

PREM 19/2592

24/18

PART 3

MT

CONFIDENTIAL FILING

LEGISLATION ON BROADCASTING
THE INTRODUCTION OF A FOURTH TV CHANNEL
WELSH LANGUAGE BROADCASTING
BREAKFAST TELEVISION

BROADCASTING
PART 1 - July 79
2 - Oct 82
3 - MAY 88

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
5.5.88							
14.5.88							
2.6.88							
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21.12.89							

PREM 19/2592

UNCLASSIFIED



MSB

REC

Treasury Chambers, Parliament Street, SW1P 3AG *2/12*

The Rt Hon Peter Walker MBE MP
Secretary of State for Wales
Welsh Office
Gwydyr House
Whitehall
London
SW1A 2ER

21 December 1989

Dear Secretary of State,

FUNDING ARRANGEMENTS FOR S4C

Thank you for your letter of 3 November.

2 The main advantage of my proposal, that Welsh Office accept responsibility for funding S4C, was that you would have been able to judge when to re-open the formula we have agreed and transfer resources between S4C and other activities funded by the Welsh Office. However, I understand your concern that allowing this possibility could re-open the impassioned debate on broadcasting in Wales and am therefore prepared to agree that the payments should be made from a Home Office Vote, as proposed in Douglas Hurd's letter of 26 September.

3 S4C is, of course, an existing broadcasting Authority which is presently funded by a Home Office body, the IBA, as part of the Fourth Channel subscription levied on all ITV companies. The new funding to promote additional production of Gaelic TV programmes proposed by Malcolm Rifkind and announced on Monday has no similar history and no separate Gaelic Broadcasting Authority is to be established. Consequently I agree with your view that Home Office accountability for funding of S4C is compatible with the Scottish Office funding of Gaelic TV programmes separately agreed.

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

Yours sincerely

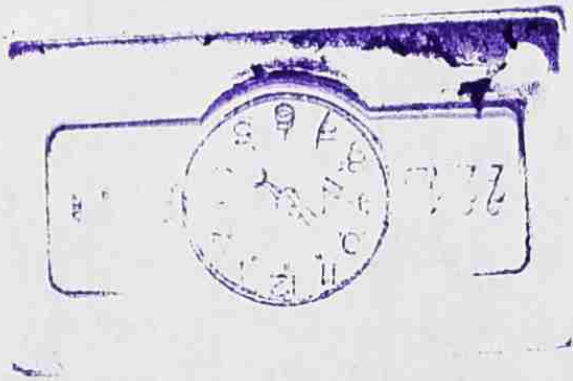
Aileen Campbell

PP NORMAN LAMONT

Approved by the Chief Secretary and signed in his absence.

BROADCASTING Legislation

Pt 3



CONFIDENTIAL



file this

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

13 December 1989

Dear Colin,

BROADCASTING BILL: CHANNEL 4

The Prime Minister and the Home Secretary had a brief discussion this afternoon about the issues set out in your letter to me of 5 December.

I should be grateful if you and copy recipients would ensure that this letter is given a restricted circulation only.

The Home Secretary said that he had no enthusiasm for the revised proposal that the Channel 4 Corporation should be enlarged to between 13 and 15, so that it included the executives. However, it was necessary to reach a judgement on whether it was worth a further fight in order to resist this approach, and on balance he felt it was not. As long as the non-executive members of the Corporation were in a clear majority he thought the revised approach would not be damaging.

The Prime Minister said that, with the benefit of hindsight, it might have been better to have privatised Channel 4. However, that option had not been pursued, and in view of the Home Secretary's comments, she was prepared to accept his judgement that the revised proposal set out in your letter should be accepted. But she thought it would be appropriate to make clear to the Channel 4 management that the Government would be keeping a close eye on how economic were its operations.

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

*Yan.
PGL*

PAUL GRAY

Colin Walters, Esq.,
Home Office.

SW

CONFIDENTIAL

CONFIDENTIAL

PRIME MINISTER

BILATERAL WITH HOME SECRETARY - CHANNEL 4

You saw last week the latest papers on Channel 4. The Home Office had reported that Richard Attenborough and Michael Grade were now demanding a big increase in the number of Trustees so that all the key executives could join the main board.

Your reaction was that this was a ridiculous suggestion and that it would be much better to stick with the existing two-tier structure; you were also minded to let Attenborough and others resign if that is what they wanted to do. But you decided to handle this by talking it through with the Home Secretary.

We have now fixed up a 15 minute slot with the Home Secretary at 1445 tomorrow, before the start of the E(A) meeting.

The papers below are:

Flag A - the latest Home Office letter

Flag B - my covering note to that letter which you saw last week.

Paul Gray

PAUL GRAY

12 December 1989

MS

c:\WPDOCS\ECONOMIC\CHANNEL3

CONFIDENTIAL

B
ccB
✓

PRIME MINISTER

It is proving extraordinarily difficult to finalise the arrangements for Channel 4.

Following a discussion with Brian last Friday you agreed with the Home Secretary's revised proposal that the members of the Channel 4 Trust should be appointed by the ITC, subject to the approval of Government, but with the ITC having power to dismiss Trustees without Government approval.

The further letter from the Home Office (attached) now reopens one of the earlier aspects of the Channel 4 arrangements.

Following exchanges with the former Home Secretary you had agreed that there should be a two tier structure under which:

Much
the
best
structure

- the Trustees would lay down guidelines and carry ultimate responsibility for the affairs of Channel 4.
- a Management Board, comprising the executives, would run Channel 4 on a day-to-day basis on the basis of these guidelines.

The Home Office now say that Richard Attenborough and Michael Grade will not accept this approach. They are demanding a big increase in the number of Trustees from the proposal you agreed on Friday of between 7-9 to between 13-15. This would enable all the key executives to join the main board. The threat is that, if the Government does not accept this change, Attenborough and maybe others will resign.

Then so be it. Parliament decides
- not Channel 4

Against that background, and bearing in mind the very tight timetable and general difficulties of the Bill, the Home Secretary concludes that a change to a Board of 13-15 should be accepted. *This is ridiculous*

I have discussed this with Brian Griffiths. We are agreed that, on merits, the existing approach is far superior. And it is

distasteful to be faced with the kind of threat Attenborough is putting forward. You will however want to consider the political arguments that the Home Office letter puts forward. Although there is no hard intelligence, Brian's impression is that Lord Whitelaw may not be so sympathetic to this latest demand from the Channel 4 lobby as he was to the proposal for the ITC to have the power to appoint the Trustees.

Conclusion

i) Do you want to stick to the earlier agreement for a two tier structure with a relatively small main Board of Trustees and accept the risk that Attenborough and others may resign?

or

ii) Content to make the further change recommended by the Home Secretary?

I should prefer to discuss with the Home Sec

MF

PCG.

Paul Gray

6 December 1989

c:channel (MJ)

cc [unclear]



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

5 December 1989

Dear Paul

BROADCASTING BILL : CHANNEL 4

Thank you for your letter of 1 December conveying the Prime Minister's agreement to the Home Secretary's proposals concerning the appointment of the Channel Four Trustees. Unfortunately a further problem has just arisen with the Chairman of Channel 4 over another aspect of the arrangements to be included in the Bill regarding the constitution of the channel.

As you may recall, following an exchange of correspondence during the summer, the previous Home Secretary agreed with the Prime Minister that once Channel 4 was reconstituted as a public trust, the Channel 4 Company, which at present operates as a wholly-owned subsidiary of the IBA, should cease to have a separate legal existence. The trust (which is now to be known as the Channel Four Television Corporation following concern by Parliamentary Counsel that there should be no ambiguity as to its true legal status) would be required to establish a management board to run Channel 4 on a day-to-day basis; but the Board would operate on the basis of guidelines set down by the Corporation, which would retain ultimate responsibility for the affairs of the channel.

When Mr Mellor explained these proposed arrangements to Sir Richard Attenborough and Mr Grade at the end of last week, they provoked a strong hostile reaction. Sir Richard claimed that it would be impossible to run a £200 million commercial business on such a basis. Unless senior executives were able to be full members in their own right of a Board charged with deciding the policy of the channel, they would not choose to remain. The present Channel 4 company worked well because its Board brought together in successful partnership executive and non-executive members who determined the direction and editorial policy of the channel. A management board of the sort Ministers currently envisaged would not be a satisfactory substitute since it would operate in the knowledge that the real decisions were being taken by the Corporation on which there would only be a token ex officio membership on the part of the Chief Executive and his Deputy. Full involvement by the Channel Four executives in the decision making process would be all the more important in future when the channel became fully responsible for its total business operations including selling its airtime. Sir Richard made it clear to Mr Mellor that he and probably other members of the Channel Four Board would resign if the Government persisted with these proposals.

The Home Secretary recognises that, objectively, the question of the relationship between the Channel 4 Corporation and the operation of the Channel must appear a rather arcane and technical matter. It seems clear that the reaction of the Chairman is somewhat out of proportion to the real significance of the issue. Nevertheless it is something about which the Channel 4 Board obviously care passionately, and if the Government sticks to the present proposal in the Bill as published the public perception will inevitably focus not so much on the substance of the issue as on the response it will have provoked. A high profile campaign against the proposal orchestrated by Channel 4, whether or not accompanied by resignations, would create very real difficulty for Ministers in terms of handling the Bill right from the outset.

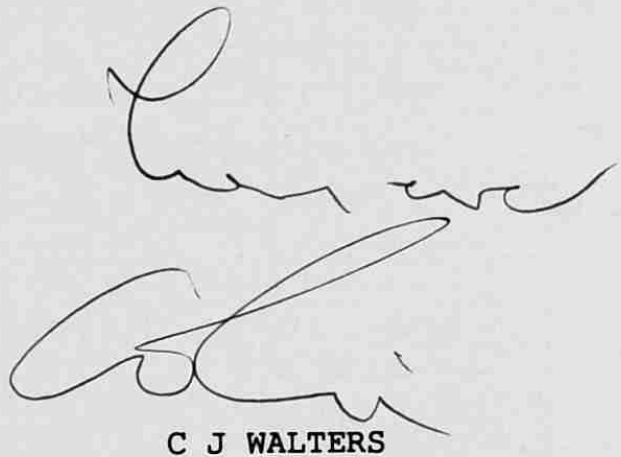
If this issue had emerged at an earlier stage the Home Secretary thinks that there might have been some room for manoeuvre. As it is, with the publication of the Bill planned to take place later this week, there is no time to try to seek a compromise. The Home Secretary's clear view is that it is not worth running the risk of a major confrontation with Channel 4 - who would undoubtedly be able to muster support among a number of senior Government supporters - on an issue which is not central to the main policy of the Bill.

The Home Secretary therefore considers that the best course would be to meet the Channel 4 concern by enlarging the size of the Channel 4 Corporation to between 13 and 15, in line with that of the existing Board of the Channel 4 Company, which has 15 members. A majority of the membership (including the Chairman and Deputy Chairman) would, as already agreed, be appointed by the ITC with the approval of the Government. The Chief Executive of Channel 4 would be a member of the Corporation ex officio, and he and the Chairman together could nominate other executives as members of the Corporation, provided that the executives would, in total, always constitute a minority of the membership of the Corporation. An arrangement on these lines would enable the Corporation to operate essentially as the Board of the Channel 4 Company operates at present, except that in future the Government itself would approve the ITC's appointments to the Corporation.

It is clear that it will not be possible for a decision on this issue to be reached in time for it to be reflected in the Bill when it is published on Thursday. We have therefore asked Parliamentary Counsel to draft a holding provision, which avoids specifying a particular size for the Channel 4 Corporation and is therefore consistent both with Ministers' previously agreed position and with the Home Secretary's current proposal. The provision can, if necessary, be revised in Committee. It would nonetheless be helpful if a decision could be reached as quickly as possible on the policy, since the Government will inevitably be pressed to indicate its exact intentions once the Bill appears.

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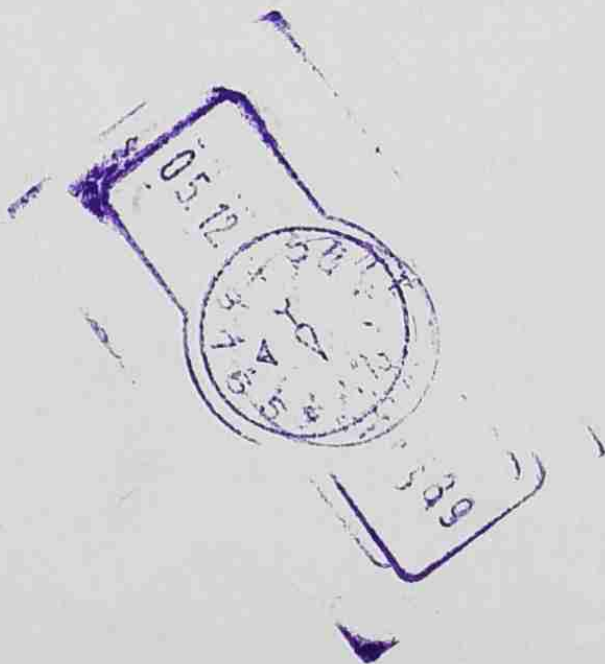
I am copying this letter to the Private Secretaries to members of MISC 128 and to Trevor Woolley (Cabinet Office).



C J WALTERS

Paul Gray, Esq.
Private Secretary
No 10 Downing Street
LONDON, S.W.1.

BROADCASTING : Channel 4. PT3





me SLH
cdw

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

1 December 1989

Dear Sir,

CHANNEL 4

Thank you for your letter of 28 November. The Prime Minister was grateful for the Home Secretary's further consideration of this issue. She is content with his proposals that the Channel 4 Trust should consist of between 7 and 9 trustees; that two of the trustees should serve ex officio as the Chief Executive and his deputy; and that the ITC should appoint the remainder subject to the approval of Government, but with the power to dismiss trustees without Government approval.

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

Yours
Paul

PAUL GRAY

Colin Walters, Esq.,
Home Office

hw



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

28 November 1989

Dec Paul

CHANNEL 4

ms

Catherine Bannister wrote to you on ~~28~~ September setting out Mr Hurd's revised proposals for Channel 4. Since then the present Home Secretary has discussed the matter further with the Prime Minister, and Mr Mellor has subsequently been in touch with Professor Griffiths.

Hay

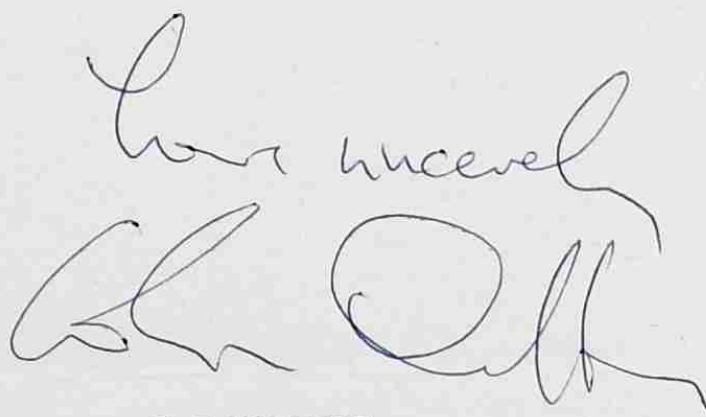
The Home Secretary remains concerned that the appointment of trustees by the Government is likely to be represented as a threat to Channel 4's independence. He is particularly concerned to learn that Sir Richard Attenborough has threatened to resign as Chairman of Channel 4 if the Government insists on controlling appointments. Such a move, he considers, would inevitably add to criticism of Government proposals and create a very unfavourable climate of opinion in relation to the Bill as a whole. Particular difficulties could be expected in the House of Lords. Lord Whitelaw has told David Mellor that if the Bill provides for Government appointments of the Channel 4 trustees there will be strenuous moves in the Lords to substitute ITC powers of appointment and he would feel obliged to speak out publicly in support of such action. The Home Secretary also agrees with his predecessor that in order for the ITC effectively to have some control over the Channel 4 remit it is necessary for them to have the ultimate sanction of dismissing the trustees.

