUBSCRIPTION TELEVISION

The Prime Minister's attention has been drawn to the working paper enclosed, which was produced by the Rank Organisation. The Prime Minister would be grateful for your comments on the proposal made in paragraph 4.2 that television transmissions for subscription television could be authorised under the Wireless Telegraphy Act 1948 rather than under the broadcasting legislation.

in folder.

BF 11

I am copying this letter to Philip Mawer (Home Office) and Trevor Woolley (Cabinet Office).

(David Norgrove)

Miss Alison Brimelow,
Department of Trade and Industry.

4.

PRIME MINISTER 18 December 1987

DCS
18/12

Subscription Television

Following the discussion yesterday in MISC 128 I thought you might be interested to see the enclosed which arrived on my desk this morning.

It is a proposal by The Rank Organisation to run a fifth channel using subscription. I would draw your attention to the highlighted passages in the text and to Exhibits 2 and 3 which show the growth of subscription TV in France (Canal-Plus) and the US (Home Box Office), and on which the profitability of the venture rests.

It would however be useful if the DTI could comment on the validity of the claims made in para 4.2. Yes please MR

R. Broadbent

for BRIAN GRIFFITHS

CC B/up

PRIME MINISTER

INDEPENDENT PRODUCERS

MINUTE BY THE HOME SECRETARY OF 16 OCTOBER

MEMORANDUM BY TRADE AND INDUSTRY SECRETARY: MISC 128(87)14

LETTER OF 11 DECEMBER BY HOME SECRETARY'S PRIVATE SECRETARY AND OF 16 DECEMBER BY TRADE AND INDUSTRY SECRETARY'S PRIVATE SECRETARY ABOUT LETTERS FROM MR MICHAEL DARLOW

CONCLUSIONS

a. 25% target

1. The Home Secretary's minute reports that both the BBC and IBA have undertaken to secure 25% of their programmes from independent producers by 1993. You will wish the Group to decide whether to accept his proposal that the Government should now announce its acceptance of this target date, and the voluntary arrangement with the broadcasting authorities for meeting it, but that officials should maintain the preparatory work on legislation simply as an insurance against the voluntary arrangements collapsing.

b. Terms of trade

2. The Trade and Industry Secretary's paper reports that satisfactory legislation to impose fair commercial treatment for the independents would be extremely difficult, and that a monopoly reference to the Monopolies and Mergers Commission (MMC) would be a better route at this stage if anything further needs to be done to protect the independents. You will wish the Group to decide whether the independents should be encouraged to approach the Office of Fair Trading (OFT) with a view to such a reference.

c. Mr Darlow's letters on behalf of the independents

3. These say that talks have been broken off with the ITV companies because they are not negotiating in good faith. The reply should reflect the Group's decisions under a. and b. above. You may wish to give the Home Secretary an outline of the sort of reply you want to see, but you will probably not wish the meeting to become a detailed drafting session. You will doubtless wish to ask the Home Secretary to circulate a revised draft reply in the light of the discussion.

BACKGROUND

4. The Peacock Report recommended that the BBC and ITV should be required to reach a 40% target for the use of independent producers over a 10 year period. At the meeting on 30 October 1986 (MISC 128(86) 2nd Meeting) the Group agreed that the target should be set at 25% to be reached in 4 years. At the time of the meeting on 20 July (MISC 128(87) 1st Meeting) you felt that the BBC and ITV proposals for meeting the target were quite inadequate and that the target would only be reached by imposing it in legislation: you commissioned the necessary detailed work on that from the Official Group. You had also heard serious allegations about unfair restrictions by the broadcasters on the rights of independent producers to exploit their programmes. You thought that this subject, too, would probably only respond to legislation, and you commissioned further work on that as well.

MAIN ISSUES

5. The Group is clear that the expansion of a healthy independent production sector is vital, both to provide domestic competition and to stand poised ready to exploit the international opportunities that will be expanding in the 1990s. The Group will also recognise that there is a trade-off between the 25% target and the alleged unfair trade practices. If the 25% target is ostensibly achieved, but only at the cost of underpaying the independent producers or unfairly restricting their exploitation rights, then

the target's objective of fostering the independent production sector will be undermined.

6. It is clear that the Home Secretary and the Trade and Industry Secretary look at these issues from somewhat different points of view. The Home Secretary feels that - under the threat of legislation - the broadcasters have been very reasonably cooperative over the 25% target, and he believes that there is everything to be said for continuing to proceed by voluntary agreement with them. He will point out that the independents have this week made an arrangement with the BBC on terms of trade, and he will probably say that he cannot see what is preventing a similar arrangement with ITV. If such arrangements can be made - and the independents gave a warm welcome to their deal with the BBC - then there is no need for a monopoly reference or anything else to safeguard them. The Trade and Industry Secretary is more inclined to support the independents' version of events. While he is not in favour of legislation to protect the independents, he probably sees merit in a monopoly reference, at least.

7. The three things that you will particularly wish to bear in mind in assessing these points of view are the constraints imposed by the timing of legislation, the difficulty of constructing a statutory machinery, and the lack of hard information on the independents' case.

a. Timing of legislation

8. MISC 128 has already decided that there should be Broadcasting Bills in each of the next two sessions and that the first one should be mainly devoted to radio policy and broadcasting standards. On that footing, any legislation on independent producers would be in the second Bill, in the 1989-90 session. But even if legislation on the independent producers were brought forward to next session, it would be too late to influence the letting of the ITV contracts for 1990-93, since the IBA propose to finalise these in 1988. Even if MISC 128 did decide on early legislation on these matters, therefore, it could not bite on the

IBA's contractors until the contract period starting 1 January 1993. (Requirements on the BBC might theoretically bite rather sooner, but virtually no complaints are being levelled at the BBC's treatment of independent producers.) Given this very long lead time, and the absence of hard sanctions in the meantime, the Home Secretary believes that the Government will do far better to trust the broadcasters' promise of voluntary action than to put all its faith in legislation taking effect so far ahead, though the threat of legislation should be kept hanging over the broadcasters to ensure good behaviour. Although the Home Secretary's prime concern will be that the voluntary route is taken to the 25% quota, similar arguments apply to the issue of fair terms of trade.

b. Difficulty of legislation

9. The considerations here are quite different as between legislation to impose a 25% target and legislation to enforce fair trading terms for independents. Legislation to impose the target could undoubtedly be drafted, though it would run the risk of definitional loopholes that could be exploited by broadcasters who wished to do so. On the other hand, it now seems clear that it would not be feasible for legislation to spell out a prescription for ensuring fair trading terms. The Trade and Industry Secretary accepts that what is fair varies a good deal between one programme and another. Legislation could, therefore, do no more than set up a special arbitration arrangement, involving much qualitative judgement, for this particular corner of commercial dealings. The Trade and Industry Secretary is loath to do that except as a last resort.

c. Establishing the facts - a MMC reference

10. The Trade and Industry Secretary's paper emphasises that no full and impartial study of the market exists, and this is borne out by the most recent complaints from the independents. Mr Darlow's latest letters are vague and difficult to follow in many respects, though it does seem that the independents are

shifting their fire from the question of restrictions on exploitation rights to the straightforward issue of adequacy of remuneration. The Trade and Industry Secretary argues that this confusion itself provides a powerful reason for encouraging an MMC reference, since the first stage in that process would involve the Office of Fair Trading in producing an impartial study of the market. Even if the MMC route got no further than that, an agreed statement of the facts would represent a great advance on the present situation and if all else failed, legislation establishing some kind of arbitration machinery could still follow in the 1989-90 Bill. Before the Government committed itself to the MMC route, however, you would wish to be assured that a monopoly reference would indeed be within the terms of the Fair Trading Act 1973. Paragraph 6 of the Trade and Industry Secretary's paper deals with this point, which is essentially one for the DTI lawyers. You may, however, wish to probe the issue with the Trade and Industry Secretary.

11. The counter-argument which the Home Secretary may canvass, is that the independents should be encouraged to sort out their differences with the ITV companies as quickly as possible. He may say that legislation is at best an imperfect answer that cannot bite until years ahead, and that even a MMC reference will simply waste another year or so. If the independents could this week make a deal with the BBC, why cannot they conclude a similar deal with ITV without waiting for a monopoly reference? Is it feasible that the ITV companies genuinely rejected an agreement in general terms that the BBC had no difficulty in accepting?

d. Mr Darlow's correspondence

12. In deciding how to handle Mr Darlow's letters, you will wish to bear in mind that the object of the independents' criticism is not the 25% target as such but the unfair trade practices that they allege to be ranged against them. There is, therefore, little point in assuring Mr Darlow about the Government's firm intentions on the 25% target, since he does not dispute this. If the meeting does decide to encourage the independents towards an

MMC reference, then that is the main point on which the reply should focus as Lord Young suggests. Alternatively, the meeting may decide, in the light of the independents' agreement with the BBC, that the best line is simply to encourage them to go back to the negotiating table with the ITV companies.

HANDLING

13. You may wish to suggest at the outset that the handling of Mr Darlow's letters should be discussed at the end of this item, in the light of the decisions taken. You may also wish to say that you wish the meeting to consider the 25% target and unfair trade practices together.

14. You may wish to ask the HOME SECRETARY to speak to his minute and the TRADE AND INDUSTRY SECRETARY to his paper. The CHANCELLOR OF THE EXCHEQUER will have views on most of the main points.

AJL

A J LANGDON

16 December 1987

cc BG.

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

16 December 1987

P J C Mawer Esq
Private Secretary to the
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

NBPM

Dear Philip

INDEPENDENT TELEVISION PRODUCERS

Thank you for copying to me your letter of 11 December to David Norgrove. As I told Colin Miller, Lord Young would prefer MISC 128 to discuss the issues before coming to a final view on how the Government should respond to Michael Darlow.

He agrees that the Government ought not to intervene in matters which are properly for the parties to resolve in detailed discussion but he did wonder whether we ought not be more positive in steering the independents towards the OFT. He was also unsure whether the reference to legislation was quite right. He thought that mentioning how long it would take for the legislation to come into force might make the ITV companies less willing to be accommodating.

Michael Darlow has written a further letter to Lord Young about the progress that has been made with the BBC. I understand he has also written to Mr Hurd but I am circulating his letter for the information of other MISC 128 colleagues.

I am copying this letter to David Norgrove, to Private Secretaries to other members of MISC 128 and to Trevor Woolley and Shaun Munday (Cabinet Office).

Yours

Jeremy Godfrey

JEREMY GODFREY
Private Secretary

DW2CLV

Broadcasting. [redacted] Financing PT5

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

15 December 1987

The Home Secretary and other members of MISC 128 might like to see the letter enclosed to the Prime Minister from the Independent Access Steering Committee.

I am copying this letter to the Private Secretary to other members of MISC 128 and Trevor Woolley (Cabinet Office).

D R NORGROVE

Nick Sanderson, Esq.
Home Office

PRIME MINISTER

15 December 1987

Subscription Television

Next Thursday's MISC 128 deals with the subject of Pay-TV. This is a background note dealing with Pay-TV in Europe and America, the Jonscher Report. We set out some questions regarding the Home Secretary's proposals which follow closely the recommendations of the Report.

Overview

1 From the experience of the US and France, the introduction of premium programmes through Pay-TV on existing or new channels is likely to be highly profitable.

2 Widespread use of Pay-TV has very important implications for public service broadcasting.

3 The introduction of subscription television to the BBC raises crucial questions regarding its future.

4 The Jonscher Report recommended introducing Pay-TV on existing channels using the night hours: far more important in the long term is another of Jonscher's recommendations - introducing Pay-TV through new channels such as MMDC or a 5th or 6th channel.

5 The worst of all worlds would be to grant existing channels the right to use subscription and allow them to cream off some of the unsatisfied demand, so making the introduction of subscription via new channels not very profitable.

Pay-TV in Europe and America

Pay-TV started in the US as a commercially viable service with the introduction of the Home Box Office channel in 1972, showing mainly feature films. In the US, the success of pay-TV is closely related to the growth of cable. Pay-TV in Europe by contrast has been slow to develop: the only exception is Canal-Plus in France which has reached 1.7m subscribers in just three years, thus accounting for the great majority of the 1.8m subscribers of all 5 major pay-TV services currently operating in Europe.

A number of lessons can be learned from these experiences:

* Over the past decade the United States has experienced rapid growth in pay television - a sure sign of unsatisfied demand. By the end of 1986, 43% of the homes passed by cable were subscribing to basic services and 34% to pay services. One quarter of all US television households now subscribe to pay-TV.
Pay-TV in Europe is less well developed than in the US, although in France it has achieved a 12% share of television in under three years.

* Television can tap additional revenue sources due to the willingness of consumers to pay for extra premium services and the higher rates of revenue that can be earned by carefully defined premium programming compared with the relatively low rates earned by advertising.

* The US pay television market supports four major and four minor premium film channels, which is the equivalent of one premium pay channel for approximately 2.7 million subscribers. This indicates that the UK market might support two or more premium film channels given 5 million subscribers over the next 5-10 years.

* On average the pay channels in the US raise £6.95 per month per subscriber (or approximately £83 pa), although Home Box Office, the largest premium film channel, charges £8.63 per month (or £104 pa).

* Pay per view generates relatively high revenues from a limited audience size. It accounts for less than 0.5% of total pay cable revenues and only 2.7 million subscribers, but each subscriber spends about £9.50 per month - over one third more than is spent on ordinary pay cable services.

The Jonscher Report

On the basis of several independent sources of evidence the Report identified considerable consumer demand for extra television programming, backed up by willingness to pay for such material:

- an average household without any of the new technologies (cable, video-recorder, satellite dish) spends £130 per year on TV (including licence fee and cost of purchasing/renting receivers): but if people own a VCR or receive cable, expenditure rises to £250-300 per year.

- experience from the US and France suggests that a simple pay-TV channel selling for about £10 per month could attract subscription from approximately 30% of households to which it is offered. (Willingness to pay for existing BBC services would raise only £3-4 per month);

- but to attract these audiences, programming would need to show 60-70% of premium material (recent films, major sporting events) and no informative programming (news, documentaries). Each of our existing four TV channels broadcast roughly 90% light (serials, chat and quiz shows) and informative programming and 10% premium material.

The conclusion of the Jonscher Report's research therefore is that the UK television industry is under-financed as a leisure activity and that consumers are prepared to spend an increasing amount on screen-related capital equipment and programming, especially if it offers them a wider choice of material than is available on existing BBC and ITV channels.

Introducing Pay TV on UK terrestrial channels

Jonscher examined the desirability of introducing pay-TV on existing UK terrestrial channels and reached the following conclusions:

(a) collecting the licence fee by subscription would incur more costs than benefits;

(b) if subscription was introduced on BBC channels, they would not be able to cover costs because of their current programming mix;

(c) if all four terrestrial channels were to be put on subscription they would not cover costs, once again because of their present programme mix: if however this were to change and they showed greater premium material and introduced some advertising, then they could cover costs;

(d) subscription should be introduced on a progressive basis - to avoid administrative chaos and to enable consumers to benefit from the fall in equipment costs.

On the basis of these research findings Jonscher made three proposals for introducing pay-TV into the UK.

Step 1

- The currently unused hours on one BBC channel and one IBA channel could be set aside for the use by pay television services; BBC 2 and Channel 4 are the preferred channels.

- The BBC could be invited to operate the service which uses its channel; this would run as an independent profit-making activity under the management of BBC Enterprises, with profits being retained by the Corporation.

- The IBA could invite applications for use of the Channel 4 frequencies, or could allow Channel 4 to launch such a service.

Step 2

As the number of households with suitable reception equipment grows, some evening and weekend transmissions of BBC 2 could be scrambled and used to provide premium material on a pay basis.

Step 3

Broadcasting organisations could be permitted to set up pay television channels in one or both of the following ways:

1. Local or regional services using transmitters located within the present UHF television allocation, but not interfering with the network of transmitters providing national coverage of the four existing services.

2. A regional or possibly national television service using spectrum in part of the former VHF television band.

The Home Secretary's Proposals

The Home Secretary has accepted the major thrust of the Jonscher Report and has put forward nine separate proposals.

Questions for MISC 128 meeting

Some questions for the meeting, however, are

1. **What is the implication of subscription for public service broadcasting?**

   The paper envisages subscription playing a major role in broadcasting including subscription to the BBC as a major replacement for the licence fee; but, with widespread subscription, public service broadcasting as we know it would no longer be possible. It would have to be funded by alternative monies such as the method used by the Arts Council. Is this what we want?

   Broadly speaking there are two approaches a) and b).

   a) Is to reserve public service broadcasting for certain channels, for example BBC and Channel 4, without subscription: allow subscription to be commercially determined for all other channels?

   b) Fund public service broadcasting like the Arts Council: allow or enforce subscription throughout all channels.

   These approaches would have very different significance for UK television. If the proposals from the Home Secretary are a step in the direction of the second then this needs more discussion.

2 **What is the implication of Pay-TV for the BBC?**

- Do we share the Home Secretary's view that subscription might/should replace the licence fee?

- If we grant the BBC the right to use the night hours for subscription, what do we need to tell them now regarding our future intentions? Even if we do not raise the issue this is certain to be raised by them.

3 **How do we allocate the night hours?**

These are a very valuable asset.

- Should they be given to the BBC?
- Why not put them out to tender?
- Will they be tendered for by the ITV companies?
- Are we treating the BBC and ITV companies fairly in the way we propose to allocate the night hours?
- Will the night hours be subject to the same regulation as terrestrial channels?

R. Cockshaw

for BRIAN GRIFFITHS

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

15 December 1987

The Prime Minister will, I am sure, be very glad to see your letter of 15 December reporting the news of your agreement with the BBC about the means of introducing 25 per cent of independent production. I am sure she will welcome it as an important step forward.

D R NORGROVE

Michael Darlow, Esq.

INDEPENDENT ACCESS
STEERING COMMITTEE

74 NEWMAN STREET
LONDON W1P 3LA
TELEPHONE 01 323 3220
TELEX 266075 PRODCO-G

R15/12

PPS

CF

The Rt. Hon. Margaret Thatcher FRS MP
10 Downing Street
London SW1A 2AA

15 December 1987

Dear Prime Minister,

INDEPENDENT TELEVISION PRODUCERS

I wrote to you a week ago with depressing news of the failure of our negotiations on the means of introducing 25% of independent production into ITV. Today I am writing with the happier news that yesterday we reached agreement with the BBC on means of implementing your Government policy for Independent Production in the Corporation. An announcement will be made later today.

I believe the agreement we have negotiated with the BBC will provide both sides with a real incentive to make Independent Access work and form the basis for developing real competition in programme supply. The practices and business arrangements agreed are flexible but equitable. The agreement allows for specific guidelines on such matters as profit margins and levels of participation for independents in income from overseas sales to be phased out as competition is established and renders the protection provided for independent producers by such centrally agreed criteria inappropriate.

I regret that because of my absence from my office filming on location, this letter has to be signed in my absence.

Yours sincerely

Melanie Parker

pp. MICHAEL DARLOW
Head of Negotiations

P.S. I have written a similar letter to Lord Young.

Broadcasting [redacted] Pr 5.

INDEPENDENT ACCESS STEERING COMMITTEE

74 NEWMAN STREET
LONDON W1P 3LA
TELEPHONE 01 323 3220
TELEX 266075 PRODCO-G

Lord Young of Graffham
Department of Trade & Industry
1-19 Victoria Street
London SW1H 0ET

15 December 1987

Dear Lord Young,

INDEPENDENT TELEVISION PRODUCERS

I wrote to you a week ago with depressing news of the break down of talks between ourselves and ITV. Today I write in happier circumstances to tell you that yesterday evening we successfully completed negotiations on the structure and working practices that will apply to Independent Productions commissioned by the BBC. An announcement will be made later today.

I believe that the agreement will provide an effective basis for introducing Independent Producers into the BBC and mark an important step on the road to the development of the competition in programme supply. It provides for a flexible, but equitable, basis for structuring business arrangements between the Corporation and individual Independent Producers, with the understanding that specific guidelines on such things as profit margins and levels of participation in income from overseas sales will be phased out as competition is established and renders them inappropriate. I believe the arrangement gives both the Corporation and ourselves a strong incentive to make a success of Independent Production for the BBC.

/...

I think the successful outcome of these talks shows what can be achieved when the willingness of the Broadcaster matches that of the Independent. The recent success of the London Screenings for overseas programme buyers shows that similar success is possible between Independent Producers and ITV Companies. I believe that the failure of talks with ITV on Independent Access is due to the absence of a similar willingness to make access work on the part of ITV. The willingness is certainly there on our side. The proposals which ITV recently turned down were every bit as flexible as these now negotiated between ourselves and the BBC.

I regret that because of my absence from my office filming on location this letter has to be signed in my absence.

Yours sincerely

Melanie Parkes

pp MICHAEL DARLOW
Head of negotiations

P.S. I have written a similar letter to Lord Young

c LPO
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HO
WO
DTI
CWO

bc BG

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

14 December 1987

INDEPENDENT TELEVISION PRODUCERS

The Prime Minister has seen your letter to me of 11 December to which was attached a draft reply to Mr. Michael Darlow, head of negotiations for the Independent Access Steering Committee. The Prime Minister is content, subject to the views of colleagues, for the Home Secretary to reply as he proposes. If others see difficulties, she would propose to discuss the draft at MISC 128 on Thursday.

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

(DAVID NORGROVE)

Philip Mawer, Esq.,
Home Office.

Prime Minister!

Content with the draft letter, subject to colleagues, but saying you would be willing to discuss at Misc 128 on Tuesday if necessary?

DHR
11/12

PRIME MINISTER

11 December 1987

Independent Television Producers

Negotiations between the Independent Producers and the ITV companies regarding the 25% quota have broken down for two reasons: the minimum acceptable level of production fees and the distribution rights for exports. The independents are afraid that without some minimum specified profit levels and agreed terms for distribution they will be exploited in individual negotiations between themselves and companies because of the sheer size and power of the ITV companies.

The draft letter by the Home Secretary is a good one and supportive of the Independents' cause. It emphasises, inter alia, the need for fair terms, the option of approaching the OFT, and the readiness of the Government to consider legislation.

Recommendation

Accept the draft as proposed.

Yes ok

Brian Griffiths

BRIAN GRIFFITHS

010

From: THE PRIVATE SECRETARY

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

11 December 1987

Dear David,

INDEPENDENT TELEVISION PRODUCERS

Mr Michael Darlow, head of negotiations for the Independent Access Steering Committee, has written to the Prime Minister, the Home Secretary and the Secretary of State for Trade and Industry in similar terms, reporting that his Committee had discontinued discussions with representatives of the ITV companies and inviting the Government to intervene. The Home Secretary suggests that he might reply on behalf of all those approached, and I enclose a draft accordingly.

In the Home Secretary's view we must watch the position carefully but there is no case at this stage for the Government to intervene in the way sought by Mr Darlow. Both the IBA and the ITV companies are committed to the achievement of the 25% target within their present contracts, as extended until 1992. The ITV companies have already voluntarily committed £42m to commissioning programmes from independent producers, more than the amount spent in this way by Channel 4 in 1986. The market has therefore more than doubled within a year.

The disagreement between Mr Darlow's Committee and the ITV companies is rather about the business arrangements under which programmes are being commissioned.

There are essentially two areas of disagreement: how much independent producers should be paid for their work and how the proceeds of the exploitation of that work after broadcast - eg its sale overseas - should be divided. The independent producers have tried to get the ITV companies to agree on these two matters to terms significantly more favourable to them than those governing commissions by Channel 4. The independent producers say that for 3 to 4 years, until a fully competitive market can develop, they need additional protection. There does not appear to be an issue of principle concerning ownership of the copyright in commissioned programmes. Mr Darlow and his colleagues explained to the Minister of State last month that they took a pragmatic view on this, and were essentially concerned about how large a share of the proceeds of the exploitation of programmes producers should receive.

/The ITV

David Norgrove, Esq

The ITV companies have said that they remain willing to negotiate within the guidelines published earlier in this year by the IBA, which are intended to secure fair terms for all concerned (they establish, for example, that neither party should automatically own all the exploitation rights). But the ITV companies want to be free to negotiate on a case-by-case basis, arguing that the circumstances of each company and commission - eg its export potential - are different.

It is obviously desirable that a competitive market should develop as quickly as possible: from this point of view it is not self-evident that the 15 ITV companies should necessarily work to a single set of collectively negotiated terms. On the other hand the terms on which commissions are offered must be fair and must not frustrate the development of an open market. In this context it is of note that none of the producers in receipt of ITV commissions has so far complained to the IBA, although the IBA has asked for any complaints to be brought to notice so that it may form a view on whether its guidelines have been followed.

We must keep in reserve the possibility of legislation to entrench the 25% policy. In practice this could not be effective for the three year extension of existing franchises, but only for the next round under whatever new arrangements we eventually decide. But the IBA have agreed that the 25% for independents should be part of the three year renewed franchises. Pending discussion of the options for legislation or other Government action outlined in MISC 128(87)14, the Home Secretary believes that it would be desirable to encourage the independent producers to look in the first place to the IBA rather than the Government, and, if possible, to the resumption of negotiations. Lord Young's paper makes it clear how difficult it would be for the Government to attempt to impose business terms on the parties.

The Director General of the IBA brought both sides together in a meeting this morning which all parties agreed was constructive and useful. The IBA has taken on the task of exploring with both sides an agenda to provide the basis for resuming the negotiations as originally intended at a meeting planned later this month. We are keeping closely in touch with the situation. If this initiative does not succeed we may have to take a hand ourselves.

I should be grateful to know by close of play on Monday whether the Prime Minister and other members of MISC 128 are content for the Home Secretary to reply to Mr Darlow as proposed.

/I am copying

I am copying this letter to the Private Secretaries to the other members of MISC 128 and to Trevor Woolley.

Yours sincerely,

P J C MAWER

Draft letter for signature by the Home Secretary to:

Michael Darlow, Esq
Independent Access Steering Committee
74 Newman Street
LONDON
W1P 3LA

Thank you for your letter of 8 December. I am grateful to you for keeping me and my Ministerial colleagues in touch with developments, and I am replying for us all.

We were naturally disappointed at the news which you conveyed on behalf of your Committee.

As I understand it, the ITV Association is committed, with the IBA, to achieving the Government's 25% target by 1993. The issue concerns the business arrangements under which these programmes are being and are to be commissioned. The Government is not of course a party to these arrangements. We nevertheless have a close interest in them: as you rightly indicate, our aim in setting the 25% target was to encourage the development of a fair and competitive market for the supply of television programmes.

Your letter invites the Government to intervene in the determination of the business arrangements. I have made it clear on many occasions that we are ready to consider legislation to ensure that our 25% target is satisfactorily achieved, if this should prove necessary. But even if it were feasible to introduce legislation next Session this could not come into force for some time. In the meantime we are concerned that the progress already made should be maintained.

/cont.

As you will know, the law already provides, in the form of the Office of Fair Trading, machinery for the resolution of complaints of the abuse of market power. It is open to any independent producers or the Association on their behalf to approach the Office.

You are best placed to decide how to secure the commercial interests of your members. So far as the development of a competitive market is concerned it is clearly important that the terms on which commissions are offered are fair, having regard to the nature of the product and market conditions. The guidelines for the commissioning of programmes published by the IBA earlier this year were intended to make it easier to achieve this. The guidelines were broadly welcomed by all concerned. The IBA remains committed to them, and to reviewing ITV commissions against them.

I know that the IBA believes that it should be possible, with the co-operation of all concerned, to achieve our target within those guidelines, and is anxious to assist the parties to make progress on this basis. While, as I have said, I would not wish to rule out legislation at a later stage, I believe that the IBA's efforts to advance matters constitute a positive step, to which I hope your Committee will respond. We shall keep in close touch with developments.

I am sending a copy of this letter to David McCall on behalf of the ITV Association and to Lord Thomson.

cc B/UP

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MR NORGROVE

MISC 128 - SUBSCRIPTION

Since the Home Office paper only went round yesterday and the Prime Minister will not have had long to prepare, I have deliberately included an expanded "objectives of the meeting" section in the brief. That section is now a self-contained commentary that seeks to register all the main points.

A J L

A J LANGDON

8 December 1987

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K01838

PRIME MINISTER

PROPOSALS FOR POLICY ON SUBSCRIPTION
MISC 128(87)15

OBJECTIVES OF THE MEETING

Financing broadcasting by subscription is one of the main factors affecting the future of the licence fee. This part of the White Paper on broadcasting, to be publised next Spring, is therefore extremely important. The present meeting is the first discussion that MISC 128 has had of the subject, and further substantive discussion of it may be necessary. (Further technical advice on payment systems is in any event needed from DTI.) But you will wish the present meeting to reach decisions on as much as possible of the Home Secretary's proposed package, and to authorise the basis on which he should open discussions with the BBC and IBA.

2. The decisions that are needed are set out in a logical order in paragraph 17 of the Home Secretary's paper. When you sum up the discussion you may like to work through the groups of issues as summarised in the following 2 pages of this brief.

a. Basic strategy (para 17(i)-(iii))

You will wish to obtain a clear decision on this, but in the light of the consultants' persuasive report the Group will probably agree that the Government should encourage subscription on a gradual and incremental basis, rather than a sudden wholesale switch. They will doubtless also agree that subscription should not be used as a mechanism to enforce the licence fee, since this appears to be manifestly not cost-effective.

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b. The BBC (para 17(iv)-(v))

The meeting will doubtless agree that the BBC should be informed that the Government will authorise them to encrypt their services and to secure finance by subscription. This can be done under the Charter without legislation. The meeting will probably also agree that the BBC should be allowed to keep its existing night hours, since this provides the best soft route into subscription.

The proposal that one of the BBC channels should be made over exclusively to independent producers in the night hours is not a necessary consequence of subscription policy. It is simply another way of bringing pressure on the broadcasting authorities to provide opportunities for independent producers. On that basis, the meeting will probably agree.

The Home Secretary's most important proposal is that from April 1991 the RPI indexed licence fee should be reduced by an increasing annual amount, as an incentive to the BBC to move over to subscription finance. The meeting should decide both the principle of such a reduction and the order of magnitude of the reduction that the Home Secretary should seek in discussion with the BBC. You may also wish to build a review stage into the run-down of the licence fee, say 4 or 5 years ahead. The Home Secretary will need to report back to MISC 128 on his discussions before the White Paper is drafted.

c. The IBA (para 17(vi)-(vii))

The Home Secretary proposes that he should discuss with the IBA the introduction of separate contracts for ITV night hours in the contract round beginning January 1993 (and paragraph 13 of his paper makes it clear that he would be prepared to fall back on legislation to require this, if necessary). The meeting will in principle welcome any further way of generating competition. But some members may question whether the night hours services alone would represent a sufficiently attractive commercial proposition.

The Home Secretary also proposes that the second Broadcasting Bill should authorise the IBA to encrypt its signals and ITV contractors to charge subscriptions, and that there should be an enabling power to require encryption. The purpose of the last power would be to encourage access control technology, and not to require ITV services to finance themselves by subscription in addition to advertising. On that basis, the meeting may agree, though a decision can be postponed until the Home Secretary has discussed with the IBA.

d. Channel 4 (para 17(viii))

The meeting will no doubt agree to authorise encryption and subscription for Channel 4. The proposal that Channel 4 - unlike the ITV contractors - should retain its night hours is a more open question. Final decisions on the future regime for Channel 4 will need to be taken at the next meeting on the basis of a further paper by the Home Secretary.

e. Government involvement in payment systems (para 17(ix))

The Home Secretary proposes the rejection of the consultants' recommendations that the Government should establish a common payment system and operating agency, and impose a uniform standard for access control systems. The Home Secretary's view is that all that kind of judgement is best left to the market, and the meeting will very probably agree.

But the Home Secretary recommends that the Group should give further thought to the question of prescribing minimum standards to ensure compatibility between different systems, in the light of further technical advice from DTI. The meeting will probably agree to further study of this, but it is important that officials come up with advice to enable a clear decision to be taken before the White Paper is published.

BACKGROUND

3. Traditionally the two sources of finance for broadcasting have been the licence fee and advertising. Neither arrangement puts the consumer in a market relationship with the provider of the service. Such a market relationship has begun to emerge with cable, where the consumer can choose whether or not to be linked to a cable system from which he will be disconnected if he does not pay. But far more sophisticated subscription systems are rapidly emerging. It is clear that a licence fee at anything like its present level would be difficult to justify in a world where there are many competing services, financed through subscription or advertising. The growth of subscription, therefore, would mark the beginning of the end of the existing form of BBC finance.

4. The Peacock Report seemed to envisage (in paragraph 673) that the BBC's switch from licence fee to subscription financing would be a sudden-death business that would happen sometime in the 1990's. The move would be prepared for by requiring new TV sets to include a peri-television socket. And some kind of public service broadcasting council would be established to support a reduced sector of public service broadcasting, both by the BBC and other services.

5. One of MISC 128's first decisions after the Peacock Report was published was to commission a study of subscription by the consultants CSP International, whose report provides the basis for the Home Secretary's present proposals. The report's main findings are summarised in Annex A of the Home Secretary's paper. For present purposes, the important points are

(i) that the technology for subscription exists but has not yet been attempted anywhere on a large scale;

(ii) that a sudden move to subscription would carry a high risk of chaos;

(iii) that if the BBC services were put on a subscription basis they could not compete with an ITV and Channel 4 that were free to the consumer at the point of consumption;

(iv) that there is a large unmet demand for additional TV services of "premium quality" (which means current release feature films showing in cinemas and major sporting events);

(v) that the introduction of new channels could enable subscriber-financed premium quality programmes without damaging existing services;

(vi) that a possible way of introducing subscription into existing services would be on a progressive basis, starting with the night hours on BBC 2 or Channel 4 (ie a soft route into subscription); and

(vii) that the Government should regulate the broadcasters' encryption and billing arrangements, and should establish a common payment system, ideally operated by a single agency.

6. CSP's assertion that there is a large unmet demand for premium quality TV services is clearly crucial, and it could prove to be wrong. Critics of the report have argued that the discussion of US experience is incomplete and that the consumer survey carried out in this country was too small to be reliable. CSP argue that the huge video market illustrates the demand for premium material. But it is equally possible to argue that the latent demand has largely been satisfied by video already.