Nevertheless, the Home Secretary notes the Prime Minister's concern and recognises the dangers inherent in a scheme which gives the Government no say in the appointment of the majority of trustees to Channel 4. He therefore proposes the following alternative scheme. The Channel 4 Trust would consist of between seven and nine trustees, the exact number to be determined by the Secretary of State. Two of these trustees would serve in an ex-officio capacity as Chief Executive of Channel 4 and his Deputy. The ITC would appoint all of the remainder, but subject to the approval of the Government. They would have the power to dismiss trustees without Government approval. The Home Secretary considers that this arrangement has a number of attractions. First, it ensures that no trustee could be appointed of whom the Government did not approve. Second, it clearly places the initiative for appointment at arm's length from the Government. Third, it retains the necessary sanction for the ITC to dismiss trustees.

An alternative possibility, but one which the Home Secretary regards as less attractive, would be to provide, as proposed in our letter of 28 September, for a majority of the trustees to be appointed by the ITC, but to

modify the proportions of the appointments to be made by the ITC and the Government. On this approach there would be nine trustees, four appointed by the ITC, three by the Government and the remaining two being, as before, the Chief Executive and his Deputy. This arrangement would increase the number of Government appointees by one with a corresponding decrease in the number of ITC appointees. It would, therefore, to that extent strengthen the Government's influence over the composition of the Trust. But since the Government, on this model, could clearly not presume to influence the ITC's choice of trustees, the Home Secretary considers that this is a less satisfactory solution, in these terms, than one in which the Government could express a view on all the members of the Trust. It is also likely that this approach would attract more criticism in Parliament and outside because of the extent of Government involvement in the appointment process. For reasons both of policy and Bill management, therefore, the Home Secretary would prefer not to go for this option.

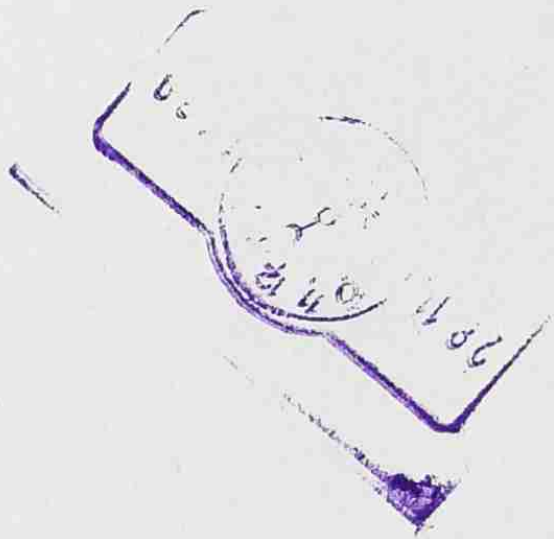
I am copying this letter to the Private Secretaries to members of MISC 128 and to Trevor Woolley (Cabinet Office).

Yours sincerely


C J WALTERS

Paul Gray, Esq.
No 10 Downing Street
LONDON, S.W.1.

BROADCASTING - Channel 4, PT3.



CONFIDENTIAL



Meeting
Record

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SUBJECT CC MASTER

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

17 November 1989

Dear Colin,

CHANNEL 4 TRUSTEES

During their bilateral yesterday, the Prime Minister and the Home Secretary discussed the way in which C4 trustees should be appointed. The Home Secretary said he had looked at various ideas for some to be appointed by the Government and some by the ITC, but he was not attracted to them. He felt it would be difficult for the ITC to take action in respect of a trustee whose performance was inadequate if that trustee had been appointed by the Government. He thought the best solution was for the ITC to nominate the trustees with the consent of the Government.

The Prime Minister repeated her concerns about allowing all the trustees to be appointed by people from elsewhere within the television industry. She also felt it was wrong for the ITC to be responsible both for appointing trustees and for regulating their performance.

It was agreed that the Home Secretary would discuss the issue further with Professor Griffiths before putting proposals to the Prime Minister.

Yours sincerely
Andrew Turnbull

Andrew Turnbull

Colin Walters Esq
Home Office.

CONFIDENTIAL



QUEEN ANNE'S GATE LONDON SW1H 9AT

cell

16 November 1989

NBRM

REC 6

16/11

*request
will be required*

Nich

at flap

Thank you for your reply of 3 November to Douglas Hurd's letter of 12 October about the use of spare capacity on broadcasting signals. I am pleased that you broadly agree with his proposals.

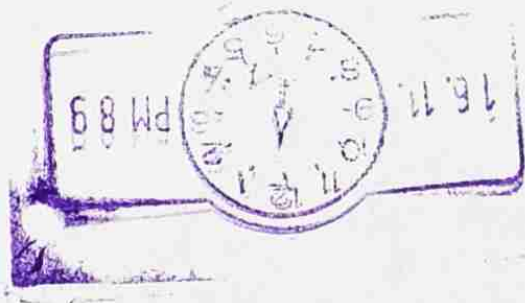
I entirely accept you point that spare capacity on sub-carriers should not be used if it would cause unacceptable interference to other users of the spectrum, whether broadcasters or others. I agree that it would be sensible for our officials to pursue further the extent to which sub-carriers can be used. To the extent, if any, that they were usable, they could be allocated by the ITC (or the Radio Authority in the case of radio sub-carriers) in the same way as spare vertical blanking intervals. To ensure that your Department's concerns were fully protected, I propose that the ITC (and the Radio Authority) should be placed under a statutory duty to consult DTI (as the licensing authority for the purposes of the Wireless Telegraphy Act 1949) before advertising the franchises for the use of spare capacity. This would enable your Department to satisfy itself in advance that what was proposed would not cause interference.

As regards the last point in your letter, I can confirm that the proposed licensing regime applies only to spare capacity which is an integral and inseparable part of broadcasting signals.

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

The Rt Hon Nicholas Ridley, MP
Secretary of State
Department of Trade and Industry

BROADCASTING: Legislative
R3



PRIME MINISTER

BROADCASTING BILL: INDEPENDENT PRODUCTION

You have been concerned to ensure that the rules for 25 per cent of independent production are properly enforced: this follows your talks with, amongst others, Eddy Shah.

The Home Secretary's minute at Flag A (attached) sets out his detailed proposals for the implementation of the independent production rules in the Broadcasting Bill. He recommends tightening up the 25 per cent requirement on the BBC by applying this to transmissions rather than commissions. But he argues against changing coverage of the categories of programming affected to include news and current affairs (one of Eddy Shah's suggestions).

Brian Griffiths has commented in his note at Flag B. He warmly welcomes the Home Secretary's memorandum, and recommends that you should accept the proposed statutory provisions. But he argues that you should suggest that:

- the annual monitoring report by the OFT should be published;
- the Home Secretary should make clear that the continued exclusion of news and current affairs from the categories covered should not be used as a loophole for companies to avoid the 25 per cent target.

Content to comment in the terms recommended by Brian?

REG

PAUL GRAY

13 NOVEMBER 1989

C: BROADCAST.MRM



ccp
NAPM at his steps.

RCCG

Treasury Chambers, Parliament Street, SW1P 3AG

13/11

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

9 November 1989

Dear David

BROADCASTING BILL: TAX IMPLICATIONS OF CHANNEL 4 TRUST

at hand
Douglas Hurd wrote to Nigel Lawson on 16 October about the tax position of Channel 4. He was concerned with two tax issues: the tax consequences of the proposed transfer of the Channel 4 company into a new statutory trust and the tax position of Channel 4 post-transfer.

Our officials are discussing the issues Douglas raised to sort out details of the legal status of the new bodies and the consequences for their tax treatment. But there is one point I should mention now. Prima facie, it would seem that Channel 4 will be taxable on the excess of its revenues (including any income in the form of the proposed levy in the event that the 14% budget baseline is not reached) over expenditure.

Douglas suggested that some special tax exemption might be justified because of the existence of the budget baseline and the potential for cross-subsidy between Channel 3 companies and Channel 4. That would require legislation. The budget baseline is not really relevant for tax purposes, and the subsidies and constraints on the use of profits are neither unprecedented nor in themselves a case for exemption. Many businesses would, and indeed do, argue that they need to create a general reserve against future deficits. I do not think there is a good case for a tax exemption, and I am sure you will understand that I would not want to set a precedent here.

Douglas suggested as an alternative a possible concession on the tax treatment of the cost of programmes made by Channel 4 pre-transfer but not yet transmitted at the time of transfer. It is possible that relief would be available to the Channel 4 company post-transfer, under current legislation: that is one of the issues officials will have to discuss. I also hope they will

37/2 fst.jf.03.9.11.89

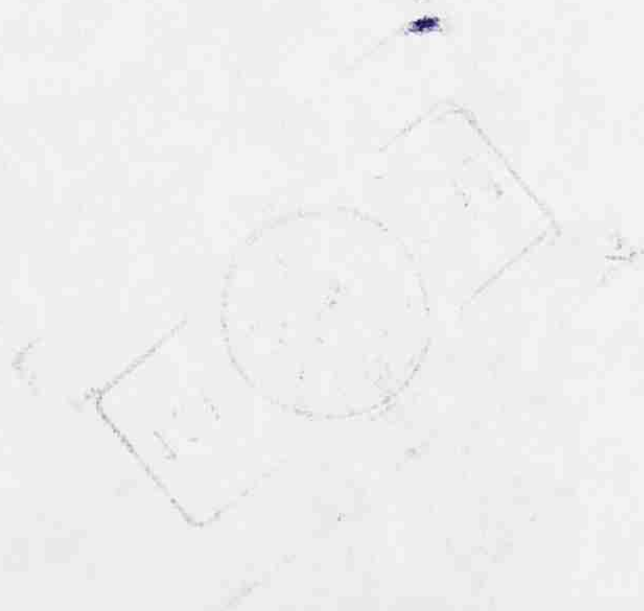
be able to find a way to avoid any immediate capital gains charge arising on the transfer of Channel 4, without introducing any special tax concessions.

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

Yours ever

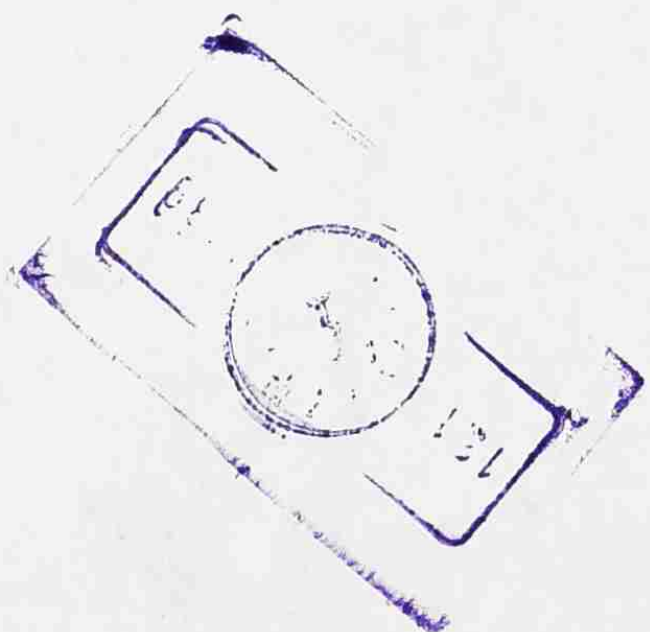
Peter

PETER LILLEY



BROADCASTING: Leg

P. 3



CF-PC

Prime Minister

Rec 3/11

3 November 1989

PRIME MINISTER

mb

BROADCASTING STANDARDS COUNCIL (BSC):
ANNUAL REPORT & CODE OF PRACTICE

The Broadcasting Standards Council has just issued its first annual report and published, after a great deal of consultation, its Code of Practice dealing with the portrayal of violence, sex and bad language on television and radio. Both the Report and the Code of Practice are worth glancing at.

The most interesting aspect of the Report is the findings of a major survey commissioned by the Council.

Parental & Adult Concern

- * Over one half the children in Britain aged 5 or over have a television set in their bedroom.
- * Almost 7 out of 10 parents with children of school age claimed to have turned off the television, or turned to another channel as a result of an unsuitable programme - the older the child, the more likely the parent turned over.
- * These were not isolated incidents: over 4 in 10 parents claim that they turn off or over at least once a month. In addition, 25% of adults claimed that they had been disgusted by something they had watched in the previous month. (By contrast the figure was only 3% for radio).
- * The major reasons for disgust were bad taste, sex, violence and swearing, in that order. (Chart 1, page 28).

The Watershed

(ie the time for programmes unsuitable for family viewing)

At present the watershed is 9.00pm.

- * Of parents with children aged 11-14, 46% felt the watershed should be 9.30pm or later, and 27% felt it should be 10pm or later. Of parents with children 15-16, 78% felt it should be 9.30pm or later, and 58% felt it should be 10.00pm or later.
- * The research concludes that this is an attempt by parents to control the behaviour and shape the attitudes of teenage children.

Warning Viewers

- * 91% approved of a policy of specifically warning viewers in advance about feature films which contain upsetting or offensive scenes.
- * 52% wanted to see spoken warnings before all programmes which contained upsetting or offensive scenes.

Standards: Swearing & Nudity

- * Hard swearing was frowned on in most cases, though it was more acceptable after 9.00pm and in drama.
- * Nudity was acceptable providing the context was suitable (eg topless women in travel programmes), but unacceptable if the intention was suspect and the context degrading.

Violence

- * Viewers were "profoundly concerned" about sexual violence and rape. 75% were unwilling to allow the context or story

to create conditions which would justify violence; only 19% were in favour of this.

Privacy

- * | Strong respect for privacy of families in disasters, funerals and memorial services.

Conclusion

The BSC has made a good start and Lord Rees-Mogg in particular is to be congratulated for making considerable progress in hostile territory.

Brian Griffiths

BRIAN GRIFFITHS

celh



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GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switsfwrdd)
01-270 0538 (Llinell Union)

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switchboard)
01-270 0538 (Direct Line)

Oddi wrth Ysgrifennydd Gwladol Cymru The Rt Hon Peter Walker MBE MP From The Secretary of State for Wales

CT/3648/89

NR Am at this stage.

3 November 1989

REC 6

New Chief Secretary, 6/11

FUNDING ARRANGEMENTS FOR S4C

Thank you for copying to me your letter of 25 October to Douglas Hurd about the Independent Television Commission and the funding arrangements for S4C.

Asap

I was frankly amazed at the proposal that S4C should be funded from within the Welsh Office. You are aware of my concerns that the proposals for funding S4C bring that issue too far into the political domain. The suggestion that it should be funded from the Welsh Office will only further exacerbate that process. Despite my obvious interest in this subject broadcasting policy is the responsibility of the Home Secretary and placing the S4C vote anywhere other than in the Home Office would only serve to draw distinctions between it and other broadcasting organisations. We should not lose sight of the fact that outside peak viewing hours S4C broadcasts Channel 4 programmes in Wales and is an integral part therefore of the national network. It will also be a national organisation, the ITC for which I have no responsibility, that will determine S4C's level of income in the first instance. On a practical level, my Department is simply not equipped at present to assume this sort of new responsibility and neither do I have the necessary powers.

I very much hope that you agree with me that these are sufficient reasons for me to resist even the suggestion that officials should meet to discuss this. We have successfully defused broadcasting as a political issue in Wales over the past eight years and I have no desire to see it become one again.

The Rt Hon Norman Lamont MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON
SW1



I have now also seen Malcolm Rifkind's minute to the Prime Minister of 26 October. I do not think that we should lose sight of the fact that the position of Welsh in Wales is very different to that of Gaelic in Scotland. I have a considerable amount of sympathy for Malcolm's proposals but I believe that circumstances in relation to broadcasting are sufficiently different as to justify, if necessary, quite different solutions in each case.