MAIN ISSUES

a. The technology

7. Basically, a modern subscription system would work by broadcasting coded signals that would "enable" or "disable"

receivers to unscramble an encrypted signal. There are a range of possibilities for fine tuning, including variable rates for different programmes. Some possible systems would use an electronically addressable card, rather like a phonecard, while others do without that refinement. Separately from the technical business of unscrambling broadcast material, there would inevitably be a large payment and billing operation, roughly analogous to a credit or charge-card agency. Although it is too soon to predict quite how the technology might crystallise, there is general agreement that it should be perfectly feasible. Equally, there is general agreement that CSP were right to say that there would be a high risk of chaos if a whole existing service were suddenly to transfer to subscription finance.

b. The future scenario - mixed financing

8. The Peacock scenario of a proliferation of services financed by a mixture of subscription and advertising, and a much shrunken public service broadcasting sector, is the clearest view of the future that has so far been put forward. MISC 128 has impliedly endorsed it as the model towards which Government policy should advance. But the Group has not yet taken any deliberate decisions on the ultimate financing of public service broadcasting when the licence fee has been run down, or on the time-scale for phasing out the licence fee.

9. Equally, MISC 128 has not attempted yet to form a judgement on the relative scale of subscription and advertising finance in the commercial broadcasting sector. Clearly there will always be a large place for television that is free at the point of consumption, if only because of the broader economic need for television as an advertising medium. It would be possible for the Government to insist that at least the new commercial services were wholly or partly financed by subscription if it so wished. But the Home Secretary's paper assumes that these judgements will be left to the market.

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10. You will remember that the next new services that can be predicted are three channels of DBS satellite broadcasting which the BSB Consortium aims to start in 1989. One of these channels will be on a subscription basis. The possibility of MMDS broadcasting, and of a fifth UHF channel will be brought back to MISC 128 in about February, when a consultants' study has been completed. And the Trade and Industry Secretary has just suggested to the Home Secretary that this study should be expanded to take account of the possibility of a VHF channel, (which had been floated as a possibility by CSP, but has since been largely discounted because it appears to conflict with mobile radio requirements).

11. You may conclude that it is not feasible to postpone decisions until every part of this picture has fallen into place. So far as the BBC is concerned, you may think that the main thing is to make a start with running down the licence fee, without precisely enunciating where and when the process will end. And you will wish the Group to take decisions on the existing IBA services, even though the financing of new services cannot yet be considered in detail: for present purposes, it should be enough to assume that the financing of the new services will inevitably involve a sizeable subscription component.

c. Night hours

12. Peacock's recommendation was that the night hours on both BBC and ITV should be sold, as a further way of combatting spectrum scarcity and promoting competition. He envisaged that they would largely be used for material that viewers would record on video recorders. The proposal to use the BBC night hours as a "soft route" for subscription stems from the CSP study which had concluded that the Peacock-style sudden switch to subscription for the main BBC services was simply not feasible. These two possibilities for the BBC night hours are mutually incompatible, and a choice has to be made between them. But if it is accepted that a sudden switch of BBC financing to subscription is indeed not practicable, then the night hours route must be the obvious

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way to begin to feed subscription in to the BBC. The Home Secretary's suggestion of using the night hours on one BBC channel to put further pressure on the take-up of independent producers is not an essential part of the policy, but is probably justified on its own merits.

13. Since the IBA services do not rely on the licence fee there is not the same policy requirement to shift them to subscription, and for them the Home Secretary proposes a Peacock-style auction. This seems perfectly reasonable in principle but more spectrum now appears to be in sight than Peacock envisaged by this time, and there must be a question whether a franchise restricted to the night hours would be very attractive commercially.

I doubt whether it would.

d. The BBC

14. Authorising the BBC to encrypt signals and make charges is simply the basic step that is needed to allow subscription to go ahead, and there is no problem about it. The night hours route is discussed above.

15. The vital point in the whole of Mr Hurd's paper, however, is the speed of shift from the licence fee to which the Government should commit itself. You will wish to bear in mind that, notwithstanding all the arguments of principle against it, the licence fee only represents a little over £1 a week, which is almost certainly very cheap by any likely subscription standards, and that a number of BBC programmes are extremely popular. The current commitment to maintain the RPI-indexed licence fee runs until 1991 (which is a possible Election year) and that is the earliest point at which the switch to subscription could be begun. The Home Secretary proposes that the process should indeed be started then, and that the BBC should be put on notice that the licence fee will thereafter be scaled down by some predetermined, and annually increasing, figure that would not be calculated by reference to the BBC's actual success in attracting subscription finance. This incremental approach, taken together with the night hours route, is designed to ensure that familiar existing

programmes are not suddenly transferred to a subscription format, and you may think that it represents the best political path forward.

16. But the inherent handling problem in this is that once the Government starts running down the licence fee, it may be drawn into stating the speed at which it should continue, so that viewers would know when the fee would disappear and they would have to pay for their favourite BBC programmes on a subscription basis. Some viewers would very much welcome that development but others would not. Additionally, there is the consideration that the BBC might argue that a subscription service confined to the night hours could not be viable, so that any run-down of the fee would cause the immediate transfer of day-time material to a subscription format. You might, therefore, wish to insert some staging provision into the proposals that Mr Hurd discusses with the BBC, so that the run-down of the licence fee would be reviewed after, say, 4 or 5 years. In any event, the Group will need to decide the order of magnitude of the reduction that it wishes to see over that kind of timespan. And, given the BBC's ability to influence the debate, the Home Secretary should certainly be asked to report on his discussions with the BBC before the White paper is drafted.

e. The IBA

17. The question of auctioning the night hours is discussed at paragraph 12. above. The question of taking power to authorise encryption and charging is straightforward. But the Home Secretary's proposal that a back-up power should be taken to require encryption is more problematic. The argument for this is that, although the Government has not yet got a policy on the matter, it might be necessary to insist on encryption in order to develop access technology. The Home Secretary seeks authority to discuss all these proposals with the IBA, and perhaps a final decision on the proposed power to require encryption might be postponed until the outcome of these discussions is known.

f. Channel 4

18. The Home Secretary proposes that Channel 4 should be treated in the same way as ITV as regards authorising/requiring encryption, and this seems plainly right. He believes, however, that Channel 4 should keep its present night hours because it is beginning to make effective use of them. You may wish to probe that argument: if there is indeed a market for minority interest broadcasting in the night hours, it is not clear that Channel 4 should have the monopoly of it.

g. Standardisation of access control and payment systems

19. It will not be possible to complete discussion of this topic, since more technical advice is needed on one aspect. The basic argument is that, as both Peacock and CSP recognise, the cost of subscription hardware will be lower - and the transition to subscription easier - if universally compatible decoding equipment is built into new TV sets as a standard feature. Peacock recommended that all new TV sets should have a peri-television socket (which he envisaged as being able to accept any decoder). CSP went far beyond this by recommending that the Government should prescribe standards for encryption and billing standards, and also establish a single pay television authorisation agency.

20. The Home Secretary is sceptical of CSP's recommendations for so much central control of standards. He believes that the discipline of market competition is far more likely to arrive at the right answer in this developing technical field than is a Whitehall committee, and the Group will very probably agree with that view.

21. For the moment, however, the Home Secretary reserves his position on whether the Government should prescribe minimum standards to ensure that TV sets are compatible as between different payment systems. (This is what Peacock's peri-television sockets were aimed at, though it seems that the

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recommendation was not altogether technically correct.) Before the Group takes a decision on this point it will need to know whether minimum standards of compatibility can be imposed without in effect pre-empting commercial decisions on the choice of encryption systems. The Group will have to come back to this point when DTI and Home Office officials have done the necessary technical analysis, but it may be that there is a stark choice here between the desirability of universal compatibility on the one hand, and the desirability of leaving the market to find the solution, on the other. But BSB are currently preparing for a subscription satellite service to operate in 2 years time, and you will wish to ask the Trade and Industry Secretary and Home Secretary to take full account of that when they bring their further proposals to the Group.

HANDLING

22. You will wish to invite the HOME SECRETARY to introduce his paper, and to ensure that discussion covers all the main points considered above. The CHANCELLOR OF THE EXCHEQUER and the TRADE AND INDUSTRY SECRETARY will both have views on most of the points at issue. The CHANCELLOR will be especially concerned with the rate at which the licence fee should be run down. The TRADE AND INDUSTRY SECRETARY will have particular views on the role of subscription for future services (ie MMDS; a fifth UHF channel; a possible VHF channel) and on the desirability or otherwise of Government involvement in encryption standards and payment systems.

A.J.L.

A J LANGDON

8 December 1987

INDEPENDENT ACCESS
STEERING COMMITTEE

74 NEWMAN STREET
LONDON W1P 3LA
TELEPHONE 01 323 3220
TELEX 266075 PRODCO-G

The Rt. Hon. Margaret Thatcher FRS MP
10 Downing Street
London SW1A 2AA

8 December 1987

Dear Prime Minister,

INDEPENDENT TELEVISION PRODUCERS

During the seminar you held on broadcasting on 21st September you asked whether we independents were having difficulties in our negotiations with the broadcasters. I regret to have to inform you that our negotiations with ITV have continued to go so badly that we have today decided that we have no alternative but to break-off talks with the ITV companies.

I feel sure that when your Government announced its intention to secure that 25% of programmes on ITV and the BBC came from independents your aim went beyond providing a limited stick with which to help them beat their unions. In letters to the Home Secretary and Lord Young in July I said that neither the BBC nor ITV had been willing to offer guidelines as to the principles for the business terms between broadcasters and independents which held out any hope of the independent sector developing into a genuine "third competitive force" in programme supply. The ITV companies, despite our best conciliatory endeavours, have persisted in their refusal to talk seriously and many have used the interval to take advantage of their right to transmit programmes, to force independents into contracts which deny them proper control over their intellectual capital or operating margins that correspond even to those customary in dealings with Channel Four. They have also denied them an equitable right to the benefits arising from exploitation of their programmes in foreign markets. Some ITV companies continue to make it a condition of contract that independents use ITV facilities and crews.

ITV's actions and unwillingness over a period of almost nine months to negotiate in any meaningful way lead us to conclude that they never intended to reach an equitable agreement. If the present conditions persist the 25% access policy could lead not to the emergence of the independent sector as a competitive third force, but to it's progressive undermining. We see no alternative therefore but to seek outside intervention to ensure that, in words of the Director General of the IBA, there is a 'level playing field'.

Yours sincerely

Michael Darlow

MICHAEL DARLOW
Head of Negotiations

From: THE PRIVATE SECRETARY

CC(87)
(letter only).

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

8 December 1987

Prime Minister

Paragraphs 3-15 and paragraph 32 are worth a glance. You might also like to look at Mr Renton's covering minute.

DLS
11/12

Dear Dennis,

THE BROADCASTING SCENE IN THE USA AND CANADA

Mr Renton visited the United States and Canada in October to get an impression at first hand of the broadcasting scene there and to establish if there were any lessons we could learn. The visit was very useful.

The Home Secretary believes that Lord Young and other members of MISC 128 might be interested to see the enclosed record of the visit. In thinking about the lessons for us it is important to bear in mind the major differences - in geography, regulation, market size and public attitudes - between the television system here and those on the other side of the Atlantic. To take an obvious example, the conditions which favoured the rapid growth of cable in the USA and Canada may not be present to the same extent here. The Home Secretary would therefore want to stress the need for caution in making comparisons.

I am copying this letter and its enclosures to the Private Secretaries to the other members of MISC 128 and to Sir Robert Armstrong.

A copy also goes to Richard Culshaw at the Foreign and Commonwealth Office, who may wish to send it, with the Home Secretary's and Mr Renton's thanks for the organisation of the visit, to the Posts concerned.

Yours ever,

Colin

C R MILLER

Dr T Walker

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ANNEX: Record of individual discussions in USA and Canada

I have reordered

cc: Mr Patten
Lord Caithness
Mr Hogg
Mr Hyde
Mr Thomas
Mr Grant
Mr Wright

Secretary of State

VISIT TO NORTH AMERICA

1. I spent four days last week in the USA and Canada accompanied by Eliot Grant and David Ackland, visiting some of the Federal and State bodies involved with broadcasting and a number of TV, radio and cable stations. I am very grateful to our Ambassador in Washington, our Deputy High Commissioner in Ottawa and our Consuls-General in New York and Toronto for their hospitality and for organising our programmes.

2. I enclose a comprehensive note from Eliot Grant summarising our main impressions and conclusions. I add a few personal thoughts that are relevant to the future in the UK.

A. It would be a tragedy if we - Government, broadcasting industry and consumer - spend a great deal of time, effort and money over the coming years just to end up with a system that offers only such a wide choice of banalities as the USA. The American public regard their broadcasting system as, by and large, as interesting as the wallpaper: part of the furniture and fittings, and generally only commented on when it needs fixing.

I agree with this: PBS in the US is not satisfactory.

B. An exception to this is the Public Broadcasting System, but this only receives $200 million per annum of Federal support. A band of enthusiasts woos State Governments, companies and individuals for more money. This cannot be an example for us to follow.

C. Canada and the USA have made their technological choice for the next ten years. 60% of Canadian and 50% of US homes are cabled, and they will be ~~progressively offered more free and pay-channels~~. I cannot see us following the same route, primarily because dishes are just over the horizon and because of the high cost of cabling in the United Kingdom. However, as paragraph 20 of the note points out, in North America, as here, the major challenge will eventually come from the telephone companies wishing to carry video and audio down fibre optic line, as well as interactive data and information.

D. The Canadian example of financial bonds (paragraph 30) and of public hearings before the granting or removal of licences (paragraph 31) is worth studying in greater depth. I understand that the IBA went through some public hearings before the last franchise-round and did not find them productive. But the Canadian public appear to welcome the opportunity to make their views known about their local station: licences of four radio stations were not renewed in the last two years, and the Canadian Radio and Television Commission - the regulatory body - is developing a stick-and-carrot approach to all franchise-holders, including the CBC.

2. Some North Americans regard United Kingdom television as boring because we have only four channels; others think of it as an exemplar they wish they had followed more closely. There must be some sort of lesson in this for us!

Tim Renton

(TIM RENTON)

26 October 1987

VISIT TO USA AND CANADA: MAIN IMPRESSIONS AND CONCLUSIONS

Multiplicity of choice

1. The transatlantic viewer has a huge choice of channels. The average US household without cable has access to 8 channels. The average US household with cable has access to 35, watches half an hour a day more television and is more likely to have a VCR. Although most people only make use of 6 or 7 channels, of course not everyone's preferences wholly overlap; and it is clear that the more television is available the more it is used.

2. The growth in choice has been relatively recent. In the USA there have been 250 new off-air stations since 1980, and over this period the number of cable subscribers has increased from 15m to 43m (nearly 50% penetration of TV households. The penetration in Canada is still higher).

3. Although the choice of channels is very great, the variety of programmes is not. The staple fare comprises - as it always has - entertainment, news and sport. Most of the new channels simply recycle old material (cinema films and television programmes). The size of the domestic market is large enough to support such channels where the programming is cheap (old network programmes) or where a high premium can be charged (new cinema films on pay cable). There does not appear to be much of a market for more demanding and expensive new material.

4. In general there is not enough product to satisfy the technical capacity of the system. This is partly because the costs of programme production are so high (despite the dominance of the independent sector) and partly because, in an already fragmented audience, everyone is trying to hold on to audience share through programmes of mass appeal.

5. Peacock saw the way through this problem as pay-per-view. But in the USA this has worked only in the case of exceptional sporting events, in the face of consumer resistance. In Canada it is prohibited, though some cable operators see real growth potential.

6. It is easy to see why Peacock was not impressed by the results of commercial laissez-faire in the USA. There are one or two pay cable channels with aspirations to quality programming in specialised areas (mostly imported). But the overall picture is one of bland entertainment dependent on and spoiled by intrusive advertising.

Can you spell 'bland' entertainment.

Programme standards

7. Much of the development in the USA is explainable in terms of the First Amendment to the Constitution (endorsed by Peacock): freedom of expression implies the maximum multiplication of outlets and the minimum interference in what they can show. But there is a high degree of self-regulation in the portrayal of sex. This is the one area in which the law does give the Federal Communications Commission (the regulatory body) a lever, and in which that lever does not need to be used. Broadcasters are highly sensitive to complaints from audiences and the readiness of advertisers to pull out from programmes with which they do not want to be associated. We are regarded as too permissive. Brideshead Revisited had to be cut to be acceptable in the USA. There is obviously more doubtful material on cable, but not to an extent making this a major public issue.

8. Violence is not seen as a matter of concern. In general the attitude in the USA, coloured by the First Amendment background, is one of relaxation on sex and violence.

9. In Canada too there is an expectation of self-regulation which is largely fulfilled. The broadcasters have been drawing up codes of practice which will be discussed in public hearings, and may then be incorporated in their licence conditions. Because the portrayal of sex is so restrained the Canadians took our questions about the regulation of sex to refer to sexual stereotyping, which is a live issue and which the broadcasters are required to eschew in their programming.

10. Because the Canadian broadcasting scene is overwhelmingly dependent on the USA for product (despite decades of effort to support indigenous production) there is no serious attempt to do more than express some concern about violence in US programmes.

Public service broadcasting

11. We were warned against using either the USA or Canada as a model for the provision of public service broadcasting. In the USA public service broadcasting is confined to TV and radio stations dependent on government support. There is Federal funding of over $200m a year, distributed to local stations on the basis of $1 for each $2 raised from other sources. In spite of the Administration's cut-back on public expenditure and hostility to subsidy, there is support in Congress for public broadcasting and the budget looks secure for the next two years. But stations are heavily dependent on State government support. And although there is excellent support in the form of voluntary contributions from viewers (about 4m subscribers across the USA) station managers cannot afford much original programming; constantly have to make programming compromises to prevent audience levels falling too low; and spend most of the time on fund-raising rather than on broadcasting.

12. In Canada the national broadcasting corporation (CBC) is funded 80% by government grant and 20% by advertising. The grant

is not keeping pace with inflation; and CBC is now up to 11 minutes of advertising an hour at peak times. It has to broadcast US programmes to maintain audience share (now 22%) to justify its grant; but the government is questioning this in view of the wide availability of other outlets, especially cable. In the long term, given the costs of terrestrial transmission, CBC may become simply a programme-provider.

13. It suits commercial broadcasters to have a separate public service operation: this relieves them of any obligation to provide more demanding programmes.

14. It is of interest that in both the USA and Canada there are requirements on cable operators to provide access for community groups. At the main cable station in Ottawa we saw a well-equipped studio provided - free of charge - to any bona fide users. At the time of our visit there was an Arabic transmission for the local Lebanese community. Everything is left to the good sense of those concerned to avoid abuse.

15. In other respects public service broadcasting remains an off-air phenomenon.

Cable

16. Cable has fully established itself in the USA and Canada. Its success is attributed to circumstances which do not exist here:

a) in the USA cable originally provided a means of getting good quality reception away from the city centres - the last places to be cabled;

b) in Canada cable took off as a means of relaying off-air broadcasts with good picture quality;

c) cable was cheap to install, and could be hung on poles. The cost of hooking up a subscriber is 10% of that here. In Canada it is economic to operate systems of 75 subscribers;

d) broadcast television was dependent on intrusive advertising.

17. In the USA cable came through, for these reasons, despite all efforts by the FCC (prompted by the broadcasting lobby) to kill it, and despite price regulation until earlier this year.

18. Canadian cable operators have looked many times at the prospects here, but have always backed off because of the cost.

19. The strategy of cable operators, having achieved high levels of penetration, is now to expand by providing more pay services. This market is, however, rather flat, and some programme providers are in difficulties.

20. Cable is used in the USA and Canada wholly for the delivery of entertainment services. There is no interest in interactivity except in the entertainment context. There is general satisfaction with co-axial tree-and-branch systems, and scepticism about fibre-optic cable. Cable operators believe that high-definition television can successfully be provided on co-axial cable. Fibre-optic is seen as the Trojan Horse of the telephone companies; and it is recognised that in due course there will be a momentous political battle about whether the telephone companies should be allowed to carry television.

Independent producers

21. In the USA the bulk of entertainment programming has always been made by independent producers: the networks historically

concentrated on news and sport as in-house activities. To that extent the "consent decrees" (held up as a model by IPPA and restricting the amount of in-house production) took away an under-used right. Even now the networks make less than the consent decrees permit.

22. The broadcasters are nevertheless very unhappy about the production process. Production is concentrated in major West Coast studios and their offshoots. The broadcasters are tied to them because they offer star names. The broadcasters need star names to compete for audience. The costs are enormous, but the broadcasters cannot afford not to pay them (in fact they pay less than the full cost, because the programmes earn the true profit on the post-network syndication and export market). The networks have tried to stimulate smaller-scale independent competitors, so far without success.

23. Canada has a policy of encouraging independent production, principally in the interests of maintaining an indigenous film industry. There are a good number of small independent producers. CBC has nearly reached its target of contracting out 50% of original entertainment programmes (although on average it pays only 20% of the cost of a programme. The rest comes from commercial sponsors and the equivalent of the British Film Finance Corporation, funded by an 8% impost on cable operators). The financing arrangements are a source of difficulty, but in general the policy is regarded as desirable and worthwhile - even though only 3% of all entertainment programmes shown on Canadian TV are made in Canada.

Radio

24. In both the USA and Canada there are a very large number of small, independent stations. Most try to carve out a narrow market niche. The result is a diversity of choice which does not

exist to the same extent in TV. Most stations serve very small areas (a population of 5,000 gives a viable audience) are cheap to run, cheap to advertise on and yet in total amount to a major industry. In the USA 1,000 stations a year change hands for a total of $3bn.

MMDS and satellite

25. Cable is now too well- entrenched for MMDS to make much headway. There are some operators who believe that it could be attractive to viewers who only want premium pay services, and could deliver them more cheaply. But the operators are finding it hard to get products, and are litigating over cable operators' ultimatum to programme providers: supply us or them but not both. It is of note that the FCC effectively blocked MMDS during the growth of cable.

26. Satellites are extensively used for relaying programmes to cable operators, but there is only a tiny market for services aimed direct at the home. There are 1.8m home dishes, put up by people aiming to intercept, free of charge, programmes delivered to cable operators. These were then scrambled to block up this revenue leakage, and only a quarter of dish-owners have descramblers.

27. It is thought that the future for satellite and MMDS services lies principally in far-flung areas which are unlikely to be worthwhile cabling.

Licensing

28. In both the USA and Canada in effect TV and radio stations which have acquired a licence can keep it. There are provisions for stations to be de-licensed on proof of non-performance but they are a dead letter in the USA and used sparingly in Canada

(and then in the case of radio rather than TV). The result is that there is an active market in stations.

29. The Canadians are nevertheless anxious to improve the scrutiny and enforcement of performance, and in particular performance of promises to deliver indigenous programming. Licence renewals (there is not enough spectrum left for new licences) involve public hearings in which the broadcasters are put under the spotlight. This also provides an opportunity for the public to put complaints direct. The renewal of licences for only short periods is now being contemplated as a stick and carrot.

30. The Canadian government is thinking about requiring TV operators to deposit a financial bond at the beginning of a new licence period. This would be forfeited if indigenous programmes were not made. Stations could earn the bond back by producing such programmes. The regulatory authority would assess their performance on a points scale, with eg drama earning more points than quiz shows.

31. The Canadian concept of public involvement through a system of hearings has some appeal, although it would not fit easily with the idea of awarding contracts through competitive tender. It is nevertheless an alternative way of securing our aim of making the whole process more transparent and of emphasising consumer sovereignty. If we pursue the approach of competitive tendering there may be scope for adapting the bond idea to reinforce the yellow and red cards which the IBA would show to unsatisfactory contractors.

General

32. The US and Canadian broadcasting systems are very different from our own. The networks are different; the economics are

different (the US home market is so large that it can support a fragmented audience); the system of regulation is different; the position of cable is hugely different; and the preoccupations are different. As we enter an era of greater consumer choice and seek to promote competition, perhaps the most important lesson that we can learn from the USA and Canada is that we shall need to take very great care that our own public service broadcasting, whose strengths Peacock praised, is not emasculated into a fringe activity supported by an unstable combination of public funds and voluntary donations. Even in a society as heavily cabled as Canada, public service broadcasting has not yet made a successful transition to subscription financing.

E A GRANT
23 October 1987

T2 Division

<ak>nt/visit/n/am/23/10

USA

Commercial broadcast television

1. The basic television system in the USA is provided off-air (on VHF and UHF) by three major networks (CBS, NBC and ABC - supplemented since April by Rupert Murdoch's Fox Broadcasting network) and an array of local independent stations, all financed by advertising for which there is ruthless competition. The result is programme schedules which are dominated by the need to attract mass audiences. Formats dominate. But the system is localised and historically signals were provided only where there was a viable market.

2. The networks traditionally dominated the system. In the late 1970s they had between them over 90% audience share. This is now down to 70% and falling. There are 637 network affiliates (getting over 60% of their programming from the network feed). The network pays the affiliate for time cleared for transmission of network programmes. These incorporate national advertising the revenue from which accrues to the network. The affiliate sells other airtime direct. There are complex FCC rules governing the relationship between networks and affiliates (eg regulation of conditions of payment and limits on the length of affiliation contracts) all of which have been subject to increasing criticism over recent years, though the FCC has no immediate plans to change them.

3. There are in addition 278 independent stations. A handful of these are "superstations": local stations trying to produce attractive programme schedules which can be distributed to cable operators nationwide as they stand. But most independent stations do little more than recycle old network programmes for which there is a continuing appetite.

4. This year total broadcast television advertising revenue will be $23 billion. There is a trend of healthy growth. The size of this domestic market permits the operation of stations each with an audience share which would be insufficient to sustain a UK broadcaster.

5. There is a brisk trade in television stations, especially independent stations. For all practical purposes the only way to gain access to the television market is to take over an existing station.

Programme production

6. There is a clear division between the functions of programme production and distribution. Historically many programmes were supplied to the network ready-made, by corporate sponsors; and much television production has always been a branch of the film industry. The networks produce essentially only news and sports programmes. The FCC promoted action through the courts to restrict the networks to these areas, to prevent the exploitation of their market power in the interests of competition which the FCC is bound by law to promote. This process culminated in the "consent decrees" which UK independent producers have held as a model.

7. Most production is still done by companies in Hollywood, in spin-offs from the film industry. The networks finance this production but pay the studios typically two-thirds of the total cost. The studios retain foreign and domestic syndication rights (there is an FCC rule prohibiting the networks from buying them) and that is where the real profit is ($1bn a year foreign turnover) as long as the programme stays alive on the network long enough to accumulate enough episodes to be saleable in the off network syndication market. The tension between the economic interests of the networks and the studios has been the subject of

a long running regulatory drama in Washington. The consent decrees start to lose force after 1990, and the FCC has no plans to seek to prevent the networks from entering or re-entering the production business.

Cable television

8. Cable television began in 1949 as a way of delivering programmes to rural areas not reached by off-air signals. Cable now passes 80% of TV homes, and is taken by 48%. There are 7500 cable systems, and a number of cable networks. Cable franchises are awarded by local authorities, although the operation of cable is subject to FCC jurisdiction.

9. The typical cable viewer gets a basic tier of channels for a monthly subscription of $12-$15, and access to pay channels by additional subscription of about $10 each.

10. Much of the rapid growth of cable (taken by only 20% of US homes in 1980) is due to the deregulation of cable in recent years; the introduction of low-power satellites enabling cable systems to receive programmes supplied from afar; and of course the local natural monopolies enjoyed by cable operators.

11. The steady growth in pay cable flattened off last year. This may be something to do with the rising popularity of VCRs.

12. Although many cable systems are now scrambled (a response to the surge in home satellite dishes which enabled people to get cable services free) there is very little pay-per-view (ie pay-per-programme). $27m a year is raised this way. The major obstacle is cost (additional equipment and more complicated billing).

13. SMATV (private cable) operators deliver multichannel services to apartment buildings and hotels from big roof dishes. They compete effectively with cable because the wiring is done when the building is put up. There are 0.5m subscribers, paying £56m a year.

Satellite services

14. An attempt was made to mount a DBS service a couple of years ago. It was a costly flop (because of the high penetration of cable). But new applicants are coming forward, spurred by a recent FCC decision to allow data services on DBS.

15. There are, however, an estimated 1.7m home satellite dishes in the US. Most belong to people in rural and suburban areas who simply bought them in order to get free access to the programme services being relayed by low-powered satellite from programme providers to cable operators. Because this was fast becoming a major problem for cable operators scrambling was introduced, and dish owners invited to subscribe via decoders for the services they were previously getting free. There are 3 pay services marketed to dish owners. Subscribers are charged £66 deposit for the decoder, £40 access fee and up to £4 a film.

MMDS

16. Until now the FCC allowed only single channel microwave services which were subject to a number of regulatory constraints. They have failed. In 1982 there were 99 systems serving 0.5m subscribers; now there are only 0.2m. The FCC has now agreed to license multi-channel services under a freer regime. But there are considerable doubts about whether cable is not already too entrenched to be displaced by MMDS (which has also experienced problems in obtaining product).

Commercial radio

17. There are about 5,000 commercial radio stations (and the same number again of education, college campus and other very local services). 75% of the audience listens on VHF. Typically stations have narrowly-focussed programming formats. There are only three networks of any significance.

<ak>nt/usa/23/11

Public broadcasting

In 1967 there was Federal legislation to provide funds to upgrade a series of local educational stations into a network. The requirement was to promote programming of a "cultural, informational and educational nature". Funding (now about $214m a year) is channelled through the Corporation for Public Broadcasting, which is supposed to insulate public broadcasting from political influence. There are 322 television stations (grouped together as the Public Broadcasting System (PBS)) and 295 radio stations (grouped as National Public Radio (NPR)).

2. The PBS stations are poorly funded in comparison with the commercial networks. Only five of the PBS stations go in for any substantial programme-making, apart from low-cost local educational output. None makes any drama or light entertainment. Everything carried by PBS in those categories is purchased - much of it from the UK.

3. Overall, the PBS stations average 17% of their revenue from Federal funds (through CPB), 27% from State and local governments (some of the highest contributions being in Southern States where education needs extra support), 20% from voluntary subscription by individuals, 14% from business sponsorship, 10% from universities and the remainder from other sources. Stations are not allowed to advertise, but can carry sponsored programmes.

4. PBS has at best a 5% share of total viewing, although about 75% of the TV audience tune in at least once a month. Its existence excuses the networks from any need to concern themselves with minority programmes.

Regulation

5. Broadcasting is regulated by the Federal Communications Commission (FCC). The FCC was established under the 1934 Communication Act to regulate "interstate and foreign commerce by wire or radio". Its remit therefore covers telephone and all other forms of non-broadcast telecommunications. It regulates broadcasting in 3 ways: by allocating frequencies for broadcasting use; by assigning broadcasting frequencies to individual stations; and by licensing stations and supervising their compliance with licence conditions. It also has certain regulatory responsibilities in respect of cable, although individual cable franchises are awarded by local authorities.

6. The 1934 Act incorporates a strong competitive presumption: organisations are debarred from owning or acquiring any station "if the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce". The FCC therefore has rules on maximum station ownership (currently 12) and has in the past promulgated a very extensive and complex set of restrictions of various kinds concerning the structure of the industry. Some restrictions were devised to protect both programme suppliers and individual television stations from the exercise of market power by the networks. The FCC therefore took the lead both in requiring the networks to contract out most programme production, and set restrictions on the ability of the networks to own television stations, tie affiliates to exclusive contracts, regulate terms on which networks pay affiliates to broadcast network programmes etc. Other sorts of FCC intervention were prompted precisely by a wish to protect the networks against new competition, especially cable. In 1966 an extensive and complex set of rules was introduced intended to limit the ability of cable operators to import distant signals in the major markets and restricting cable's ability to carry pay TV channels etc. A little later MMDS was weighed down with rules in order to prevent it from making headway.

7. Over the years these various rules have been cut down, partly by court decisions to the effect that the FCC had exceeded its powers, partly by the recognition that the FCC's efforts had not been particularly effective in achieving their objectives, and most recently by a conscious change of policy direction under the Reagan administration to deregulate broadcasting. This drive was spearheaded by the previous Chairman of the FCC, Mark Fowler, who once famously described television as simply a toaster with pictures.

8. The FCC has in the past also attempted in various ways to regulate programme content. There is a basic prohibition in the 1934 Act on obscene, indecent or profane material. Although the FCC has never tried to restrict or censor other kinds of material, it did over past years evolve various kinds of additional rules, including eg limits on the time permitted for advertising; requirements on the inclusion in programme schedules of minimum percentages of news and current affairs; and the "prime time access rule" (which requires the 30 most successful network affiliates to provide at least one hour of non-network programming in prime time). Many of these rules (but not the prime time access rule) have been abandoned in the past few years, in the same way as those going to the structure of the industry. The FCC has most recently renounced, as unconstitutional, the "fairness doctrine" (which requires broadcasters "to afford reasonable opportunity for the discussion of conflicting views"). This renunciation has excited substantial opposition in Congress, in which there is a strong body of opinion that the FCC's withdrawal from regulation has gone too far.

<ak>nt/pub/bd/23/11

CANADA

The public sector

The Canadian equivalent of the BBC is the CBC, established in 1936. It has two television networks, one English, one French, and two radio networks (ditto). About 30% of the CBC television audience is delivered by private television stations affiliated to the network on the same kind of commercial basis as in the USA.

2. The CBC total budget is $1.1bn. About 80% is contributed by the Federal Government. CBC is responsible for raising the balance principally by the sale of advertising time. The balance between the two sources of funding has been an obvious source of difficulty over the years. There have been complaints that reliance on advertising is affecting CBC programming (a relatively recent example was the cutting of "Jewel in the Crown" in order to provide more advertising slots).

3. CBC also provides a service, provided free to all cable systems, dedicated to the broadcasting of Parliamentary business.

4. In addition to CBC services, there are various provincial broadcasting services provided and financed by the provincial Governments. These are supposed to be restricted to educational cultural and regional programmes. But, particularly in Quebec, there have been attempts to interpret this role very broadly.

Private sector

5. There are two commercial television networks, one in English, one in French. The English network CTV has 29 affiliates, the French 10. There are in addition 10 wholly independent local stations, all broadcasting in English. There are also 32 stations affiliated to CBC which take the balance of their programming from

the private sector. The total revenues of commercial stations totals about $900m a year.

6. The great bulk of programmes are bought in. The networks essentially produce themselves quiz, game and talk programmes, together with sports coverage.

7. There are approaching 500 commercial radio stations, most targetted on particular audiences in the same way as in the USA.

Cable

8. Canada is the second most heavily cabled country in the world after Belgium. 67% of all households subscribe (there is an average fee of $10 a month). Industry turnover is £763m a year from basic services (yielding a pretax profit of $71m) and $170m from pay services.

Canadian programming

9. The main preoccupation of Government policy over many years has been to encourage the provision of indigenous programming. At present between half and three-quarters of programmes broadcast are brought in, the lower end of the range in the public sector and the higher in the private. In order to promote indigenous programming the Government set up in 1983 a broadcasting fund regionally administered by Telefilm Canada (the equivalent of the British Film Finance Corporation). The Government committed up to $80m a year to the fund, with the expectation that it would be matched by $160m from the CBC and the private sector. The future of the fund (which commissions about 500 hours a year of independent production) is now under debate.