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

*Yours sincerely,
Malcolm Rifkind*

Approved by the Secretary
of State and signed on
his behalf

BROADCASTING: Channel 4 AT3 ..

NOTE FOR THE RECORD

cc. Professor Griffiths

CHANNEL 4

I discussed with the Home Secretary's office the handling of further exchanges on Channel 4 in the light of the meeting on 26 October between Douglas Hurd and Brian Griffiths (see Brian Griffiths' minute of 27 October).

We agreed that, although Ministerial personnel at the Home Office had changed, Home Office officials would continue working on a revised package of the sort discussed on 26 October, and would advise their new Ministers to send in a further minute to this effect. It was agreed that meantime there was no need for me to send any minute responding to the earlier papers.

PG

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30 October 1989

CONFIDENTIAL



cefu



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

26 October 1989



Mrs Sara,

at final

BROADCASTING BILL: CHANNEL 4

The Lord President has seen your letter of 28 September to Paul Gray and earlier correspondence about the future constitution of Channel 4. He has asked me to let you know that he fully understands the Prime Minister's concern that the Channel 4 Trustees should be in a position to exercise real direction and control over the overall operation of reconstituted Channel 4 company. He considers that the Home Secretary's latest proposals, which provide for the establishment of the Channel as a single legal entity, appear to meet this objective and endorses the Home Secretary's concern that the new arrangements for Channel 4 should not put Government in a position in which it could be embroiled in politically damaging argument about its relationship with the new channel. He considers it most important to the safe passage of next Session's complex and controversial Broadcasting Bill that whatever new arrangements are finally agreed, they should be seen to reinforce and safeguard the future of Channel 4 as an entity independent of Government.

I am copying this letter to Paul Gray, to the private secretaries to members of MISC 128 and to Sir Robin Butler.

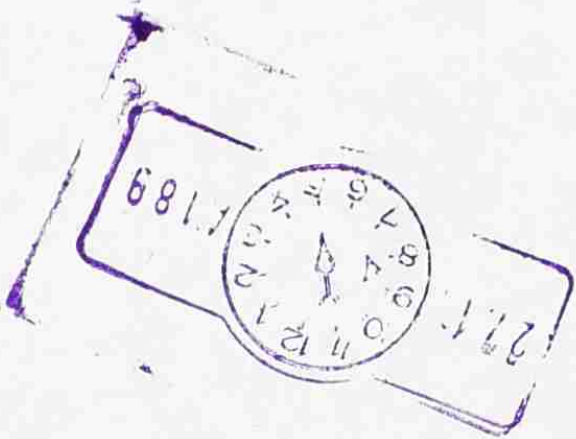
*Yours
S D Catling*

S D CATLING
Principal Private Secretary

Sara Dent
Private Secretary to the
Home Secretary

CONFIDENTIAL

BROADCASTING: Legnata
Pt 3



PRIME MINISTER

27 October 1989

CHANNEL 4

Yesterday I had a meeting with Douglas Hurd and Tim Renton regarding the structure of Channel 4. Both argued that if the Government were to appoint a majority of the trustees of Channel 4, they could well face (a) the resignation of the Chairman (Attenborough) (b) a hostile reception from the broadcasting establishment, just at a time when they were coming to terms with most of the Bill and (c) a possible defeat in the Lords. The lobbying is clearly intense. They did not dispute, however, or counter the arguments which you put forward, and indeed were generous in recognising their merit.

Douglas Hurd said that he would do his best to come forward with a revised proposal in which, eg the Government appointed three trustees, others put forward another three and the ITC appointed one which could be presented as having a casting vote.

The choice is either to accept such a compromise or to have all appointments approved by Government, which will almost certainly create a noisy public row.

My instinct would be to wait for the Home Secretary's proposal, but be prepared to accept if it moves some way towards your own position.

BG

BRIAN GRIFFITHS

UNCLASSIFIED

CCFO



Treasury Chambers, Parliament Street SW1P 3AG

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

MBBM

Rlec

25 October 1989

25/10

Dear Douglas

INDEPENDENT TELEVISION COMMISSION AND S4C *slap*

Thank you for your letter of 26 September.

2 I was grateful to you for accepting both that franchise payments should be treated as government revenue and paid directly into the Consolidated Fund; and also that the ITC, and Radio Authority, should be treated as central government non-trading bodies.

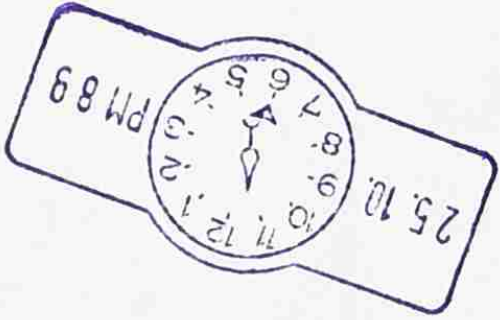
3 As you say, one consequence is that the safety net payments to S will be voted spending and score in PES. I share the concern to maintain S4C's independence from government expressed by you and Peter Walker, in his letters of 12 September and 5 October. I consequently agree that the size of the payments to S4C should be fixed by legislation, and chargeable only by statutory instrument.

4 However the Government supports SC4 in order to promote Welsh culture and I would usually expect such payments to be made from the Welsh block. I am therefore asking my officials to explore with yours and Peter Walker's whether an acceptable regime can be agreed for making the payments from Welsh Office votes.

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

NORMAN LAMONT

Broadcasting - legislation
PR3



CEPA



SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switsfwrdd)
01-270 0538 (Llinell Union)
Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
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Tel. 01-270 3000 (Switchboard)
01-270 0538 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Peter Walker MBE MP

CT/3619/89

24 October 1989

[Handwritten signature]

NBP

Rice

31/10

ANCILLARY USE OF BROADCASTING SIGNALS

I have seen your letter of 12 October to Nicholas Ridley in which you set out your proposals for using the spare capacity on television and radio transmission signals.

I am generally content with your proposals but I am concerned that they should not interfere in any way with the ability of S4C to provide sub-titles in English for Welsh-language broadcasts on their teletext service. I think this clearly falls within the category of "public service" use of spare capacity since it caters for those who would not otherwise be able to enjoy the full range of programmes on S4C. It also provides valuable support for those people learning Welsh. I would hope, therefore, that we can find some means of ensuring that this service can continue.

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

[Large handwritten signature]

The Rt Hon Douglas Hurd MP
Home Secretary
Queen Anne's Gate
London
SW1H 9AT

BROADCASTING: Legislation
A3





QUEEN ANNE'S GATE LONDON SW1H 9AT

16 October 1989

WBL at his stage.

*REC 6
13/11*

Dear Nigel,

BROADCASTING BILL: TAX IMPLICATIONS
OF CHANNEL 4 TRUST

Our proposals for Channel 4 envisage ownership of the Channel being transferred to a new statutory Channel 4 Trust. I understand that, unless we make provision to the contrary, this transfer could result in Channel 4 becoming liable to pay Capital Gains Tax and Corporation Tax. I do not believe that we intended to create such a liability, which would represent a serious financial burden for Channel 4, and I hope you will agree that we should take steps to remove it.

As you know, the Channel 4 Television Company is now a wholly owned subsidiary of the IBA, set up under section 12(2) of the Broadcasting Act 1981 to provide the Channel 4 service on behalf of the Authority. The company is incorporated under the Companies Act with share capital (ordinary shares of £1 each, authorised, issued and fully paid) of £100. Under our proposals, the IBA will be replaced, probably on 1 January 1991, by the new Independent Television Commission (ITC) which will hold the Channel 4 shares until 1 January 1993, when the Channel 4 company will be transferred to and absorbed within the Trust. The company will at that point cease to exist as a separate entity.

I am concerned about two areas of potential tax liability. First, it is likely that, at the time of transfer to the Trust, the Channel 4 assets (including programmes which have been made but not yet transmitted) could amount to approximately £100 million. Channel 4 could therefore become liable for a Capital Gains Tax payment of 35%, i.e. £35 million. I am advised that there are two possible ways of avoiding this liability. If the conditions of section 267 of the Taxes Act are met, no chargeable gain would be deemed to arise. There seems, however, to be some doubt whether that section would apply to the present case. An alternative course might be for the Channel 4 holding to be transferred via the Secretary of State, who would then best the holding in the Trust. I should be grateful for your advice as to which route we should follow.

Second, I do not believe that there should be any tax implications arising from Channel 4's trading activities after its establishment as a

The Rt Hon Nigel Lawson MP

/over....

Trust. At present Channel 4 is not subject to Corporation Tax on the funds its received from the IBA to finance its operations. The company is regarded by the Inland Revenue as carrying on a "mutual trade" with the IBA and transactions in the course of that mutual trade are ignored for tax purposes. However, Channel 4 is subject to Corporation Tax on all other income.

In future, Channel 4 will be expected to sell its own advertising time in order to finance its programme making activities. It will be given a budget baseline equivalent to 14% of total terrestrial broadcasting revenue (that is the total advertising, sponsorship and subscription revenue from Channel 3, Channel 4, S4C and Channel 5). If it earns less than the budget baseline, the ITC will have powers to impose a special levy on Channel 3 companies to fund the difference up to a maximum of 2% of total terrestrial broadcasting revenue. In the event of Channel 4 raising more than the budget baseline it is proposed that 50% of the surplus would be paid to Channel 3 companies (as a quid pro quo for their having to fund any shortfall). 25% would be held by the Trust in reserve against the possibility of future deficits, and the remaining 25% could be used, at the Trustees' discretion, for additional programme making by Channel 4. Under these arrangements, any monies paid by Channel 4 to Channel 3 would, of course, be liable to Corporation Tax payable by the Channel 3 companies. The sums retained by Channel 4 should not in my view be regarded as profits and should not, therefore, attract Corporation Tax.

A comparison with ITV companies might be helpful. ITV companies sell their own advertising time in order to finance their programme making activities. They pay no tax on their advertising income. But the difference (i.e. the profit) between legitimate programme costs and advertising revenue is subject to Corporation Tax. On that basis it might be argued that any difference between advertising revenue and programme expenditure for Channel 4 should also be subject to Corporation Tax. But there are major differences. In the first place, ITV companies do not have budget baselines. The profit level is genuinely the difference between advertising revenue and the amount they choose to spend on programming. In the case of Channel 4 the 14% budget baseline is pre-determined. Second, profit for ITV companies can be distributed to shareholders, or ploughed back into the business. In the case of Channel 4 the surplus, insofar as it is retained by Channel 4, is either to be used for additional programming (in which case it is no longer profit) or held in reserve against future deficits.

It is difficult to predict what amounts might be raised in this reserve fund. Arguably there will be none. However, at best, one suspects that Channel 4 would be unlikely to earn by the sale of advertising more than 16% of terrestrial broadcasting revenue, and at present prices that would mean

/cont....

a surplus over the budget baseline of approximately £25 million a year. Since only one quarter of that would be held in reserves, this could amount to £6 million a year. However, most financial forecasts suggest that over a ten year period Channel 4 will find it progressively more difficult to compete in the sale of advertising while at the same time maintaining its remit. If this proves to be the case, Channel 4 will, in due course, have to call on the reserve fund. We have not yet decided what should happen to any surplus that might remain at the end of the ten year licence period. It could be paid into the Consolidated Fund; or alternatively could be rolled forward as a reserve for the next licence period.

I hope that you would agree that Channel 4 should not be liable to Corporation Tax on any surplus finance which it might retain to be used in the event of future deficits. But if you felt unable to agree to this general principle I should draw your attention to one specific area where a tax concession would in my view be necessary. When Channel 4 starts to generate its own advertising revenues the company is likely to have programme stocks of some £100 million. I believe that the cost of programme stocks should be deductible for Corporation Tax purposes when written off against income from the new trade. Channel 4 will have given value for this stock of programmes and the fact that the purchase will have been financed using funds received from the IBA should not prevent Channel 4 receiving a tax deduction for the cost of the stock when it has commenced to trade on its own account. Otherwise, Channel 4 would be liable to a Corporation Tax payment of £35 million.

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

Yours,
Dough,



QUEEN ANNE'S GATE LONDON SW1H 9AT

copy

ms No concl for
policy Use a new
proposal.
RAC 6
31/10

ADPMA then then
RAC 6 obj
31/10
12 October 1989

Dear Nicholas,

ANCILLARY USE OF BROADCASTING SIGNALS

I am writing to seek your agreement, and that of colleagues, to proposals for a new legislative framework for the ancillary use of spare capacity on broadcasting signals.

There is a certain amount of spare capacity on television and radio signals besides that which is required to convey the visual and sound information which makes up the television or radio service. Under the present law, the IBA is empowered to appoint teletext contractors to use some of the spare capacity on the ITV and Channel 4 signals. This is the basis on which the Oracle teletext service is provided. As you know, Oracle mainly consists of a generally available advertising-financed teletext service; but it also provides a subscription service through its agent, Air Call. Similarly, the BBC provide a free teletext service (Ceefax), and a subscription service (Datacast). The IBA is also empowered to appoint DBS teletext contractors, and has awarded the contract to BSB. As regards radio, the main emerging use of spare capacity on radio signals is RDS, a system which automatically retunes a radio to the strongest available frequency.

The legislative framework for the use of spare capacity on independent broadcasting signals needs to be changed for two reasons. First, spare capacity is a valuable resource, and the method of allocating it should ensure that the public purse receives a proper economic rent for it. Secondly, although teletext is the only permitted use of spare capacity at the moment, several other uses which have emerged. A number of interesting, enterprising proposals for the use of spare capacity have been thwarted by a regulatory structure which has become outdated. A new, more flexible framework is needed, which will allow operators to experiment and find out which uses have most commercial value.

/I therefore

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

I therefore propose that the ITC should be empowered to allocate by competitive tender spare capacity on the Channel 3, 4 and 5 signals, and also on any future DBS channels. The licence period would be ten years for terrestrial channels, and fifteen years for DBS. It would be for the ITC to decide how to divide up the available spare capacity into different licences (eg by channel, by region or by time). The Channel 3 and 5 licensees would be free to bid for this capacity, as would the privatised transmission operator; but none of them would have an inside track. The licences would not place restrictions on the type of services which could be provided using spare capacity. In practice, some restrictions would flow from the telecommunications duopoly policy; but the intention is that the new framework should not prevent operators moving into new areas in due course if that policy were relaxed. The Radio Authority would similarly be empowered to allocate licences by competitive tender for use of the spare capacity on the three INR channels. In doing so, it would leave the radio licensees with sufficient capacity to provide RDS, which is likely to become an integral part of radio services. I judge that it would not be worth providing for the spare capacity on local radio signals to be separately licensed. Our Green Paper strongly implied that it would be allocated to the radio licensees, thus giving them an additional source of potential income. In addition, I do not think it would be sensible to put the Radio Authority in the position of having to issue a large number of additional licences (possibly several hundred), especially since the commercial attractiveness of spare capacity on signals covering only a limited area is doubtful. The licensing function I am proposing here for the ITC and the Radio Authority would not, of course, cut across DTI's licensing responsibilities under the Wireless Telegraphy Act 1949.

I also propose that some of the spare capacity on BBC television and radio signals should be removed from them and assigned to the ITC and Radio Authority for allocation. Although the BBC use a considerable part of the spare capacity on their television signals for Ceefax and Datacast, there will be some additional capacity available for allocation. This is partly because new techniques are enabling previously unusable capacity to be brought into use. Given our objective of lessening the BBC's reliance upon the licence fee there would be an argument for allowing them to retain this capacity and exploit it commercially. However, there is clearly a risk that, not having had to acquire their spare capacity in a competitive tender, they would be able to compete unfairly with other operators. I therefore propose that the BBC should be allowed to retain the capacity currently used by Ceefax, on condition

/that it is

3.

that it is used to provide a free public teletext service; and also that they should be allowed to retain the capacity used by Datacast. I would take powers in the Broadcasting Bill to assign the remaining spare capacity to the ITC for allocation. The position would be reviewed in the run up to the expiry of the Charter in 1996. This proposal would enable the BBC to continue to discharge their public service obligations, and would also ensure that they did not lose an existing source of non-licence fee income. As to radio, I propose to take powers to assign to the Radio Authority spare capacity on the signals of the BBC's network radio services. In doing so I would ensure that they had sufficient capacity to provide RDS. As with independent radio, I see no real point assigning spare capacity on the BBC's local radio services to the Radio Authority for allocation by competitive tender.

It follows from these proposals that the BBC will be required to transmit spare capacity services on behalf of other operators (since the transmission of services on spare capacity cannot be separated from the transmission of the main service). This will therefore imply an exception to the general policy that the BBC should not be allowed to provide transmission facilities for others. The terms on which they transmitted spare capacity services would fall to be regulated by Oftel.

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

Yours,
Douglas.

Meh

PROFESSOR GRIFFITHS

CHANNEL 4

We spoke about the Prime Minister's reaction to the latest papers. I now attach a copy of my note to her containing her manuscript comments and her markings on your note of 3 October.

I suggested that the best way forward would be for you to speak privately to Douglas Hurd. You agreed. I have therefore today spoken to his office and passed on the suggestion to them. I agreed with his office that we would leave it to you and Douglas Hurd to make contact as appropriate when you are in Blackpool.

Perhaps we could have another word after your return and consider the next step. Meantime, I do not propose to commit anything further to paper.

PAUL GRAY

6 October 1989

C:\wpdocs\economic\bg.pmm

PRIME MINISTER

CHANNEL 4

Last month, you saw detailed proposals from the Home Secretary for the implementation of the new régime for Channel 4. In summary, he proposed:

- A two tier arrangement for Trustees and the Management Board.
- The majority of members of the Channel 4 Trust being appointed by the ITC, with the Trust then appointing the Management Board. He argued against Government appointing more than two of the Trust members.

At the same time, he also proposed a detailed change to the financial arrangements for Channel 4, with which you were content. But, following advice from Brian Griffiths, you were seriously concerned about the proposals for the appointment of the Trustees and for the relationship between the Trust and the operating company. I recorded your worries in my letter at Flag A.

The Home Secretary's office have now responded in their further letter of 28 September at Flag B. He proposes some changes in your direction, but stands firm on other points; in particular, he continues to argue that the appointment of the Trustees should be distanced from Government.

Brian Griffiths has commented on the latest package in his further minute at Flag C. Brian argues that the Home Secretary's proposals remain most unsatisfactory, both in relation to the relationship between Trustees and the Channel 4 management and as regards the appointments position. He recommends you to stick to your earlier points.

You will want to consider whether to continue to resist the Home Secretary's package as Brian recommends, or whether there are any points in the latest Home Office letter you find persuasive.

CONFIDENTIAL

If you still have serious worries about the Home Secretary's proposed approach, it might be better for you to seek to have a word with him about this, rather than for me to send out a further letter reiterating my earlier one at Flag A. The problem, of course, is that your diary over the next two-and-a-half weeks is dominated by the Party Conference and CHOGM; but one possibility might be to have a word with Douglas Hurd at a suitable point in Blackpool.

1. Do you want me to minute out again on the lines recommended by Brian Griffiths?

OR

2. Do you want to have a word with Douglas Hurd about this?

Ho Brian indicates
very good case and I think
we should put it

Y ~~sent~~ to Douglas
pub

PLG.

PAUL GRAY

5 October 1989

C:\WPDOCS\ECONOMIC\CHANNEL4.DAS



ST. ANDREW'S HOUSE
EDINBURGH EH1 3DG

CC PG



The Rt Hon Norman Lamont MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON
SW1P 3AG

MBM to his desk

Rec 6

3/10

2 October 1989

Dear Norman,

INDEPENDENT TELEVISION COMMISSION - S4C

with PG

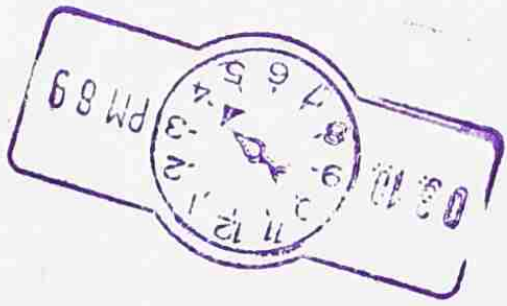
I have seen a copy of Douglas Hurd's letter of 26 September to you about the S4C "safety net" being regarded as voted expenditure. I think that Douglas's proposals strike the right balance between ensuring proper accountability of public expenditure and us keeping at arm's length from the broadcasters in terms of exercising direct control over the purse strings.

It seems right, too, for the Home Office as the Department with broadcasting responsibilities to control the Vote - and for my part, I would be content with a similar arrangement on Gaelic, on which officials are completing the report we requested. I agree with Douglas, too, that the Vote should be non-cash-limited, and that the corollary of that is that any supplementary would be a charge on the Reserve.

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

*Yours ever,
Malcolm Rifkind*

MALCOLM RIFKIND



B
CCPA



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

28 September 1989

Dear Paul

BROADCASTING BILL: CHANNEL 4

Thank you for your letter of 11 September in reply to mine of 17 August about the Home Secretary's proposals for Channel 4.

The Home Secretary was glad to note that the Prime Minister was content with the revised proposals for the procedure to be adopted if Channel 4 were to receive revenue in excess of its 14% budget baseline.

As regards the constitutional issues raised by the Prime Minister, the Home Secretary is content for Channel 4 to be reconstituted as a single entity. In effect, the existing Channel 4 company would be transferred from the IBA to the Trust, but would then cease to have a separate legal existence. Instead it would simply be absorbed into the Trust as the administrative and management arm responsible for the day to day operation of the Channel. The Trustees would therefore be entirely responsible for the whole of Channel 4. The Home Secretary remains concerned that the Trustees should not themselves be involved in the day to day management of Channel 4, and that this should be reflected in the statutory arrangements. He notes that this is also the Prime Minister's view. He now considers however that it will be sufficient for the legislation to require that the Trustees should appoint a Management Board including a Chairman and Chief Executive (who would serve as co-opted Trustees) to run Channel 4 on a day to day basis, but in doing so they would implement guidelines set down by the Trustees.

As regards the appointment of Trustees, the Home Secretary considers that the revised structure of Channel 4 makes it even more important that their appointment should be distanced from Government. Since the Trustees would not now constitute

/an entity

Paul Gray Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

an entity legally separate from the Channel 4 company, there is bound to be public concern if the Government proposes to appoint all the Trustees itself. It is of course true that the Governors of the BBC are appointed in this way. But the BBC is a broadcasting authority of many years standing governed by charter and licence, and with established conventions as to the respective spheres of operation of the Governors and Board of Management. The Channel 4 Trust, on the other hand, will be a newly created body which will not be a broadcasting authority, and whose Trustees will therefore be seen as having a potentially wider control over the editorial affairs of the channel. There is a real danger that the Government could lose this argument in circumstances which might be politically damaging.

There is also a further point of substance. If the Government were to appoint the Trustees it would be difficult for them to be dismissed without enormous controversy and claims of unwarranted Government interference in the affairs of a broadcaster. The sanction of dismissal is however regarded by Mr George Russell as an important reserve power which ought to be available to the ITC in the event that the Trustees failed to keep to the Channel 4 remit.

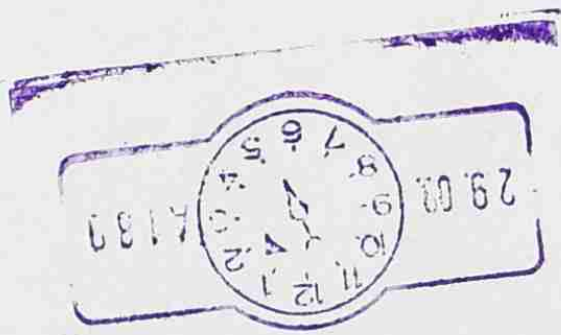
The Home Secretary therefore hopes that the Prime Minister would agree that his original proposal on appointments should stand: namely that two Trustees would be appointed by Government; two would be ex-officio members of the Board of Management; and the remainder (between 3 and 5) would be appointed by the ITC.

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

Yours

Althea

MISS C J BANNISTER



Broadcasting Pt 3
legislation on
Broadcasting.



QUEEN ANNE'S GATE LONDON SW1H 9AT

NBRM

REC 6 27/9

26 September 1989

Dear Norman,

INDEPENDENT TELEVISION COMMISSION

I am grateful for the letter which Peter Lilley sent on your behalf on 23 August, suggesting a possible solution to our difficulties with the proposed PES classification of the ITC and Radio Authority.

I accept that franchise payments should be classified as government revenue and paid directly into the Consolidated Fund. Nor do I anticipate any difficulties with your proposal that any government provision for start-up costs for the ITC should be treated as public expenditure. Accordingly, I am prepared to accept that the ITC and Radio Authority should be classified as central government non-trading bodies, on the basis that the separate licence fees paid to these authorities will be treated as negative public expenditure. I much appreciate your willingness to be flexible on this issue.

I recognise that your proposed approach will mean that the "safety net" proposal for S4C will be voted expenditure and will fall to be counted in PES. Peter Walker has commented on this in his letter of 12 September. I share his belief that there are strong reasons for distancing broadcasters from Government and agree with him that we should avoid any impression that Government intends to exercise direct control over the pursestrings. If therefore the funding of S4C cannot remain

/outside PES

The Rt Hon Norman Lamont MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
London SW1

2.

outside PES control, then in order to minimise the perception of Government control of S4C which might otherwise result from this, I would want to make more rigorous the method by which the level of S4C funding is in future determined. I propose therefore that the level of S4C funding should be expressed in the Bill as a proportion of total terrestrial broadcasting revenue (ie net advertising revenue, subscription and sponsorship revenue for Channel 3, Channel 4, Channel 5 and S4C). Any change in this figure could be achieved only after I had taken advice from the ITC and S4C, and would be subject to Parliamentary scrutiny.

Payments to S4C would need to come from a separate S4C PES vote. In principle this could be controlled either by the Treasury, the Home Office or the Welsh Office. My preference is for it to be controlled by the Home Office. But it would need to be a non-cash limited vote. In practice, the Home Office would make realistic PES bids on the basis of estimates of total terrestrial broadcasting revenue supplied by the ITC. But in the event that a supplementary bid was required I hope that you accept that it would not be right to expect the Home Office to fund that from within its own resources.

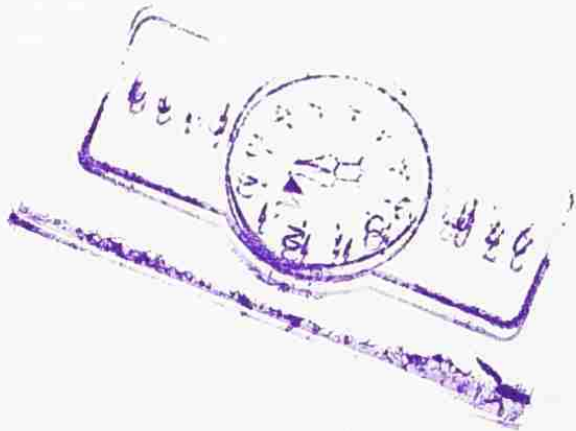
I am not yet in a position to set the level of S4C funding. At present, S4C receives in any given year 3.4% of the total net advertising revenue of the previous year. However, in the new regime the Welsh Fourth Channel will incur additional expense for transmission, sales of advertising, and regional advertising engineering costs. I shall write again shortly when I have an accurate estimate of what these costs will amount to.

I am copying this letter to Peter Walker.

Yours,

Douglas

Broadcasting CL4 Pt3.



MISC 128 as at 11.08.89

The Principal Private Secretary
Chief Whip's Office
12 Downing Street
London
SW1

Chief Scientific Adviser
Cabinet Office
70 Whitehall
London
SW1

The Principal Private Secretary,
Private Office,
H.M. Treasury,
Parliament Street,
London SW1.

The Principal Private Secretary,
Private Office,
Scottish Office,
Dover House,
Whitehall, London SW1

The Principal Private Secretary,
Private Office,
Home Office,
Queen Anne's Gate,
London SW1.

Sir Jeffrey Sterling
Department of Trade & Industry
1 Victoria Street
London
SW1

The Principal Private Secretary,
Private Office,
Welsh Office,
Gwydyr House,
Whitehall, London SW1

A.J. Langdon, Esq.,
Home Office,
Queen Anne's Gate,
London,
SW1

The Principal Private Secretary,
Private Office,
Department of Trade and Industry,
1 Victoria Street,
London SW1.

PRIME MINISTER

CHANNEL FOUR

During the holidays Douglas Hurd sent in proposals for the detailed implementation of the new regime for Channel Four that he announced in outline in June. His minute is at Flag A.

There are a number of specific points raised in the minute but they fall under two main headings:

- the arrangements for supervision and management of Channel Four;
- the financial arrangements.

Brian Griffiths has provided comments at Flag B. He sees major objection to the first set of issues, which he sets out under headings (a)-(d) in his minute. But he is content with the proposals on financial arrangements, covered under (e) in his minute.

The Chancellor (flag C) is broadly content with the Hurd package.

Content for me to minute out in the terms recommended by Brian?

Recd.

(PAUL GRAY)

8 September 1989

Totally agree with
 Brian Griffiths - Home Office
 must not fall for Labour's bid
 by Channel 4 lobby. Further Channel
 is provided as we follow the
 Griffiths suggestions. not

CONFIDENTIAL

PRIME MINISTER

8 September 1989

CHANNEL 4

The powerful Channel 4 lobby (Sir Richard Attenborough, Michael Grade etc) has clearly been getting at the Home Secretary.

The thrust of his recent minute proposes that:

- (a) final responsibility for the day-to-day operation of the company, and for editorial policy should not rest with Channel 4 Trustees but with the Management Company;
- (b) the Channel 4 Company and not the Trustees should be licenced by the ITC as the broadcaster;
- (c) the Channel 4 Trust should consist of 7-9 members, 2 appointed by government, 2 from Channel 4 (Chairman and Chief Executive) and between 3 and 5 appointed by the ITC;
- (d) the government should distance itself as much as possible from these appointments with government appointees nominated by other bodies such as the Arts Council;
- (e) the financial arrangements for Channel 4 should be changed in order to provide incentives to expand their advertising revenue.

All these proposals ensure that the management of Channel 4 is as independent of the Trustees as possible, that government plays an insignificant role in Channel 4 and that up to 7 out of the 9 Trustees either work for Channel 4 or are appointed by the ITC (which is very vulnerable to being captured by the interests of the television industry).

CONFIDENTIAL

CONFIDENTIAL

These ensure a very cosy arrangement for Channel 4. ✓

The five proposals need to be examined in turn.

(a) Trustees & Management Board

Unless the Trustees of Channel 4 are to be nothing more than a legal entity responsible for appointing a new Chairman and ensuring that the company retains its remit, the breakdown of responsibility suggested by the Home Secretary is almost certain to be unworkable.

He suggests that the arrangements for Channel 4 might be similar to those for the BBC. But this is no longer how the BBC works. One of the problems which has dogged the BBC for the past 40 years is that the Director-General and the Management Board attempted to keep the Governors out of any discussion of finance, editorial policy or strategic planning. If the Channel 4 Trustees are the owners of the Channel 4 Company as the Home Secretary proposes, then there is no way in which they can ultimately be shorn of responsibility for these issues.