<ak>nt/Canada/23/11

ANNEX

FEDERAL COMMUNICATIONS COMMISSION

Background

1. The FCC regulates broadcast and telecommunications services and manages the radio spectrum.

Discussion

2. The FCC confirmed to us that it no longer saw itself as needing to do much to intervene in the way in which broadcasting was carried out. This reflected its view that the need for regulation withered as the number of broadcasting outlets proliferated.

3. The FCC was not troubled by the portrayal of sex or violence on television. It had not exercised its powers to suspend television licences or fine licensees since 1978 (although it had earlier this year acted against a handful of radio stations which were deliberately aiming to cause public offence through racialist programming). The FCC received about 20,000 complaints of indecency a year. These received pro forma replies. The FCC had conducted no research in this area. It believed that the broadcasters were exercising a substantial measure of self-regulation, and were putting on less strong material than the public would in fact accept.

4. The FCC confirmed that it no longer played an active role in the licensing of television or radio stations. Nearly all useful broadcasting spectrum had already been assigned, and the only practical way for a newcomer to enter the market was to buy out an existing licensee. Licences were valid for 5 years, but in practice were renewed automatically. There was provision for non-renewal in the event of non-performance, but this was widely regarded as theory rather than practice. The FCC acknowledged

that its recent decision to increase the number of television stations which a single individual or company could own from 7 to 12 (and the ceiling on audience reach from 21% in each market to 25%) had accelerated the rate of changes in station ownership and pushed up the prices for which stations changed hands.

5. The FCC was not, in its present non-interventionist mode, particularly wedded to most of its remaining rules eg the prime time access rule or the rules preventing the networks from acquiring off-network syndication rights. The FCC had in fact tried to drop these rules but had been thwarted by lobbying of the President by his old Hollywood associates. So far as the consent decrees were concerned, the networks were in any event not producing as much as they were entitled to. There were no comparable rules restricting the involvement of cable operators in programme production. The consent decrees would run down after 1990 and the FCC had no plans to stop the networks from producing then as much or as little as they wanted.

6. The FCC saw an interesting prospect ahead of competition between cable and the telephone companies, who were at present forbidden to carry entertainment services. There was no reciprocal FCC prohibition on the carriage of data services by cable operators, but there was little commercial interest in this.

7. The FCC used to apply a must-carry rule to all cable operators. This was struck down, and the present rule is that 25% of a cable system's capacity must be reserved for off-air services. The FCC regarded this rule as pretty meaningless, because systems were now being constructed with a much greater carriage capacity than could be used. There was a general shortage of product.

<ak>nt/fed/comms/comm/23/11

DEPARTMENT OF COMMERCE (NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION)

The Department is the Executive Branch's broadcasting policy-making arm. (Although the members of the FCC are appointed by the President, it reports to Congress.)

Discussion

2. The Department told us that its stated policy was to encourage the proliferation of broadcasting outlets, with a view to assimilating the medium as far as possible to that of print. At the same time the Department saw the real issues as concerning not delivery mechanisms but the product they were delivering. The failure of DBS and MMDS was attributed to a lack of product differentiation. The main problem affecting broadcasting was that everyone was chasing the same successful programme formulas.

3. The Department thought that the rapid growth in cable would now level off. There would be only slow progress in getting cable to the 20% of homes currently unpassed. This was the natural market for satellite-to-home services. Although only a quarter of the 1.8m dish-owners had descrambling equipment, there were a number of unscrambled services (eg the Disney channel and Christian broadcasting) which were likely to remain so.

4. The Department, like the FCC, saw the makings of a titanic conflict between cable and telephone operators. At present this was not an issue: cable wires could not take data and telephone wires could not take vision. The development of fibre-optic cable would change all that. But there was no guarantee that the conflict to come would have a clear winner. The courts had already ruled that the first Amendment prevented the granting of exclusive cable franchises.

<ak>nt/dept/commerce/4/11

NATIONAL ASSOCIATION OF BROADCASTERS

The Association represents the interests of commercial off-air television and radio broadcasters. There are currently 915 television stations (637 affiliated to the networks and 278 independents). There are about 12,000 radio stations (some affiliated to 3 networks).

Discussion

2. The NAB saw the radio scene as increasingly competitive. The FCC was planning to release more VHF spectrum for radio broadcasting at a time when every station was trying hard to carve out a distinctive niche. The AM stations were the main victim. Their share of listening hours had been falling steadily over many years, and was now down to 25%.

3. Radio was, however, cheap. The minimum viable service area had a population of only 5,000. A 30 second advertising spot could be bought for as little as $5. Stations were of course not liable to pay record companies for the right to play their records. Whereas a UK ILR station might pay 12% of its advertising in copyright fees, the comparable percentage in the USA would be 2%.

4. Radio advertising revenue was growing healthily. Radio's share of total US advertising expenditure had been stable at 7% for 15 years. A number of large advertisers were, however, thinking about going into the market on their own account. For example, Safeway Stores, which used to rebroadcast off-air services in its supermarkets as "in-store entertainment", now distributed its own service (via satellite) with only its own advertisements.

5. The NAB was clearly defensive about the impact of cable, and was keen to stress what a good buy off-air television remained for the advertiser. Although the networks' audience share had been eroded to 70%, an advertiser could still get his message to a huge number of people with one buy. The NAB claimed that the cost per 1,000 was still cheaper off-air than for cable.

6. The NAB saw MMDS as a viable competitor to cable in certain circumstances, provided that: a) the service offered multi-channel capacity, and b) operators could get product from programme providers who were already dealing with cable companies. The NAB thought that MMDS might be attractive to viewers who wanted only premium programming and therefore did not like paying a basic cable subscription as a condition of gaining entry to higher-price programme tiers.

7. The NAB detected a wish on the part of telephone companies to nibble away at the edges of broadcasting. They saw the proposal that all companies should provide "electronic yellow pages" for screen display as the thin end of a large wedge.

<ak>nt/nat/assn/bd/4/ll

CORPORATION FOR PUBLIC BROADCASTING

The CPB was set up in 1967 as a private non-profit making corporation to promote radio and TV programming of a "cultural, informational and educational nature" and to disburse Federal funds to stations accordingly. About 300 TV stations and 275 radio stations qualify for CPB support (though CPB provides less than 20% of total funding). In addition to funding stations CPB operates a programme fund on which independent producers can draw.

... Key graphs and tables are attached.

Discussion

2. CPB's Federal grant for current year is $214m. This is paid in one instalment so CPB gets the interest benefits. In spite of earlier alarms funding looks reasonably secure: the Executive Branch is lukewarm but Congress is supportive. Unusually funds are appropriated on a 2 year basis, so that CPB knows that its 1988-89 grant will be $228m. The following year $240m is expected.

3. CPB cannot fund stations unless they can raise at least $2 for every Federal dollar. The largest subscribers are state governments. 13 states run their own PBS television. But 4m individuals also subscribe, with a yearly renewal rate of 85% (radio) and 70% (TV). PBS stations are allowed to obtain commercial sponsorship in return for a modest on-screen credit, but may not advertise. The CPB attaches no strings to its own grants.

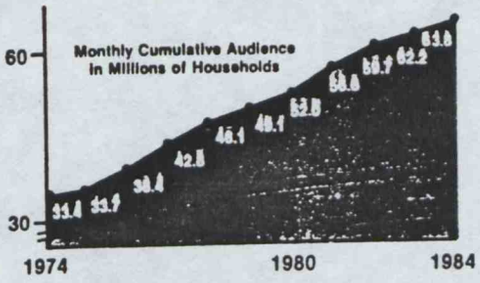
4. When the CPB programme fund commissions work from independent producers it obtains the copyright and provides the networking of programmes wherever possible at nil cost to PBS stations. CPB withdraws support from series it originated but which can stand on their own commercial feet (eg "Sesame Street"). The programme fund takes 13% of the CPB budget.

5. CPB noted that cable households watched more PBS than non-cable households. At least 75% of the public watch PBS at least once a month.

<ak>nt/corp/pub/bd/5/11

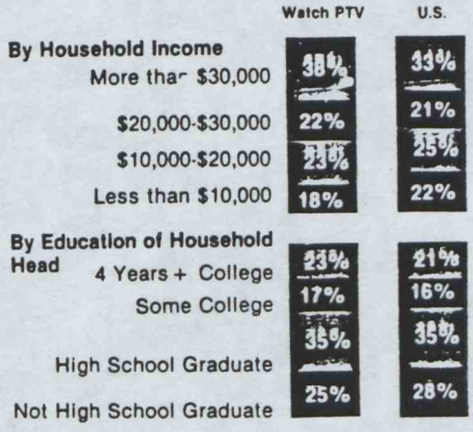
TV AUDIENCE

Growth In Public Television Viewership: 1974-1984

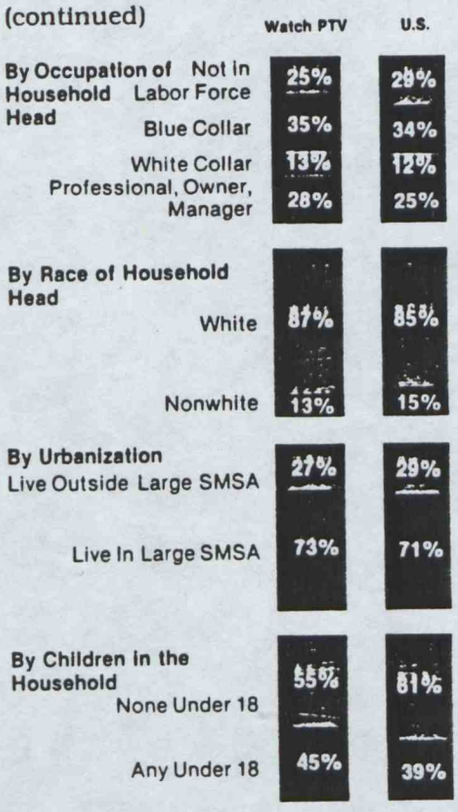


Source: Nielsen Television Index, 1984

Who Watches Public Television?



Who Watches Public Television? (continued)



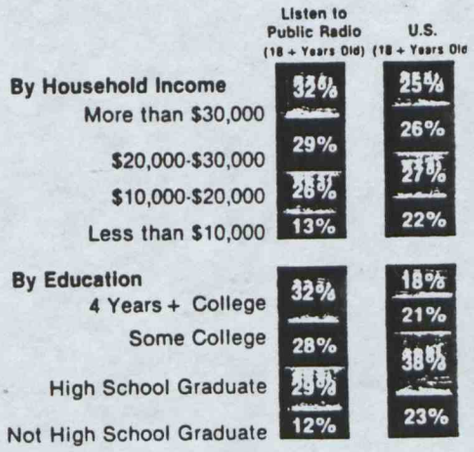
Source: Nielsen Television Index, 1984

RADIO AUDIENCE

Growth In Public Radio Listenership: 1974-1984

Source: Arbitron, 1984

Who Listens to Public Radio?



TV STATIONS

Public Television Stations and Grantees: January 1985

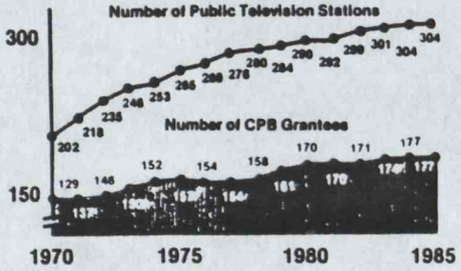
Licensee Type	Number of Stations*	Percent of Total Stations	Number of Grantees**	Percent of Total Grantees
Community	92	30.3%	78	44.1%
University	74	24.3	55	31.1
Local Authority	15	4.9	14	7.9
State/Outlying	123	40.5	30	16.9
Total	304	100.0%	177	100.0%

Source: CPB, 1984

*A public television station is the unit that transmits a single noncommercial educational signal on a single channel. Each station has its own transmitter, channel number and call letters. There were 120 VHF and 184 UHF stations in January 1985.

**A CPB grantee refers to an on-the-air station operating under a noncommercial educational license granted by the FCC that owns and operates one or more educational television station(s), and meets the criteria set by CPB concerning funds, staff size, minimum broadcast hours, autonomy of station operations, facilities, and type and quality of programming. CPB grantees are qualified to receive CPB financial support.

The Growth of Public Television Service: 1970-1985*



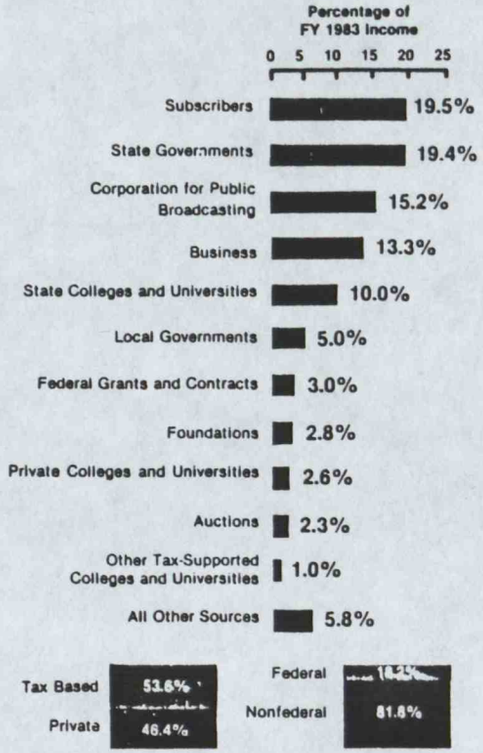
*At the end of each year except for 1985, which represents counts as of January 1985.

Source: CPB, 1984

FINANCE

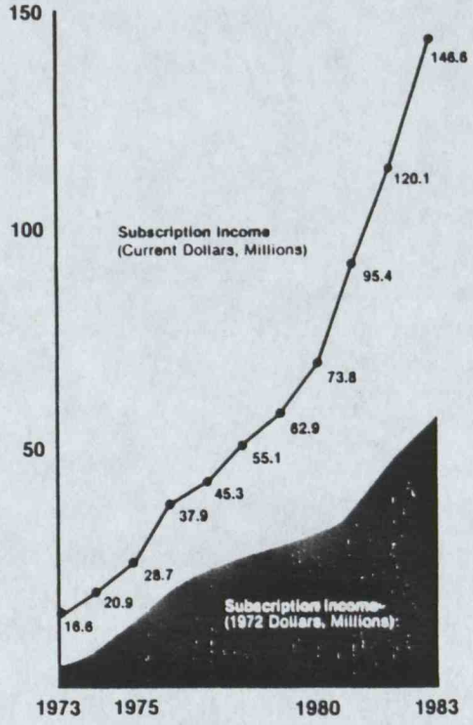
Where Public Broadcasting Got Its Funds: FY 1983

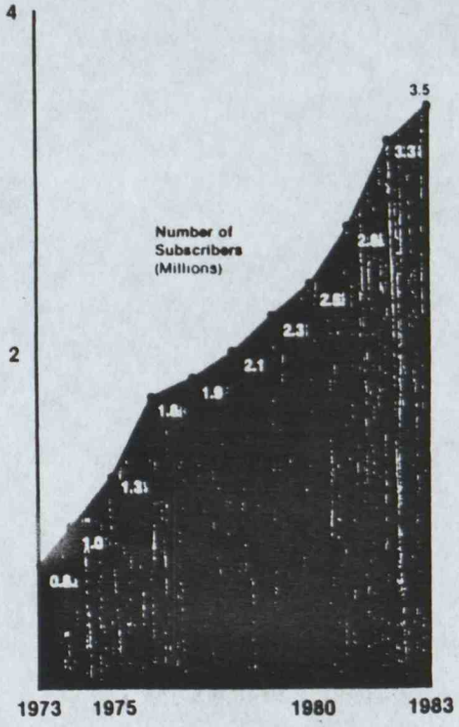
(Total Income: $899.2 Million)



Source: CPB, 1985

How Subscriber Support For Public Television Has Grown: 1973-1983

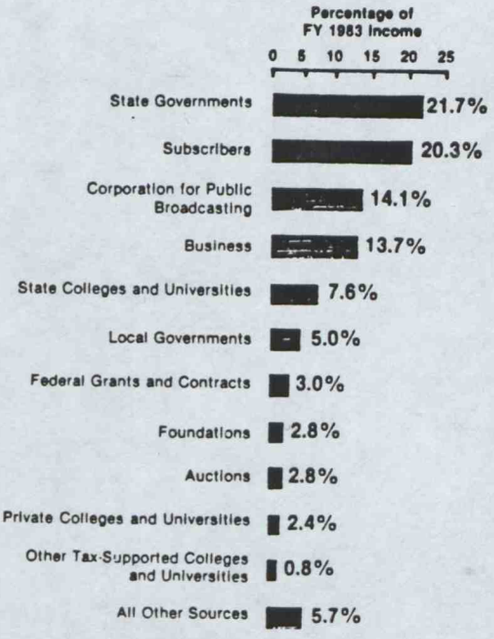




Source: CPB, 1985

Public Television Gets Its Funds From a Variety of Sources

(Total Income: $720.4 Million)



Source: CPB, 1985

Where the CPB Dollar Went: FY 1984

(Total Amount: 147,489,676)*

Community Service Grants are direct, unrestricted grants to public TV and radio stations. Stations use these grants primarily to produce or purchase programming, hire staff, improve technical facilities or pay for interconnection.

Television Community Service Grants $65,344,631

Television Program Production $31,961,179

Radio Community Service and Improvement Grants $18,808,345

Radio Program Production and Distribution $10,560,840

Corporate Administration $6,721,860

Research, Education, Training and Other $3,977,139

Television Program Distribution $3,765,623

Other Direct Support (e.g., Music Royalty Fees and Challenge Grants) $6,350,059

*Amounts include restricted funds, i.e., Annenberg/CPB Project.

Source: CPB, 1985

RADIO STATIONS

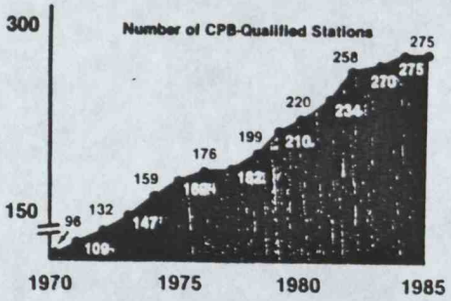
CPB-Qualified Public Radio Stations: January 1985

Licensee Type	Number of Qualified Stations*	Percent of Total
Community	80	29.1%
University	164	59.6
Local Authority	20	7.3
State/Outlying	11	4.0
Total	275	100.0%

Source: CPB, 1985

*CPB-qualified stations (often used to identify the majority of "public radio" stations) are noncommercial educational radio stations that meet CPB-designated criteria to qualify for CPB financial support. The criteria cover facilities, funds, staff, type and quality of programming, time station has been on the air, etc. In addition to stations authorized by noncommercial FM licenses, these CPB-qualified stations include some AM stations licensed to similar types of organizations and transmitting similar types of programming (28 AM stations in 1985).

The Growth of Public Radio Service: 1970-1985*

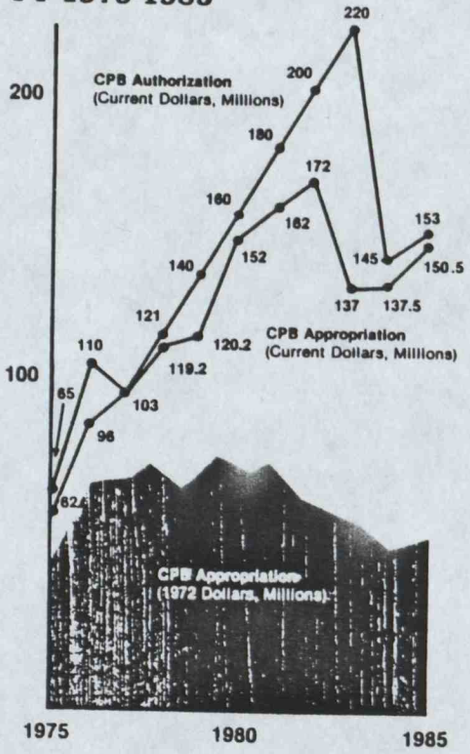


*At the end of each year except for 1985, which represents counts as of January 1985.

Source: CPB, 1985

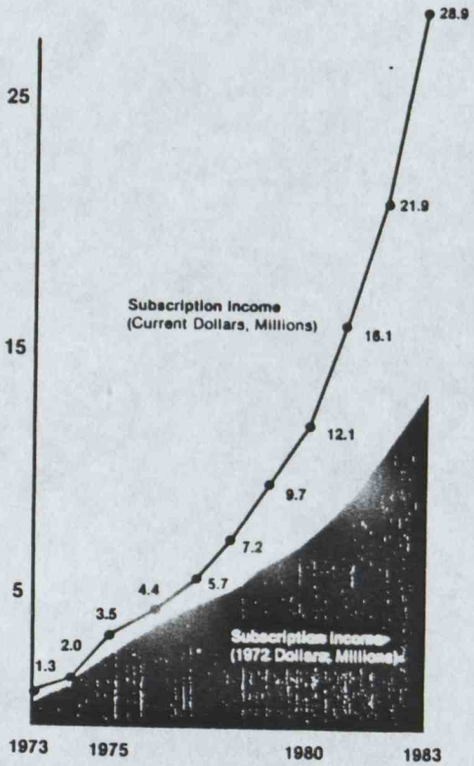
FINANCE

CPB Appropriations: FY 1975-1985

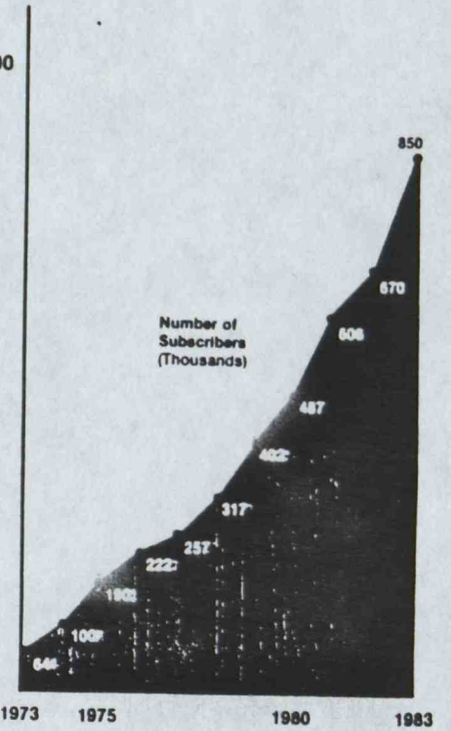


Source: CPB, 1985

How Subscriber Support For Public Radio Has Grown: 1973-1983

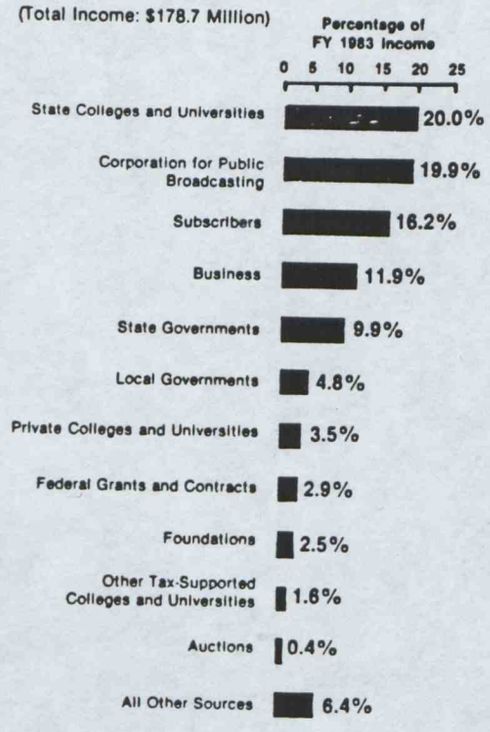


Source: CPB, 1985



Public Radio Gets Its Funds from a Variety of Sources

(Total Income: $178.7 Million)



Source: CPB, 1985

DISCUSSIONS WITH VARIOUS INDUSTRY REPRESENTATIVES IN NEW YORK

The following points were made in discussion:

1. Additional channels mean movies. Movies mean sex and violence. The dilemma of wanting tighter programme standards as well as additional delivery mechanisms is a practical and not simply a doctrinal one. The US Government's previous attempts to influence broadcasters to tone down violence by nudge and wink were undermined by the proliferation of outlets and the cost pressures which this applied to broadcasters.

2. The proliferation of new outlets did not itself produce either a reduction or improvement in overall quality, since the main fare consisted of programmes already shown on the old outlets. It was an open question whether the market would in fact be able to generate new product to match new channel capacity. In this context it would be wrong to talk about good or bad quality: audiences found their own level and in the USA there was a strong view that one group of people should not decide what another group could or could not watch. The UK Government might not like the result of opening up the Pandora's box of additional channels, but the public might. Whatever rubbish was put on the screen (eg the shopping channels) would find somebody to watch it.

3. A key difference between the US and the UK was that in the former there was a huge off-network syndication market which is where programmes earned their profits. It would be wrong to believe that the UK could support additional channels to the extent of the US by looking to export to the US market. In spite of the undersupply of new product, foreign programmes had generally failed in the US commercial (as against PBS) market. For example, Lorimar would not

consider coproducing anything with a foreign company without a pre-sale to a US network. The only example of such a pre-sale involves violence: Jack the Ripper (coproduced with Thames). There was some prospect of growth in international coproductions, but US companies found it easier to co-operate with Italian and Spanish companies. This was because they did not (unlike UK companies) have any problems about conceding editorial control to their US partners.

4. The "consent decrees" took away from the networks a largely unused right. The networks had always depended on the outside supply of product: in the first place from advertisers themselves and subsequently from specialist companies.

5. Competition between cable and telephone companies would eventually be decided on a political level.

6. The scale and degree of competition for audience was worrying and a source of industry instability.

7. There was a growing demand for the FCC to resume a more positive regulatory role, which could well happen under a new President, whatever his party.

8. The potential of cable for educational programming had been badly underexploited; although one of the few areas outside the field of straight entertainment and sports coverage in which cable had done well was in popular science and technology.

9. One answer to the problem of the portrayal of sex lay in technology. At present a considerable number of households did not take cable because they did not want risqué material to come into their homes where their children could one way

or another get access to it. They could rely on the networks and off-air broadcasters to keep a clean act. With the right kind of technology they could be able to get certain channels filtered out by the cable operator.

<ak>nt/disc/ind/rep/ny/6/11

NATIONAL CABLE TELEVISION ASSOCIATION

The NCTA represents the operators of 7,836 cable systems. Cable passes 70m out of 87m TV households. There are 44m cable households ie a penetration rate of about 50%. The penetration of pay to basic cable is 81%. Total subscriber revenue is over $10bn a year, and total advertising revenue is over $1bn. Key graphs ... and tables are annexed.

Discussion

2. The NCTA told us that cabled households watched more television than non-cabled households (8½ v 8 hours) and were more likely to have a VCR. There was even a "VCR Theatre" cable channel. The growth of VCRs had, however, flattened the growth in pay cable. Although cable operators were generally profitable, some exceptionally so, a few programme providers were in difficulty.

3. Cable subscriber rates were now deregulated. Until earlier this year they had been regulated by local authorities, and operators had had to resort to all kinds of tactics to circumvent the controls, which by and large they had.

4. There was no uniform pattern so far as scrambling was concerned. Some operators scrambled everything; others only premium channels; others nothing. There was still an extensive reliance on "trapping" (ie placing devices on cable poles which would filter out pay channels and which would be removed by the cable operator in return for payment).

5. The NCTA thought that HDTV was coming soon, and that it would be a major selling-point for cable. Cable had no problem in accommodating the extra bandwidth needed for off-air HDTV transmission. The cable industry did not in any event regard it

as essential for there to be a single HDTV standard. There were already "smart" television receivers being manufactured in Germany and Japan which could work anywhere in the world (regardless of the electricity supply field rate and of the colour system in use).

6. The NCTA appeared to take a relaxed view of the prospect of telephone company competition. They claimed that the fibre-optic cable being used by the telephone companies could only take 5 TV channels, and that the compression needed to feed TV signals through fibre-optic cable would overwhelm the telephone signal. They regarded coaxial cable (2½ times cheaper) as wholly adequate for their purposes.

<ak>nt/nat/cable/tv/assn/5/11

CURRENT INDUSTRY ESTIMATES

	A. C. NIELSEN COMPANY July 1987	ARBITRON TELEVISION May 1987	PAUL KAGAN ASSOCIATES INC. July 30, 1987 1/
ASIC CABLE HOUSEHOLDS	43,490,700	42,752,300	40.622 million
U. S. TELEVISION HOUSEHOLDS 2/	87,896,350	87,614,900	87.083 million
PENETRATION: BASIC CABLE TO TELEVISION HOUSEHOLDS	49.5%	48.8%	47%
HOMES PASSED BY BASIC			70.042 million
PENETRATION: HOMES PASSED TO TELEVISION HOUSEHOLDS			80%
PENETRATION: BASIC CABLE TO HOMES PASSED			58%
PAY CABLE UNITS			32.921 million
PENETRATION: PAY TO BASIC			81%
EXPANDED BASIC HOUSEHOLDS			5.400 million
HEADENDS 3/	Approximately 10,100		

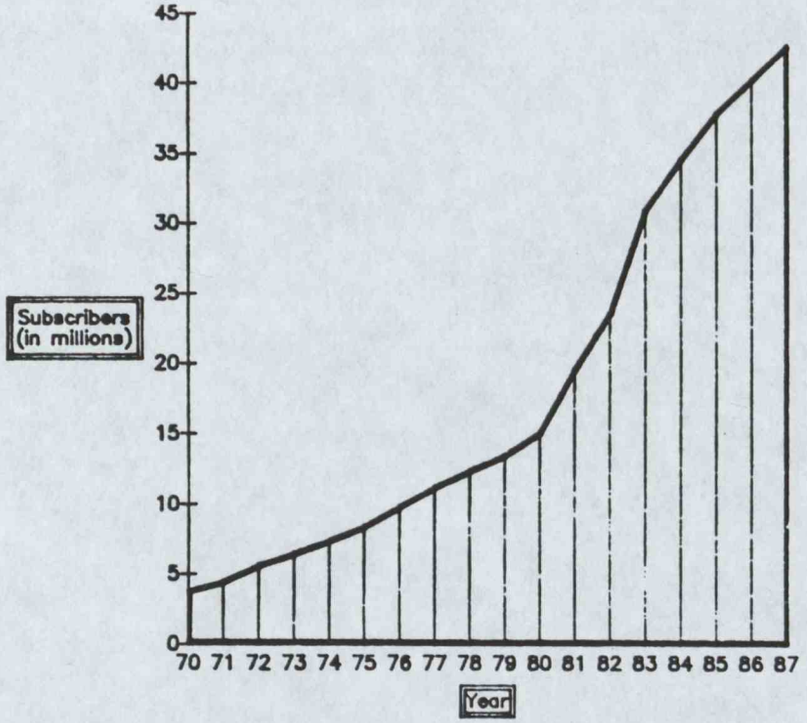
1/Cable TV Programming, July 20, 1987, page 7

2/Estimates for 1987; Arbitron estimate for continental U. S. only

3/Nielsen CODE (Cable On-Line Data Exchange) database

2

BASIC CABLE: 1970-1987



DATE	BASIC SUBSCRIBERS	BASIC/ TELEVISION HOUSEHOLDS
2-3/70	3,897,650	6.6%
2-3/71	4,572,840	7.6%
2-3/72	5,748,890	9.2%
2-3/73	6,574,180	10.1%
2-3/74	7,512,410	11.3%
2-3/75	8,529,870	12.4%
2/76	9,935,340	14.2%
2/77	11,307,540	15.8%
2/78	12,489,330	17.1%
2/79	13,581,050	18.2%
2/80	15,198,490	19.8%
2/81	19,727,290	25.3%
2/82	23,726,220	29.0%
2/83	31,124,450	37.2%
2/84	34,740,330	41.2%
2/85	38,018,100	44.6%
2/86	40,389,760	46.8%
2/87	42,820,780	48.7%

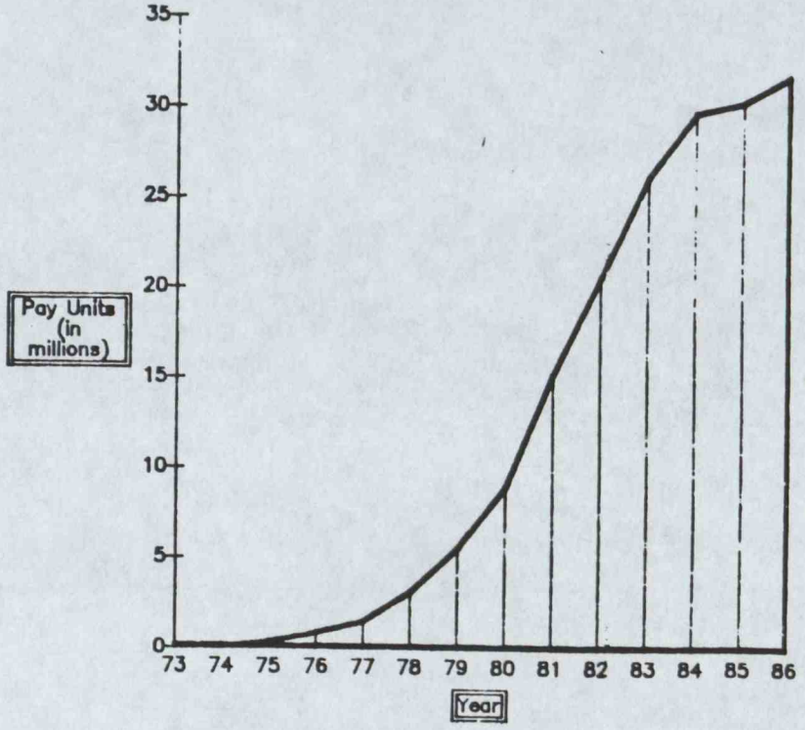
SOURCE: A. C. Nielsen Company

3

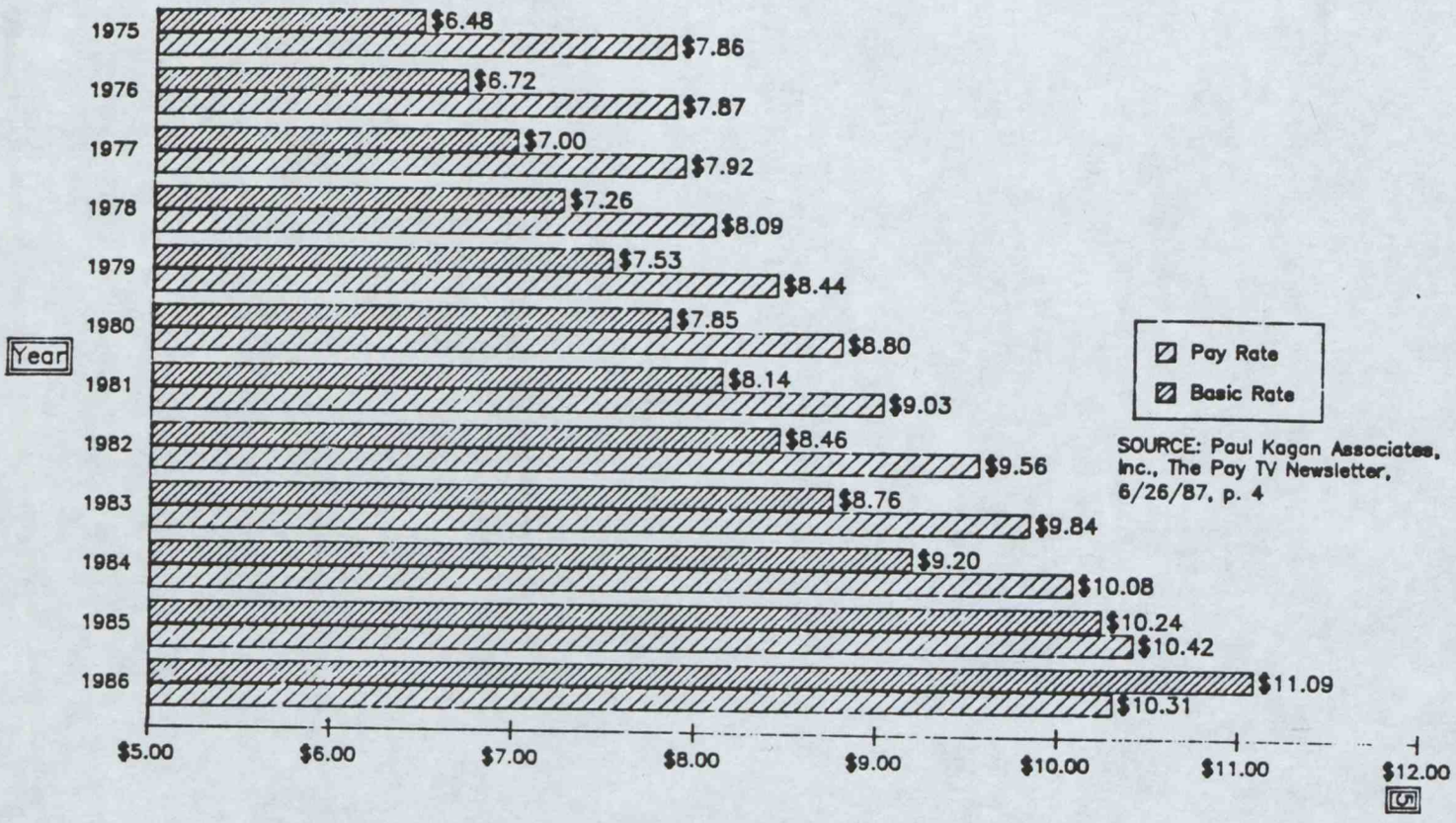
PAY CABLE: 1973-1986

DATE	PAY UNITS (in millions)	SYSTEMS WITH PAY CABLE*	PAY UNITS TO HOMES PASSED	PAY UNITS TO BASIC CABLE
7/15/73	0.035			
12/31/74	0.140			
12/31/75	0.469	170	11.1%	23.6%
12/31/76	0.978	364	10.6%	22.3%
12/31/77	1.642	604	12.2%	25.3%
12/31/78	3.289	1,029	17.9%	35.0%
12/31/79	5.732	1,822	22.3%	41.3%
12/31/80	9.144	3,072	27.9%	50.6%
12/31/81	15.450	3,975	37.6%	68.8%
12/31/82	20.791	4,826	46.2%	84.0%
12/31/83	26.418	5,546	47.3%	84.3%
12/31/84	29.966	5,721	49.5%	87.5%
12/31/85	30.596	6,020	47.3%	83.5%
12/31/86	32.064	6,838	46.2%	80.8%

SOURCE: Paul Kagan Associates, Inc.: "Pay TV Subscriber History", The Kagan Census of Cable and Pay TV, 1986. (through 1985). 1986 census figures from The Pay TV Newsletter, 6/26/87.
*From annual census volumes



AVERAGE CABLE RATES: 1975-1986



SOURCE: Paul Kagan Associates, Inc., The Pay TV Newsletter, 6/26/87, p. 4

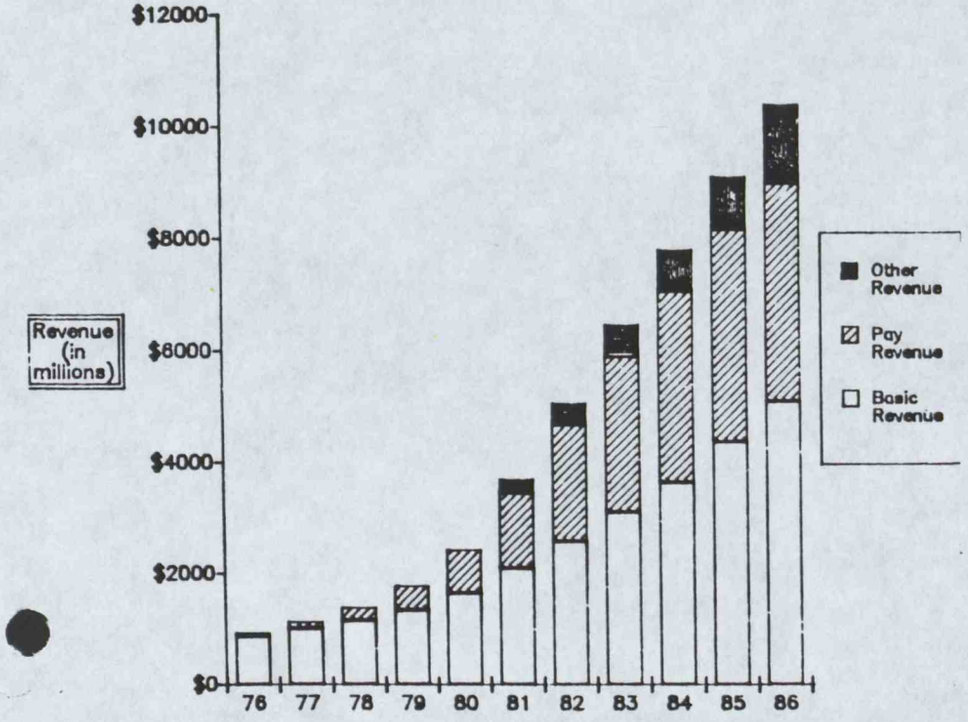
CABLE REVENUES FROM SUBSCRIBER SERVICES: 1976-1986

(Figures in Millions)

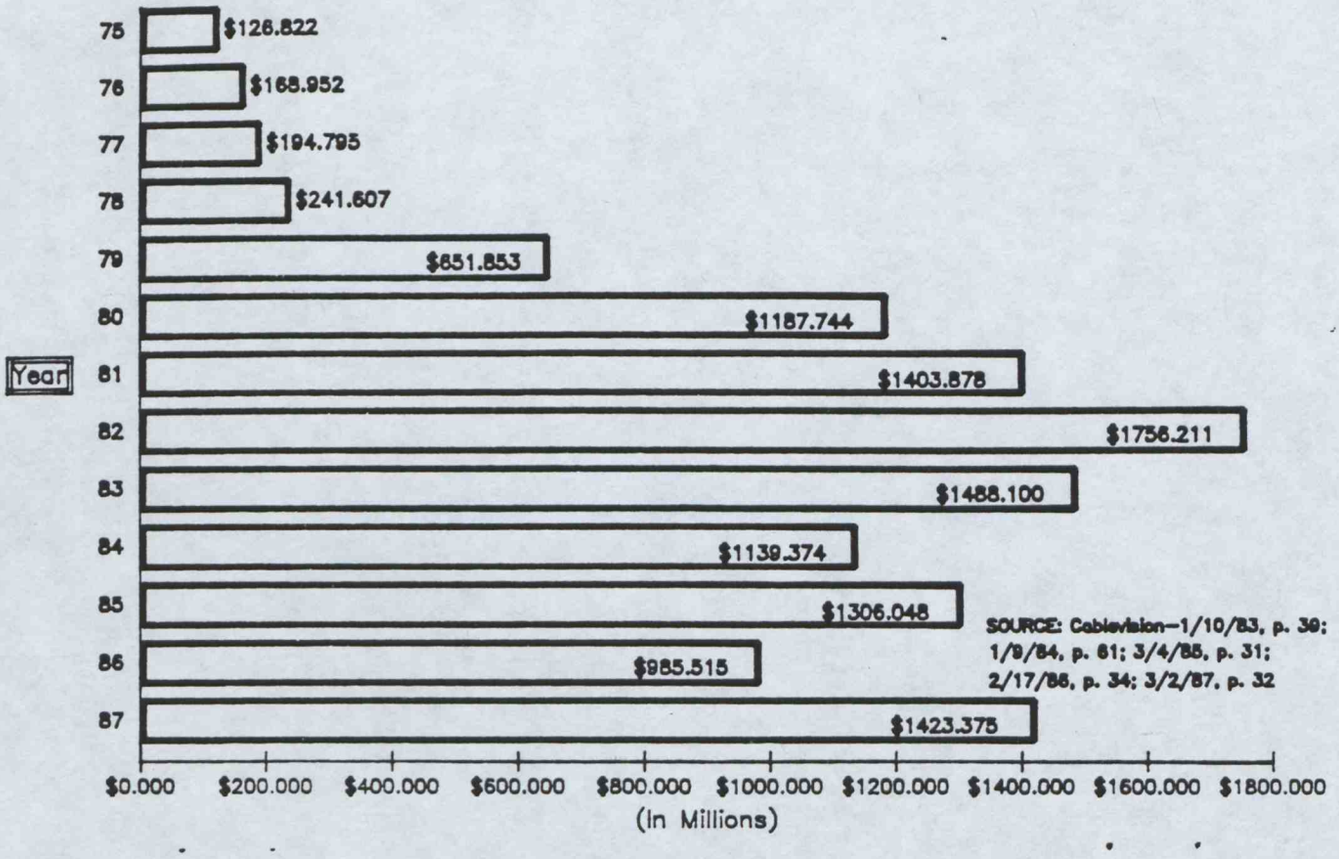
YEAR	BASIC REVENUE	PAY REVENUE	EXPANDED BASIC REVENUE	INSTALLATION REVENUE BASIC	INSTALLATION REVENUE PAY	TOTAL REVENUE*
1976	$ 887	$ 68	-	$ 10	$ 3	$ 968
1977	1,025	125	-	10	4	1,164
1978	1,167	239	-	10	9	1,425
1979	1,355	435	-	12	14	1,816
1980	1,649	785	-	19	20	2,473
1981	2,100	1,336	$ 24	40	27	3,703
1982	2,579	2,081	79	49	41	5,070
1983	3,096	2,787	170	55	52	6,468
1984	3,627	3,410	251	69	65	7,793
1985	4,353	3,787	319	169	38	9,099
1986	5,080	3,876	444	179	40	10,389

*"Revenues for the years 1981-86 in this column are increased 5% to 8% to account for ancillary revenues." [Ancillary revenues therefore are (in millions): 1981, $176; 1982, $241; 1983, $308; 1984, $371; 1985, $433; and 1986, $770.]

SOURCE: Paul Kagan Associates, Inc. Cable TV Investor, Data Roundup, July 24, 1987, page 4.

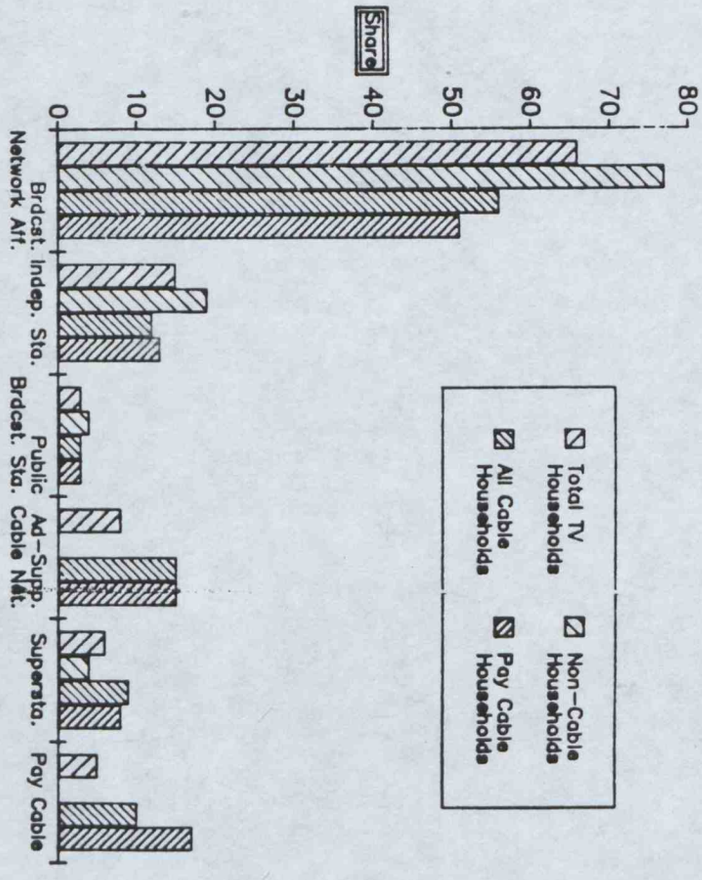


CONSTRUCTION EXPENDITURES: 1975-1987



SOURCE: Cablevision--1/10/83, p. 30; 1/9/84, p. 61; 3/4/85, p. 31; 2/17/86, p. 34; 3/2/87, p. 32

VIEWING SHARES



BROADCAST YEAR 1985-1986 1/
MONDAY - SUNDAY, 24-HOUR SHARES

	Total TV Households	Non-Cable Households	All Cable Households	Pay Cable Households
Broadcast Network Affiliates	66	77	56	51
Independent Stations 2/	15	19	12	13
Public Broadcasting Stations	3	4	3	3
Ad-Supported Cable Networks	8	-	15	15
Superstations 3/	6	4	9	8
Pay Cable	5	-	10	17

1/From October through September

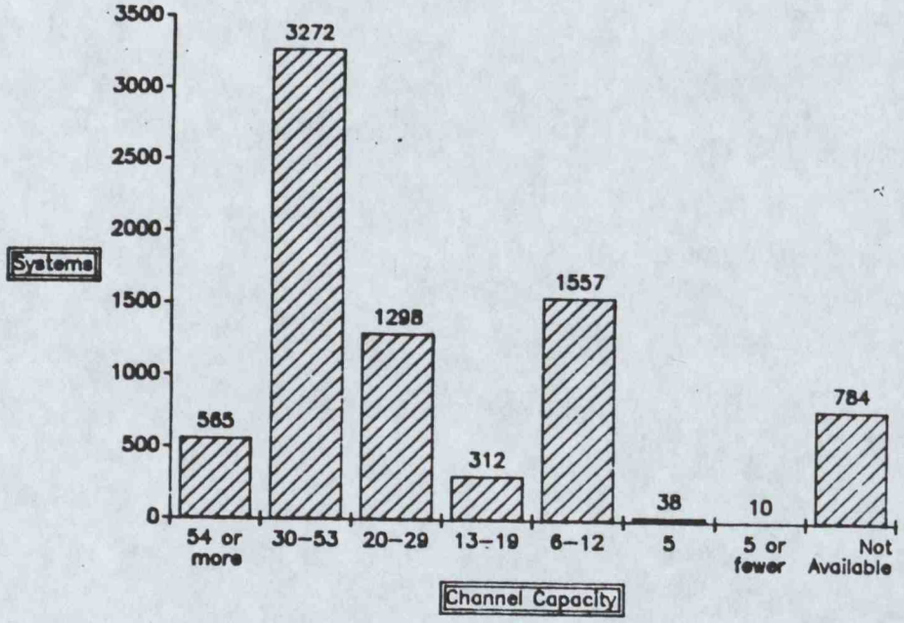
2/See also Superstations

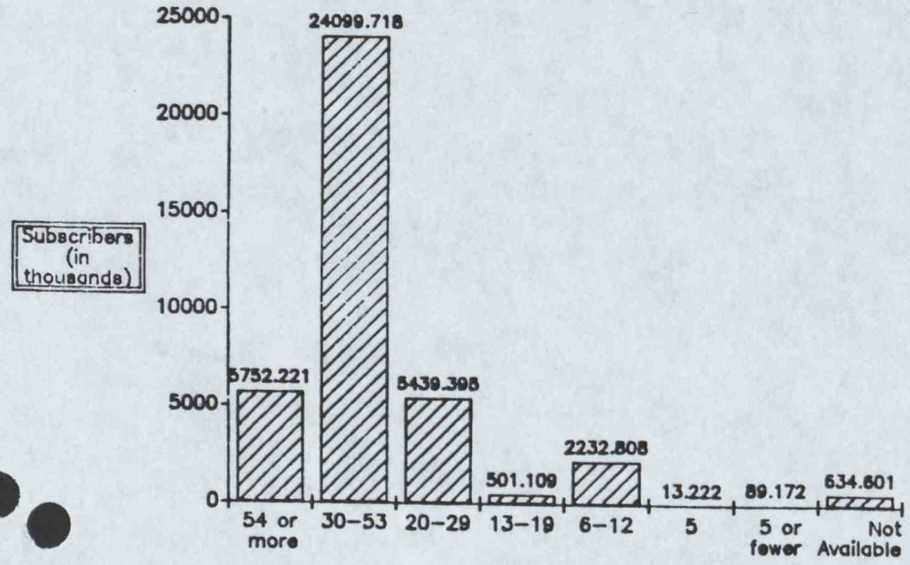
3/Satellite-delivered independent stations such as WTBS, WOR, and WGN

Totals may exceed 100 percent due to rounding and multi-set usage.

SOURCE: A. C. Nielsen NTI Cable TV Status Report data published in Cabletelevision Advertising Bureau's 1987 Cable TV Facts, page 6.

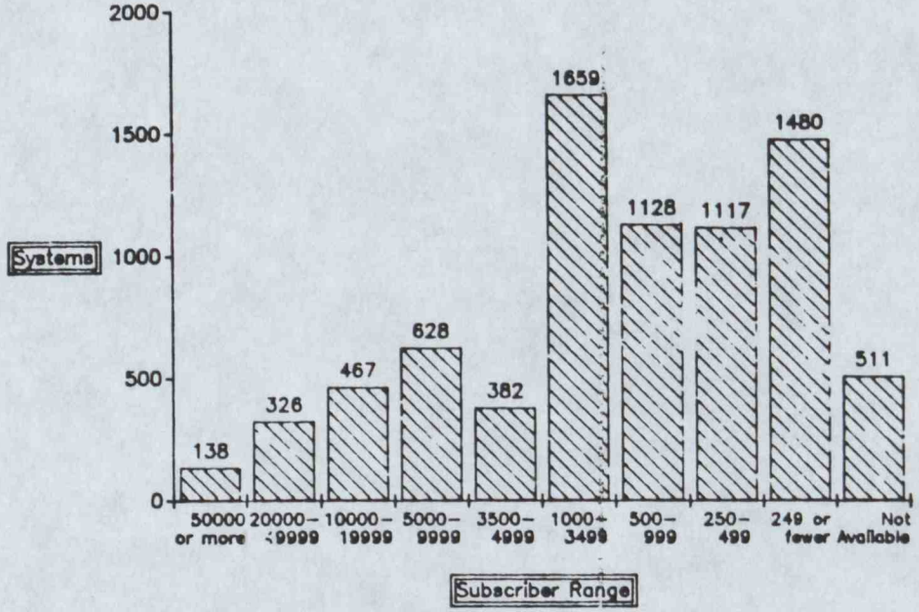
SYSTEMS AND SUBSCRIBERS: By Channel Capacity

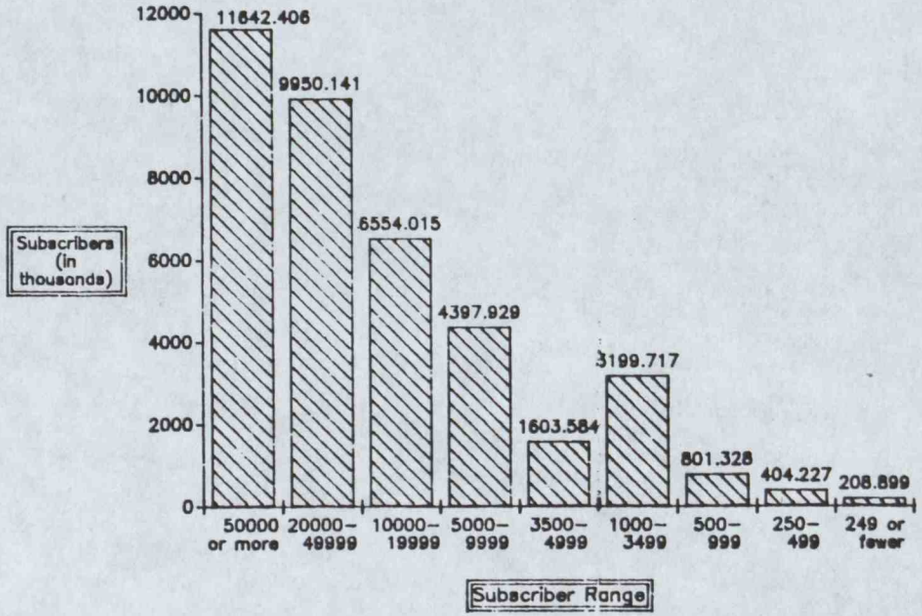




For sources, please see page 16

SYSTEMS AND SUBSCRIBERS: By Number of Subscribers





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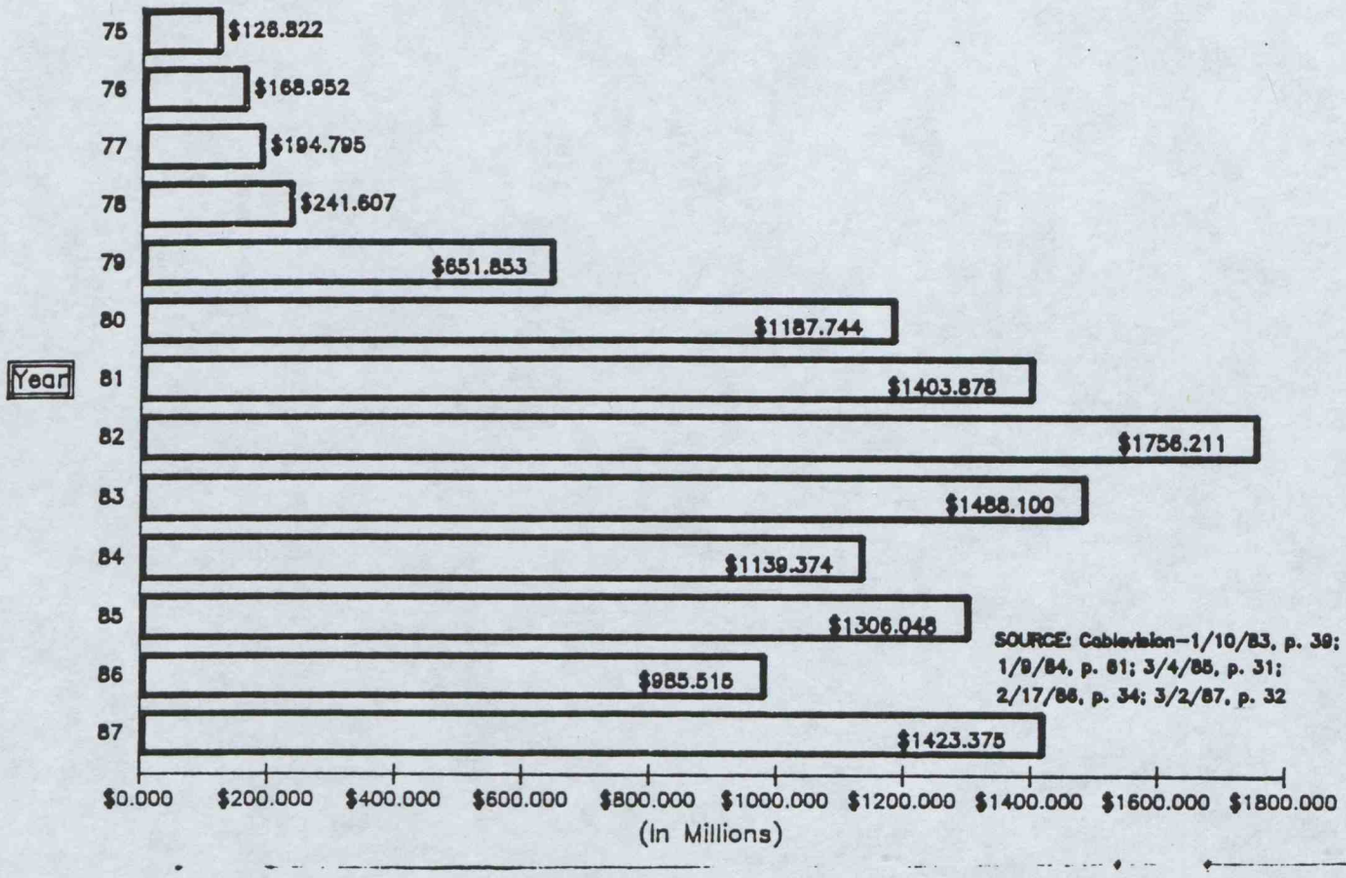
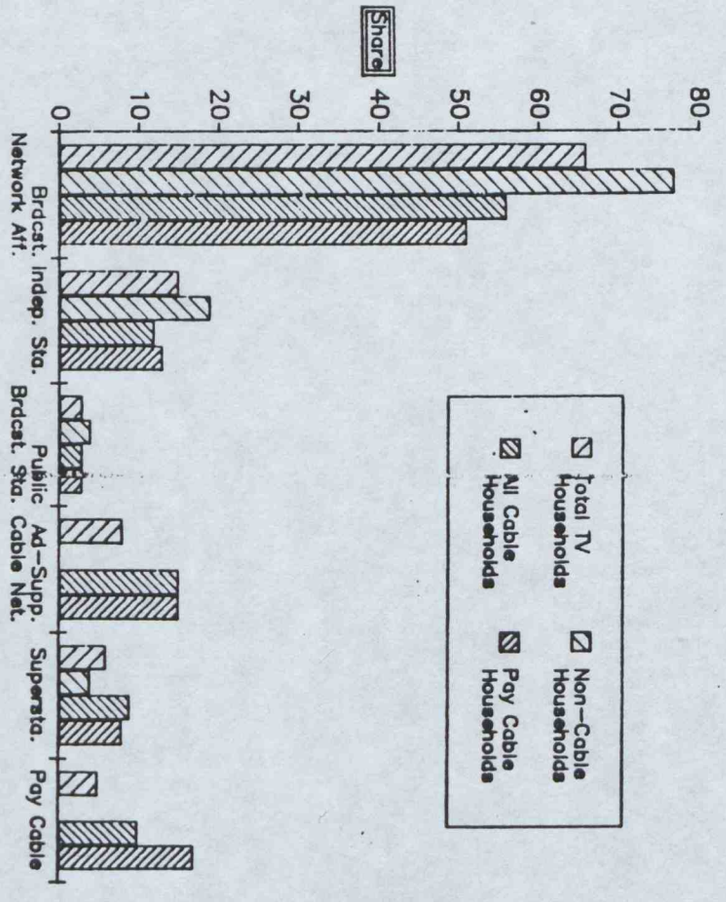


VIEWING SHARES



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1/From October through September

2/See also Superstations

3/Satellite-delivered independent stations such as WTBS, WOR, and WGN
Totals may exceed 100 percent due to rounding and multi-set usage.

SOURCE: A. C. Nielsen NTI Cable TV Status Report data published in Cabletelevision Advertising Bureau's 1987 Cable TV Facts, page 6.

WNET

WNET is New York's main PBS television station. It serves a potential audience of 17m people, on a budget of $100m (of which 15% comes from CPB).

Discussion

2. WNET urged the UK not to follow the PBS example. Security of finance was a constant worry and drain on effort. (The head of WNET spent 80% of his time on fund raising, which was itself an expensive operation.) WNET had 350,000 voluntary subscribers. It was always under pressure to increase its audience in order to attract more subscribers but at the price of compromising its mission to address otherwise unmet needs.

3. WNET was cable-proof. Its audience had grown despite the growth of cable.

4. WNET was under-funded. 80% of its schedule was bought in. It would like to produce more itself.

5. WNET thought that the standard of commercial television had gone down in recent years. This was due at least in part to the FCC's withdrawal from regulation.

<ak>nt/wnet/5/11

ABC

ABC operates TV and radio networks. It was recently taken over by Capital Cities Communications Inc, which forced through major economies.

Discussion

2. ABC (like the other networks) had responded to advertiser concern about violence by toning down its output. There had always been a high degree of self-regulation in the portrayal of sex; and ABC would never contemplate screen nudity. The competition for advertising and audience was so fierce that no-one could afford to cause offence.

3. The spotlight was now turned on children's programmes. Because of the need to fill the technical capacity of the delivery system toy manufacturers have been coming forward with ready-made programmes (featuring their own products) for broadcast.

4. Programme costs were rising faster than revenue. This was partly due to the fragmentation of the audience through new channels. It was also due to the inability of independent producers (mainly in Hollywood) to control their costs. Hollywood was fabulously greedy. And every new production fashion cost money (eg the latest craze for using only one cameraman instead of three had inflated costs by 25% - the perils of undermanning!). ABC found prime time the hardest area in which to make a profit. Every television operator was chasing a hit formula (like the Cosby show). And when a formula was found television had to pay through the nose to repeat it. ABC had tried to cultivate smaller-scale independent production, and had put seedcorn money in. This had not come to anything, but might have to be tried again.

5. ABC said that 80% of TV advertising revenue depended on its ability to deliver a guaranteed audience. If the audience its programmes attracted were not up to the level bought by an advertiser its charges were sharply reduced.

6. ABC said that regulatory changes (eg the abolition of the requirement to carry public affairs and the doubling to 24 of the number of stations permitted in single membership) had made radio a very attractive market. 1,000 stations a year changed hands for $3bn. But the number of networks had shrunk from 17 to only 3.

7. ABC said that MMDS had been stifled at birth by the FCC. Cable was now too well entrenched for MMDS to recover. In addition MMDS operators could not get programmes: cable operators had told programme providers that they would not buy if programmes were also sold to MMDS.

<ak>nt/abc/5/11

CANADIAN BROADCASTING CORPORATION (CBC)

The Canadian Equivalent of the BBC is the CBC, established in 1936. It has two television networks (one English, one French) and two radio networks (ditto). About 30% of the CBC television audience is delivered by 32 private television stations affiliated to the network on the same kind of commercial basis as in the USA.

2. The CBC total budget is $1.1bn. About 80% is contributed by the Federal Government. CBC is responsible for raising the balance principally by the sale of advertising time. The balance between the two sources of funding has been an obvious source of difficulty over the years.

3. CBC also provides a service, provided free to all cable systems, dedicated to the broadcasting of Parliamentary business.

Discussion

4. CBC was well on course to achieving its target of taking 50% of its original output (excluding news and sport) from independent producers. It was now commissioning 40% on its English-language side, rather less on its French. The main motive behind this programme was to provide a justification for the continuing existence of an English-language TV network given the widespread availability of US television services. It was, however, depressing that in spite of all the efforts made less than 3% of the total entertainment output of Canadian broadcast television was made in Canada.

5. There were a lot of small production companies, though concentrated in Toronto and Montreal.

6. Programmes commissioned from independent producers attract up to 1/3 funding from the Broadcast Fund, itself funded by a

hypothecated 8% impost on cable subscriber revenues (see Annex). CBC was worried that as its budget was squeezed (see below) and cable revenues continued to grow strongly the commissioning process would increasingly be production-led rather than programme-led.

7. When CBC commissioned a programme from an independent producer it contributed only 20% of the cash requirement, and therefore laid no claim to the copyright or exploitation revenue. CBC was prepared to negotiate with independent producers on the assignment of advertising revenue generated by the sale of advertising time within the programmes they made. Independent producers were also encouraged to obtain commercial sponsorship in return for a discreet on-screen credit.

8. CBC tried to keep some (eg children's) programmes free of advertisements. But the pressure to sell advertising was constant, and CBC was now up to 11 minutes an hour in peak time, necessitated by the shortfall in Government funding (calculated by CBC to be $60m a year). The shortfall arose because while the Government grant was increased annually in line with inflation minus 1% in respect of CBC pay there was no uplift in respect of the element of the grant geared to goods and services obtained by CBC.

9. CBC's English-language television service had a 22% audience share, having been substantially eroded by cable. (The French-language service was faring much better at 40%.) This posed a dilemma for CBC. If it continued to lose audience its grant would be in jeopardy. It it programmed to keep audience share it would lose its raison d'etre.

<ak>nt/can/bd/corp/10/11

ANNEX

Broadcast Fund

The main preoccupation of Government policy over many years has been to encourage the provision of indigenous programming. At present between half and three-quarters of programmes broadcast are brought in, the lower end of the range in the public sector and the higher in the private. In order to promote indigenous programming the Government set up in 1983 a broadcasting fund regionally administered by Telefilm Canada (the equivalent of the British Film Finance Corporation). The Government committed up to $80m a year to the fund, with the expectation that it would be matched by contributions from the CBC and the private sector. However, the private sector contributed virtually nothing, and a crisis developed in 1984 when CBC froze its contribution. The future of the fund (which is sponsoring about 500 hours a year of independent production) is now uncertain. A further problem was that those administering the fund could not spend all the money earmarked for French language production.

<ak>nt/can/bd/corp/10/11/annex

CANADIAN RADIO AND TELECOMMUNICATIONS COMMISSION (CRTC)

The CRTC licenses and regulates all broadcast and cable services, as well as all forms of non-broadcast telecommunications. It was set up in 1968 with a statutory brief to promote both Canadian national identity and adequate competition.