When Alistair Milne was sacked by the BBC Governors, one of the first things Duke Hussey did was to ensure that the Director-General attended meetings of the Board of Governors, and that the Governors and Management Board acted together and of one mind. It is working well.

Douglas Hurd is therefore wrong to put forward the BBC as an example of how the new arrangements might work.

Recommendation

Rather than creating this unworkable division, Channel 4 Trustees

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should be responsible for the whole of Channel 4: the Management Board will run it on a day-to-day basis, but in so doing they will be implementing the guidelines set down by the Trustees.

(b) Channel 4 Licence: Company or Trustees

The proposal is that the Company not the Trustees should be the recipient of the ITC licence to broadcast.

This is a misunderstanding of the term "trust" as it was originally used in connection with Channel 4. When it was suggested during the debate on the White Paper that Channel 4 might be run as a Trust - this was simply a shorthand way of saying it would not be run as a commercial profit making entity. But there was no suggestion at the time that the Trustees should be a legal entity separate from the Channel 4 Company. The shareholders and management of companies are all part of one legal entity.

Recommendations

(i) It would be far preferable if the Home Secretary set up Channel 4 similar to the BBC - with Trustees having final responsibility for everything but with a Board of Management responsible for day-to-day affairs.

(ii) If this is not possible then the licence should be held by the Trustees and not the Management - otherwise the power of the Management relative to the Trustees is just too great.

(c) + (d) Appointment of Channel 4 Trustees

This proposal is absolutely outrageous. It is being suggested that a body which is ultimately dependent on public money and which has not been privatised, should be handed over to be run

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by a Board which is totally dominated by representatives of the television industry. It simply confirms Rupert Murdoch's definition of public service broadcasting "something run for the benefit of the people who provide it, rather than the viewer".

If Channel 4 is not being privatised it is crucial that the government not the ITC should appoint Trustees. Apart from Channel 4 personnel, the government should be in a position to appoint 5-7 members, accepting that eg one might be from the commercial television industry etc but that the others could be from different areas of public life - not least to allow in a breath of fresh air.

Recommendation

✓
Reject appointment of Trustees by ITC. Ensure appointment by government but consider different categories from which they might be drawn.

(e) Financial Arrangements

These provide an incentive for Channel 4 to expand its advertising revenue and are for this reason to be welcome.

Recommendation

Accept.

Bh

BRIAN GRIFFITHS

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

4 September 1989

Miss C J Bannister
PS/Secretary of State for the
Home Department
50 Queen Anne's Gate
LONDON
SW1

Dear Catherine,

CHANNEL 4

WITH CS!

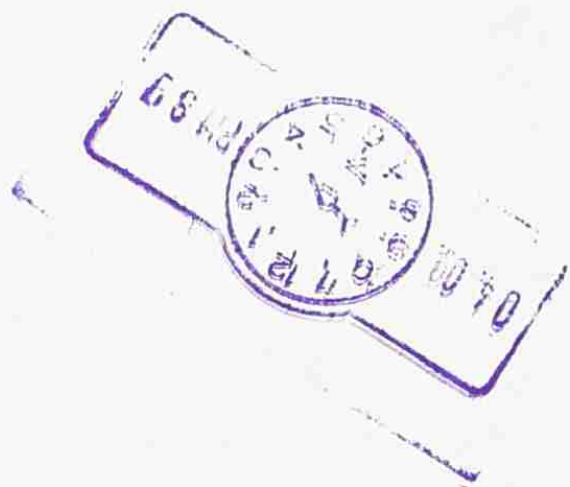
The Chancellor has seen your letter of 17 August to Caroline Slocock setting out the Home Secretary's proposals for implementing the decisions taken by MISC 28 and is content.

He notes that both the ITC and the Channel 4 trustees will be responsible for ensuring that the Channel 4 company fulfils its remit and hopes that the ITC will avoid any duplication of roles by operating through the trustees rather than in parallel with them.

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

Yours sincerely,
Duncan Sparkes

DUNCAN SPARKES
Assistant Private Secretary





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HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

17 August 1989

Dear Caroline

CHANNEL 4

attached *PP's from flap e p 8.*
At MISC 128 on 6 June the arrangements for the organisation and funding of Channel 4 after 1993 were agreed. The Home Secretary announced these arrangements in his statement to the House of Commons on 13 June. He has now given further thought to the practical implementation of the decisions taken by MISC 128 and this letter seeks agreement to a number of further proposals.

Although ownership of Channel 4 is to be vested in a Trust, the Home Secretary feels that it is important to make it clear that the Trustees will not, themselves, be responsible for the day to day operation of the Channel 4 company. He considers that just as the BBC has a Board of Governors and a professional Board of Management, so the Channel 4 organisation should be a two tier arrangement, with the Trustees owning a company which would have its own Management Board. The Trustees would have the ultimate responsibility for ensuring that the Channel 4 remit was fulfilled and should also take responsibility for strategic decision making, including oversight of appointments to the company and supervision of the reserve funds. The Channel 4 company, on the other hand, would operate as the broadcaster and be responsible for the day to day management and editorial policy of the Channel. On this basis, the Home Secretary considers that the Channel 4 company should be licensed by the ITC, and that the Trustees, as shareholders, should ensure that the Channel 4 company maintains its remit. This is analogous to the arrangement proposed whereby the ITC licence will be held by the operating companies, rather than by their shareholders.

/The Home Secretary

Ms Caroline Slocock
Private Secretary
10 Downing Street
LONDON SW1

The Home Secretary considers that, with a two tier structure of this kind, there must be adequate provision to tie the company and the Trust together by clear cross membership. He therefore proposes that the Trust should consist of between seven and nine members, two of whom would be the Chairman of the Management Board (or in his absence the Deputy Chairman) and the Chief Executive of the Channel 4 company. Two of the remaining members would be appointed by the Government and the rest by the ITC. The appointed Trustees would themselves appoint the non-executive Chairman of the Channel 4 Management Board and its Chief Executive, and the Trust as a whole would appoint the remainder of the Management Board. Powers of appointment would include the power to dismiss. The Home Secretary thinks it important that the ITC should have power to appoint and dismiss a majority of the members of the Trust, since without such a power the ITC would have very little scope for sanctions in the event of the remit not being preserved. It will also in his judgment be desirable for the Government to distance itself as much as possible from these appointments, and for that reason would expect the Government appointees to be selected as far as possible on the basis of nominations invited from other bodies such as the Arts Council.

Finally, the Home Secretary considers that a change should be made to the procedure to be adopted if Channel 4 were to receive revenues in excess of its 14% budget baseline. Under the original proposals agreed by MISC 128, 50% of any excess would be paid to the Channel 3 companies, and the remaining 50% would be held by the Trust in reserve to be used in the event of future deficits. The Home Secretary considers on reflection that this gives insufficient incentive to Channel 4 to earn in excess of 12% of terrestrial NAR. He therefore proposes that, as before, 50% of any excess should be paid to the Channel 3 companies (as a quid pro quo for the underpinning which they would be required to supply in the event of Channel 4 earning less than 14% of terrestrial NAR) with the remaining 50% going to Channel 4. But instead of requiring the whole of the Channel 4 share to go to reserves, only half would have to be so placed, while the remainder, or any part of it, could go to the Channel 4 company at the discretion of the Trustees for investment in new programming. The Home Secretary sees this as a means of providing a necessary incentive to Channel 4 to maximise its earning revenue capability. He also takes note of the revenue projections which suggest that any excess of revenue is likely to arise in the early years, while in the later years Channel 4 may need to call on the underpinning arrangements. An

/ability to

3.

ability to spend more on programming in the early years would, therefore, give Channel 4 the ability to build up its audience during that time so as to minimise the likelihood of subsequent call on any underpinning arrangements.

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

Yours sincerely
Catherine Bannister

MISS C J BANNISTER

[BARONESS FAITHFULL.]

Offenders Suffering from Psychopathic Disorder. In it they suggested that psychopaths should no longer be able to be dealt with under the Mental Health Act but should be absorbed by the penal system, from which they could be transferred to hospital if this was felt to be necessary. This suggestion met with opposition and has not been followed up. Is the suggestion likely to be followed up? We realise that in this connection there are problems of justice and safety.

The second type of offender is the minor offender—the chronic schizophrenic or irresponsible nuisance who might be called a psychopath. Both types can now be dealt with by hospital order. The trouble is that they become known to their local psychiatric hospitals and are such a nuisance that they are refused admission. The court cannot make an order, and in the face of a long penal history it has little option but to commit them to prison. In the present prison conditions of tremendous overcrowding this is no solution.

We have managed to bring down the number of juvenile delinquents appearing before the courts and the number of juvenile delinquents who are committed to penal institutions. This has been achieved by good relationships between the probation and social work departments and the police. In a number of cases the children have not been charged and alternative arrangements—most notably, intermediate treatment—have been made for them in the community. Is it not possible for some of the less serious cases—I say “the less serious cases” because obviously the serious cases have to come before the courts to be tried and dealt with in the ordinary way—to be dealt with in the community in a different way? There are perhaps an enormous number of people in prison, particularly on remand, who could be dealt with in this way. We would then not have to build the huge number of prisons to which the Minister referred earlier this afternoon at Question Time.

People ask how this can be done. I suggest that there are outstanding organisations in this country which to some extent are dealing with the problem. I refer to the Church Army, the Salvation Army, Hostels for the Homeless, an organisation chaired for a long time by the vicar of St. Martin-in-the-Fields, the Simon Community and the Cyrenians. Instead of giving so much money for the building of new prisons, might it not be more suitable to ask those organisations to administer hostels in the community to deal with people involved with less serious cases as an alternative to sending them to prison. I refer in particular to bail hostels, which were mentioned earlier this afternoon by the noble Baroness, Lady Seear. Do we use the community, the people in the community and the facilities in the community in the way that we should?

I have told the following story to the House once before but I feel I must tell it again because it emphasises what I mean. Every year old Joe used to come and wish me a happy Christmas. He always came two days before Christmas. I used to say, “But Joe, it isn’t Christmas yet”. He said, “Yes, but I have duties to do”. On that evening I would read that he

had clocked a policeman, and clocked him fairly badly, so that he could spend Christmas in prison. He had nowhere else to spend Christmas. We would not want to see the return of the old Poor Law Acts, but when we lost the poor law institutions we also lost the casual wards.

I would not wish to bring back the casual wards but perhaps I may remind your Lordships about them. Every poor law institution in the country had a casual ward which accommodated about 12 people. They were roughly 25 miles apart. One could travel from John O’Groats to Cornwall and be sure that every 25 miles one could find somewhere to sleep that night. This was well outlined in the *Autobiography of a Super Tramp*. The casual wards had accommodation for about 12 men. At Christmas, instead of having to clock a policeman and get into trouble, the men would fall back on the casual wards. They got to know the staff of the wards. I know a number of schizophrenics and mentally-disturbed people who hitched on to the casual ward as a kind of lighthouse. They stayed there when they could bear life no longer. The casual wards did a magnificent job but one would not want to bring them back.

Instead of spending so much money on Christmas, could not the Government allocate it to the magnificent hostel organisations, with their outstanding voluntary workers? Those disturbed people could be organised through the local authorities, and every authority would have in its area a hostel or hostels to meet this need. We need to have a completely different view of many of our prisoners. A great many of them need not go to prison at all. However, we have to have the facilities for them. If we made such an appeal to the hostels we would have to give them the money to carry out the work we would want them to do.

Having said that, I should like to pay tribute to the prison staff who at present look after mental patients of the two types that I have enumerated. They have to do so in overcrowded cells, not having received any special training and without the provision of adequate help. I should also like to pay tribute to the staff in the psychiatric hospitals. I think that the work they carry out is quite outstanding and the mixture of people with whom they have to deal is extraordinarily difficult.

I have not attempted to deal with the very severe types of mental illness with which the noble Lord, Lord Allen, and others can deal far better than I. But on the less serious cases, I ask my noble friend the Minister whether we can look at the matter quite differently and have quite a different type of help available. I also ask whether we could not have some cases not coming before the courts at all but being helped in the community by the community.

Broadcasting White Paper

4.1 p.m.

Earl Ferrers: My Lords, with the leave of the House I should now like to repeat a Statement about

Another point has been brought before me by these well-informed bodies. Has the Minister any information on the ethnic breakdown of prisoners transferred under Section 47? There is a growing suspicion that ethnic minorities are being maltreated under this section. I report what I have been told by these expert bodies. There is a growing suspicion that ethnic minorities are being transferred under the section. When I speak of MIND I am sure that everyone knows the famous society of that name. There is a growing suspicion not only in MIND about the mental health care of prisoners on remand. I have time only to mention two cases. Keith Hicks, aged 38, died in Brixton Prison on 12th March 1985. It was treated as a death following an epileptic fit. The handling of the case by the coroner gave rise to much criticism and after an appeal to the High Court a second inquest was held. The verdict of the second inquest was accidental death, aggravated by lack of care.

The second case concerns Samuel Carew who died in the same prison on 5th February this year, aged 22. He was found hanging in his cell. At Southwark Coroner's Court the verdict was suicide. The coroner was moved to remark:

"There is a terrible rottenness in the system that needs rectifying".

The coroner set out a list of recommendations that I hope are available to the Minister. If they are not, I can supply him with them. I content myself now by asking the Minister what steps are being taken to give effect to at least some of the recommendations of the coroner.

I am close to concluding what I have to say. There are many matters that should be taken up with the Government. I am sure that some will be effectively dealt with by other speakers. There is the far-reaching question of psychiatric assistance within the prison system. I am not saying that anyone with a psychiatric problem should be transferred at once to hospital. The prison psychiatric service has to cope with many cases. The noble Lord, Lord Donaldson, has great experience of these matters and I hope that he will be able to deal with some of the problems. I am sure that the noble Lord, Lord Allen of Abbeydale, will return to the deplorable story of the regional secure units and that he will bring us up-to-date with the latest news from Broadmoor which I expect will be very bad, though I may be pleasantly disappointed.

There is one major issue that deserves a debate of its own: the after-care for patients who have been in special hospitals. That leads one to question of after-care for ex-mental hospital patients. I chaired a committee on this subject some years ago and Lord Beswick, a great worker for these causes, opened a debate in the House. The subject is too wide for me to deal with it further today. However, the noble Earl, Lord Shannon, who is chairman of the Matthew Trust, may have something to say on that and other matters.

Ex-prisoners are protected after a certain number of years from references to their time in prison. It is a source of deep pain to those who have been in special hospitals and those who care for them that a similar protection is not extended. An additional

point is that persons who have been in special hospitals are sometimes referred to as ex-patients of a criminal lunatic asylum. I have in mind something that was written recently in a highly reputable paper. Two points arise here. The first is any reference at all to their having been in a special hospital and, secondly, to their being described as having been in a criminal lunatic asylum—a total misnomer and one that has been so for many years. I hope that the Government and the noble Earl, Lord Shannon, will say something further about that. I hope that the Government will consider introducing legislation to make sure that the same kind of protection accorded to ex-prisoners is accorded to ex-patients of special hospitals.

I have hardly done more than touch upon the fringe of this baffling and often tragic subject. I hope however that the House feels, as I am sure it will after it has heard the other speeches, that this matter should be explored far more deeply and accurately. I hinted earlier that I believe this subject is avoided because it is so difficult. People turn away from it: I believe that is unworthy of a society that still claims, with some justification, to be Christian.

3.49 p.m.

Baroness Faithfull: My Lords, again we must thank the noble Earl, Lord Longford, for bringing this matter before your Lordships' House. We must admire his persistency in doing this. I cannot remember exactly how many times he has done so but I believe it is a number of times. We congratulate him and we are also grateful to him.

I believe that the most helpful books that have been written on this subject are that by Nigel Walker and Mrs. McCabe called *Crime and Insanity* (volume 2) and Larry Gostin's book, *Human Condition of Mind*. The two books make many recommendations but they have not yet been implemented.