Discuss

2. When issuing or renewing licences the CRTC was empowered to hold public hearings, at which members of the public affected by the service concerned had an opportunity to speak. The public hearing was not automatic in the case of renewals: it tended to be regarded in the way of a sanction if a licensee failed to respond adequately to warnings against departure from his promised format or to a short licence renewal (eg one year as against a maximum of 5 years). The CRTC made a practice, however, of holding public hearings on the renewal of all CBC licences, even though it had no power to withdraw them: this was to ensure proper public accountability. The CRTC had so far never failed to renew a television licence. It has, however, done so on 12 occasions in the case of radio, and was now trying to toughen up its approach. It held about 35 public hearings a year.

3. The CRTC had looked at various ways of trying to enforce licence conditions relating to Canadian programming. For example it would be possible to have a points system for programming under which eg the use of a Canadian director scored one point, a Canadian actor scored one point etc. The CRTC disliked, however, the idea of performance bonds, which it saw as vague and impracticable.

4. When considering licence applications the CRTC looked at the applicant's programme plans and financial projections. It then decided whether or not there would be room in the market for a new

station (ie whether it would be financially viable) and whether it would enhance the overall diversity of programming. Licence fees were set as a percentage of turnover. At present licence fees yielded $50m, of which half paid for the CRTC itself.

5. Violence in US films was a worry. The CRTC expected broadcasters to act sensibly and exercise a degree of self-regulation either in not buying films or in showing them late. Because it was clear that neither the US nor the Canadian public would accept explicit sexual portrayals this was less of a worry. (Our question about sex was taken by the CRTC to refer to sexual stereotyping, which is forbidden under licence conditions and which is a hot political issue.) The CRTC had it in mind to include in future licence conditions codes of practice which the industry was now drawing up, amended as necessary in the light of public hearings. The Canadian Association of Broadcasters had also suggested the formation of a voluntary Broadcasting Council, comprising representatives of the industry and of the public at large, which would act as a focus for complaints.

6. The CRTC had no locus in relation to videos, which were neither regulated nor classified.

7. The CRTC was now conducting public consultations about the possible use of 15-channel MMDS with a view to inviting licence applications. MMDS was not seen as a contender to cable, given that 30 household systems were now viable: it was more a question of serving remote areas. There might, however, be scope for MMDS as an alternative distribution system within cabled areas for the carriage of special interest (eg minority language) programming. At present cable operators were required to carry certain priority services (eg CBC). Minority language services might not be financially attractive to a cable operator but could not be regarded as a priority service.

<ak>nt/can/rad/tele/comm/crtc/12/11

FEDERAL DEPARTMENT OF COMMUNICATIONS

The Department is now considering the case for broadcasting legislation and what provisions it might include.

Discussion

2. Legislation needed to be technology-neutral and therefore not prescriptive. It would be wrong to stifle innovation by protecting any particular form of delivery mechanism, and there could be no guarantee that any form of protection would either work or prove to be in the long term public interest.

3. There was a dilemma at the heart of CBC. In order to retain its present audience share CBC has to have mass appeal. It is only that share that justifies its grant. At some point CBC ought to stop broadcasting US programmes altogether - they could perfectly well be delivered by cable. This would result in the Government having to increase its grant to CBC to compensate for the advertising revenue CBC would lose.

4. The costs of maintaining the CBC terrestrial transmitter network were a real worry. Cable (on which CBC was of course carried) was already so widely taken that it would be cheaper for the Government to cable up non-subscribers and pay their subscriptions than to maintain the transmitter network through the CBC grant. If this approach were taken to its logical conclusion CBC would cease to be a broadcaster and would become simply a programme provider distributing product through private sector delivery mechanisms.

5. The cable market was now pretty well saturated in the main centres of population. 80% of the total population was passed by cable, with an 80% penetration rate. Cable operators therefore wanted to move the industry on a step eg by making programmes

themselves or showing "live" advertisements (at present they could insert in programmes which were not taken off-air only still photographs, although these might be "riffled" at speed to convey the illusion of movement). It was essential for all these activities to be regulated so long as the Government was concerned to ensure an adequate proportion of indigenous Canadian production.

6. The plant of both the telephone and cable companies was ageing. Ought it to be replaced by co-axial or fibre-optic cable? This was not a matter for Government prescription, and either appeared capable of carrying HDTV services (for which there was insufficient bandwidth off-air).

7. There was an obvious conflict between broadcasters' commercial imperatives and the Government's concern to foster Canadian national identity and culture. In the past broadcasters had failed to produce enough Canadian programmes and had always promised, at licence renewal time, to do better. It would be possible for the CRTC to fine them for non-performance, but a better way of reconciling these considerations now under consideration might be to require broadcasters, as a condition of their licence, to put up a performance bond which they could earn back over the course of the licence. The system would be designed to encourage quality production rather than "quota quickies", so that to qualify for a rebate a broadcaster would have to score a specified number of points each year, with eg a ½ hour drama scoring four times as many points as a ½ hour quiz show. A points system would also have the advantage of reducing the subjectivity of the whole procedure. The Department believed that under such a system some broadcasters would earn their bonds back while others would be content to regard the forfeited bonds simply as an additional tax.

<ak>nt/fed/dept/comms/12/11

CANADIAN CABLE TELEVISION ASSOCIATION (CCTA)

The Association represents the operators of 913 cable systems. Cable is taken in 6m Canadian homes (68% penetration of TV households). Key statistics are annexed.

Discussion

2. Cable system costs were much cheaper in Canada than in the UK. Canadian operators favoured aluminium rather than copper wire. 70% of cable was above ground. Cable below ground was direct buried 2½ feet down, never ducted. Canadian operators had looked at the UK market many times but had always backed away. In Canada it cost $200-$300 per subscriber to build a system as against £13,000 in the UK.

3. The key to commercial success was rate of penetration, not level of subscriber fees. Fees were at present regulated by the CRTC, but even if they were not they would be kept down to maintain penetration.

4. Having achieved penetration cable operators now wanted the freedom to add more and more services. They accepted the obligation to carry CBC services, but they did not support the prohibition on carrying foreign services for which there was a genuine Canadian alternative. Having said that they claimed that they would not want to take Home Box Office because they believed that the Canadian equivalent was better and had successfully persuaded their subscribers to believe so too.

5. Pay-per-view was at present forbidden by the CRTC, because the industry had so far failed to explain how this would promote Canadian content. The industry saw pay-per-view, however, as a real growth area, although only in respect of speciality services over and above the basic service. Operators would buy pay-per-

view programmes on a per-subscriber basis, so they would not mind how large or small an audience was attracted.

6. There was no need for fibre-optic cable. HDTV could successfully be displayed via co-axial cable. Fibre-optic was seen as the Trojan House of US telephone companies.

7. Cable stations were required to allow community access programmes. They provided studios where local groups could come in and make programmes. There was minimal supervision. Everything was left to the good sense of all concerned. The provision of these facilities consumed about 7% of gross revenue. They constituted a contribution to Canadian life which could not be matched by a generic telephone common carrier.

8. We subsequently visited one of Ottawa's main cable operators where we saw a programme (in Arabic) going out directed to the city's Lebanese community.

<ak>nt/can/cable/tv/assn/12/11

CABLE TELEVISION
THE BASIC FACTS

GENERAL STATISTICS

Operating cable TV systems	913
Canadian households	8,991,675
Households with TV sets	8,869,292
Homes passed by cable	7,660,678
Kilometers of cable in place	

BASIC SERVICE PENETRATION

Households with basic service	6,028,000*
as a % of Canadian homes	67%
as a % of TV households	68%
as a % of homes passed by cable	78%

SPECIALTY SERVICES PENETRATION

Homes purchasing on a discretionary basis	1,134,090
Homes purchasing as part of basic service	115,959
Total specialty service households	1,250,049

INDUSTRY REVENUES

Average monthly fee (basic)	$10.67
Gross operating revenue (basic)	$762,774,000
Net profit before tax (basic)	$ 134,894,000
Net after tax profit (basic)	$ 71,000,000
Discretionary service revenue	$ 169,000,000

CABLE PROGRAMMING

Production studios	275
Hours of programming produced per day	1,300
Annual industry expenditure	$ 44,200,388

EMPLOYMENT

Persons employed	7,714
Industry payroll	$ 204,437,899

CABLE SYSTEMS ARE SMALL BUSINESSES FOR EXAMPLE, OF CCTA MEMBERS:**

70 [illegible]	serve	under 6,0000 homes
1970's	serve	6,000—25,000 homes
9 [illegible]	serve	25,000—100,000 homes
18	serve	over 100,000 homes

[illegible]

ROGERS CABLE SYSTEMS

Rogers operates cable systems in Canada and the USA (with 2m subscribers). Its systems are amongst the modern in the world. It also owns a number of radio stations, a Toronto television station, and Canada's only cellular telephone company.

Discussion

2. Rogers saw a bright future for pay-per-programme. All its systems had this capacity. It was always on the look-out to buy the rights to films and special events which could be marketed on a pay basis. But there was no scope for pay-per-programme beyond films and special events.

3. Rogers' business strategy was, having achieved high penetration of basic cable, to sell more speciality services. In this it lacked complete freedom of manoeuvre. It wanted to pull down a number of channels distributed by satellite in the USA which the CRTC did not allow it to, whether because there was already a mandatory Canadian equivalent or because of the nature of the service.

4. In the same way Rogers wanted to be able to originate programming itself, but had so far been stopped by the CRTC.

5. Rogers acknowledged, however, that Canadian cable, having got off the ground by relaying US services which everyone wanted to watch with good reception, had been favoured over the years by the Government and the CRTC.

6. Rogers saw no need to go to fibre-optic cable. The cost escalated severely with the splitting of the cable, whereas splitting was of the essence of the cable business.

7. It was easier to buy cable systems in Canada than in the USA. Cable systems were conventionally priced on a multiple (about 12) of total subscriber cash flow; and in Canada the average subscriber paid $12-$15 a month as against twice that in the USA. Nevertheless it was likely that in due course the bulk of the US market would be controlled by 5 or 6 major operators.

<ak>nt/rogers/cable/systems/9/11

CTV

CTV is Canada's English-language commercial off-air television network (having 29 affiliated stations, 16 of them CTV shareholders). It has a 24% share of the English-language audience. There is an equivalent private sector French-language network, as well as 10 wholly independent English language commercial stations with which CTV competes. Total private sector turnover is $900m a year.

Discussion

2. CTV claimed to be under severe financial pressure. Three of its shareholding affiliates were running at a loss and it was touch and go whether 5 survived. CTV thought that it would not be able to survive further audience fragmentation, and regarded it as unreasonable that the Government and CRTC should be pressing it to "be Canadian" at the same time as exposing it to fierce competition. The idea of performance bonds was unworkable because if CTV put up a bond it would have no money to make programmes.

3. CTV dismissed the Task Force report as, in the words of the CTV President, "rubbish". It saw the Government and the CRTC has having been taken over by cable interests, who were forcing it to support its network affiliates in order to weaken its ability to compete head-on.

4. CTV thought that the managers of the Broadcast Fund were getting too involved in programme-making. The Fund should not be a quasi-broadcaster, but a bank.

5. CTV referred to recent research which showed that the practice of using VCRs to "zip" at speed through advertisements in recorded programmes did not blunt the impact that the advertisements had on customers.

6. CTV regarded Canadian commercial television as underfunded in relation to its US competitors receivable in Canada on cable. Nearly all consumer items advertised on Canadian television were US products; but US advertisers paid only 47% per viewer of what they paid in the USA.

<ak>nt/ctv/10/11

CJRT

CJRT is a non-profit making Toronto radio station, 58% funded by the Ontario Government. It provides classical music, jazz, folk and selected BBC Radio 4 programmes.

2. CJRT's annual budget is $2m. It has 34 full-time staff.

Discussion

3. CJRT readily acknowledged that its audience share was small (1%), but described it as loyal and fanatic. It received 42% of its income from voluntary (tax-deductible) subscriptions from 11,800 individuals and 475 corporate donors. It asked on-air for cash only twice a year.

4. CJRT was growing in strength. It had a 100 square mile service area, and was now being distributed by satellite to cable systems all over Ontario. It had no ambitions to change its programme format: it just wanted to keep its present audience happy.

5. CJRT was critical of the failure of the CRTC to enforce licence conditions. A number of stations had been allowed to stay on air despite broadcasting gross racial abuse.

6. CJRT relied mainly on recorded music, although it also arranged and recorded series of classical and jazz music.

<ak>nt/cjrt/11/11

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

ark 8 December 1987

Dear Philip,

INDEPENDENT TELEVISION PRODUCERS

I attach a copy of a letter the Prime Minister has received from Mr. Michael Darlow.

I should be grateful if you could provide a draft reply for the Prime Minister's signature, to reach me by 22 December.

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

Yours,

David

DAVID NORGROVE

Philip Mawer, Esq.,
Home Office

CONFIDENTIAL

SH+ARV

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10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

21 November 1987

Dear Robin,

EXTERNAL TELEVISION BROADCASTING

Thank you for your letter of 20 November conveying the Foreign Secretary's further views on the question of external television broadcasting.

The Prime Minister still takes the view that the Foreign Secretary's proposals would give the BBC an unfair advantage over ITN in this matter. She thinks it is a case where competition should apply and would wish to see both BBC and ITN invited to submit proposals. She would also wish to see more details of what the Foreign Secretary has in mind when he says that he 'does not exclude support for distribution of the ITN product'.

From earlier correspondence, there seems to the Prime Minister to be considerable support amongst colleagues for an even-handed approach between BBC and ITN. She hopes therefore that the Foreign Secretary will not be ready to invite tenders for the proposed service from both of them.

I am copying this letter to Alex Allan (H M Treasury), Philip Mawer (Home Office), Tim Walker (Department of Trade and Industry) and Peter Smith (Chancellor of the Duchy of Lancaster's Office).

Yours sincerely,

C. D. POWELL

R. N. Culshaw, Esq., M.V.O.,
Foreign and Commonwealth Office

CONFIDENTIAL

SRW

CONFIDENTIAL

Foreign and Commonwealth Office

London SW1A 2AH

20 November 1987

Prime Minister

I have to say that this does not seem to deal with your points at all. It simply regurgitates the Foreign Secretary's earlier position.

Dear Charles,

External Television Broadcasting

The Foreign Secretary has seen your letter of 6 November and subsequent minutes from the Chancellor, Home Secretary and Secretary of State for Trade and Industry.

There is a consensus that the present BBC proposal is a major improvement on past plans, not least because the BBC are for the first time ready to take a significant commercial risk. There is also clear concern, which the Foreign Secretary shares, to ensure that Ministers' decision should not give the BBC any unfair advantage over ITN.

The Foreign Secretary sees the problem as being how to take account of the very significant differences between the BBC and ITN. The Home Secretary rightly points out that we do not start with a level playing field. ITN also realise this. They have all the normal commercial channels for raising risk capital, through ITV. The BBC and the external services, by contrast, face important constraints:

- the external services can spend their grant-in-aid only in accordance with our decisions on priorities;

- the BBC cannot borrow money or give guarantees without government approval;

- BBC enterprises do not have adequate resources to get a service off the ground;

- licence fee money cannot be used for programmes aimed primarily at overseas audiences.

The Foreign Secretary gave careful thought to the possibility of simply inviting tenders from the BBC and ITN. But he came to the conclusion that this was not feasible, given the very different circumstances of the two organisations as explained above. ITN have in any case not formally submitted alternative proposals, nor do they wish to work on the basis of FCO prescription, as the external services now do.

The Foreign Secretary does not exclude support for distribution of the ITN product (or anyone else's), on its merits, in the light of our overall information objectives. We have this week confirmed with Mr David Nicholas that ITN would wish to be able to bid for this. ITN are in any case contractually committed, for the next 2½ years at least, to producing Superchannel in its present format.

CONFIDENTIAL

ITN's fundamental concern is about competition from what they have described to us as a "Rolls Royce" BBC service funded by HMG. Having looked afresh at it, Sir Geoffrey Howe remains convinced that this understandable concern would be substantially met by a decision which precluded any significant new money for the BBC. He is confident that this could be successfully presented to ITN, to the public generally, and in Parliament.

The Foreign Secretary has thought very carefully about Lord Young's suggestion that funding should be made available to the BBC on commercial terms, rather than as a grant. But here too there are problems of comparing like with like. A grant, repayable over a longer period, could also risk embroiling us in negotiations over longer term support of the BBC's service, perhaps involving further requests for loans or delay of repayment.

The Foreign Secretary has also reconsidered the extent to which external television broadcasting would make an effective impact on our priority third world and closed society target audiences. He believes that external TV can become an important element in our overseas information effort worldwide. Although the service would be directed at our priority targets, it makes sense also to take advantage of the significant potential for contributory revenue from the OECD countries. It is in the vernacular radio services to these countries that he would be looking primarily for the BBC to make immediate savings to meet the costs of pump-priming for TV.

Against this background the Foreign Secretary hopes that the Prime Minister and colleagues can now agree that he should offer to reallocate a small element of the BBC's present grant-in-aid to enable them to get an external TV service off the ground. The BBC service would then have to stand on its own feet, on a par with ITN. It could then make no call on public funds, except for distribution and in competition with other broadcasters. The Foreign Secretary would, of course, continue to bear in mind the points on funding and sponsorship made by the Chancellor and Home Secretary respectively. And any reductions in radio services to release funds for TV would of course be taken into account in setting the next triennium funding.

I am copying this letter to Alex Allan (HM Treasury), Philip Mawer (Home Office), Tim Walker (Department of Trade and Industry) and Peter Smith (Chancellor of the Duchy of Lancaster's office).

Yours ever

(R N Culshaw)
Private Secretary

C D Powell Esq
10 Downing Street

CCBG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

12th November 1987

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

Dear Douglas,

NBPM.

STRUCTURE OF BROADCASTING

I have seen a copy of David Norgrove's letter of 2 November to Philip Mawer about the operation of the IBA. Map

I agree that it would be consistent with our thorough review of broadcasting matters to look at the IBA. This raises a number of issues of concern to my Department, including advertising, radio frequency matters and competition policy generally, and I should be grateful if my officials could be involved in this work.

I am sending copies of this letter to the Prime Minister, to the other members of MISC 128 and to Sir Robert Armstrong.

Yours,

LORD YOUNG OF GRAFFHAM

JG3BQX

BROADCASTING: BBC finances PTS

CCPC

Prime Minister
ODA.

FOREIGN SECRETARY

EXTERNAL TELEVISION BROADCASTING

FILE WITH CP

Thank you for your minute of 29 October about the BBC's revised proposal for a World TV News service. I have also seen the minute from the Prime Minister's Private Secretary to yours.

2. You fairly point out that the BBC's latest proposal is more realistic and cost conscious than its predecessor; that the proposed service would be run on commercial lines; that a Government contribution would be essentially for pump-priming; that you would find such a contribution from within existing resources; and that you are not excluding the possibility of funding distribution of the ITN service to poorer countries. This adds up to a considerable advance on the previous proposal. I am nevertheless not entirely convinced that the approach suggested in your minute fully meets the objectives discussed at our meeting on 24 March, or that ITN will not regard it as undermining the competitive position of their daily 30 minute news programme "ITN World News". It was not clear from your minute whether the BBC had satisfied you that the proposed service could not from the outset stand on its own commercial feet. If it could, then the BBC should borrow or attract equity capital to set it up, rather than relying on Government support. On the assumption that it could not, the approach which we favoured when we met was that the Government should seek to get the best buy - whether the supplier was the BBC, ITN or anyone else - for services for whichever developing countries we had in mind. I accept that we do not start with a level playing field, but pump-priming a BBC service is likely to be seen by others as discriminating in the BBC's favour in advance, notwithstanding that the

money involved is not new money. I was not clear from your minute on what basis you would see a BBC service as a good buy in comparison with current and potential competing services. I am naturally ready to join in a further discussion if that would help.

3. On a secondary point, my officials have registered with yours a Home Office interest in any questions of sponsorship to which the BBC proposal might give rise. I understand that the BBC proposal envisages their revenue as coming primarily from sale of the service to its buyers, and that it is silent about whether sponsorship is envisaged. The BBC have indicated that they will be putting proposals to me about sponsorship on BBC 1 and BBC 2, and my concern is simply that we should be able to take account of any sponsorship proposals which may surface on the external side, bearing in mind that present restrictions on sponsorship could not be relaxed without amending the BBC's Licence and Agreement.

4. I am copying this minute to the Prime Minister, Nigel Lawson, David Young and Kenneth Clarke.

Douglas Hurd

10 November 1987

BROADCASTING

BBC

PTS

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

10 November 1987

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign
and Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
London SW1

Dear Geoffrey,

EXTERNAL TELEVISION BROADCASTING

Thank you for sending me a copy of your minute of 29 October to Douglas Hurd. I have also seen Charles Powell's letter of 6 November recording the Prime Minister's view that further consideration should be given to placing the BBC and ITN on an equal footing.

I agree with the Prime Minister that this further work should be undertaken before we reach a decision on the BBC's proposals, which I have not of course seen. I should be grateful if your officials would involve mine in this work, as was envisaged at the meeting on 24 March.

From my reading of the record of that meeting, it would appear that an examination of the case for HMG's involvement in broadcasts to closed economies and the Third World would be a key element in reaching an overall decision; and that any assistance would be likely to address the distribution, rather than production, costs.

It also seems to me that, if the BBC's external television service is intended to be run on a commercial basis through BBC Enterprises, and their inability to raise risk capital is really an insuperable obstacle, any start-up funding from Government should perhaps be provided on terms no better than could be secured commercially rather than in the form of grant.

I am copying this letter to the Prime Minister, Douglas Hurd, Nigel Lawson and Kenneth Clarke.

Yours ever,

LORD YOUNG OF GRAFFHAM

JG7ADH

Broadcasting financing PTS.

RC6.58 RESTRICTED

cc BG (2)

Prime Minister
CDP
10/XI

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

FOREIGN SECRETARY

EXTERNAL TELEVISION BROADCASTING

I have seen a copy of your minute of 29 October to Douglas Hurd.

Your proposal to switch some of the resources provided for external sound broadcasting to a world TV news service took me slightly by surprise. In your recent discussions with John Major he was persuaded to agree to an increase in your budget on the understanding that it was necessary to accommodate the minimum politically-acceptable level of service by the BBC external services, and specifically in vernacular radio. But I can see that you might feel that policy objectives might be satisfied equally well by a mixture of sound and television broadcasting, provided the television component seemed likely to be at least as effective as the radio component it replaced. It seems to me that there must be some doubt about this in view of the additional technical requirements of satellite TV reception; and I am sure you will be seeking to satisfy yourself on this point. If we can be reasonably assured of value for money, and if colleagues generally take the view that it would be right for us to make a pump-priming contribution, then subject to satisfactory resolution of the point raised in the next paragraph, I will not object to a contribution being found from within existing provision.

The Prime Minister has expressed the view that it would be wrong to use any public funds for this purpose without offering exactly the same facilities to ITN. I see much force in this: it seems entirely right to avoid any arrangement which would put ITN at a disadvantage to the BBC internationally. But I must make it clear that if any public

funds were to flow to ITN for that purpose this, too, would have to come out of your existing budget. No doubt Douglas Hurd will have views on whether your proposal, as it stands, might lead to difficulties with ITN.

I very much welcome your resolution to make agreement conditional on acceptance by the BBC of satisfactory prescription changes. I trust the BBC will understand that the presumption will be that if world TV news is successful these changes will be permanent and they cannot expect redutions to be restored at the end of the 3-year period. Distribution to poorer countries is, I take it, not likely to be practicable for some years. But if there should be any reference in your talks with the BBC to our willingness to consider funding such distribution, I trust you will make it clear that we cannot promise any additional resources for it.

It seems to me that the best course now would be for officials of all four Departments concerned (including the Treasury) to meet and consider the various options, so as to put revised advice to Ministers.

I am copying this to the Prime Minister, Douglas Hurd, David Young and Kenneth Clarke.

N.L.

9 November 1987

Broadcasting: financing PTS

RESTRICTED

MJ2DNJ

cc PC

10 DOWNING STREET

LONDON SW1A 2AA

6 November 1987

From the Private Secretary

EXTERNAL TELEVISION BROADCASTING

The Prime Minister has seen the Foreign Secretary's minute of 29 October to the Home Secretary putting forward revised proposals for external TV broadcasting. She recognises that the assistance which is proposed to make available to the BBC for this purpose from public funds is considerably smaller then originally contemplated and does not involve any new money. Nonetheless she continues to see problems about making any public funds available to the BBC for this purpose without also offering exactly the same facilities to ITN, for instance by allowing them to tender for the project. It must of course be far from certain whether ITN would accept the prescription arrangements which apply to the BBC external services. Nonetheless, the Prime Minister would like further consideration to be given to this point so that Government is seen to be absolutely even handed between the BBC and ITN.

I am copying this letter to Alex Allan (HM Treasury), Philip Mawer (Home Office), Tim Walker (Department of Trade and Industry) and Peter Smith (Chancellor of the Duchy of Lancaster's Office).

Charles Powell

R.N. Culshaw, Esq., MVO.,
Foreign and Commonwealth Office.

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SRWBBK

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(1)

PRIME MINISTER

I do not think these proposals are consistent with what Geoffrey Howe is believed to have said to David Nicholas.

EXTERNAL TELEVISION BROADCASTING

We have now found David Nicholas' letter which you wanted to see again. I attach it.

There are a number of points I think on which we need to be clear:

(i) there is no question of diverting funding from the licence fee to external services (Brian Griffiths' minute is wrong on this). It is not legally possible and is not proposed by the Foreign Secretary. He suggests that funding would come partly from income from BBC Enterprises and partly from within the funds made available to the BBC for external broadcasting by the Foreign and Commonwealth Office;

(ii) the amount of the proposed assistance is vastly decreased compared with the original scheme. Then it was of the order of £20 million, now it is less than £4 million over three years after which it would stop altogether;

(iii) the Foreign Secretary is right to say that his proposal precludes additional funding for the BBC. What he is proposing is to shift some existing funds from external radio to external television. The total is not affected;

(iv) the Foreign Secretary makes clear that an ITN service would be just as eligible for funding for distribution to poorer countries as the BBC - although you would be perfectly justified in trying to pin him down to a firm proposition on this.

The FCO claim that ITN are much less concerned about this revised proposal. But a recent letter from David Nicholas to Bernard says that their best position remains the same: they do not think that public money should be called on for a

RESTRICTED

television world service, but if the FCO has funds the project shall be open to tender.

Against that what is being proposed is that the BBC should put their World Service Radio News into the television medium. That is a highly specialised task. It is not certain whether ITN would accept the prescription arrangements which apply to the BBC External Services. And since the money is already available in the Foreign Secretary's budget, his view must carry weight.

Agree that I should reply that you would want to be satisfied that ITN had been given an opportunity to submit views direct to the FCS on whether they were really able to fulfil the conditions for this limited project?

CDP

(C. D. POWELL)
5 November 1987

10 DOWNING STREET

LONDON SW1A 2AA

2 November 1987

From the Private Secretary

Dear Philip,

STRUCTURE OF BROADCASTING

The Prime Minister is conscious that in the discussions about broadcasting the operation of the IBA itself has not yet been considered. She has asked that thought should be given to whether this could be improved and if so how.

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

Yours,

David.

David Norgrove

Philip Mawer Esq
Home Office.

Prime Minister

Agree with Professor Griffiths' comments?

(1)

PRIME MINISTER

30 October 1987

(I am afraid we cannot trace the letter to which you refer)

David Nicholas thinks - probably about a subsidised BBC. seems. We should know - the letter on the file, and

EXTERNAL TELEVISION BROADCASTING

CDP 2/XI

The BBC seem determined to set up a world TV news service. They have now asked the Foreign Secretary for additional funding for this purpose. His response is based on two assumptions:

a. that there should be no extra funding for the BBC;

b. that any new arrangement must not put ITV at a competitive disadvantage to the BBC.

His proposal is that the BBC should allocate funds raised through the domestic licence fee in order to fund the development of external TV services.

Recommendation

This seems a perfectly reasonable proposal but it is important to satisfy yourself on two points:

I am told that the licence funds can be diverted.

first - that in terms of the Charter and License and Agreement of the BBC, it is legally possible to divert funding from the licence fee to external services, and

second - to find out from the Foreign Secretary how precisely the proposal put forward in the concluding sentence of paragraph 6 would work in practice.

"I would also tell the BBC that we would consider funding for distribution to poorer countries provided that FCO

objectives were fully met, without excluding the possibility of funding distribution of the ITN service.

Although this commitment seems perfectly reasonable, it needs to be set out in a little more detail, simply to make absolutely sure that ITN is not disadvantaged by this procedure.

Brian Griffiths

BRIAN GRIFFITHS

Prime Minister!
Agree to write as proposed?
Yes

PRIME MINISTER

30 October 1987

AGW
30/10.

STRUCTURE OF BROADCASTING

Earlier this week I received the following letter from Sir Ian Trethowan.

The idea which he proposes - replacing the existing broadcasting authorities by one body - has been put to me by a number of people over the last few months, some of whom are very knowledgeable about broadcasting. Many of them are very taken by the way in which the FCC works in the USA. When we have a competitive television industry a move to such a system might make great sense. To introduce it earlier, however, would mean an upheaval of the BBC as well as the IBA, as it would strip the BBC of its role as a broadcasting authority.

Recommendation

It hardly seems worthwhile at this stage asking the Home Office for their view on Sir Ian's idea as they are almost certain to be strongly opposed to it.

On the other hand, it might be worth asking the Home Secretary whether the way in which the IBA operates might be improved.

Brian Griffiths

BRIAN GRIFFITHS

010

CCBG (2)

FCS/87/223

May I have ? Nicholas David Nicholson's earlier letter. This still requires a ministry for 8 years or so.

Prime Minister

You will wish to note the conclusion reached. It is a modest proposal.

CDP 29/X.

HOME SECRETARY

External Television Broadcasting

1. We met with Nigel Lawson, Norman Tebbit, Paul Channon and Brian Griffiths on 23 March to consider the prospects for external TV broadcasting in the light of the BBC's proposal for a World TV News service and the existing ITN package.

2. We subsequently told the BBC that we could not accept their scheme as then formulated. This led them to a fundamental rethink. The BBC have now produced a commercially based proposal. It reflects Michael Checkland's far more realistic and cost-conscious approach (evident also in the recently announced five year strategy). This is a welcome trend generally.

3. In examining the revised proposal I have made the following assumptions:

- we would not wish to see new funding additional to that already devoted to external broadcasting and COI TV material for overseas use;

- we could not contemplate any arrangement designed to put ITN at a disadvantage to the BBC internationally;

- funding would have to be accommodated within the outcome of the PES round.

/4.

4. The BBC propose a half hour service, five days a week, substantially supported by commercial revenue. They envisage a contribution from government solely for pump-priming and over the first three years only, after which it would be run wholly on commercial lines. There would be no commitment to Government funding after that period. The commercial risk would be theirs (to be met from income from BBC Enterprises). The proposed FCO contribution is now about one sixth of that earlier envisaged. It would amount to £1.5 million capital and £2.8 million towards running costs. The BBC hope this would be new money.

5. I have examined these revised proposals carefully. I am now satisfied that the modest investment envisaged is fully justified as part of our existing information effort overseas, but not as additional expenditure. In forming this view I have considered in particular:

- the expansion of TV worldwide (reflected in the firm wish of both the BBC and ITN to invest accordingly);

- the obstacles to the BBC going ahead without pump priming, because of their dependence on the licence fee, and grants-in-aid, and their inability to raise the necessary risk capital (in which respect they lack ITN's freedom of action).

/6.

6. I therefore propose to tell the BBC that I would be ready to agree to the reallocation of resources primarily from vernacular radio (not the BBC World Service) to fund TV, subject to:

- agreement on prescription changes which would safeguard high priority vernacular radio broadcasting;

- satisfactory arrangements to ensure that FCO objectives are met, in terms of the service provided and countries served.

I would also tell the BBC that we would consider funding for distribution to poorer countries provided that FCO objectives were fully met, without excluding the possibility of funding distribution of the ITN service.

7. I have also considered the presentation of this decision. Support for the principle of external TV is strong. Delaying our response could in itself add to the pressures. I think that an open-minded approach to the principle of external TV broadcasting by the BBC, coupled with very strict financial arrangements, strikes the right balance. If the BBC accept our proposals we may face criticism for the inevitable reductions in radio services, but I believe this should be manageable, particularly as reductions will reflect agreement with the BBC on priorities. I think ITN's concerns will be substantially met by a decision which precludes additional funding for the BBC.

/8.

8. Subject to any views colleagues may make known by 10 November I propose to instruct officials to hold discussions with the BBC to establish whether they would be ready to work within the framework proposed.

9. I am copying this minute to the Prime Minister, Nigel Lawson, David Young and Kenneth Clarke.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

29 October 1987

K01786

R Langdon cc DG

Thank you. But I don't think the Prime Minister would wish to clear independent producers in correspondence. She would want to hear what Ruth had to say. DCS 2/11

MR NORGROVE

MISC 128

You may like to know that, following yesterday's meeting, the Home Secretary is arranging a meeting with the Chancellor of the Exchequer and the Trade and Industry Secretary with the aim of agreeing a line on the various ITV issues (or, at least, identifying any points where they do not agree). The Home Secretary has it in mind to suggest that Professor Griffiths should ~~take~~ attend this meeting.

2. In the light of that, the Home Secretary will put in a fresh paper that will aim to be as short and crisp as the subject matter allows. We will not circulate any more Official Group papers on these issues.

3. A White Paper next Spring will mean a number of MISC 128 meetings in the meantime. The Home Secretary wants to devote the meeting on 19 November to radio, and I think we should do that.

4. Since yesterday's meeting did not consider the Home Secretary's minute on independent producers, I wonder if the Prime Minister might now be prepared to clear it in correspondence. You could perhaps note that the Prime Minister still awaits advice on the separate but related question of fair terms of trade for independents. This formally stands remitted to the Official Group (see MISC 128(87) 1st meeting) but I would expect the Trade and Industry Secretary to speak to it in MISC 128.

AJL

A J LANGDON

29 October 1987

PRIME MINISTER 27th October 1987

MISC 128 - BROADCASTING

Broadcasting Legislation

Creating greater competition in television is not going to be easy: it is certain to meet considerable resistance from the existing duopoly; and it is just as likely that the Home Office, and to a lesser extent the DTI, although agreeing to increased competition in principle, will nevertheless wish to drag their feet to protect existing investors and maintain programme quality.

But the momentum for change has now been firmly established. The seminar which you held last month played a crucial part in this. It is very important not to lose the initiative. Each individual step taken must be based on a firm foundation. Yet concern with individual items should not distract your attention from the main goal, namely:

> **the creation of a competitive television industry which is a world leader, which has special provision for public service broadcasting, and is subject to proper standards regarding sex, violence and bad language.**

Three kinds of reforms

Judged against this criterion three kinds of reforms are being put forward:

(a) those which restrict the monopoly powers of the duopoly while it lasts (such as 25% quota for independent producers, franchising arrangements for ITV companies, the new levy proposals);

(b) those which increase competition in the longer run (radio proposals, Channel 5, MMDS, subscription);

(c) those which preserve standards: whether of public service broadcasting (Channel 4) or other standards (Broadcasting Council, regulation of non-DBS satellites by the Cable Authority, Council of Europe convention).

The Contents of a future White Paper

The DTI has commissioned an independent assessment of the use of the spectrum for additional services and this should report by the end of the year. It is important that this is published as it will play an important part in maintaining momentum.

The next step in maintaining momentum is to publish a White paper. We owe it to the private sector to tell them as much as we possibly can about the future direction of broadcasting policy. Paragraph 2 mentions ten candidates for inclusion in the legislative programme (radio, ITV System, Channel 4, Broadcasting Standards Council, programme regulation, Council of Europe Convention, BBC licence fee collection, data services subscription, financing of the Cable Authority). Paragraph 3 mentions a further two candidates for legislation (MMDS and fifth UHF Channel).

The White paper could certainly cover the ten items listed in paragaph 2. Morever you should insist that it give a

clear signal of the direction of government policy and the competitive climate you are trying to create.

When it comes to the items in paragraph 3, the situation is more complicated. Competitive television depends crucially on the introduction of MMDS and a Fifth Channel. It is these which will create new advetising time and be competition for the existing channels.

A major objection to introducing MMDS may well be made on the grounds of telecommunications policy. If MMDS goes ahead, it will be argued, it could kill cable television and the cabling of the country which would have important telecommunications implications. This and other issues are being considered by MISC 131. The Steering Group (chaired by Alistair MacDonald) on this subject is due to report early next year. It is important that this date is not missed.

On the basis of the independent report on the spectrum and the MISC 131 report on telecommunications policy the government could then decide what to say in a White Paper to be published by Easter. It would be a major omission if the government were to publish this White Paper and omit these items.

Conclusion: A White Paper to be published by Easter could include government policy on all of the items mentioned in paragraphs 2 and 3. The White Paper could make a clear statement on our intentions for MMDS and a Fifth Channel although the details would need to be worked out over time.

The Legislative Timetable

From the point of view of creating a competitive television industry the worst of all worlds would be to have a major bill in 1988/9 from which MMDS and a Fifth Channel were omitted, only to find that in later sessions of this parliament there was no room to fit in a small bill covering these items.

The Second Option is therefore to be preferred. This would involve a short bill in 1988/9 covering radio and the Broadcasting Standards Council; and then a second bill, in 1989/90 covering ITV, Channel 4 MMDS and a Fifth Channel. This option would ensure that the government would be forced to have a second bill, with there therefore being less chance of MMDS and the Fifth Channel being squeezed out of the legislative programme.

Recommendations

1. Ensure that the White Paper is published by next Easter, covers as much of the broadcasting issues as possible and sets down your concern over creating a competitive television industry.

2. The second option will at least ensure that we have a second broadcasting bill in this Parliament and that therefore MMDS and the Fifth Channel receive proper legislative attention.

As the White paper will already have set the direction of policy we can afford to leave a number of detailed items for this second bill.

Brian Griffiths

BRIAN GRIFFITHS

CCB/4
BG

K01782

PRIME MINISTER

REFORM OF THE ITV SYSTEM: MISC 128(87)12, 11, 9 AND 8

CONCLUSIONS

1. You will wish the Group to decide whether

(i) to agree the Home Secretary's proposal that ITN should be opened up to new outside investors, to be represented on its Board, while retaining ITV control;

(ii) to endorse the Official Group's recommendations about the details of auctioning ITV franchises and operating the levy (which the Group have already agreed in principle);

(iii) to prevent a single company from holding or investing in more than one ITV contract;

(iv) to reconstitute Channel 4 as a separate broadcasting authority, required to fulfil its existing remit, with its revenue fixed separately from the income of the advertising sold on its behalf.

2. The firmness of decisions on these matters can take account of the decisions taken under Item 1 on the timetable for legislation. The proposals on ITV franchises and the levy and on the maximum permissible concentration of ownership of ITV companies have been under consideration for some time and it should be possible to tie these off fairly readily. But the Group may wish to have more time to consider the future arrangements for ITN, where a range of possible options has been presented, and the constitution of Channel 4, where the Home Secretary has recently come forward with a new proposal which may need further testing.

BACKGROUND AND MAIN ISSUES

1. Constitution of ITN

3. You will recall that at the last meeting of MISC128 you were concerned about the possible impact on ITN of the proposed new arrangements for competitive tendering for ITV contracts and for the levy. You were worried, in particular, that ITV companies would be reluctant to fund ITN properly and that ITN would therefore not be able to maintain its present high standards. Before going on to consider the various options which have been identified for changing the constitution of ITN, you may first wish to check that the Group agree with the Official Group's assessment that none of the various models for introducing competitive tendering and a revenue levy for ITV companies would have a significantly different impact on ITN (see MISC 128(87)11, paragraphs 10-11).

4. In considering the future arrangements for ITN, the Group will wish to satisfy itself that ITN would be able to continue to provide a high quality news service both for domestic audiences and as a competitor in the international market. The Official Group, at paragraph 9 of their paper, identified five options for changing the constitution of ITN. These are:

a. opening up ITN to new outside investors (to be represented on its Board) while retaining ITV control;

b. the separation of ITN into two companies. One would be concerned solely with the provision of news for ITV and would, as now, be a mutual company owned by the ITV companies. All other activities would be provided by a subsidiary company in which outside investors could have up to a 49% shareholding;

c. as a., but with no restriction on outside investment so that overall control might pass from the ITV companies;

d. a direct contract between the IBA and ITN (or some other company) for the provision of national and international news for the ITV system;

e. allowing ITV contractors to opt out of ITN and to take their news from elsewhere (which may be a foreign company).

There is a further option f., which the ITN management itself has put forward, under which the company would be floated off but would continue to be guaranteed a certain share of ITV revenue. But the Official Group considered that this proposal was not defensible, since it would not be right for an ITN company which was independent of the ITV companies to be free from outside competition.

5. Of these options, the Home Secretary favours option a. It would dilute ITV contractors' ownership and control of ITN, although they would retain a controlling interest, and would involve ITN providing the new service on the basis of a commercial contract, with quality criteria and a profit margin. The contract would not be open to external competition. The Home Secretary believes that this would provide a means of injecting the risk capital which ITN have been seeking, while ensuring that the high quality service it provides for the domestic market does not come under threat.

6. The Home Secretary suggests, however, that if the Group do not consider this sufficiently radical, it could be combined with option e. - allowing ITV companies to opt out of the ITN service. There are obvious dangers here. First, viewers in some ITV regions might get a markedly inferior news service to that provided by ITN. Second, if several ITV contractors opted out, ITN might not be able to sustain the overheads necessary to provide a high quality service for domestic viewers and for expansion into the international market. While, therefore, option e. would be most in line with the Government's general philosophy of increasing consumer choice by stimulating competition, it carries substantial risks.

2. Auctioning ITV Franchises and Operating the Levy

7. Provided the Group share the Official Group's assessment that none of the options for introducing new competitive tendering and levy arrangements for ITV contracts would have any special impact on ITN, consideration can be given to the proposals on auctioning ITV franchises and operating the levy in the report by the Official Group (MISC128(87)8).

8. Peacock recommended that ITV franchise contracts should be auctioned, with an annual review of performance by the IBA. At the meeting of MISC128 on 20 July, however, there was general agreement that there should be a two-stage system of allocating ITV contracts, so that companies which satisfied a quality threshold would be selected on the basis of a competitive tendering procedure, and the Home Secretary was invited to arrange for officials to work up the details.

9. Paragraphs 2-6 of the Report by the Official Group (MISC(87)8) summarise the proposed arrangements which have been worked out in detail between departments, including the Treasury. Briefly, tenders for contracts would be invited on the basis that applicants would have to pass an initial quality threshold; the levy would be based on advertising revenue per television household in the contractor's area, at a progressive structure of rates. Peacock's suggestions of reserve prices for contracts and a lengthening of the contract period to 10 years are not recommended; but it is recommended that there should be an annual performance review on the lines that Peacock suggested.

10. These proposals are broadly in line with what the Group envisaged at their meeting of 20 July, and it will probably not be necessary to go through them in detail. The only substantial change is that the Official Group have turned away from the simplest arrangement - a single ITV levy - in favour of rather more complicated proposals, described above. They believe that their scheme would be better able to deal with variations in performance between

areas over an 8 year contract period. The chairman of the Official Group will be ready to speak to this if you wish, but the Treasury are absolutely content at official level.

11. If it is eventually decided to proceed with MMDS or a fifth UHF channel, it may be necessary to review decisions taken now on future arrangements for ITV contracts, in particular to ensure that the proposed contract period of 8 years is not too long. On the face of it, however, even if the broadcasting environment were to become markedly more uncertain with the introduction of new services, it seems unlikely that contract periods of anything much less than 8 years would be viable.

3. Limiting multiple ownership of franchises etc

12. At the last meeting, you and other members of the Group expressed doubts about the Home Secretary's proposal that a single individual or company should be allowed to own two, but no more than two, of the ITV companies. You felt that single ownership of even two of the larger companies would lead to too great a concentration of power; and the Lord President expressed concern that a single company could be swallowed up by a larger one if both were allowed to be held in the same pair of hands. The Home Secretary has reviewed the matter in the light of the concerns expressed at that meeting and now proposes that a single company should not hold or invest in more than one ITV contract, that an ITV contractor should not invest in another company holding a contract, and that an investor in a company holding a contract should not be allowed to hold more than 10% of the shareholdings in any company holding other ITV contracts. This should meet your concerns.

4. Future Constitution of Channel 4

13. At the last meeting of the Group, it was strongly felt that Channel 4 should retain its existing remit. However, before decisions were taken on whether Channel 4 should be reconstituted as a separate broadcasting authority or whether it should be privatised, the Home

Secretary was invited to give further consideration to the scope for providing effective safeguards against the risk of a privatised Channel 4 going down market. The Group also feared that a fully commercialised Channel 4, seeking advertising nationally, could distort the TV advertising market.

14. The Home Secretary now concludes that there is a substantial risk that a privatised Channel 4 would depart from its remit in order to maximise its advertising revenue. (The Trade and Industry Secretary also pressed this view at the last meeting.) While some of the existing advertisers undoubtedly placed value on the segmented audiences achieved by certain Channel 4 programmes, overall revenue could be increased by putting on popular programmes attracting larger audiences. The Home Secretary believes that the duty of a fully privatised profit-seeking company to its shareholders would inevitably put at risk its distinctive and minority remit.

15. The Home Secretary remains concerned, however, that Channel 4 should be allowed to sell its own advertising, in order to break up the monopoly currently enjoyed by the ITV companies. He also continues to believe that Channel 4 should be reconstituted as a separate broadcasting authority in order to reduce the dominant role of the IBA which stands to be further enhanced by DBS. His proposal for satisfying these various objectives is that Channel 4 advertising should be sold through a separate service contract and that a ceiling should be placed on Channel 4's maximum income.

16. The Home Secretary suggests (MISC 128(87)9 paragraph 4(iii) that Channel 4 might be given a fixed proportion (say 17%) of the combined Net Advertising Revenue (NAR) of ITV and Channel 4. This means that, while there would be no incentive for Channel 4 to capture higher audiences at the expense of ITV, there would be an incentive for Channel 4 to increase its audience at the expense of the BBC or elsewhere - albeit that it would retain only 17% of any additional NAR thus generated. You will wish to ensure that the Group is satisfied that this, very diluted, effect would not produce undue

risk of Channel 4 going down market in order to increase its audience.

17. The Home Secretary proposes that, if this scheme is agreed, S4C should be funded first from its own NAR, second from any surplus in Channel 4's NAR over and above its ceiling, and that finally any remaining deficiency should be met from the proceeds of the levy on ITV companies.

18. If the proposed new scheme is not acceptable to the Group, the Home Secretary favours reverting to his original proposal - that Channel 4 should sell its own advertising as a non-profit seeking broadcasting authority - or that the status quo should be retained. Either of these options would, in his view, be preferable to reconstituting Channel 4 as a profit-maximising company.

HANDLING

19. You may wish to ask the **HOME SECRETARY** to take the Group through his overview paper MISC(87)12, referring to the other papers on the agenda as necessary. So far as possible, it may be best to discuss ITN, ITV and Channel 4 issues separately (as they appear in this brief) because they raise quite different issues. Before discussing the ITN proposals in detail, however, you will wish to ensure that the Group are broadly satisfied that the proposals for the award of ITV contracts and for the levy do not have unacceptable consequentials for ITN.

20. **THE TRADE AND INDUSTRY SECRETARY** and **THE CHANCELLOR OF THE EXCHEQUER** will have comments on each of the proposals. **THE LORD PRESIDENT** may wish to comment on the proposals for reconstituting Channel 4. **THE MINISTER OF STATE, WELSH OFFICE** will wish to comment on the proposals for funding S4C.

A J L

A J LANGDON

27 October 1987

CFBG
CCB/UP

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

27 October 1987

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

Dear Douglas,

INDEPENDENT PRODUCTION INITIATIVE

in MISC 128 Mtg Folder Section 3.

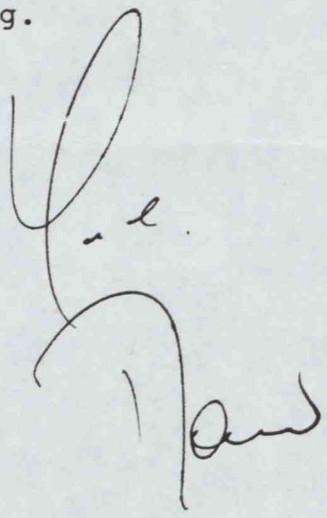
I have seen your minute of 16 October to the Prime Minister reporting the welcome news that the BBC and IBA are now prepared to make a public commitment to our 25 per cent target, albeit on a time-scale more extended than we originally envisaged.

I share your belief that it would be prudent to continue to work on possible legislation as a last resort to compel the broadcasters to comply. The independents' negotiations, especially with the ITV companies, arae still at too early a stage for us to be certain of a conclusion along the lines indicated by the IBA's acceptable August statement of principles. I hope that by the time the independents see Timothy Renton on 9 November they will be able to report some substantive progres sin their negotiations on important issues like copyright, which are vital both to their growth as a programming industry and to further improving the UK's export prospects in this sector.

On the union agreement front, the independent sector are I know well aware of the importance of making their existing agreements - already the cheapest and momst flexible in the industry more so. They hope too to negotiate with BETA to counterbalance the dominance the ACTT has up till now enjoyed in the independent sector. We shall all want to watch their progress carefully.

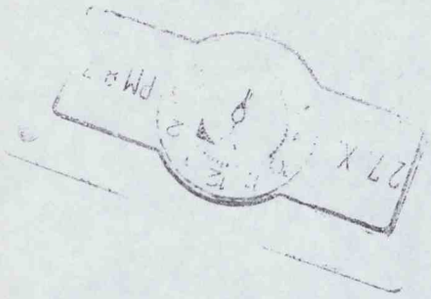
JF1ARL

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



LORD YOUNG OF GRAFFHAM

JF1ARL



BROADCASTING -
BBC PTS

CCB/UP
BG

K01779

PRIME MINISTER

INDEPENDENT PRODUCTION INITIATIVE:
MINUTE BY THE HOME SECRETARY OF 16 OCTOBER

CONCLUSIONS

The Home Secretary reports that both the BBC and IBA have undertaken to secure 25% of their programmes from independent producers by 1993.

2. You will wish the Group to come to a clear view whether the Government should now accept this target, and the voluntary arrangement with the broadcasting authorities for meeting it. The alternatives would be to press for the 25% target to be reached on a faster timetable, and to be imposed on the broadcasting authorities by legislation. The Home Secretary does not favour either of those courses, but he proposes that officials should maintain the preparatory work on legislation simply as an insurance against the voluntary arrangements collapsing.

3. You may also wish to explore with the Trade and Industry Secretary whether there have been any further developments on the independent producers' complaints about unfair terms of trade being imposed on them by the broadcasting authorities. The Group will need to return to this point, but the work so far done in the Official Group is pointing towards a reference to the Monopolies and Mergers Commission being a more promising prospect than legislation.

BACKGROUND

4. The Peacock Report recommended (Recommendation No 8) that the BBC and ITV should be required to reach a 40% target for the use of independent producers over a 10-year period. At the meeting on 30 October 1986 (MISC 128(86) 2nd Meeting) the Group agreed that the target should be set at 25%, to be reached in 4 years.

5. During the year the BBC attitude to independent producers has been significantly changed by the introduction of the new management team, who undoubtedly welcome the use of independent producers as a main lever for increased efficiency and lower costs in the BBC. Nevertheless, when the Home Secretary reported progress at the MISC 128 meeting on 20 July (MISC 128(87) 1st Meeting) both the BBC and ITV proposals for meeting the target were quite inadequate. You felt at that time that the target would only be reached by imposing it in legislation, and you commissioned the necessary detailed work from the Official Group.

6. The Home Secretary now reports that both the BBC and IBA undertake to reach the 25% target before 1 January 1993 (ie in 6 years, rather than 4, since the negotiations started). Both the BBC and the IBA propose to review progress at the end of 1989, when the BBC in particular would want to check on the costs of independent productions and the extent to which they were being kept free from ACTT involvement. The Home Secretary regards these voluntary arrangements as a very successful outcome to these negotiations.

MAIN ISSUES

7. When the target was set last year, 25% in 4 years seemed very ambitious. At the meeting on 20 July it was noted that the target might need to be adjusted (downwards) for the BBC. On the face of it, therefore, achieving the target within 6 years would be a major success for the Government. Provided you share the Home Secretary's faith in the broadcasting authorities' ability to deliver, you will probably not wish to try to enforce a faster timetable by legislation. (While statutory controls could certainly be devised, there are some inherently difficult problems of definition, and it could well be an uphill task to reach a target that was imposed by statute on unwilling broadcasters.) There are, however, three main points that you will wish to keep an eye on.

Unfair terms of trade

8. At the meeting on 20 July you expressed considerable concern about the information that had come to you on the way in which the broadcasting authorities were allegedly using their monopoly position to enforce unfair conditions on independent producers, who were being required to sign away their rights in such intellectual property as the exploitation of logos and of fictional characterisations. You instructed the Official Group to consider the feasibility of prohibiting such unfair restrictions. The Official Group have not been able to take this very far, but it already seems clear that it would be extremely difficult to devise a special legislative framework for this circumscribed area of intellectual property rights. On the basis of the work that the Official Group has done so far, a more effective and flexible approach would probably be to work towards a reference to the Monopolies and Mergers Commission. This would have the advantage of securing a full study of the market, which is currently lacking. It would involve the independent producers themselves making the first moves by representations to the Office of Fair Trading.

9. There is clearly some danger that, under the Government's pressure to increase the use of independent producers, the broadcasters may continue to employ unfair trading practices. You may therefore wish to seek the Trade and Industry Secretary's present views on how best to protect the independent producers' interests without prejudicing the achievement of the Government's 25% target. There is a problem of timing here, because the Home Secretary will be coming under increasing pressure to say whether the Government accept the broadcasting authorities' latest proposals on reaching the target, and it may well not be sustainable for him to postpone an announcement on that while the fair trading point is being explored in detail. At the very least, however, the broadcasting authorities should be put on notice that the Government would not be prepared to see the 25% target achieved at the cost of unfair exploitation of the independents' product.

ACTT involvement

10. Part of the rationale for encouraging independent productions is that they can be expected to operate with less overmanning and restrictive practices than in-house productions, and this will be jeopardised if ACTT strengthen their present hold on the independent production sector. This is, however, a problem for the BBC and the ITV companies in the first instance and the BBC in particular are very well aware of the issue. There appears to be nothing that the Government can formally do at this stage, other than to stress the importance that they put on the proper conduct of the broadcasting authorities' review of cost and quality of independent productions scheduled for the end of 1989. You may wish to confirm with the Home Secretary that the BBC are not looking to the Government for any specific assistance on this issue.

Definitions

11. At an earlier stage of the negotiations both the BBC and IBA were offering unacceptable interpretations of the programmes to which the 25% target should apply. The present proposed definitions are set out at paragraphs 7 and 8 of the Home Secretary's minute. In essence, both the BBC and IBA are proposing to base the percentage on all original programming excluding news and directly news-related material, repeats, and continuity. This seems reasonable.

HANDLING

12. You will wish to invite the HOME SECRETARY to introduce his minute.

13. The TRADE AND INDUSTRY SECRETARY will have general views, and you may particularly wish to seek his comments on the best approach to allegedly unfair trading practices by the broadcasting authorities.

14. The CHANCELLOR OF THE EXCHEQUER will probably have views on all the main issues.

H. Balchon

for A J LANGDON

27 October 1987

PRIME MINISTER 27th October 1987

MISC 128 - REFORM OF THE ITV SYSTEM

Constitution of ITN

The Home Secretary plumps for option (a) which is to open up ITN to new outside investors while allowing the ITV companies to retain control.

This is an improvement on the existing arrangement. My clear impression however is that ITN would prefer to go for option (b); namely the separation of ITN into two companies, one concerned with the core business (providing news for ITV companies), and the other with new enterprises. The advantage of option (b) over option (a) is that individual ITV companies could decide how much new capital they wish to put into new ventures, with some putting in nothing at all. This would mean that the board of the new company would then be wholly committed to its success - unlike the present situation in which some members of the board are indifferent or positively opposed to new ventures because they have no financial involvement.

The only argument put forward in the paper against option (b) is that it would isolate the core business from efficiency. I very much doubt however whether an injection of outside capital is sufficient to change the cost structure of ITN. Something which will change the cost structure however is increased competition among the ITV companies themselves which will result from new companies

entering the business. As their concern for their own profit grows only then will they begin to look more keenly at the cost of their contribution to ITN.

Option (b) therefore has one distinct advantage over option (a) without having any major disadvantages. For that reason it is to be preferred.

Recommendation

Opt for (b) in which ITN is divided into two separate companies.

Future Constitution of Channel 4

This is an ingenious proposal with regrettably little commercial flavour.

From the final paragraph (6) of the paper, the Home Secretary is clearly opposed to privatising Channel 4. In fact he would prefer to retain the status quo. His major argument is that if C4 were to be privatised it would lose its distinctive remit.

I am not at all convinced by the argument. Michael Grade, whose judgement I respect on this kind of issue, has argued powerfully that it would be possible to run a privatised C4 and keep to a tight remit - providing that the remit is clearly set out and known by all - the investing public, the IBA and the management of C4.

The case that privatising C4 would lead to a downgrading of quality normally rests on two pieces of evidence, TV am and the Peacock Report's view of the BBC selling air time. But neither piece of evidence holds in relation to C4.

TV am : TV am started with a "mission to explain" but as a result of competitive pressure soon ended up, after it was rescued, showing Roland Rat. It is fallacious to make a comparison between TV am and C4 however because C4 is already up and running. The argument that the selling of air time by a private company leads to falling standards might have been true if C4 had been first started as a private company. But C4 is now well past this position. Therefore this case does not apply.

Peacock and the BBC selling air time. The Peacock Report suggested that if the BBC were to sell air time its standards would fall. Again this is not a good analogy.

The BBC is a part of the duopoly with 40% + of the market. If in the present situation it started to sell its air time, then because of the duopoly it would soon find itself in a ratings war.

But C4 has only 7½% of the total television market. It would not be under this pressure to nearly the same degree. In any case it could target certain groups much more effective than it does at present.

In addition to these pieces of evidence it is wrong to think of C4 as a kind of television Third programme with especial concern for ethnic minorities. It is nothing of the sort. C4 has its biggest audiences from programmes such as

Treasure Hunt (with Anneka Rice)
Countdown (daily quiz show)
Cosby Show (soap opera from the US)
Brookside (twice weekly soap)
Hill Street Blues (which Grade originally bought for ITV)

In other words C4 is already a mix of serious programmes as well as quiz shows, games and soap operas. It is most definitely not the Third Programme of television.

Michael Grade's point therefore is that running C4 is in principle no different from running any other existing British television company: they are all a mixture of serious and light programmes.

In addition to all of this a powerful argument against the present proposal is that it provides management with no incentive for greater efficiency in the running of C4. In this respect C4 would remain a broadcasting department, virtually unchanged from its present status.

Recommendation

The real issue is the importance you attach to privatising Channel 4. There is certainly a strong case to be made for privatising C4 if you wish to make it.

Competitive Tender and the Levy

The problem with the present method of allocating ITV franchises is that it lacks transparency. One alternative, recommended by Peacock was to introduce auctions. The present proposal from the Home Office for tendering (heavily influenced by the Treasury) is to move to a two stage process:- first companies have to meet the criteria laid down explicitly by the IBA (financial strength, programming, quality of management) and than if they pass the test, they put in a bid and the highest bidder wins. In terms of tansparency it would be an improvement on the present system.

The one argument against it is that it would allow people such as Maxwell, Murdoch and Berlusconi to enter British television. The opposition to such people is not their ownership of television stations, per se. Rather it is to the kind of programmes they would produce. But the two step process can cope with this. If there is a substantive objection, then the basis for it could easily be discovered in the first stage of the franchising process.

The only new point which emerges from the Home Secretary's present paper is that a single TV company will not be able to hold or invest in more than one ITV contract. The Home Secretary states his position from a somewhat Olympian height:

> "Although there is an argument that a company which is more efficient should be able to build up holdings in the ITV system, I am persuaded that the public policy objective of ensuring diversity and competition points to a limitation of this kind."

This really does need to be spelt out in more detail. Why for example should Thames not own LWT? Does the existing structure really lead to greater diversity and competition? I somehow doubt it. If we wish our ITV companies to excel in world markets we may have to be less parochial - always assuming of course that domestic competition does not suffer unduly.

Brian Griffiths

BRIAN GRIFFITHS

Thames Television PLC
306 Euston Road London NW1 3BB
Telephone 01-387 9494

From the Chairman

26 October 1987 STRICTLY CONFIDENTIAL

Professor Brian Griffiths
Policy Unit
10 Downing Street
London
SW1A 2AA

Dear Brian

There was one major issue I omitted from my note to the Prime Minister - the future structure of broadcasting. I felt it would have been inappropriate to write to her directly about the possible abolition of the IBA. One cannot, however, discuss structure without looking very hard at the IBA - hence the enclosed.

Yours

Lew

The Structure of Broadcasting

Sensible broadcasters recognise that television is so powerful a medium that society will insist on some form of supervision. The question is: supervision by whom? There would appear to be only two alternatives: supervision direct by Parliament, or by a body created by Parliament, ultimately answerable to it, but with statutory safeguards against political interference in programmes. Historically, we in this country have chosen the second course, and will presumably wish to maintain this form of supervision in to the new era, but with so many more channels becoming available, will the present structure of BBC Governors, IBA and Cable Authority be the most suitable?

The BBC and ITV are, of course, structured completely differently. The BBC is a unitary body, its Governors the equivalent to non-executive directors of a company. (The division between Board of Governors and Board of Management has been nonsensical: there should be a single Board of six executive directors, including the Director General and six non-executives appointed by the Government, with a chairman carrying a casting vote). But even under the present system, when the Chairman and the Director General of the BBC go to see the Home Secretary, they carry with them direct managerial authority.

Not at all so the Chairman and the Director General of the IBA. On the contrary, the ITV companies are nearly all public companies, answerable ultimately to their shareholders. If the IBA tells the Home Secretary that ITV will adopt a certain policy - say, about independent producers - they do so usually after little or no consultation with the ITV companies, with no responsibility for carrying out that policy, or for the implications of that policy on the welfare of the shareholders. So far as ITV shareholders are concerned, the IBA represents a case of power without responsibility.

It is entirely right that television channels originating in this country should be supervised in the interests of safeguarding minimum standards with regard to violence, explicit sex, etc, and also fairness and political impartiality. It is also necessary that there should be statutory machinery for regulating access at least to the limited terrestrial frequencies.

But these objectives do not require the degree of day-to-day intervention which has come to be practised by the IBA. The Government should consider subsuming the IBA, the Cable Authority, the proposed Broadcasting Standards Commission, and the Programme Complaints Commission into a single body which would:

1. Regulate access to TV and radio channels - for instance, the granting of ITV franchises, and national radio frequencies.

2. Adjudicate over complaints about alleged bad taste and unfairness.

3. Monitor technical and programme developments, so that the Government can be kept up-to-date when considering policy changes - ie over the future of Channel 4, the prospect of further terrestrial channels, and the timetable of satellite and cable development. (The Home Secretary spoke of having to take a snapshot of a moving scene: the solution is to take a moving picture).

There are prototypes of such a body in the US and, particularly, Canada. The proposed Commission should obviously have a powerful lay element, including the chairman, but it should also contain an element of broadcasting professionals, drawn widely from both the programme and technical sides, a small scale replica of the PM's seminar.

CC BLUP PG

PRIME MINISTER

BROADCASTING LEGISLATION: MISC 128(87)10

CONCLUSIONS

You will wish the Group to reach a decision, for working purposes, on

a. whether there should be two broadcasting Bills in the present Parliament; and

b. whether the main provisions on the ITV system and Channel 4 should be in the first Bill, or postponed to a Bill in the 1989/90 session.

2. In the light of the decision on the timing of legislation, you will wish the Group to decide on the timing of a White Paper. If the ITV provisions are to be enacted next session, then there will have to be a White Paper around Easter next year. But if the ITV issues are held over to a second Bill, then it would be an option to postpone a White Paper until next Autumn or later.

3. A White Paper next Easter would probably involve MISC 128 meetings at something like the rate of one a month between now and then. If the Home Secretary presses for this option - as he probably will - you may wish to probe the immediate workload that this would make for you and other colleagues. One way of keeping up the momentum without requiring a rapid succession of firm decisions might be a Green Paper.

BACKGROUND

4. The current review of broadcasting policy took the Peacock Report as its starting point and has generally followed the lines that Peacock indicated. This has involved decisions on radio

deregulation, BBC financing and ITV financing. In order to pursue the Peacock recommendations on financing by subscription, the Group commissioned a study by consultants on which the Home Secretary will be able to make proposals at the November meeting. When decisions are taken on that, the bulk of the original Peacock agenda will be completed.

5. In the meantime, however, it has become increasingly clear that policy is being developed against a very rapidly changing technological background. Peacock's assumptions about the development of cable, in particular, have come to look more and more fragile since the report was made. The rapid expansion of satellite broadcasting now looks much more realistic with DBS broadcasting looking a particularly concrete proposition in the form of the BSB consortium. Most importantly, MMDS broadcasting (on which a preliminary study has now been put in hand) has emerged in the last few months as a plausible, and revolutionary, development, albeit with considerable implications for telecommunications policy. And interest has surged in a possible fifth UHF channel.

6. Against all that background you felt after the last MISC 128 meeting that it might be a mistake to drive flat-out towards a major broadcasting Bill next session. On the one hand, that might require a heavy programme of MISC 128 meetings considering complex issues over the winter. And, on the other hand, there could be advantage in holding over the major legislation until the ferment of technological development presented a clearer picture. You therefore commissioned the present paper by the Home Secretary and the Trade and Industry Secretary setting out the options for legislation.

MAIN ISSUES

7. Some of the Group's major decisions (eg on the BBC licence fee) do not need primary legislation. Equally, some of the topics for legislation set out in paragraph 2 of MISC 128(87)10 are second-order points that you need not trouble about at this stage.

The main blocks of topics on which legislation will certainly be needed during this Parliament are as follows

i. Statutory establishment of the Broadcasting Standards Council (plus other measures of programme regulation, including implementation of a Council of Europe convention if that is concluded satisfactorily).

ii. Reorganisation of radio (on which only a few minor points now remain to be finalised).

iii. Reform of the ITV system (including action on the levy and franchise arrangements) plus reform of Channel 4.

In addition, provisions on subscription will probably be needed. The Group has yet to take decisions on this, but it is very likely that the only legislative action needed will be fairly simple enabling powers. All these topics could be ready for a Bill from next session onwards.

8. As well as the topics mentioned above there is the likelihood of legislation being needed to regulate MMDS broadcasting and/or the establishment of a fifth UHF channel. But this legislation could not be ready before the 1989-90 session even if decisions in principle are taken early next year.

OPTIONS OF TIMING

9. The one fixed point in all this is that there must be legislation on the ITV issues before the end of the 1989-90 session, so that the new provisions bite on the franchise periods running from 1 January 1993. All other options are open to you, subject only to your manifesto commitment. What the manifesto promised was "A major new broadcasting Bill in the new parliament. It will enable the broadcasters to take full advantage of the opportunities presented by technological advances and to broaden the choice of viewing and listening." The manifesto also promised action to ensure 25% use of independent producers by ITV and the

BBC; stronger and more effective arrangments to enforce broadcasting standards, especially on sex and violence; and the removal of the exemption under the Obscene Publications Act.

10. The paper by the two Secretaries of State assumes that there will need to be two Bills and that the options for them look like this

Option 1	Option 2
1988-89 Bill	**1988-89 Bill**
Programme Standards Radio ITV issues, Channel 4 etc	Programme Standards Radio
1989-90 Bill	**1989-90 Bill**
MMDS/5th Channel	ITV issues, Channel 4 etc MMDS/5th Channel

There is, perhaps, a further 'Option 3' under which there would only be a Bill on programme standards next Session, with everything else being taken in a large Bill in the 1989-90 Session. That is conceptually quite a good model, since the programme standards issues are of a different character from everything else under consideration, as well as being politically urgent. But it would leave the Home Secretary with a very thin Bill next Session.

MMDS AND INTERACTION WITH TELECOMMUNICATIONS POLICY

11. You will remember that Peacock made a casual recommendation that the present regime for the national telecommunications systems (BT and Mercury) should be revised, so that they could carry television services on a common carrier basis. This necessarily has similarly fundamental implications for the regime applying to cable operators. In the light of the Peacock recommendation future telecommunications policy was put under review by the official MISC 131 group reporting to the Ministerial Committee E(TP). A study by consultants was commissioned through

that machinery, and it is hoped that broad recommendations about the long term future for telecommunications should be before Ministers during February next year.

12. There is clearly a problem in keeping the development of broadcasting and telecommunications policy in step against a rapidly evolving technological background. If no action is taken on either front until all the possible implications are teased out in detail, then there is a risk of taking no action at all. There is, for example, a potentially complicated argument about the reorganisation of television transmission arrangements, which has not yet begun to run but which could well develop into a fairly major exercise.