For the purposes of my speech I should like to define the words "mental" and "offenders". We are discussing today what steps the Government are taking to provide more effective treatment for mental offenders. Offenders are those who have transgressed the law or who are alleged to have transgressed the law. When we try to define the word "mental" we run into problems and we have to turn to Part I of the Mental Health Act 1983 for a definition. The word "mental" can refer to several different areas—mental disorder, severe mental impairment, psychopathic disorders and arrested mental impairment.

I shall divide mental offenders into two sections. First, there are the gravely ill psychotic or psychopathic offenders who commit serious offences and need treatment in secure conditions. How secure should those conditions be, and for how long should the treatment last? The Mental Health Act 1983 made it possible for those who had committed serious offences to be discharged by mental health review tribunals if their consultant said that they no longer needed or were unable to benefit from treatment. This does not usually happen without the approval of the Home Office and the Department of Health, but it could happen. That is why the two departments issued in 1986 consultative document entitled

the Government's plans for broadcasting legislation. The Statement is as follows:

"I have laid a White Paper before the House today.

"Our broadcasting system has a rich heritage, which is a tribute to the efforts and enterprise of the broadcasting authorities and all those professionally engaged in the broadcasting enterprise. Our proposals seek to build on these achievements in developing services of quality, range and popularity.

"Broadcasting is changing fast and this change makes possible a much wider choice for the viewer and listener. The viewer should not be denied this choice. That is our starting point. The Government should not seek to lay down a blueprint for the future by picking favoured technologies. Rather we propose an enabling framework with increased opportunities for additional channels as the customer determines. Several dozen television channels and possibly several hundred radio services may be in prospect.

"Subscription, which enables the viewer to signal his preferences to the broadcaster directly, will have a greater role to play. There will be a greater separation of the different activities making up broadcasting, including programme production, the assembly of individual programmes into channels, and transmission and service delivery.

"The ownership of commercial television and radio should be widely spread. The White Paper contains detailed proposals to ensure that control of television and radio services is not concentrated in the hands of a few groups or individuals and to prevent excessive media cross-ownership. The Government are determined to keep the market open to newcomers, and to prevent any tendency towards editorial uniformity.

"Safeguards on minimum standards are needed to protect viewers and listeners from shoddy wares and exploitation. Subject to these, they should be able to exercise greater choice over what they hear and see. While some important positive programming obligations are retained, we envisage a substantial liberalisation, particularly of the ITV system, and greater reliance on the viewer, rather than the regulator, to sustain range and quality.

"These are the principles which have guided us. Our thinking has been influenced at many points by the Peacock Report [*Report of the Committee on Financing the BBC*, Cmnd. 9824, July 1986], and by the admirable report in June of the Home Affairs Committee of this House. I hope that right honourable and honourable Members will read the White Paper in full, but I offer the House now an outline of our main proposals.

"We propose that a new fifth channel, with 65 per cent. to 70 per cent. national coverage, should be authorised to begin broadcasting at the start of 1993. Different companies could provide the services at different times of the day but the channel will be nationally based. A sixth channel will also

be authorised if technical studies show it to be feasible.

"We propose a new flexible framework for the development of multi-channel local services through both cable and microwave transmission, known as MVDS. This will make possible a further extension of viewer choice. It will also provide new opportunities for local television in cities and for television services catering for minority interests.

"British Satellite Broadcasting plans to start its three channel Direct Broadcasting by Satellite (DBS) service next autumn. The Government gave BSB an undertaking last year that the United Kingdom's fourth and fifth DBS channels would not be allocated until BSB's service had been in operation for at least three years. BSB has recently said that it would be willing to see this moratorium lifted. Accordingly, the United Kingdom's two remaining channels will be advertised early next year. So five high quality DBS channels should soon be available to British viewers.

"Viewers will continue to be able to receive other satellite services directly, including those from proposed medium powered satellites. We continue to work for international agreement for the supervision of programmes in such services and shall propose to Parliament sanctions against any unacceptable foreign satellite services received here.

"The present ITV system will become a regionally based Channel 3. Licence-holders will, for the first time, have a statutory obligation to provide regional programming, including programmes produced in the region.

"Channel 4's distinctive remit will be retained and reinforced to sustain high quality programmes in the commercial sector. We consider that after the necessary legislation advertising on Channel 4 should be sold separately from that on Channel 3. Subject to these points, the White Paper sets out options on the future constitution of Channel 4. The Welsh Fourth Channel Authority will continue in essence unchanged.

"All these commercial television services will be free to decide their own mix between advertising and subscription funding, and will have greater freedom to raise money through sponsorship, subject to proper safeguards. All will be subject to consumer protection obligations regarding programme content. Most commercial television licences, including all those for Channel 3 and Channel 5 services, will be allocated by competitive tender subject to a quality threshold. Operators of Channels 3, 4 and 5 will be expected to show high quality news and current affairs programmes dealing with national and international matters and to show the news (and possibly also current affairs) in main viewing periods. Channel 3 and Channel 5 will be expected to provide a diverse programme service appealing to a variety of tastes and interests, to ensure that a minimum of 25 per cent. of original programming came from independent producers, and to ensure that a proper proportion of programme material is of EC origin.

[EARL FERRERS.]

"There will be one additional requirement affecting Channel 3 only. There will be continued provision, like that which brought ITN into existence, to ensure that there is at least one body effectively equipped and financed to provide news for Channel 3.

"There will be safeguards for the continued provision of a schools programmes service.

"The Government agree with the Home Affairs Committee that a new agency, which might be called the Independent Television Commission, should be established in place of the Independent Broadcasting Authority (IBA) and the Cable Authority to license and supervise all parts of the commercial television sector. It will be able to operate with a lighter touch than the IBA, and without the IBA's detailed involvement in scheduling, but will have strong sanctions against failure by its licensees to live up to their licence conditions.

"The BBC will be expected to continue to provide high quality programming across the full range of public tastes and interests.

"The Government look forward to the gradual introduction of subscription on the BBC's television services and to the eventual replacement of the licence fee, which will, however, continue at least for some time to come. We propose that the night hours from one of the BBC's channels should be assigned to the ITC for allocation, like other licences by competitive tender. The BBC would keep the other set on the basis that it used it as fully as possible for making a start in developing subscription services.

"We envisage that the part played by independent producers in programme-making in the United Kingdom will continue to grow, as future licensees will be free to operate as publishers, without programme production capacity of their own. We believe that the transmission infrastructure should be separated from the programmes services.

"The Government propose to proceed with the plans I announced to the House on 19th January for the deregulation and expansion of independent radio, under the light touch regulation of a new radio authority. There will be scope for three new national commercial stations and as many as several hundred local services, including community radio stations.

"The Broadcasting Standards Council, established to reinforce standards on sex, violence, taste and decency, will be placed on a statutory footing. We propose that the exemption of broadcasting from the obscenity legislation should be removed at the earliest opportunity.

"These are the main proposals set out in the White Paper. We aim to ensure that viewers and listeners have greater freedom of choice from a more varied output of programmes, including programmes of high quality. British television has a deservedly high reputation in the world. We

expect to see that reputation grow with the new opportunities which are now in sight.

"The House will have an opportunity to debate the proposals before they are put into legislative form. We shall also take careful note of views expressed outside the House. We shall then bring forward legislation".

My Lords, that concludes the text of the Statement.

4.12 p.m.

Baroness Birk: My Lords, I apologise to the Minister for not being here when he rose to his feet. I had not been informed that the Statement was about to begin. From these Benches we welcome the aspirations for broadcasting and recognise that some changes are needed. Unfortunately the proposals, as read out by the Minister in the Statement and spelt out in the White Paper, which we shall need time to consider, are highly unlikely to achieve anything near the target that he has described to us.

The Statement refers to:

"a much wider choice for the viewer and listener."

It continues:

"The viewer should not be denied this choice. That is our starting point."

However, more channels do not necessarily mean more choice. The work done by the Broadcasting Research Unit shows that there is no great pressure for more channels. Evidence from overseas indicates that unless great care is taken and real gaps are filled more choice, more often than not, means more of the same. Anybody who has seen American television will know exactly what I mean. People change from channel to channel and find the same kind of programmes, of a very poor quality on the whole, on the various channels. I hope that the Government will consider this matter very carefully before they legislate.

Subscription plays a great part in the scenario and, we are told, will have a greater role to play.

As I understand it, nowhere in the world is subscription broadcasting successful, except for specialities such as feature films. That is one of the reasons why many of us were very concerned about subscription when we discussed the Peacock Committee Report.

I turn now to franchises. If there is to be an auction for them, how are we to keep a grip on quality control when we are told that the new body that is set up to take over from the IBA is supposed to act with a "lighter touch"? I do not know whether the Minister can help me by defining more specifically what a "lighter touch" means. Broadcasting quality control is difficult enough with a heavy touch. We saw what happened to TV-AM which came under the authority of the IBA with its so-called heavier touch. That body agreed that quality control, even with a heavier touch, was extremely difficult. It seems to me that the phrase "lighter touch" is another way of expressing the phrase *laissez faire*. I should be pleased to have guidance on how we can improve on broadcasting quality with a lighter touch.

The Statement, the White Paper and the Government's remarks show the Government's concern to do away with regulation where they can, certainly as regards commercial television. But one of the great advantages of broadcasting in this country, which was brought out time and time again in this House when we debated the Peacock Committee report, was that both participants in our duopoly were concerned with public service broadcasting. I stress strongly that it is no good, certainly for broadcasting in this country, for the BBC to be considered the sole bastion of public service while public service disappears from the commercial channels. I am aware, as the Minister explained to us, that obligations will be laid on Channel 4, and for educational and some other programmes on other stations. But if Channel 4 has to seek its own advertising, how can we be sure that it will be able to continue with its minority programmes in view of the financial squeeze in which it might find itself?

If the BBC is left on its own as the one saviour of public broadcasting, it will lose audiences because it will be stuck in a kind of public service ghetto. Fewer people will watch it because of the competition from other channels. There will not be the situation that now exists in commercial television where a balance is compulsory and where a comedy can be followed by a documentary. There would be no call for a channel delegated to public service only. That seems a very dangerous road to go along. In the long run that road could be to the detriment of the BBC. If that situation occurred, questions would be asked in Parliament about why Parliament should be supporting the BBC when the demand for its programmes appeared to be declining. If commercial broadcasting is left without any firm regulations governing it at all, we shall find that the whole tenor of our broadcasting will decline. We shall be left with a very inferior type of programme in comparison with what exists at the moment.

Broadcasters around the world are astonished that we are doing away with a regulatory system when they consider that we have been so successful. The report of the Home Affairs Committee in another place referred to our broadcasting as "the least worst in the world". Nevertheless our broadcasting is still very much better than anyone else's. There is room for changes, but many of the changes that are proposed may result in a great deterioration in our broadcasting, and particularly in our television. However most of what has been said in the Statement applies to radio as well.

I wish to ask the Minister one or two questions. It is made clear that take-overs will be permitted. What kind of control will be exercised over those take-overs? Will our broadcasting system be treated as some commercial commodity that can just be bought in? If that is the case, the criterion of quality will disappear altogether and it will become a matter of finance.

Secondly, what does the noble Earl mean by sponsorship? It seems to me that the whole country will be run on sponsorship soon. We are trying to get sponsorship for the arts and sponsorship for charities. Now we hear that Channel 4 will also be

expected to rely partially on sponsorship. Thirdly, if the idea is to increase the amount of advertising available, are the Government thinking in terms of increasing the number of minutes for advertising in each hour? At the moment we have seven minutes in the hour over the whole day and eight minutes in the hour at peak time. To accommodate this increased broadcasting, are we going to fall into the same horrible trap that again we see in American broadcasting where the advertisements seem to come in every few minutes and in the end one can very seldom tell the differences between the advertising and the programme itself?

It is impossible to go through everything in the White Paper in detail, but, as the Minister said, we shall no doubt have a chance to debate it at some time, I hope in the near future. In the meantime, I regret to have to say that it appears to represent a triumph of free market criteria over broadcasting criteria.

Lord Bonham-Carter: My Lords, I also wish to thank the noble Earl, Lord Ferrers, for repeating the Statement which has been made in another place on the very important and complex matter of the new changes which are to be introduced into broadcasting, television and radio. This is an extremely complicated subject. The Statement which we have heard covers a very wide variety of matters. We have not had the opportunity yet to read the White Paper; therefore any considered judgment and our views of this must wait until we have that opportunity.

However, as the noble Baroness said, the White Paper raises a number of critical questions about the principles which Her Majesty's Government feel necessary to apply to the development of television and broadcasting in the light of the new technologies. Those technologies will open up the possibility, but not the certainty, of much wider choice to viewers and listeners. The wider choice could not merely be to majority viewers and listeners but also to minority viewers and listeners. This could provide—but not in the proposals which have been made today, with the exception of the Welsh—for regional listeners to be looked after as they might be.

I must confess that I can only regard any statement made by the present Government on television with some suspicion in the light of the campaign which has been conducted and carefully orchestrated over the last few years against first the BBC and then the IBA. The strategic purpose which lies behind this campaign is to me fairly transparent. It seems to me to be obvious that what the Government want to do is to produce a broadcasting and television system which is as much like the present press as possible; that is overwhelmingly Conservative in ownership, overwhelmingly supportive of the present Government in their ideology. Of course there is the lighter touch to which the noble Baroness referred. The failure throughout the Statement, as far as I can see, to use the words "public service", which appear in the eyes of the Government to be dirty words, will with the lighter touch make this far easier.

That having been said, we must always be thankful for small mercies. I wish to congratulate the Home

[LORD BONHAM-CARTER.]

Secretary on having preserved Channel 4. I should like to congratulate him on having preserved ITN and I suppose one must congratulate him on having failed to give a date when the licence fee will be abolished for the financing of the BBC. It is my view that the licence fee could well be maintained in the medium term. It is unpopular in a sense, as all taxes are unpopular, but it is the best way that has yet been found of financing public service television which maintains the high standards which have been acknowledged in the world at large. As the noble Baroness said, as the Peacock Report says and as the noble Earl's Statement indicated, British broadcasting has a worldwide reputation for the standard and quality of its product. It seems to me extraordinary that any government should jeopardise this unless forced to do so.

The present proposals indicate not the execution of the BBC, which at one time seemed possible, but its euthanasia. The rich heritage of broadcasting to which the noble Earl referred depends on the example set by the BBC and the IBA. I must repeat that the lighter touch will lead not only, I suspect, to lower standards—or the wider choice which the Statement optimistically referred to which is not noticeable in the popular press and nor is it noticeable, as the noble Baroness indicated, in other television services. What I suspect we shall get is an even greater outpouring of quiz shows and "soaps".

As for the Broadcasting Standards Council, it is becoming increasingly ludicrous as a body whose standards are more and more obscure. I do not know how many noble Lords had the opportunity to see a programme on Channel 4 last week in which the noble Lord, Lord Rees-Mogg, was asked about the standards he would apply in his new job. I do not understand why sex and violence are put in the same box. They seem to me rather different matters, one of which is generally regarded as pleasureable, the other as unpleasureable. I regret that the noble Lord is not here today. I have great respect and admiration for him. However, I do not understand why of all the people in this country he is the one man who can tell us what it is acceptable for us to see and what it is not acceptable for us to see in these matters in which I did not know that he had expertise.

It looks to me as though the Broadcasting Standards Council is to be the Hayes Office multiplied by the Lord Chamberlain. The noble Earl's definition of what would be acceptable in the broadcasting of sex was interesting. Romeo and Juliet sex, he said, was quite all right; explicit sex was unacceptable. Then there came a third grey area which was called "groping sex". He said that groping sex would have to be gone into with some care. It struck me that the Broadcasting Standards Council was groping for a role.