13. You will doubtless wish to be satisfied, on the other hand, that key broadcasting decisions are not taken so early that they pre-empt the room for manoeuvre in developing telecommunications policy. The basic question that the telecommunications review will have to address is whether the Government should intervene to foster a national broad band network or whether the development of telecommunications should essentially be left to market forces. No question in this field is likely to have as important an impact on cable as the decision whether or not to authorise MMDS broadcasting.

14. The decision in principle on MMDS, however, cannot be allowed to drift very far into next year because of its importance for DBS broadcasting, as well as for the cable industry. The BSB consortium has attracted considerable private investment and will need more if it is to start DBS broadcasting, as planned, in 1989. It will expect to know as soon as possible whether the Government will encourage a scenario of greater competition and wider range of programme services, through MMDS and/or a fifth UHF channel.

15. It would appear, therefore, that the key decisions on MMDS and/or a fifth UHF channel will need to be taken in a fairly narrow window around next Spring, when the technical reports on these possibilities are available and when the first presentation

on the long-term future for telecommunications will also have been made. The Trade and Industry Secretary is presumably content that an early White Paper would not clash unmanageably with the review of telecommunications policy since he has agreed to this option being displayed in MISC 128(87)10, but you will doubtless wish to probe this with him.

THE BALANCE OF ARGUMENT

16. There are basically two reasons for delaying the ITV provisions to the 1989-90 Session. First, this would allow more time to take account of the results of the review of telecommunications policy (even if, as suggested above, the main decision here - that on MMDS - will have to be taken fairly early next year in any event). Second, it would be conceptually more complete to present Parliament with the provisions that will govern the ITV contractors during the 1990s alongside proposals for other aspects of the broadcasting environment. The Trade and Industry Secretary will probably argue for this slower timetable.

17. The Home Secretary, on the other hand, will press for taking as much as possible of the legislation in the earlier Session. He is likely to argue that technical developments in broadcasting will continue to evolve rapidly and that one has to draw a line across the page at some point. He will say that the Government has stimulated expectations of major policy changes, that a coherent package of broadcasting policies is now almost within his grasp and that if these are allowed to moulder on the shelf for another 2 years the Government will lose all the initiative. Even if it is decided to hold over the ITV legislation to the 1989-90 session, at the very least the Home Secretary is likely to press for a comprehensive White Paper next Easter (and it is the timing of a White Paper, rather than legislation, that will dictate the weight of forthcoming MISC 128 business). You may wish to explore whether a Green Paper around next Easter would be enough to meet the Home Secretary's worries.

18. The business managers are unlikely to have any major worries about broadcasting Bills in both the second and third Sessions of the Parliament, and they would certainly not want to argue that policy should be steered by their preferences about the distribution of weight between the two Bills. Other things being equal, however, they would probably like to see a substantial Bill heading towards the third Session of the Parliament, when business may be thinning out.

HANDLING

19. You will wish to ask the HOME SECRETARY and the TRADE AND INDUSTRY SECRETARY to introduce their paper. You may particularly wish to ask the Trade and Industry Secretary about the interaction with telecommunications policy, and in particular when a decision may be taken on MMDS.

20. You may then with to ask the LORD PRESIDENT to comment on the various options, from the point of view of the business managers.

21. The CHANCELLOR OF THE EXCHEQUER may have views.

22. If a White Paper, or Green Paper, around next Easter attracts general support, you may wish to ask the HOME SECRETARY how much more work he will need to bring to MISC 128 in order to meet that target.

AJL

A J LANGDON

26 October 1987

010

cc BG

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

22 October 1987

Prime Minister 2/ cc BL

DLV 23/10.

Dear Nigel,

TELEVISION LICENCE FEE INCREASES

On 14 January this year, I announced that the television licence fees would remain at their present level until April 1988, and would then be revised annually in line with the movement in the RPI over the 12 months to the preceding September starting from notional baselines of £60 for the colour licence and £20 for the monochrome licence. This was, of course, in accordance with the decisions we had taken in MISC 128.

The September RPI, announced on 9 October, showed a year on year increase of 4.2%. Applying this to the above baselines would produce precisely indexed fees of £62.52 (colour) and £20.84 (monochrome); but for consumer convenience and for economy of administration a degree of rounding is clearly sensible. Rounding to the nearest pound would affect the BBC's annual revenue by too much (up to £8 million) and would introduce too great an arbitrary element into the indexation formula. Rounding to the nearest 50 pence - as your officials have suggested - strikes a better balance. Certainly on this occasion there is virtually no difference in terms of the BBC's revenue between the precisely indexed fees, and rounded fees of £62.50 and £21. I would not, however, wish to commit us now to a hard and fast rule to round to the nearest 50 pence in all future years.

I therefore propose to announce that the fees from 1 April 1988 will be £62.50 and £21.00 by way of Written Reply to an Arranged Parliamentary Question, on the same date as the annual pension and social security upratings are announced by John Moore. I understand this will probably be on 27 October. I enclose for your information and that of colleagues with an interest the draft of that announcement.

I am copying this letter and its enclosure to the Prime Minister, other members of MISC 128, John Moore and Sir Robert Armstrong.

Yours

Douglas

The Rt Hon Nigel Lawson, MP.

DRAFT PQ

INCREASES IN TELEVISION LICENCE FEES

DRAFT ARRANGED PQ FOR ANSWER ON (?)* TUESDAY 27 OCTOBER

*To be confirmed with T2 Division

To ask the Secretary of State for the Home Department whether he is yet able to announce the level of the television licence fees to take effect from 1 April 1988, and whether he will make a statement.

DRAFT REPLY

The television licence fee has remained at £58.00 for a colour licence and £18.00 for a monochrome licence since 28 March 1985. On 14 January this year I announced that the fee would be increased only in line with the increase in Retail Price Index. I also said that the increase would be calculated from a notional baseline fee of £60.00 for a colour licence and £20.00 for a monochrome licence (Hansard Vol 128, No 30, Col 263).

The principle of indexation and the choice of the baseline were both designed to encourage increased efficiency and economy by the BBC. Its costs had historically risen at a higher rate than the RPI and it was then planning to spend money on the provision of television and radio services in the present financial year at a rate higher than that represented by the baseline fee.

The RPI figure for September published on 9 October showed a year on year increase of 4.2%. I have accordingly decided that from 1 April 1988 the colour licence fee should be £62.50 and the monochrome fee £21.00. The necessary regulations will be laid before the House in due course.

As I have already announced, the licence fee for the two years starting 1 April 1989 and 1 April 1990 will also be calculated in

accordance with changes in the RPI which themselves determine the rate of increase of pensions and other state benefits.

LCCBG.

QUEEN ANNE'S GATE LONDON SW1H 9AT

21 October 1987

NBPM.

Dear David

NETWORKING OF ITV PROGRAMMES

Thank you for your further letter of 12 October.

As outlined in my letter of 28 September, I believe that the right course is a staged approach which takes account of the need both to modify the networking system under the present contracts and their extensions to the end of 1992, and the need for further changes to take effect under new contracts from 1993 in the light of the other reforms we now have in mind for the ITV system. I know that the IBA is pursuing vigorously in co-operation with the ITV companies the development of plans for a revised networking structure under the existing contracts, and I am making clear to the IBA our view that changes in the arrangements are central to the Government's efforts to open up the broadcasting structure to more competition and to improve programme quality.

As regards changes to the networking arrangements post-1992 under new contracts, I take your point that there could be advantage in considering now on a contingency basis what provisions might be necessary in our Broadcasting Bill to ensure that new networking arrangements are consistent with the objectives endorsed by MISC 128 earlier this year. These were:

(a) ensuring that programmes of national quality receive national showing, but only after they have passed some competitive process of selection;

(b) providing access on equal terms for the non-network ITV companies;

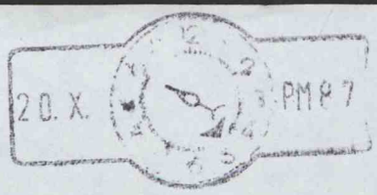
(c) allowing access for the independent producers in accordance with our own already announced initiative;

(d) the maintenance of regional production capacity.

In doing so, however, I believe that we need to be clear that the task should be geared to drawing up, in the light of these objectives, criteria against which the IBA could develop their own proposals, and against which we could in turn measure the efficacy of what the IBA has in mind. In other words, the task would be to identify the provisions we would need to put in legislation, should that prove necessary, to ensure that the IBA produced the right result. As I suggested in my earlier letter, I do not

The Rt Hon Lord Young of Graffham

/over....



BROADCASTING: Finance Pt 5

believe that it would be right for the Government to seek to design a networking system itself, for which we lack the necessary detailed knowledge. There is in any case a constitutional issue, as well as the practical consideration that it would be a mistake to attempt this without involving the IBA; and we cannot sensibly do that until we are ready to reveal our plans for the ITV system as a whole.

On this understanding, I am ready to agree that officials should put the necessary work in hand. I also agree that the best course would be for officials, perhaps working ad hoc, to prepare a paper to go to the Official Group (MISC 129), with a view to a report to the Ministerial Group.

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

Yours,

Douglas

HOME SECRETARY

CC BG
CC BLOP

BF || for next meeting of MISC 128, 28/10.

PRIME MINISTER

INDEPENDENT PRODUCTION INITIATIVE

Since we last discussed the independent production initiative in the Ministerial Group on Broadcasting (MISC 128) I have, as agreed, had further meetings with the Chairmen of the BBC and IBA. I explained to them that we now needed a firm commitment, which could be made public, to the achievement of our 25% target in full on a practicable and acceptable timescale. I made clear our preparedness to proceed by legislation, should this prove necessary.

2. Both the BBC and IBA have given me the commitment for which I asked.

3. The BBC has told me that it aims to commission 12% of its original output from the independent sector in the next three years and a further 13% in the following three year period, subject to suitable cost and quality being confirmed by a review after the first stage. In other words, by 1 January 1993, the date on which new ITV contracts come into force, the BBC will be commissioning at the rate for which we have asked.

4. I am satisfied that Duke Hussey, his Board and their senior management team are determined to maintain the momentum. The BBC has already commissioned 200 hours of programmes from the independent sector this year, and is working hard to find the additional finance needed during the transition to more extensive contracting-out. The BBC is also clear about the need to ensure adequate competition within the independent production sector and to seize this opportunity to cut down restrictive practices. Duke Hussey has made the point - with which the Government agrees - that we must avoid creating a third cartel of vested interests. The BBC does not at present recognise ACTT, whereas independent productions have generally so far been made under ACTT agreements. The BBC is rightly anxious to do all it can to ensure that contracting-out produces improvements in cost and efficiency rather than strengthening the position of ACTT. I accordingly

believe that there are good reasons for the BBC wanting to undertake a review of cost and quality in three years' time, but we shall need to satisfy ourselves in due course that it is a properly conducted analysis.

5. The IBA have also accepted the 25% target, and will be taking the opportunity at a forthcoming conference to make clear publicly their determination to meet it. The ITV companies have made a good start in moving towards the target. Over £20 million has already been committed in commissions. As recorded in my minute to you of 19 May, the first stage of the IBA's plans envisages the commissioning of about 12% of original output by the end of 1989. Subject, like the BBC, to confirmation of cost and quality, the plans now provide for 25% of original output transmitted by the end of 1992 to be supplied by independent producers. The new contracts starting on 1 January 1993 will therefore be advertised on this basis.

6. Tim Renton and I have had extensive discussions with the ITV companies themselves about this process. They are committed to making a success of the initiative, and, like the BBC, wish to seize the opportunity to secure the prizes of greater efficiency and an escape from restrictive union practices. The negotiations on business arrangements with independent producers will therefore, rightly, be tough; but they are being conducted within the guidelines laid down by the IBA to ensure fair terms on copyright and related matters. The IBA is monitoring progress.

7. We obviously need to ensure that the way in which the BBC and IBA are interpreting the 25% target is reasonable. The BBC is taking the annual number of broadcast hours to which the target relates as all original programming on both network and regional services excluding news and directly news-related material; repeats; and continuity. The category of news-related material includes only programmes (e.g. "Newsnight") directly dependent on the news-gathering infrastructure: current affairs programmes such as "Panorama" will in future be in the category open to independent production.

8. The IBA's interpretation is in essence the same, although reflecting the federal nature of the ITV system. All orginal network programming will count towards the target except material provided by ITN; continuity; and the news-related studio output of TV-AM (other TV-AM programming, such as children's features, will be open to independent production). All original

regional service programming will count except that provided out of ITV newsrooms. The IBA believes, however, that even in the regional news area independent producers may have a contribution to make (as LWT has shown) although for the time being the IBA regards this as additional to the 25% target.

9. I believe that the approach to which the broacasters have now committed themselves represents a positive and, if delivered, satisfactory response to our initiative. I hope that it may in the event prove unnecessary to legislate to achieve our target; and indeed entrenching it in legislation could produce unhelpful rigidity and inflexibility. The best outcome will be if the initiative develops its own momentum, so that no regulatory intervention by Government is needed. However, we do not need to reach a conclusion on that at present, still less to let it be known. We shall continue to monitor the situation carefully, making it clear that we are willing to legislate if necessary. In the meantime it will be prudent if we ask our officials to continue the preparatory work we have previously put in hand in case legislation should prove necessary.

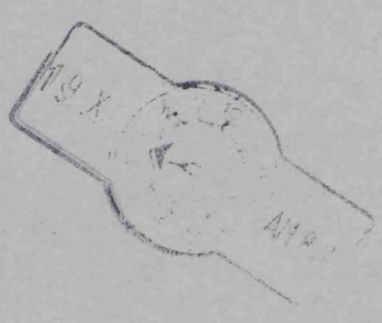
10. Subject to your views and those of colleagues on the Ministerial Group (MISC 128), to whom I am copying this minute, together with Sir Robert Armstrong, I would propose to announce our endorsement of the broadcasters' plans in due course, the timing to be considered in the light of decisions about a broacasting White Paper and related matters.

Colin R. Mills

Approved by the Home Secretary and signed in his absence

16 October 1987

Broadcasting: BBC Financing PT5.



DRN or.

K01761

cc Mr Langdon
BG.
Note at end

MR NORGROVE

MISC 128

We spoke about the business that might be put to the next two meetings. At present there is a meeting fixed for 28 October, and we are trying to find a slot in mid-November for a meeting to replace one that was lost from 11 November.

If MISC 128 decides that there should be a heavy Bill next Session, including the main ITV decisions, then there will need to be a White Paper by next Easter. If the main legislation is held over to the following Session, then the White Paper could probably be postponed to next Autumn.

The main current business is

(i) The timetable

(ii) ITV franchises, levy etc; ITN; Channel 4 (following the last meeting)

(iii) Decisions on radio, following Green Paper

(iv) Subscription - first substantive discussion.

There are a lot of second-order issues to which the Group will need to return (eg networking; night hours). But the most important is

(v) Independent producers - progress of negotiations (Home Secretary) and fair terms of trading (Trade and Industry Secretary).

The studies of MMDS and a fifth UHF channel will not be ready until, say, the turn of the year, and do not affect current business.

Radio and subscription will not be ready to come to a meeting before mid-November, but the Home Secretary will shortly be minuting on independent producers, and I think the Group will want to discuss that. I suggest, therefore, that the meeting on 28 October should take items (i), (ii) and (v) above, and that we should plan for (iii) and (iv) to go to the mid-November meeting that is being arranged. If the first meeting decides on a slow timetable, with a White Paper held over to the Autumn, then there is probably no great urgency about the second meeting, which could be postponed if necessary. But if the first meeting decides on a White Paper by Easter, then we shall certainly need the next meeting in mid-November.

Perhaps you could let me know if all this looks reasonable from your point of view.

AJL

A J LANGDON

14 October 1987

Thank you. This looks reasonable to me. Paper on ITV could be circulated to the first meeting, but fall back to a later one if the Group decides to go for a lighter bill next session. Then we would not have to mix the discussion of independent producers.

DRV
15/10.

cc BG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

12 October 1987

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

NRBM

Dear Douglas,

NETWORKING OF ITV PROGRAMMES

Thank you for your most recent letter which crossed with mine of 28 September.

I accept that the details of the networking system are a matter for the IBA and that for the present our scope for influencing them is limited. But we are already proposing a number of important reforms to the ITV system from 1993, and trying to influence this before then in a number of respects, notably on access for independent producers. It would it seems to me be consistent with this to lay down the outline of the kind of networking arrangements we would expect to see from 1993. The IBA is after all working within the existing structure and powers, and as you say must rely on the co-operation of the present ITV companies. This is why I question whether they are able to stand back from the day to day issues sufficiently to consider not just radical reform, but fundamental change - for example whether a networking system as at present understood is needed at all.

I therefore agree that we should keep in touch with the IBA's work on the system under the present contracts. But I do not think we should simply inform them of the other reforms we have in mind and invite them to propose networking arrangements from 1993 in the light of them. I think we should be prepared to put proposals to them on the network, (including what provisions may be needed in the statute) to ensure it is open to competition. It is this that I propose we ask officials to study. It would then be for the IBA

DW5BZP

to comment on these proposals and consider the details. Whether reform of the ITV system is to be dealt with in a Bill in 1988/89 or 1989/90, we need to ask officials to start thinking about this now with a view to what goes into the White Paper.

If you agree, I suggest our officials meet quickly to set in hand the necessary work, perhaps reporting to the Ministerial Group through MISC 129.

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

LORD YOUNG OF GRAFFHAM

DW5BZP

BROADCASTING

BBC

PTS

CONFIDENTIAL

GCL

CBG

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

1 October 1987

Dear Philip,

TIMETABLE FOR BROADCASTING LEGISLATION

The Prime Minister has been reflecting on the timetable for the proposed Broadcasting White Paper and legislation. She is concerned that the Government may be trying to compress too much into too short a time.

The present plan is to publish a White Paper at the turn of the year and to legislate in the next Session, 1988-89. However this means that decisions will have to be taken in the busy period leading up to Christmas. The results of the BBC, IBA and DTI study of the possibilities for MMDS and Channel 5 will not be known for ten weeks or so. It will also be difficult on this timetable to take into account the results of the studies commissioned from consultants on the Peacock recommendations which bear on telecommunications policy. Yet changes to the ITV system, including the levy, cannot take effect until 1 January 1993. It is also relevant that on the present timetable legislation will be going through the House just as Astra is beginning to have its effect on British television.

Against this background the Prime Minister would be grateful if the Home Secretary and the Secretary of State for Trade and Industry could prepare a paper on the timetable and options, for consideration at the next meeting of MISC 128. One option, for example, might be to publish the White Paper around Easter next year, to legislate on the Broadcasting Council, radio, and other more minor matters, in the 1988-89 Session and to follow with the remainder of the legislation in the Session 1989-90. This would allow the final decisions on television broadcasting to be taken in late 1988 and early 1989. Alternatively, all the legislation could be taken in the 1989-90 Session, provided that the Broadcasting Council and other safeguards on standards could operate satisfactorily in the meanwhile without formal statutory backing. Either of these options would have the incidental advantage of transferring substantial legislation from the second to the third Session of Parliament, which is likely to be the lighter of the two.

In view of the Manifesto commitments and the importance of the legislation, any postponement will of course need to be considered with great care.

CONFIDENTIAL

SHW

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

Yours,

David.

DAVID NORGROVE

Philip Mawer, Esq.,
Home Office.

PRIME MINISTER

BROADCASTING BILL

Thinking about the timetable for the Broadcasting Bill, I wonder whether we are trying to compress too much into too short a time.

The present plan is to publish a White Paper at the turn of the year and to legislate in the next Session, 1988-89. However, this means that decisions will have to be compressed into the busy period leading up to Christmas. The results of the BBC, IBA and DTI study of the possilities for MMDS and Channel 5 will not be known for at least ten weeks. It will also be difficult on this timetable to take into account the results of the studies commissioned from consultants on the Peacock recommendations which bear on telecommunications policy. These are not due to come forward until the end of the year. Yet changes to the ITV system, including the levy, cannot be made until 1 January 1993.

The present timetable will have legislation going through the House just as Astra is beginning to have its effect on British television and as DBS is getting underway.

Against this background there seems to me a strong case for proceeding more slowly. One option, for example, might be to publish a White Paper around Easter next year, to legislate on the Broadcasting Council and, say, radio, in the 1988-89 Session and to follow with the rest in the Session 1989-90. This would allow the final decisions on broadcasting to be taken in late 1988 and early 1989. Alternatively, all the legislation could be taken in the 1989-90 Session, provided that the Broadcasting Council and other safeguards on standards could operate satisfactorily in the meanwhile without formal statutory backing.

There would be an incidental advantage in transferring a meaty Bill from the second to the third Session of the Parliament, which is likely to be lighter.

I have discussed this idea with DTI, who would feel a sense of relief if more time were allowed (Alistair MacDonald told me he has at present a feeling of galloping towards Beechers Brook), and I do not think the Home Office would complain.

Clearly, in view of the Manifesto commitments, this needs to be thought about carefully. I recommend that the Home Office and DTI should be invited to prepare a paper on the timetable and the options for the next meeting of MISC 128.

Agree? Yes - very much so

DNorgrove

David Norgrove

30 September 1987

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

28 September 1987

The Rt Hon Douglas Hurd CBE, MP
Secretary of State for Home Affairs
Home Office
50 Queen Anne's Gate
LONDON SW1

ITV SYSTEM : NETWORKING

I have seen Nigel Lawson's letter of 9 September to you proposing, in lieu of the "three wise men" suggested in my letter of 10 August, a group of officials to study this important question. I have also seen the letter of 21 September from No 10 giving the Prime Minister's views.

My prime concern was to ensure a thorough and rapid review, independent of the IBA. A specially set up interdepartmental group of officials would therefore meet those concerns.

The perspective of broadcasting as an industry, which we wish to make more subject to competitive pressures than it has been in the past, is an important one. I therefore share the Prime Minister's view that someone from the competition side of my department should be involved.

Equally broadcasting is an industry whose export potential I believe to be far from fully realised. Any new financial arrangements for the ITV companies must be considered from this angle too.

I am copying this letter to the Prime Minister, Nigel Lawson and other members of MISC 128, and to Sir Robert Armstrong.

LORD YOUNG OF GRAFFHAM

DW2CES

8

PRIME MINISTER 28 September 1987

MISC 128: BROADCASTING

Tomorrow's meeting of MISC 128 is an important one. It follows your highly successful seminar last Monday and it is an occasion on which to lay down the foundations for a new regulatory structure for broadcasting which should:

(a) last for 15-20 years
(b) provide for greater competition and allow technological innovation
(c) ensure that the broadcasting of pornography and violence are controlled.

The agenda for tomorrow's meeting covers three items.

1 **Matters Arising from the Prime Minister's Seminar on Broadcasting**

The major conclusions of the seminar, which may need restating were that:

- increased competition in television is technically feasible, as spectrum can be made available for extra terrestrial television channels (UHF and MMDS);

- there exists a large unsatisfied demand for premium programme services along with a consumer willingness to pay (through subscription);

8

- increased competition is also desirable - more channels are needed to meet the needs of advertisers (they could probably finance more than £500m extra worth of television than at present);

- standards, especially those declining with sex and violence, are important because of the nature of television as a medium.

The new regulatory framework

The object of government policy in broadcasting should be to create a level playing field for new entrants and new technologies - rather than back winners and erect barriers to entry.

In terms of the paper 'Provision of Additional Programme Services' this requires two decisions:

(a) **The future of MMDS - Local television**

Para 14 offers Ministers a choice over the way forward; one (14a) is to inhibit the growth of MMDS as it would compete with cable and DBS; the other (14b) is to allow greater competition. The arguments are developed at length.

The case for 14b is overwhelming. It will result in local television throughout towns and cities in all parts of the country. It is complementary to the nationwide coverage of BBC, ITV and DBS and will provide great opportunity for local advertising.

If a decision is made to opt for MMDS this will

require a further paper by the Home Office and DTI.

Recommendation

Require that spectrum be made available for new channels:

Opt for 14b and invite further work.

(b) **Competition between the new media and the existing duopoly**

Paras 18-21 deal with competition between the new media and existing services.

The Home Office view is put succinctly in the first sentence of para 20.

"On the other hand it can be argued that the general shape of the BBC and ITV services should remain for perhaps 10 years, with the obligation and responsibility of public service broadcasting justifying existing financial structures."

I am unsure as to what this means. It is open to many different interpretations. As a general statement it is also very strong. I am suspicious that it means continued protection for the duopoly.

Would it not be possible to nibble away at the existing set-up by eg allowing subscription in the night hours for BBC2, reforming ITN so that they

have access to more capital, etc.

Recommendation

Invite the Home Office to develop and expand the options implicit in paras 18-19 in a separate paper.

2 The ITV System and Channel 4

ITV System

The Home Secretary endorses the Offical Group's Report. It is a sensible and practical way forward.

Channel 4

In terms of (i) our general policy of increasing competition and (ii) the need for improved terms for advertisers, the obvious way forward is to privatise Channel 4 (a contract to operate the channel awarded by competitive tender) but subject to a specific remit regarding the nature of programmes and possibly scheduling. ?

The only possible objection to this proposal is that under competition, Channel 4 may not honour its remit. This depends entirely on how tightly drawn the conditions of such a remit are. As is argued in the official report, if the terms are made explicit there is no reason to think they will not be honoured. The effect of

8

restrictive terms will mean that the tender price for Channel 4 shares will be that much less.

Recommendations

Accept the Home Secretary's proposals, 7(a) and (b).

3 **Satellite Broadcast Services: Programme Standards**

This paper is half-baked and superficial. It certainly deals with a real problem, but leaves many questions unanswered:

(i) How will the Council of Europe convention be enforced? Is an EEC directive, with faults but which has teeth superior to a Council of Europe Convention which might simply be unenforceable platitudes.

(ii) How will restrictions on advertisers work out in practice? Is Section 5 of the 1967 Act which is quoted working at present in relation to satellite services? Is it a success?

(iii) Should we consider some form of jamming - unattractive as the idea may be to all Western countries? What are the technical possibilities in this area?

Recommendation

All of these need further thought and work before being accepted or rejected.

BRIAN GRIFFITHS

cc 8/9

10 DOWNING STREET

Prime Minister

How acceptable would it be for

Rupert Murdoch

or

Robert Maxwell

or

Sr Berlusconi

Say, to own two of the five major ITV franchises? Why should anyone own more than one?

DNW

28/9.

CCB/UP

CONFIDENTIAL

PRIME MINISTER

MISC 128: 29 SEPTEMBER 1987

This meeting has been laid on as quickly as possible after your seminar on broadcasting, to enable you to take stock of that occasion and to give instructions for any work that you want put in hand in the light of it.

The main theme that emerged from your seminar was the need for a framework within which competitive broadcasting could expand and thrive while, on the other hand, the interests of the consumer were protected by a proper regulatory system. Accordingly, therefore, Item 1 deals with the possibilities for new services and Item 2 with the question of enforcing programme standards against satellite broadcasting from overseas. The papers for both these items seek instructions for further work, rather than decisions.

Item 3 brings back to the Group a package of questions about ITV and Channel 4 that they have already considered in principle. Although the Official Group's lengthy analysis has been circulated, the Home Secretary's proposals will not be ready before the weekend, and we do not yet know the line that he will take. However, the main points that you will want to consider will be

i. whether, in the light of recent briefing about the scale and unpredictability of possible satellite broadcasting in the early 1990s, to confirm the earlier decision in favour of auctioning ITV contracts then;

ii. whether a limit should be placed on the number of franchises that are allowed to be held in the same hands;

iii. whether Channel 4 should be turned into a separate broadcasting authority (as the Home Secretary originally proposed) or fully privatised (in which case it would be the only national ITV channel carrying advertising).

Separate briefs on Items 1 and 2 are attached. A brief on Item 3 will come forward after the weekend.

AJL

A J LANGDON
25 September 1987

Encs

cc BMP
BC

CONFIDENTIAL

1. MATTERS ARISING FROM THE PRIME MINISTER'S SEMINAR

PROVISION FOR ADDITIONAL PROGRAMME SERVICES: MISC 128(87)5 – with DRN

CONCLUSIONS

You will wish the Group to take a view on the choice posed in paragraph 14 of the report from the Official Group - whether to continue to inhibit the emergence of competition with cable and DBS, or to ensure that artificial restrictions on competition are kept to the minimum.

2. If the Group takes a decision in principle to expose DBS and cable to competition, then you will wish to commission the further work that would be needed to enable an informed decision. These studies could not be completed in confidence.

BACKGROUND

3. As you will recall from your recent briefing and from the seminar, the Peacock Committee proceeded on the assumption that spectrum scarcity was one of the central factors in broadcasting policy, and that competition to the BBC and ITV would be represented by DBS and cable for the foreseeable future. In the long term, Peacock saw an interactive cable grid as providing the market he sought, and that looks more and more questionable.

4. At your seminar it was argued that the technology now exists, given the right Government decisions, for a very considerable expansion of programme services in the short to medium term. The possibilities (and they are no more than possibilities as yet) for MMDS emerged from the outside contributors to the seminar. Furthermore, it was argued that there is sufficient room in the UHF spectrum

to accommodate a fifth channel provided that national coverage was not attempted. The present paper attempts to take all these issues a stage further.

MAIN ISSUES

5. The paper covers a lot of very complex ground, and you will wish the discussion to concentrate on the absolutely essential issues. For that purpose, you may find it helpful to have the following guide to the paper.

MAIN POINTS RAISED IN THE REPORT FROM THE OFFICIAL GROUP

6. Paragraphs 1-10 are a historical summary setting out the growth of policy on cable and DBS to date, noting the decision to allow the direct reception of non-DBS satellite broadcasting and summarising (in paragraph 9) the current plans for the whole range of television broadcasting.

Paragraphs 11-13 describe how cable has run into the doldrums and sketch in the possibilities for MMDS and spare spectrum on UHF.

Paragraph 14 poses the basic choice whether or not DBS and cable should be protected from MMDS.

Paragraphs 15-17 fill out the considerations that need to be taken into account on either side of the question posed in paragraph 14.

Paragraphs 18-20 open up a different dimension of the question. What they ask, in essence, is whether the present public service broadcasting requirements should, over time, be relaxed as ITV faces competition from other broadcasters searching for advertising revenue, and as the licence fee may become harder to justify in a world of highly competitive and varied television broadcasting.

THE LONG TERM FUTURE OF PUBLIC SERVICE BROADCASTING

7. The question posed at the end of the Official Group's report is obviously a fundamental one that is likely to assume greater importance over the years. For immediate purposes, however, you may wish to set it on one side. The whole work of MISC 128 so far has been to develop mechanisms to encourage efficiency in the BBC and ITV and, on present form, these measures will form a large part of any forthcoming White Paper and Broadcasting Bill. Eventually, the existence and size of the licence fee may well need to be put under radical review, as may the public service broadcasting requirements on the services under the IBA. But such a review is hardly compatible with the assumptions under which all recent decisions have been made. And it would only become necessary if the competitive world of television opens up very quickly and successfully. That may well happen, but equally it may not. I suggest, therefore, that you will not wish the Group to get drawn into discussions at this stage about academic possibilities of policy questions that the Government would only have to face in the 1990s. Having said that, it may well be useful to the Group, at a rather later stage, to develop a working assumption about the period for which the present BBC and ITV arrangements can be counted on to endure.

IMMEDIATE DECISIONS

8. The questions that need to be settled straight away are mainly focused on what needs to be done to enable decisions to be taken whether to allow MMDS to proceed in competition with cable and DBS. The preliminary question is the one posed in paragraph 14a - is there a good case on merits for continuing to protect cable and DBS, and would the Government's position vis a vis these interests be sustainable if new competition were authorised? If it is agreed in principle that further competition is to be encouraged, then there are basically three groups of questions that would need to be resolved before a decision could be taken to enable MMDS or a fifth

UHF channel to proceed, and these three topics require rather different processing.

i. What is the technical feasiblity (including the timescale of any necessary development)?

While there should be sufficient expertise within DTI to provide the necessary advice on spectrum availability for a fifth UHF channel at less than national coverage, that is not true for MMDS. The Department could only advise on this by putting in hand some consultancy study which would certainly become known outside Government. Whatever risks there might be in publicity can probably be taken under cover of following up your seminar, but the Trade Secretary will doubtless have a view on this.

ii. The Financial Regime

Basically, choices would have to be made on the mix that would be allowed of advertising and subscription financing and how advertising-financed services would relate to the IBA. These are questions of a familiar type, and the Group could begin addressing them when the Home Secretary reports on the results of his consultations on the subscription study, which should come back to the Group at the end of October.

iii. The Regulatory Regime

This raises a host of questions about regulation of programme content, whether the services should be local or national, relationship to the IBA or Cable Authority etc. In the first place, these issues are probably best remitted to the Official Group.

If the Group wishes to drive ahead with the possibility of new services on MMDS and UHF, therefore, the next step would be to commission DTI to put in hand a quick consultancy study on technical aspects, and to remit the question of the regulatory framework to the Official Group. The precise terms of reference of the consultancy study could be settled in correspondence after the meeting. And it would almost certainly be necessary for the Trade Secretary to write to the DBS and cable interests to give them prior notice of what was afoot before they heard of the study from some other source.

NEXT STEPS

9. It is doubtful whether the work suggested above could be brought back to the Group before, say, the end of November, though the Group ought to be able to consider subscription in the meantime. Since so many lines of work have now been started, you might think it useful to ask the Home Secretary to provide a note for the next meeting summarising what further work is needed before a White Paper can be prepared, and when he hopes to publish it.

HANDLING

10. You may wish to begin with some general remarks about your seminar, recognising that the first two papers on the agenda pursue the two main themes that emerged then.

11. You may wish to ask the HOME SECRETARY and the TRADE SECRETARY to speak first. Both of them will be accompanied by officials, and they may wish to leave the intitial introduction of the paper to them.

12. You may then wish to invite the Group to focus on the choice proposed in paragraph 14 of the paper on which, again, the

HOME SECRETARY and the TRADE SECRETARY will have the main contributions. You will also wish to ask the FINANCIAL SECRETARY, TREASURY to comment whether the Government is inhibited in any way by its past comments on DBS and cable, as summarised in Mr Hyde's letter annexed to the paper.

13. If it is then decided to commission a DTI study of MMDS you will want to ask the TRADE SECRETARY to comment on the time within which it could be completed and on how he might deal with any publicity.

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3. ITV SYSTEM AND CHANNEL 4: MISC 128(87)7 and 8

CONCLUSIONS

You will wish the Group to take a clear decision whether

i. to endorse the Official Group's recommendations about the details of auctioning ITV franchises and operating the levy;

ii. to place a limit of two on the number of ITV franchise contracts that could be held by the same individual or company; and

iii. to accept the Home Secretary's proposal that Channel 4 should be established as a separate broadcasting authority, responsible for the sale of its own advertising. (An alternative would be the full privatisation of Channel 4, subject to provisions designed to preserve its distinctive remit. But Channel 4 could stay under the IBA, selling its own advertising, as Peacock envisaged.)