There was one omission from the Statement which I found interesting. The External Services, one of the glories of British broadcasting, were not mentioned. I should like an assurance from the noble Earl that the External Services will continue to be financed adequately and that they will continue to be allowed to act independently. It must be said that the recent

order on transmission of broadcasting by terrorists will somewhat limit their capacity. They have spent a great deal of time broadcasting terrorists to other countries, if not our own.

I very much look forward to the debate we shall have on the White Paper, which I hope will be soon, before the Government's mind is set in concrete as to the type of legislation they propose. I also hope that before long we shall have an opportunity to debate the censorship on the transmission of broadcasts by Sinn Fein and the UDA. This is a very difficult matter but one which I think this House should consider.

4.30 p.m.

Earl Ferrers: My Lords, I am grateful to the noble Baroness, Lady Birk, and the noble Lord, Lord Bonham-Carter, for the very cautious welcome they have given. I agree with the noble Lord that there are certain elements on which we can agree. I agree with him totally that the subject is very complicated. The noble Lord prudently said that he had not yet read the White Paper and therefore found it difficult to comment. However, in spite of his not having read it, I thought that the noble Lord commented on it with extraordinary in-depth knowledge. When he does read the White Paper I think that he may well equip himself with a white jacket and a screwdriver because we are dealing here with a very technical and complicated area.

The noble Lord said one or two curious things. He said he was quite convinced that he would treat every statement this Government make about television with a great deal of suspicion because he thought that we were going to ensure that all television companies would be packed with people who supported the present Government. A short while ago he said he thought that the Government should not attempt to interfere with television. Now we have produced a White Paper, which the noble Lord has not yet read, in which we say we are going to open the television areas to competition and a general variety of interests. The noble Lord finds a critical element in that. Of course he is entitled to his view; but I do not think he can have it both ways. If he is going to complain that the Government have been too restrictive in the past in what has been allowed for television, he cannot then turn round when we are opening it up to others and say that that is bad to.

I should like to make one point very clear. Technology has advanced enormously, whether we like it or not. What is capable of being done now simply was not capable of being done ten years ago. There have been very great changes. What the Government seek to do, as the White Paper says, is to,

"open the doors so that individuals can choose for themselves from a much wider range of programmes and types of broadcasting."

I continue to quote:

"But the Government believes that, with the right enabling framework, a more open and competitive broadcasting market can be attained without detriment to programme standards and quality. Its single biggest advantage will be to give the viewer and listener a greater choice and a greater say."

I do not agree with the noble Lord, Lord Bonham-Carter, and the noble Baroness, Lady Birk, when they say that if you have more programmes they are

automatically bound to be worse. I do not think that is so. There is a danger that it could be so, and that is one of the reasons why we set up the Broadcasting Standards Council, to which the noble Lord, Lord Bonham-Carter, takes such exception. There are also great hoops through which any company will have to go before it is granted a franchise. Both Channel 3 and Channel 5 licensees will have to pass the "quality threshold", which includes such requirements as consumer protection, high-quality news and current affairs programmes, a diversity test, a proper proportion of programmes of European Community origin and 25 per cent. of original programming from independent producers. There will also be a proportion of regional programmes. The requirements are quite extensive.

The noble Baroness, Lady Birk, said that subscription has not been successful. I do not think that is completely true. Subscription has proved a great success in France and also, I understand, in certain parts of the United States. The noble Baroness asked about the Independent Television Commission and how it would enforce the licensing conditions. It will conduct formal reviews of the performance of its licensees and, if they are not performing satisfactorily, the commission will be able to issue a warning to them—a yellow card. If the performance does not improve after the issue of the yellow card the ITC will be able to withdraw the licence one year later, if necessary. The Government are also considering whether the ITC should be in a position to impose financial penalties.

Both the noble Baroness and the noble Lord, Lord Bonham-Carter, asked: what does the light touch mean? The Independent Television Commission will apply strict standards but it will do so without the kind of detailed controls which are imposed by the Independent Broadcasting Authority. It will have a range of methods to reinforce its licence conditions.

I should like to point out one quite important thing. In view of the fact that all these technological changes are coming about, whether we like it or not, all we seek to do is to provide a framework by which people can take advantage of them if commercial considerations permit and if viewers wish it. As the White Paper says quite clearly, the Government should not try to pick winners: they should enable, and not dictate, choice. I feel sure that the noble Lord, Lord Bonham-Carter, will be at one with the Government on that point. We do not seek to dictate choice: we seek to enable it to come about.

Baroness Birk: My Lords, can I ask the Minister a point for clarification? When he was answering my question about the lighter touch, he referred to keeping a restraining hand without too much detail, without going too far, or words to that effect. Does that mean there will be no insistence on balance, which is one of the cornerstones of the IBA? It seems to me that that can be the only answer.

Earl Ferrers: No, my Lords. I did not mean to give that impression, and I am sorry if I did. Balance will be one of the criteria involved in the application of the licence-holder before being granted a licence. Licence-holders will have to go through the hoop of

providing a proper balance before they will be considered for the grant of a licence. What I meant by the lighter touch was that the Independent Television Commission will not have the responsibility of controlling or supervising programmes.

Lord Walston: My Lords—

Lord Orr-Ewing: My Lords—

Earl Ferrers: My Lords, if I may intervene, we cannot have this number of speakers at the same time. It is customary, following the reading of a Statement, to hear from the Opposition spokesman who occupies the Front Bench opposite, followed by the other Opposition spokesmen, including what used to be the SDP. I suggest that if my noble friend Lord Orr-Ewing will be kind enough to contain himself while the noble Lord, Lord Walston, addresses your Lordships it will help our proceedings.

Lord Walston: My Lords, I am grateful to the Minister. I should like to make just one small correction. We used to be the SDP and we still are.

I want to put to the Minister one perfectly simple question. Do the Government consider that television and sound broadcasting are primarily market-led, profit-making businesses or are they, at least to some extent, a public service and an art form? We have no objection here to some of the former, but certainly not to all of it. We must retain some of the public service and some of the art form. I cannot help feeling that a significant element of the latter is of enormous importance to the whole of our broadcasting industry and to the country as a whole. The BBC has undoubtedly fulfilled these purposes in an admirable way and will continue to do so; but it will not be able to do so if it has to rely solely on profits, whether those profits come from subscriptions or from sponsorship. Therefore, it is up to the Government to say where its finance is to come from and, if it is to be guided, as are other providers of sound and television broadcasting, whether it has to rely solely on the profits which it can generate from its programmes. I should be most grateful if the noble Earl could answer that point.

At the same time I should like to endorse very strongly the final comments of the noble Lord, Lord Bonham-Carter, concerning the BBC's External Services. I hope that we can have an assurance from the noble Earl on that matter also.

Lord Orr-Ewing: My Lords, before the noble Earl replies to that point on behalf of these Benches and myself I should like to welcome the fact that, after a long period of gestation, the Government have come down firmly in favour of the continuation of a licence fee and public service broadcasting. I believe that some of us do not appreciate, and the public certainly do not appreciate that there is already an obligation on the independent broadcasting companies to carry out some public service duties—the news and, as the noble Earl mentioned, current affairs programmes. Is it not wise to consider whether in the very long term some of the television licence money should go to

[LORD ORR-EWING.]

maintaining those obligations to public service broadcasting on the part of bodies other than the BBC? The BBC currently receives an income of £1,000 million a year from the licence and is the only body which benefits from it. As other forms of finance begin to be introduced—subscription television for the BBC, possibly sponsorship on some channels—I wonder whether it is not right that this huge licence income should also go to others seeking to provide public service broadcasting.

One of the problems which has emerged from points raised by several speakers on the other Benches and to which the noble Baroness, Lady Birk, referred is that the regulatory authorities are now in a bit of a muddle. We are losing one and we shall have a new one which is meant to undertake a range of activities, including checking on sex and violence in programmes and the quality threshold. That will be a very difficult judgment to make.

I was particularly struck by the fact that my noble friend did not mention the word "balance". That is written into the BBC's charter, it is written into its licence and it will presumably be written into the licence of other organisations which seek to entertain the public. Ought not balance to be considered by the regulatory authority when it is set up?

Earl Ferrers: My Lords, my noble friend is quite right. Of course balance is important. As I tried to explain earlier, that is one of the criteria which will have to be considered when an application is submitted and before someone is considered to be a proper applicant. Applicants will have to show that they can produce a balanced programme, among other things.

My noble friend Lord Orr-Ewing also said that he believed that the BBC ought to get funds from elsewhere other than the licence fee. The noble Lord, Lord Walston, said that the BBC cannot be expected to rely on profits. I do not think that "profit" was the right word to use. All the Government say is that the BBC will continue to provide the service which it produces at the moment but that it is the Government's desire that the BBC should seek alternative means of funding than from the licence. In the White Paper the Government make the point that it is their intention that at some time in the future the licence fee should be replaced. We suggest that subscription should be tried. At the moment it is an untried system. Until it is tried it is impossible to say whether it is the right system to use and what proportion of the BBC's funding it should represent.

The noble Lord, Lord Walston, asks whether it be market led or a public service. The answer is that both TV and radio have an element of both. The BBC's public remit will be unchanged and Channels 3, 4 and 5 will have more positive programming obligations.

One other point which I think is important relates to the question of deciding what is acceptable and what is not. When there was a duopoly of the BBC and ITV it was clearly necessary for them to operate under fairly strict regulations and controls. When there are 10 or more channels within the reach of the

average viewer it is believed that viewers can increasingly sort this out for themselves provided that the choice before them is sufficiently varied. Whether we like it or not technology has advanced and made these things possible. I accept the concern which some noble Lords have expressed about balance and standards but that is one of the points we shall have to keep in mind, and it is one of the factors which we shall be able to consider further when we come to debate the matter.

4.45 p.m.

Lord Parry: My Lords, I too should like to thank the Minister for repeating the Statement made in another place. I shall begin with a wholly positive comment by welcoming the assurance given in regard to Sianel Pedwar Cymru, the Welsh channel. I do so not in any nationalistic or jingoistic sense but because of its importance to the whole of the culture of the country and to the debate on the White Paper that will follow the Statement.

When that channel for Wales was set up it was not intended to be specifically for the Welsh language although it was given an almost sacred duty to preserve that language. It has kept to its task and has been successful. Far more importantly in some ways, the channel has also broadened the culture in the bilingual channel. It has broadened the culture of Wales and in the nature of the Welsh content made a contribution to its preservation.

When the Minister addressed himself to the dangers of new technology and the all-pervasive atmosphere of other cultures which will be footprinted upon ours in the years to come through that new technology, and when he said that he was anxious to set up a protective mechanism, my mind went back to my days on the Independent Television Authority Council for Wales. That became the Independent Broadcasting Authority for Wales, on which I also sat before going to the General Advisory Council of the IBA and eventually into similar capacities with the BBC. I mention that because the Minister has not mentioned the role of the general advisory councils of the bodies when he repeated the Statement this afternoon. They are very important because the lightness of touch which the noble Earl has talked about was very often vested not in the authority's body but in the advisory committees, which themselves have been successful.

Can the Minister assure us that in imposing a lighter touch and in creating an organisation to control these new developments we shall not end up with a situation in which the strength passes back to government? In the early days of the Government of which he is a member it was said that they were very anxious to create less government. If the institutions which protect the people within government are dismantled, very often the power goes back to central authority and achieves the opposite of the purpose intended.

Earl Ferrers: My Lords, I think that those are all highly relevant points which it would probably be better to bring out in a debate rather than interrupt at even greater length the debate which the noble Earl, Lord Longford, has introduced. I would only

say to the noble Lord, Lord Parry, that it is not the Government's intention that power—if that is the right word—should revert to the Government. The Government believe that there should be choice, there should be variety of choice and that it ought to be the consumer who does the choosing, subject to certain safeguards of acceptability.

There is one other question which I apologise for not having answered. My noble friend Lord Orr-Ewing and the noble Lord, Lord Walston, both asked whether the External Services of the BBC would be affected. The White Paper has no bearing on the BBC's External Services, which will continue to be funded as now.

Lord Annan: My Lords, perhaps I could ask one question, but I certainly do not want to have a debate at this moment. My question concerns subscription and what is meant by it. Does it mean that I would have to buy a new television set with a special device in order to obtain a subscription channel of the BBC? If it does not mean that, does it mean that £200 million or £300 million will be taken from the BBC licence fee and that this will be replaced by appeals on the BBC channels for the public to subscribe? If so and if the practice of the United States of America is any guide, does he think it likely that we shall see Sir Robin Day divesting himself of his clothing down to his underpants and auctioning it to the public? That is exactly what happens on the public service channel in America. They are desperate for subscriptions and cannot obtain them and occurrences of that kind have been seen.

Earl Ferrers: My Lords, there are many ways in which subscription can be brought about. I am bound to say that the rather graphic description produced by the noble Lord, Lord Annan, in which Sir Robin Day auctioned his clothes was not one of the ways that the Government had in mind.

One of the systems involves an attachment on the television set which enables the viewer to be charged when he operates it. I think that the BBC will try some new subscription methods during the night hours when programmes can be shown and possibly videoed automatically by people who will then pay when they see them again in the course of the day. There are all kinds of different methods. That is the reason why the Government are not specific on the matter. We feel that we have to try them out and see what enterprise and initiative can bring about. The point is that if subscription can come about it could relieve the licence fee somewhat.

Lord Prys-Davies: My Lords, I should be grateful if the House would allow me to put one question to the Minister about the Welsh language fourth television network. Am I correct in assuming that the Government are not committed to the preservation of the existing broadcasting and financial viability of the Welsh language fourth channel station? In other words, will the station henceforth have to depend on the income that it can generate from advertising?

Earl Ferrers: My Lords, at the moment Channel 4 Welsh language television is subscribed to by the ITV

companies. They obtain that money from advertising. It is suggested that instead of that method, the revenue should in future come direct to the company itself via advertising.

Mentally Ill Offenders: Treatment

4.53 p.m.

Debate resumed.

Lord Donaldson of Kingsbridge: My Lords, perhaps we may now return to the problem of disturbed offenders and what to do with them. First, I should like to thank my old and noble friend Lord Longford for raising this very difficult question. I agree with him and with the noble Baroness, Lady Faithfull, that it one of the most difficult questions of all.

My noble friend Lord Longford dealt only with one half of the problem. His remarks centred on the more serious half whereas the noble Baroness, Lady Faithfull, dealt with the question very fully in relation to the petty side, which is the more tiresome half. I wish to say at the outset that I agree wholly with the suggested remedies from both sides. I want to talk very roughly in the first instance about the petty side and, secondly, about what the prison service and others are doing in relation to the more serious side.

A difficult question to answer is whether or not seriously disturbed people qualify under Section 47—I think it is Section 47—to be sent to a special hospital. My noble friend asked how one made that decision and suggested that it should be made by a tribunal. On the whole something of that kind seems to be necessary because quite often things seem to go wrong. At the other end of the scale of dangerousness are the offenders about whom the noble Baroness, Lady Faithfull, spoke. They are in fact just a certain number of the huge group of petty offenders who are filling our prisons to overflowing and whose numbers have been increasing year by year over the last 30 years. I suppose that something like 10 per cent. of those offenders might come into the category with which we are concerned. They are not only inadequate but, to use a word which I use quite affectionately, rather dotty. They are not dangerous criminal lunatics; they are people who cannot be relied upon to take the rational course for the simplest possible proposition. Often they are very charming and rather fun to deal with if one does not have to try to control them.

Everybody in penal reform circles has been saying for years that prison does nothing but harm and certainly can do no good to the ordinary inadequate. However, that is not the subject of this evening's debate. We shall talk about that matter on 30th November I hope, and we shall come back to it. At present we must consider that percentage of slightly dotty inadequates with whom it is particularly difficult for the prison service to deal. Discipline, which is invariably misunderstood by such people, turns in no time to cruelty. Such people need treatment and not discipline. In general the prison service is not equipped to give it. I am not certain that

[LORD DONALDSON OF KINGSBRIDGE.]
anybody is so equipped, because these people are very difficult to treat, but some effort has to be made.