BACKGROUND

2. The Peacock Report recommended that ITV franchise contracts should be auctioned, with an annual review of performance by the IBA; and that Channel 4 should be given the option of selling its own advertising time. The Group considered the Home Secretary's paper on these points at their last meeting on 20 July. There was general agreement about the approach to ITV contracts etc, and the Home Secretary was invited to arrange for officials to work up these points in detail. There was also agreement that power should be taken to require Channel 4 to sell its own advertising, as Peacock recommended, but the Group reserved their position on the Home Secretary's proposal that Channel 4 should be set up as a separate broadcasting authority. Some members of the Group felt that it would be better to go further, and completely privatise

Channel 4. The Home Secretary was therefore asked to arrange for an analysis of the arguments on either side, and to report back to the Group.

MAIN ISSUES

i. Auctioning ITV franchises and operating the levy

3. Paragraphs 2-6 of the paper by the Official Group, MISC 128(87)8, summarise the proposed arrangements that have been worked out in detail between Departments, including the Treasury. Briefly, tenders for contracts would be invited on the basis that applicants would have to pass an initial quality threshold; the levy would be based on advertising revenue per television household in the contractor's area, at a progressive structure of rates; Peacock's suggestions of reserve prices for contracts and a lengthening of the contract period to 10 years are not recommended; but it is proposed that there should be an annual performance review on the lines that Peacock suggested. All these points are much in line with what the Group envisaged at their last meeting, and I do not think that you need spend long on the small print now.

4. You may, however, wish the Group to pause for a moment to confirm that nothing in the volatile developments on broadcasting which emerged during the preparations for your seminar has caused them to reconsider the correctness of going down the auction route. It may be that, until all the briefing work was put in hand for the seminar, it was not fully realised how large, close and uncertain were the possibilities of competition through DBS, other satellite broadcasting and MMDS. The potential contractor in 1991 may find it very hard to predict the broadcasting environment during 8 years running from 1993. It can be argued, however, that this very volatility makes it more, rather than less, important that the choice of contractors should be settled by the discipline of the market, and the Home Secretary firmly recommends in favour of pursuing the auction policy already agreed in principle.

ii. The maximum permissible number of franchises

5. The recent work by the Official Group has thrown up one point that had not previously surfaced. This is that under an auction regime it is hard to justify the exclusion of one company from holding more than one franchise - whether acquired by original bidding or by takeover (which would certainly have to be contemplated under the new regime). The Home Secretary recommends that an arbitrary limit of two should be placed on the number of ITV contractors in which any one individual or company is allowed to have a controlling interest. He also proposes a 10 per cent limit on the shareholdings that such an individual or company might hold in third or additional contractors. It seems inescapable that some limit should be applied, but the Group will no doubt give careful attention to the Home Secretary's proposal that it should be pitched as low as two.

This is asserted, not argued.

iii. Channel 4

6. It will be common ground in the Group that Channel 4 should be required to sell its own advertising (not simply given the option to do this, as Peacock proposed). What needs to be decided is how far down the road of separation and competition Channel 4 should be pushed. In his earlier paper, the Home Secretary proposed that Channel 4 should be reconstituted as a separate broadcasting authority, partly because this was the best guarantee of its maintaining its present remit, and partly because it would weaken the IBA's role, which might otherwise become over-dominant with the emergence of DBS broadcasting.

7. The Home Secretary accepts the Official Group's advice that the route of privatising Channel 4 under its existing board does not, in practice, offer much help, since there would be no defensible way of protecting the privatised channel from a takeover. He suggests that the choice is, therefore, between his original proposal and providing for straightforward privatisation, with the contract being awarded by competitive tender. In the

latter case, however, it would be important to build in provisions to preserve Channel 4's present remit.

8. You may think that the first point to establish with your colleagues is whether they do, in fact, put a great deal of weight on Channel 4 continuing to operate under its present remit. If they do, then it is inevitable that any privatisation would have to be on the basis of tough provisions to ensure the maintainance of the Channel's present style, and prevent it being driven downmarket in pursuit of advertising. The Official Group believed that such provisions would be feasible, but the Home Secretary suggests that what may be just as important is whether they would be believed to be effective. He believes that the policies that MISC 128 is drawing up for ITV are rigorous enough without the additional turbulence that would flow from the full privatisation of Channel 4.

9. You will no doubt remember that both at the previous MISC 128 meeting and at your briefing for the seminar the Trade Secretary expressed some worry about the potential strength of the competitive position that would be occupied by a fully privatised Channel 4, since it would then be the only national contractor carrying advertising.

10. If the Group as a whole is not very enthusiastic about full privatisation, you will wish it to come back to the Home Secretary's proposal that the Channel should be reconstituted as a separate broadcasting authority. This arrangement is not the inevitable consequence of the Channel being required to sell its own advertising. It would be quite possible to leave it as a fully owned subsidiary of the IBA, as it is at present. While the Home Secretary is doubtless right to have his worries about the dominant position that might be occupied by the IBA with the emergence of DBS broadcasting, simply setting up Channel 4 as yet another quango in this field may not necessarily be the best way of addressing that problem.

HANDLING

11. You will wish to ask the HOME SECRETARY to introduce his paper. The FINANCIAL SECRETARY, TREASURY might be asked in particular whether he is content with the proposed auction and levy arrangements. The TRADE SECRETARY will be keenly interested in all the points raised in the paper.

CCBG

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

NBPM at this stage.

20 September 1987

Dear Lord Young,

NETWORKING OF ITV PROGRAMMES

Thank you for your letter of 10 August. I have also seen Nigel Lawson's letter of 9 September and the Prime Minister's views as recorded in her Private Secretary's letter of 21 September.

In my paper MISC 128(87)2 I suggested that the ITV networking arrangements needed to be reformed, and that I should invite the IBA to undertake this task against four objectives intended to make the arrangements more competitive, flexible and fair. You and colleagues have suggested that the IBA cannot be relied upon to meet these objectives, and have suggested alternative approaches.

I believe that in this respect the IBA's commitment to change may have been underestimated. The IBA is already well down the road of introducing changes to the present networking system, which it has told the ITV companies is insufficiently competitive. The IBA has been discussing with the companies plans which will reduce the degree of guaranteed access to the network of the five major companies, introduce the principle of a common tariff for programme exchange between all companies, and give regional companies representation in the machinery for deciding the make up of the network schedule. The IBA expects implementation of these new arrangements, which will take full account of our independent production initiative, to begin next year, and to be fully effective for the 3 year contract extension starting in 1990.

There is a wide recognition within the ITV industry that reforms are needed, and much has in fact already been achieved. In the last 5 years there has been a 52% increase in regional access to the network, and a 173% increase in payments from the major to the regional companies. The new ITV daytime schedules are providing the regional companies with a much fairer share of the new service. All this is happening with the co-operation of the ITV companies.

/We shall

The Rt Hon Lord Young of Graffham

We shall obviously want to look with care at the IBA's plans once they are finalised and announced; but I can see little advantage in setting up now an internal review which would duplicate this work and which would require a detailed knowledge of the programme planning cycle which officials lack.

So far as the period after 1992 is concerned - and it is of course with that period that our legislation will be concerned, additional reforms may well be needed. I fully take Nigel Lawson's point about the interrelationship with competitive tender and the levy. In offering contracts for competitive tender the IBA will have to make it clear what if any networking obligations they carry and what financial arrangements should be. Neither the Government nor the IBA are yet in a position to do this, and I am, in any event, doubtful whether it would be right for us in Government to attempt to design a network system, or whether there is any need for us to do so. Our task is to make sure that the statutory framework - biting as from 1 January 1993 - is such as to ensure that the IBA produces the right result.

Against that background I suggest that the necessary steps are these.

(i) we keep in touch with the IBA's initiative (which as explained is already under way) to reform the networking system under the present contracts, and their extensions to the end of 1992, making it clear that we are concerned to achieve the objectives I set out in MISC 128(87)2;

(ii) as soon as we are able to, we inform the IBA of the reforms we have in mind to competitive tender, to the levy system and to Channel 4. We should invite them to propose what arrangements they think would be sensible, in the light of those reforms, for networking arrangements from 1 January 1993;

(iii) in the light of their response we decide what if any new provisions we need in our Bill to ensure that the arrangements applying meet our objectives. I envisage that the Bill may need to lay down certain crucial strategic issues - perhaps for example to spell out the objectives mentioned above - while necessarily leaving the precise details to the IBA.

I am now asking the IBA for a full and up-to-date account of how their current work is proceeding. As I have already said my understanding is that the changes they have in mind are radical,

/but we must

but we must keep in mind that as the law now stands these matters fall entirely within the IBA's powers, though they in turn depend beyond a certain point on the co-opration of the ITV companies. I will report the outcome in due course and hope that you and other colleagues would agree that the right course is to proceed as I have suggested above.

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

Yours sincerely,

Colin R. Miller

Approved by the Home Secretary
and signed in his absence.

BROADCASTING: Finances pt 4.

PRIME MINISTER 2

25 September 1987

25/9.

BBC

Dukey Hussey phoned yesterday to say that your speech to the BBC in Birmingham had done an enormous amount of good. Executives of the Corporation really appreciated meeting you: the standard comment afterwards was "I never thought Mrs Thatcher was such a nice person".

He phoned again today to say how much he appreciated the letter you had written to him. He assured me that it would be widely circulated within the Corporation, and that in his judgement, it constituted a watershed in attitudes.

Brian Griffiths

BRIAN GRIFFITHS

CONFIDENTIAL

PRIME MINISTER

NETWORKING OF ITV PROGRAMMES

There is a need to review the arrangements for networking of ITV programmes.

The Home Secretary has suggested that the IBA might be invited to devise a different system. Lord Young thinks they are too interested a party and suggests a quick but thorough independent review, perhaps by "3 wise men". The Chancellor in his turn believes that it would be difficult for an independent review to take account of other changes the Government wish to see to the ITV system and suggests that officials should carry out the review.

Brian Griffiths suggests supporting the Chancellor so long as the review is interdepartmental (i.e. not just the Home Office) and that it might be worthwhile to add someone for example from the competition policy side of DTI.

Agree?

David Norgrove

18 September 1987

MJ2BJC

Broadcasting

CONFIDENTIAL

file DSG

cc BG

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

15 September 1987

Dear William

INDEPENDENT OVERSIGHT OF PROGRAMME STANDARDS

The Prime Minister has seen the Home Secretary's minute of 8 September on the above. Her preliminary view is that there is indeed a strong case for establishing a statutory broadcasting council, to be announced soon. She feels that its remit should perhaps be strengthened, and that the choice of membership is crucial. Her view is that it would be important to appoint people who are known publicly to be concerned about the problem, and who are prepared to be tough with the broadcasters.

I know that the Prime Minister would like to discuss this further with the Home Secretary at their next bilateral.

I am copying this letter to Mike Eland (Lord President's Office) and Trevor Woolley (Cabinet Office).

Yours ever

Andy

P. A. Bearpark

PA

William Fittall, Esq.,
Home Office.

CONFIDENTIAL

CONFIDENTIAL

2

May be relevant to your lunch with the BBC. DCR 11/9.

PRIME MINISTER

11 September 1987

DCR 11/9

Broadcasting Policy : Time for a Rethink?

Since taking an interest in broadcasting almost a year ago I have had a nagging feeling that our policy, post-Peacock, is not quite right.

After reading a major review of Cable Policy by the Home Office earlier this week and then discussing the agenda for our coming seminar, I feel even more uneasy.

Our first priority must be to make sure that the whole stance of our policy is right; to achieve this we must clearly separate the wood from the trees.

A digression: De-regulation in Financial Services

When I joined the staff of the LSE in 1965, I embarked on research in the area of regulation and competition within the City.

At that time, one of the most distinctive features of the City of London was the segmentation of the money and capital markets between different financial institutions, eg only the clearing banks had checking accounts, the discount houses handled bill finance, acceptance houses dealt with acceptance credit, only the building societies extended mortgages for home purchase, etc. Each of these segments of the market had a limited degree of competition and in return for the privileges they were granted agreed to operate a system of self-regulation.

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At the heart of the system was the Governor of the Bank, who like a good headmaster had a powerful influence over the boys (and staff), while rarely having to invoke the school rules.

This system, however, broke down.

Starting with Competition and Credit Control in 1971, the process of de-regulation has continued in most areas of the City - the most recent example being the 'Big Bang' deregulation of the Stock Exchange last year.

The reasons the system collapsed were:

First, technological change made the separation between different markets and between different institutions artificial and therefore impossible for the Bank to enforce;

Second, consumer dissatisfaction with individual services (eg the PIB Report on Bank Charges 1967, the Monopolies Commission Report on the Proposed Barclays-Lloyds merger 1968 etc).

Present Broadcasting Policy

The present position of the broadcasting industry has a number of features in common with the City as it was in the mid-1960s.

Broadcasting is a highly regulated industry in which different institutions have been created to satisfy different segments of the market for broadcasting services:

BBC 1 - initially a monopoly for public service broadcasting;

BBC 2 - complement to BBC 1 to cater for minority tastes;

ITV - to complement BBC 1 with entertainment etc and some education;

C4 - even with three channels there was still judged to be a market for minorities;

Cable - the Cabinet Office report advocated cable partly because of telecommunication policy and partly because there was judged to be a public demand for additional broadcasting to that already on offer;

DBS - once again there was judged to be an unsatisfied demand, (the regulators would like one channel for sport, one for movies, one for children).

The fundamental assumptions behind our policy have been

(a) spectrum scarcity

(b) universality of service to all parts of the country

(c) in return for their privileged positions the four territorial channels provide public service broadcasting

The System under Pressure

The present system is being undermined for a number of reasons:

Technology

New technology is producing more new channels: eight new Astra English speaking channels in 1988; DBS (three channels) in 1989; other than the prospect of two more DBS channels plus others we might be able to negotiate from other European countries, which are not using them.

Spectrum scarcity

Until now broadcasting policy has been premised on spectrum scarcity. A recent paper by the DTI to MISC 129 suggested that through MMVS (Multi-point Video Distribution Systems), - sometimes referred to as MMDS -

> "There is probably sufficient spectrum for something close to a national service of 20-30 channels to be provided using existing broadcasting technical standards. It has been suggested that commercially available equipment could be on the market within two years or so (though there must be uncertainty about this timescale)".

If true this is a bombshell.

Even if the timescale is larger - when questioned at the recent MISC 129 DTI officials suggested it might be 4-5 years rather than 2 - nevertheless the major reversal by the Government on spectrum availability will remain an astonishing piece of news to the market.

Market demand

The recent Jonscher Report estimates that there is still a large market demand for television services in this country for which people are prepared to pay. The report suggests that revenue could be as much as £1.5bn per year - more than the total cost of existing television in this country .

The Peacock report recognised that technology was driving the industry forward but plumped itself for a specific solution: subscription through cable.

How should Government respond?

The present Government response is to allow change to take place in an orderly fashion while at the same time protecting the existing system of regulation and market segmentation. Hence present concern is to manage change - for example the change of status for Channel 4, a new system of ITV franchises, status of ITN, 25% for independent producers etc.

We also know that the Cable authority is effectively bust and that we are under pressure not just to protect every part of the old system (BBC 1, 2, ITV) but to offer protection to the new system (Cable and DBS) as well.

The Home Secrtary is seeking to implement changes in a forthcoming Bill. The timetable for change is something as follows:

Late 1987-		
Early 1988	-	White Paper
Spring	-	Consultation with industry
Summer	-	Cabinet agrees new policies
Autumn	-	Publication of Broadcasting Bill

But this is a Bill which will be aimed to take effect in 1993 - the time that the ITV franchises run out.

If, however, MMDS develops - and indeed if it does not - we are likely to be in a situation in which changing technology will make our present proposals redundant. Perhaps it is an exaggeration but it still has enough truth for it to be said that our new Bill could well shut the stable door after the horse has already bolted.

A New Approach

The time has come for us to have a fundamental rethink of broadcasting policy.

In the early 1990's it is highly likely that there will be not five or six but many television chnnels in this country.

Key elements of a new policy for this world might be:

1. The Level Playing Field

   Government should not be in the business of picking technological winners in broadcasting. Neither should we be protecting one new technological development after another.

   We should aim to create a level playing field in which broadcasting executives decide without being dominated by regulatory changes.

2. Commercial Compensation

But what about companies which have invested (eg Cable, DBS) on the expectation that public policy would be protective?

This is a serious issue and needs further investigation.

3. Broadcasting Spectrum Availability

This looks like being far less scarce than we have thought up till now.

Once again, instead of DTI and the Home Office agonising over its allocation, why not decide (i) how much is needed for security reasons etc and (ii) then auction the rest for limited or extended periods., according to consumer and corporate demand.

4. BT-Mercury Duopoloy

This creates a very uneven playing field at present. The case for liberalisation is very strong.

5. Public Service Broadcasting (PSB)

But what becomes of PSB in a world of many channels?

This again needs a radical rethink - possibly along the lines suggested by Peacock.

6. Standards and Decency

How do we deal with standards in a competitive market? We shall certainly have much less control than we do at present via the IBA and BBC. (A very good analogy is the diminished influence of the Bank of England in a really competitive City).

Brian Griffiths

BRIAN GRIFFITHS

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Prime Minister
Agree to put these points to the Home Secretary as preparation for a meeting?
DRN 11/9.

PRIME MINISTER

11 September 1987

Broadcasting

Independent Oversight of Programme Standards

Our election Manifesto stated:

> "The responsibility for enforcing broadcasting standards rests with the broadcasting authorities. The present Broadcasting Complaints Commission has a relatively narrow remit. But there is deep concern over the display of sex and violence on television. We shall therefore bring forward proposals for stronger and more effective arrangements to reflect that concern."

Since then the tragic events of Hungerford have served to underline our concern. The public clearly expect and want us to introduce more effective arrangements.

The present proposal by the Home Secretary raises a number of questions.

1. **Do we need another quango?**

Already the BBC, IBA and the Cable Authority are bodies which have a statutory responsibility to enforce standards. The public however perceives them as judge and jury and their method of enforcement lacks transparency.

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Sometimes they can be very powerful in enforcing standards. I am told that John Witney's reprimand to the ITV companies earlier this week (for LWT's showing of Sins at 7.45pm last Sunday) was extremely tough. But this is not typically something which the public witness; in any case the proof of the pudding is in the eating and not the personality of the cook.

It would be very difficult to introduce transparency into the way in which existing bodies carry out their responsibilities regarding standards. We do not need another broadcasting authority which duplicates the work of BBC, IBA etc, but we do need an independent court of appeal.

The establishment of some new body is therefore inevitable.

2. Will the proposed Broadcasting Council be effective?

It is by no means obvious.

It is important that the new Council has far more clout than, for example the Press Council, which is a toothless watchdog. The proposal that it should be a statutory body (unlike the Press Council) making an Annual Report to Parliament, is important and valuable. But it will not have the power to adjudicate complaints on taste and decency or on the portrayal of violence - even though it will have such powers over complaints in other areas.

This seems anomalous as it means that the Council's two key committees will be operating to different remits.

It may be argued that the Council should not have powers to adjudicate complaints on violence as this will diminish the

sense of responsibility of the broadcasting authorities. (This was always the traditional argument in favour of self-regulation in the City of London.) It could just as well be argued, however that if the broadcasting authorities knew they faced the possibility of censure by an independent council, this would put them more on their toes.

There is a strong case for extending the proposed remit of the new Council to give it real teeth: it should be able to adjudicate as well as receive complaints and to publish these in written statements to the Home Secretary.

If we are to have credibility post-Hungerford, we must be seen to crack down on violence and this means setting up a body with real power.

3. Who should comprise the membership?

Even if the terms of reference of the new Council are changed, it will still be ineffective unless it has a membership committed to doing something about the problem.

Having said that it is not easy to find good people for this very delicate task. Many decent middle-class people hate to be thought of as illiberal; and those who would be likely to take a tough line are all too easily typecast and dismissed.

On the basis of past experience the Home Office tend to put forward certain kind of names: every effort must be made to cast the net wider.

If we can help in this respect we would be delighted.

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Recommendations

1. There is a strong case for establishing a statutory Broadcasting Council, to be announced soon.

2. Its remit needs to be strengthened, as it has at present less powers than the Press Council.

3. The choice of membership is crucial. The Home Secretary should be prepared to appoint people who are known publicly to be concerned about the problem and who are prepared to be tough with the broadcasters.

Brian Griffiths

BRIAN GRIFFITHS

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cc BG

BF. // HB will comment on Thurs. Be there if necessary

Prime Minister

INDEPENDENT OVERSIGHT OF PROGRAMME STANDARDS

The Hungerford killings reinforce the importance of our manifesto proposal to strengthen oversight of the portrayal of sex and violence on television. The attached paper makes specific proposals for carrying out this commitment.

2. The central proposal is to set up a Broadcasting Council which would receive complaints on taste and decency and the portrayal of violence in broadcast programmes. As envisaged in the manifesto, responsibility for enforcing broadcasting standards would remain with the broadcasting authorities. But the Broadcasting Council would be a high-powered body which would exert a strong and independent influence. In particular, it would be able to reach views on individual programmes and publish them. It would also be able to take the initiative in studying the broadcasters' performance in relation to relevant programme standards.

3. The Broadcasting Complaints Council would subsume the existing Broadcasting Complaints Commission (BCC), and incorporate the Commission's role in relation to complaints of unjust treatment and the invasion of privacy.

4. In the wake of Hungerford I do not think it would be right to await the Broadcasting Bill planned for 1988 before setting up the Broadcasting Council. The paper therefore proposes that, by building on the BCC, we should establish the Broadcasting Council on an interim basis in advance of the legislation, and as quickly as possible. I would like to be in a position to announce this at the Party Conference. I shall be discussing provision for the additional expenditure involved with John Major in this PES round.

/5. Because

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5. Because of the pressure of business on MISC 128, and also because of the links with the Hungerford follow up and the implications for criminal as well as broadcasting policy, I would like, if you agree, to propose to put this paper to H Committee at the earliest opportunity.

6. I intend to have an early meeting with Mr Hussey and Lord Thomson about violence on TV. I will take this opportunity to let them know what we have in mind for the new Broadcasting Council, and to stress the importance we attach to the co-operation of the broadcasting authorities.

7. I am copying this minute and the paper to the Lord President and Sir Robert Armstrong.

Douglas Hurd

8 September 1987

CONFIDENTIAL

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

8 September 1987

Dear John,

PES: INDEPENDENT OVERSIGHT OF BROADCASTING PROGRAMME STANDARDS

The purpose of this letter is to enter a bid in the current PES round in respect of our Manifesto commitment to strengthen the oversight of the portrayal of sex and violence in broadcast programmes.

Detailed proposals and costings for carrying out this commitment are set out in the enclosed draft H Committee paper. I would like to be in a position to announce the new arrangements at the Party Conference.

I am sorry to have to enter an additional PES bid at this late stage but I believe that it would be unacceptable, in the wake of the Hungerford killings, to await the implementation of the broadcasting legislation planned for 1988/89 before setting up the proposed Broadcasting Council. On this basis the new Council could not start its new duties until the Autumn of 1989 at the earliest. Public opinion would not understand this.

I am having to seek additional PES provision because while I do not propose to change the present arrangement under which the broadcasting authorities meet the cost of the Broadcasting Complaints Commission, I do not think it would be right to ask them to pay for the broadcasting standards panel of the new Council. There is a clear distinction between the BCC's existing functions (limited to complaints about fairness or invasion of privacy) and the proposed new functions in relation to broadcasting standards, since the latter in effect are concerned with independent oversight of responsibilities - such as dealing with complaints, monitoring standards and undertaking relevant research - vested in the broadcasting authorities themselves. The broadcasting authorities would strongly resist a request to fund oversight of functions which they are themselves required to perform; and if they responded by running down their own work in this area the rationale of the new arrangements would be undermined. Also, the new Council will increasingly be concerned with forms of broadcasting - such as foreign satellite services - from which the existing broadcasting and cable interests could not gather revenue.

/These proposals

The Rt Hon John Major, MP

CONFIDENTIAL

These proposals would incur net additional expenditure (ie taking into account existing PES provision for the Broadcasting Complaints Commission), for which there is no current PES provision, of the order of £0.5 million a year. I am therefore bidding (assuming policy clearance by H Committee) for £0.5 million for each of the three years of the Survey.

I am copying this letter to the Prime Minister, the Lord President and Sir Robert Armstrong

Yours,

Doug Is.

INDEPENDENT OVERSIGHT OF PROGRAMME STANDARDS

DRAFT MEMORANDUM BY THE HOME SECRETARY

In May Cabinet discussed my memorandum on the need for independent oversight of programme standards. Our Manifesto contained a commitment in the following terms: "The responsibility for enforcing broadcasting standards must rest with the broadcasting authorities. The present Broadcasting Complaints Commission has a relatively narrow remit. But there is deep public concern over the display of sex and violence on television. We will therefore bring forward proposals for stronger and more effective arrangements to reflect that concern". This paper makes specific proposals for carrying out this commitment.

2. Dissatisfaction with the present arrangements stems largely from the fact that the broadcasters are seen as judge and jury in their own cause. This is manifested in a number of ways: people feel that the broadcasters ignore their legitimate complaints about programmes; that programme makers are not accountable for the impact which their programmes make on society; and that only lip service is paid to the broadcasters' own guidelines on taste, decency and violence.

3. What is needed, therefore, is a watchdog organisation separate from the broadcasters and the Government, which would have the responsibility of scrutinising the standards of programmes broadcast on all forms of television and radio receivable in the United Kingdom, and commenting publicly upon them. I suggest that this organisation should be called the Broadcasting Council, and should have the following functions:

(i) to reach findings on complaints of unjust treatment and invasion of privacy (ie incorporating the present function of the Broadcasting Complaints Commission);

(ii) to receive and analyse complaints on taste and decency and the portrayal of violence;

(iii) in the light of (ii) above, to reach a view, where necessary, on individual programmes and on the broadcasters' performance in relation to relevant programme standards;

(iv) to initiate studies on relevant programme standards (including capacity to commission research reviews);

(v) to monitor selectively programmes from overseas in relation to relevant standards;

(vi) to present an annual report to Parliament.

4. In line with the Manifesto commitment, the broadcasting authorities themselves would remain responsible for the content of their programmes and for all editorial decisions. The Broadcasting Council would not have responsibility for enforcing standards. But its influence, and its ability to publicise its views on individual programmes, would give it teeth. Where necessary the Council would be able to publicise its views without waiting for its annual report. I also propose to amend the law to empower the Council to direct the broadcasting body concerned to publish the Council's views on, eg, a particular programme. As previously agreed, the Council would not consider issues of political bias.

5. It seemed right to consider whether the remit of the Broadcasting Council should extend to videos, given that these too can bring vivid moving images into the home. Videos are, however, the subject of the separate arrangements (described in Annex A) under the Video Recordings Act 1984, which prohibits the supply of a video recording containing a video work which has not been given

a certificate by the British Board of Film Classification (BBFC). Annex A concludes that these arrangements, which are working better than is generally realised, would be undermined by extending the remit of the Broadcasting Council to videos. Nevertheless, it will be important for the Broadcasting Council and the BBFC to establish a good working relationship.

The composition of the Broadcasting Council

6. For reasons of economy, and to avoid a confusion of roles, I propose that the Council should subsume the functions of the present Broadcasting Complaints Commission (BCC) (which are limited to complaints about fairness or invasion of privacy). In practice I would see the Council having two distinct panels: one concerned with programme standards on taste, decency and violence; the other fulfilling the present function of the BCC.

Membership

7. We have always sought to appoint people of distinction to the membership of the BBC and the Independent Broadcasting Authority (IBA). It will be important to ensure that the membership of the Council's programme standards panel carries as much authority and public confidence as that of the BBC and IBA. In order to be sure that we can recruit people of sufficient calibre this suggests that the membership should be small and that the time commitment should not be too great - perhaps one day a fortnight for ordinary members excluding the Chairman. Seven members, including the Chairman, might be sufficient. I envisage them comprising a relatively youthful and intellectually rigorous group of people - none of them, except perhaps the Chairman, retired - who will be capable of taking a broad view of the issues, and speaking toughly and with authority when necessary. The panel concerned with fairness and privacy could comprise the BCC's present members, probably with little change.

Financial and manpower implications

8. The estimated costs of the Council in current prices are set out in Annex B. The staffing proposals assume that existing BCC staff will continue to service the complaints panel. The Secretary to the new body will be of Grade 5 level. The new body is likely to attract a very large volume of letters from the public and provision is made for a small correspondence section, mainly at AO level, and for word processing equipment. A small policy section, capable of advising the Council on the broad issues with which it will be concerned, will also be neeeded.

9. Excluding non-recurring capital costs, the estimated total cost is £668,000 a year which, net of existing PES provision for the BCC would produce a net increase in expenditure of £418,000 a year.

10. At present the costs of the BCC are met in full by the BBC, the IBA and the Cable Authority. I believe that this arrangement should continue under the Broadcasting Council so far as the present functions of the BCC are concerned. But to make the broadcasting authorities pay in addition for the programme standards panel would certainly be controversial, and could also be self-defeating, since the broadcasting authorities might react by running down their own work in this area. (There is also an international dimension: the Council will increasingly be concerned with foreign satellite services and may well have a watchdog role to play under the proposed European Convention.) I propose, therefore, that the costs of the programme standards panel of the Council should be met from public funds.

11. There is no provision in PES for this additional expenditure. I have submitted a bid in the current round, which is contingent on colleagues' agreement with the proposal in paragraph 12 below that we should set up the Council in advance of the broadcasting legislation planned for 1988.

Timing

12. The legislative arrangements to establish the Council in the form envisaged will be included in the Broadcasting Bill planned for 1988. But in advance of that I propose to set up the Council on an interim basis in what will be as near as possible to its statutory form. Particularly in the light of the Hungerford tragedy, public opinion would not understand if we were to wait for the legislation. There will be claims that the new body is not independent, but these can be countered.

13. I propose to make an early and full announcement about how we intend to proceed. We will work towards having the programme standards panel in place next Spring.

14. I invite colleagues to agree:

(a) that a body to be known as the Broadcasting Council should be established to oversee programme standards as discussed in this memorandum;

(b) that it should subsume the duties of the BCC, but should operate with two separate panels;

(c) that the body should be given statutory backing by the 1988 Broadcasting Bill, but should be set up in advance of that; and

(d) that an early announcement should be made.

D.H.

<wk>ind/over/prog/standards/KEEP

ANNEX A

VIDEO RECORDINGS

1. The Video Recordings Act 1984 - based on a Private Member's Bill prepared and strongly supported by the Government - came into operation on 10 September 1985. The Act prohibits the supply of a video recording containing a video work which has not been given a certificate by the British Board of Film Classification. The Act is being applied in stages to successive classes of video work, so as to give time for their submission to and clearance by the Board. Since 1 September 1986 a certificate has been required for all English-language video works except those which are identical to cinema films registered with the DTI between certain dates. It is envisaged that all video works will be subject to the Act from September 1988.

2. The 1984 Act was founded upon the availability of the BBFC to operate it. The Board commanded respect because it has since 1912, on a non-statutory basis, censored cinema films to general satisfaction, including the satisfaction of local authorities who are statutorily responsible for preventing the showing of unsuitable films but who in practice adopt the Board's classifications. The Board carries out its video functions under the supervision of a President and two Vice-Presidents designated by the Home Secretary of the day, but it remains an independent body which could withdraw its services at any time. There is a Video Consultative Council composed of representatives of local authorities and of the video trade and of persons of individual distinction, which regularly meets officers of the Board to discuss general issues.

3. These arrangements are working well. "Video nasties" have disappeared from the shops. The video trade has come round to the view that the Act is in its interest because classification helps

its image and promotes the family market. The Board says that it has refused certificates to 13 video works, all because of violence, and cuts 29% of those passed for adult viewing, more than any of its counterparts in the EC. The trade do not object. Artistic critics tend to complain that the Board are too severe. Very few complaints have been made that they are too lax.

4. There are arrangements for appeals against the refusal of a certificate or against a decision to place a work in a particular category. There is no provision for appeals against the grant of a certificate, since it is not practicable - nor would it have much effect - for a certificate to be revoked after issue. Three appeals have so far been made, two of which have been allowed.

5. A watchdog organisation with the functions I envisage for broadcasting could not operate very satisfactorily in conjunction with the BBFC. The Board itself already exercises the closest form of supervision possible - that of censoring video works individually and in the closest detail - over cinema managers and video shops. The Video Recordings Act is a success for the Government, received very broad support and has not been fundamentally questioned. It would not be sensible to imply that these arrangements are defective. Nor would it be sensible to establish a new body with the function of declaring whether individual works were acceptable, when the supply of these works would ex hypothesi have been authorised by another body exercising statutory functions. Although the Board have not been consulted, I would expect their response to be that, if the new body's view is to be preferred to theirs, the new body should itself exercise the censorship role. The Board take their duties very seriously, often consulting with psychiatrists and others - including potential viewers - on the effect of individual scenes. They could say that they have as much advice to give to a new body as the new body has to give to them, and they would probably be right.

6. It would not of course be desirable for a sea-change to be made in broadcasting standards, particularly regarding violence, which found no echo at all in cinema and video films. Equally, however, it is not necessary that all video works - for example, those which Parliament envisaged would be available only to adults in sex shops - should conform to the standards appropriate to public broadcasting. In practice, I would expect - and encourage - the BBFC and its designated officers to attend to points made by the broadcasting watchdog body. This I believe is preferable to giving the new body a statutory role in relation to video works.

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ANNEX B

FINANCIAL AND MANPOWER IMPLICATIONS

Estimated cost of Broadcasting Council incorporating Broadcasting Complaints Commission

Operating Costs

		£k (current prices)
1.	Chairman's and Deputy Chairman's salary	67
2.	Members salaries (6 working ½ day a week and 4 working 1 day a week)	30
3.	Pension to former Chairman	5
4.	Staff costs: salaries and superannuation for 1 Grade 5, 1 Grade 7, 1 SEO, 4 EOs, 4 AOs, 2 AAs, 3 PSs, 3 Typists	266
5.	Travel and subsistence	50
6.	Rent, rates and services	120
7.	Office services	36
8.	Other costs:	
	legal fees for complaints work	24
	research)	60
	) on programme standards work	
	publicity)	10
9.	Non-recurring start up costs (including word processors and receiving dish).	20
		688

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PM87

PART 4 ends:-

SS/DT. To SS/HOME 10.V.47

PART 5 begins:-

SS/HOME TO PM 8.9.47

Grey Scale #13
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