The hospitals do not want them—and who can blame the hospitals? They must therefore be looked after in the community. If prison does damage and hospitals will not have them, only one solution remains: care by the community. That means—as the noble Baroness pointed out very strongly and better than I can do—a more generous provision of professional help added to the already fairly plentiful voluntary help. There are quite a number of different kinds of hospitals which deal with such people and it would not be difficult in any way to double the provision. In fact most of us believe that for under £1 million it can probably be trebled. Of course it will not cost nothing but it will only cost about one-tenth of the cost entailed in further prison provision.

One could do worse than consider just for a minute the proper purposes of a hospital, a prison and an asylum. The proper functions of a prison are to punish by restricting liberty which at the same time protects society by removing the offender from circulation; to provide decent containment for all cases; and to aim at rehabilitation in cases in which it seems possible. The proper functions of a hospital are to relieve pain and disability and to attempt cure. The proper functions of an asylum—nowadays known as a special hospital or a long-stay mental hospital—are to protect the public from the patient and the patient from himself while looking after him or her in a kindly way and, in cases where prognosis is favourable, to attempt cure or at least amelioration of the condition.

As regards the serious offenders, apart from the appalling difficulties over diagnosis, the MacNaghten rules, questions of responsibility and so on, there is scope for dealing with them in special hospitals. The problem which the noble Earl raised; namely how to decide which of them ought to go there, is not a question of provision; it is a question of understanding and expert views.

The second type of person—the petty or what I call the dotty offender—is something quite different. Here it is a question of provision. There is nowhere for these people to go. They cannot go to hospital because they are impossible to manage there. They do go to prison and there is a sad army which drifts in and out of prison on short sentences, and then goes in and out of hospital and back again into prison. We have to make some effort to deal with these people in an entirely different way, as the noble Baroness said. We should do so by giving the community enough professional and voluntary help to cope with difficult people of this kind in reasonably simple ways. I believe that all the machinery is there. For example, the Simon Community, which I have known for 30 years and have always much admired, specialises in the bottom rung of society. If one gave it a little more money, and possibly an accountant, it could run 30 casual ward places which would be a credit to us and to the entire country. I do not believe that there is any difficulty except cash and the will to do it.

One issue which arises here is the question of drink. I believe that my noble friend Lord Soper will talk

about this. However, the truth about drink is that it is part of the cause of the dottiness in a great many petty offenders.

Seventeen years ago an admirable report was published. I do not suppose a single person under 60 in the Home Office has ever looked at it. It was the report of the *Home Office Working Party on Habitual Drunken Offenders*. It recommended that,

“persons who, under present arrangements would be arrested for being drunk in public should be taken by the police to special detoxification centres and there detained while they are dried out and any necessary medical and social investigation is carried out”.

The report went on to suggest that they could then be sent to ordinary social work hostels.

Two experimental detoxification centres were set up in Leeds and Manchester in the 1970s. A more basic drying out centre was set up more recently in Birmingham. The Home Office recently withdrew funding from these centres and the Manchester centre has now closed. That is the response over 17 years to an important report which deals directly with the question that we are discussing tonight. I am not attacking the Minister. My own party, (as it then was) is just as guilty. For another six or seven years we did not do much. We accomplished a little, which has now been taken away. However, that is the kind of action that we must take.

I wish to add one comment because one is always misunderstood. Violence is an entirely different category. Most of the cases about which the noble Earl, Lord Longford, was talking are connected with violence. Therefore one is concerned with a special hospital or a prison, because these people are, and often remain—although not always, as the noble Earl has said—a danger to the public. However, I for one support severe sentences for all kinds of violence and for carrying weapons with intent to rob or injure. But I would not send inadequates to prison, even if there were no overcrowding. I regard it as a half-baked extravagance which can do no good and must do some harm. I hope that we may be able to develop this approach on 30th November.

I wish to turn for one minute to the prison department's initiatives over the dangerously disturbed offenders, which is more strictly the objective of the Question of the noble Earl, Lord Longford. Grendon constitutes the department's main effort. I shall be interested to hear from the Minister what else is being done in other parts of the service in this direction. Those in authority at Grendon have always insisted on selecting prisoners who would be both likely and willing to receive and benefit from its treatment. They have carried on a therapeutic regime, with some ups and down, for over 30 years.

However, there is a new development which is of some interest to this present debate. Grendon has always had a small hospital of some 30 beds. This has now been transformed into an acute psychiatric unit at remarkably little cost and by the initiative of the people at Grendon. It is receiving cases from other prisons of men who have deteriorated mentally during sentence and is thus providing, in a numerically small way, for people who are not psychotic cases fit for transfer to such places as

[Mr. Lawson]

"Withdraw!"—are determined to run a scare campaign. In fact, the people of this country will judge this Government by their record and not by the scare campaigns of the party opposite. We saw them before the last election and we remember the result of the last election.

Sir Anthony Grant (Cambridgeshire, South-West): Will my right hon. Friend totally disregard the nonsense talked by Labour Members, whose record on inflation, the elderly, the winter of discontent and the Christmas bonuses was utterly disgraceful? In view of the dangers of misreporting to which my right hon. Friend referred, however, would it not be a good idea to refrain from gabbing to the press until policies are clearly agreed and defined?

Mr. Lawson: My hon. Friend of course was once a Minister himself and therefore he speaks with great authority, but he will recall that it is customary for Ministers to talk to the press on an off-the-record basis from time to time.

Mr. Speaker: Statement—Mr. Hurd.

Mr. Robert N. Wareing (Liverpool, West Derby): On a point of order, Mr. Speaker. Is it in order for the Chancellor of the Exchequer to refer to any right hon. or hon. Member as "less salubrious"?

Mr. Speaker: I have heard worse.

Mr. Winnick: Further to that point of order, Mr. Speaker.

Mr. Speaker: It will take up time and I have already called the hon. Gentleman once.

Mr. Winnick: I am sometimes criticised by my colleagues for the fact that I rarely drink. Should not the Chancellor apologise for his slur? It should make no difference whether a slur comes from the Chancellor or from anyone else. Why can he not apologise?

Hon. Members: Bring him back!

Mr. Speaker: Order. I do not think that the word "salubrious" has anything to do with drink.

Mr. Eric S. Heffer (Liverpool, Walton): On a further point of order, Mr. Speaker. May I ask why on some occasions, on issues not quite so important as this, you allow questions to go on for three quarters of an hour but on this fundamental issue for the mass of ordinary people in this country you bring questions to a close in less than half an hour? I should like an answer from you, Mr. Speaker.

Mr. Speaker: I will give the hon. Gentleman the answer. He well knows that there is a difference between a private notice question, which normally goes on for about 15 minutes—this one went on for 25 minutes—and a statement. This was a private notice question and not a statement.

Mr. Heffer: So what?

Mr. Speaker: Just that!

Broadcasting (White Paper)

3.58 pm

The Secretary of State for the Home Department (Mr. Douglas Hurd): With permission, Mr. Speaker, I wish to make a statement about the Government's plans for broadcasting legislation. I have laid a White Paper before the House today.

Our broadcasting system has a rich heritage, which is a tribute to the efforts and enterprise of the broadcasting authorities and all those professionally engaged in the broadcasting enterprise. Our proposals seek to build on those achievements in developing services of quality, range and popularity.

Broadcasting is changing fast and this change makes possible a much wider choice for the viewer and the listener. The viewer should not be denied this choice. That is our starting point. The Government should not seek to lay down a blueprint for the future by picking favoured technologies. Rather we propose an enabling framework with increased opportunities for additional channels as the customer determines. Several dozen television channels and possibly several hundred radio services may be in prospect.

Subscription, which enables the viewer to signal his preference to the broadcaster directly, will have a greater role to play. There will be a greater separation of the different activities that make up broadcasting, including programme production, the assembly of individual programmes into channels and transmission and service delivery.

The ownership of commercial television and radio should be widely spread. The White Paper contains detailed proposals to ensure that the control of television and radio services is not concentrated in the hands of a few groups or individuals and to prevent excessive media cross-ownership. The Government are determined to keep the market open to newcomers and to prevent any tendency towards editorial uniformity.

Safeguards on minimum standards are needed to protect viewers and listeners from shoddy wares and exploitation. Subject to those, they should be able to exercise greater choice over what they hear and see. While some important positive programming obligations are retained, we envisage a substantial liberalisation, especially of the ITV system, and greater reliance on the viewer, rather than the regulator, to sustain range and quality.

Those are the principles that have guided us. Our thinking has been influenced at many points by the Peacock report and by the admirable report in June of the Home Affairs Committee of this House. I hope that right hon. and hon. Members will find the time to read the White Paper in full, but I shall give a brief outline of the main practical proposals.

We propose that a new fifth channel, with 65 to 70 per cent. national coverage, should be authorised to begin broadcasting at the start of 1993. Different companies could provide the services at different times of the day, but the channel would be nationally based. A sixth channel will also be authorised if technical studies show it to be feasible.

We propose a new flexible framework for the development of multi-channel local services through both cable and microwave transmission, known as MVDS.

robbed them of the value of their savings, they are now getting a real return on their savings. So that is why pensioners as a whole have had their incomes rising faster than that of the rest of the community. But there still remains a problem—[AN HON. MEMBER: "You."]—as all of us on this side of the House know. There still remains a problem of a minority of pensioners who have done far worse. That minority is the minority we propose to address with the new scheme which I told the House about a few moments ago.

Mr. Gerald Bowden (Dulwich): Does my right hon. Friend accept that up to 30 per cent. of pensioners live at an unacceptably low standard of living? Does he also agree that another 30 per cent. of pensioners have a very reasonable standard of living? Surely it is quite illogical to give a £10 Christmas bonus to the top 30 per cent. instead of giving a £20 Christmas bonus to the bottom 30 per cent. Let us use the money wisely.

Mr. Lawson: I know of my hon. Friend's concern over many, many years for the pensioners and he has been consistent in that, but I have to say I have no change to announce whatever in the payment of the Christmas bonus. We will continue to pay it; indeed, we have put it on a statutory basis, unlike the Labour Government who, two years out of five they were in office, they failed to pay it at all.

Mr. Michael Foot (Blaenau Gwent): As the Chancellor of the Exchequer has somewhat ungallantly attributed all his difficulties to members of the press, will he tell us which were the offending newspapers and whether he intends to invite their representatives to come round and see him again?

Mr. Lawson: The journalists concerned—the journalists concerned know very well if they—and if they look in their notebooks—and they were taking notes—they will see that what—the stories that appeared in the Sunday press bear no relation whatever to what I said.

Mr. Ray Whitney (Wycombe): Does my right hon. Friend agree that the splutterings of the Leader of the Opposition, which were so ill-judged and appeared to be so synthetic, may have been a genuine cry of rage? Does he further agree that all the new and positive thinking on social and other issues come from this Government and from the Conservative party and that there is no new thinking on the part of the Labour party and the other Opposition parties? Last week, the Opposition affected to be outraged by the suggestion that our hon. Friend the Under-Secretary of State responsible for higher education was seeking new funds to ensure that a greater proportion of young people would benefit from higher education. They are now outraged that my right hon. Friend is seeking to find new resources for the lower-income sections of the elderly population.

Mr. Lawson: I think my hon. Friend is right, that the Leader of the Opposition did make, as usual, a complete mess of it and I think that was why—I think that was why his predecessor a moment ago tried to help him.

Mrs. Margaret Ewing (Moray): Does the Chancellor of the Exchequer accept that his arrogant statement today can hardly be interpreted as a consolation to those pensioners who have spent a sleepless night worrying about what will happen? Instead of filling the country with

despair and poverty, will he, as an apology, give a commitment that the Government will look carefully at the King's Fund report which shows that British pensioners in general—not a tiny majority—are among the poorest in the world with the lowest life expectancy?

Mr. Lawson: As I pointed out earlier, during the time that we have been in office, the average—the income of the—the real income—the real income, that is, after allowing for inflation—the real income of the average pensioner has risen by well over 20 per cent., over 23 per cent., in fact. It was 23 per cent. by 1986 and it is higher today. That is above the average level of increase for the population as a whole.

Mr. Robert McCrindle (Brentwood and Ongar): Although the targeting of benefits clearly makes a great deal of sense, especially when it is accompanied by additional resources, as my right hon. Friend the Chancellor of the Exchequer has just stated, will he perhaps try to avoid assuming in any future comments that he makes on these matters, that pensioners are either very well-off or on the poverty line, forgetting the large number in the middle to whom, for example, the withdrawal of free prescriptions would be a considerable setback? May I suggest to him that, if his statements over the weekend indicate the beginning of a debate on how targeting and its machinery should be implemented, his comments to the press on Friday will not have been in vain.

Mr. Lawson: I am grateful to my hon. Friend. In fact, the statements, as I said—the statements that appeared in the press on Sunday bore no relation whatever to what I in fact said. What I have said to them is that, while we were absolutely, totally committed to maintaining—

Ms. Clare Short (Birmingham, Ladywood): They will have the shorthand notes.

Mr. Lawson: Oh yes, they will have their shorthand notes and they will know it, and they will know they went behind afterwards and they thought there was not a good enough story and so they produced that. They will know that I said that, while the state pension would continue to be uprated in line with inflation, as we have always said it would, that additional help over and above that ought, in my judgment, to be concentrated on those who are at the poorest end, of pensioners, whose incomes have not risen nearly as fast as the generality of pensioners.

Mr. David Winnick (Walsall, North): As all the Sunday newspapers carried virtually the same story, is the Chancellor saying that every journalist who came to the briefing—he has not denied that there was one—misunderstood what he said and that if the choice is between believing what all the newspapers said or what the Chancellor has said today we should somehow believe the Chancellor?

Does the Chancellor of the Exchequer appreciate, however, that he is to be congratulated—and I, as a member of the Opposition, congratulate him—on revealing the Tories' intentions on the hidden agenda and making it clear that millions of pensioners should indeed be terrified of what would happen if the Tories were re-elected?

Mr. Lawson: It is quite clear that the less salubrious hon. Members opposite, of which the hon. Member who just spoke is a conspicuous example—[HON. MEMBERS:

That will make possible a further extension of viewer choice. It will also provide new opportunities for local television in cities and for television services catering for minority interests.

British Satellite Broadcasting plans to start its three channel direct broadcasting by satellite—DBS—service next autumn. The Government gave BSB an undertaking last year that the United Kingdom's fourth and fifth DBS channels would not be allocated until BSB's service had been in operation for at least three years. BSB has recently said that it would be willing for that moratorium to be lifted. Accordingly, the United Kingdom's two remaining channels will be advertised early next year. Five high-quality DBS channels should soon be available to British viewers.

Viewers will continue to receive other satellite services directly, including those from proposed medium-powered satellites. We continue to work for international agreement for the supervision of programmes in such services and shall propose to Parliament sanctions against any unacceptable foreign satellite services received here.

The present ITV system will become a regionally based Channel 3. Licence holders will, for the first time, have a statutory obligation to provide regional programming, including programmes produced in the region.

The distinctive remit of Channel 4 will be retained and reinforced to sustain high quality programmes in the commercial sector. We consider that, after the necessary legislation, advertising on Channel 4 should be sold separately from that on Channel 3. Subject to those points, the White Paper sets out options on the future constitution of Channel 4. The Welsh Fourth Channel Authority will continue in essence unchanged.

All those commercial television services will be free to decide their own mix between advertising and subscription funding and will have greater freedom to raise money through sponsorship, subject to proper safeguards. All will be subject to consumer protection obligations on programme content. Most commercial television licences, including those for Channel 3 and Channel 5 services, will be allocated by competitive tender, subject to a quality threshold defined in the White Paper. Operators of Channels 3, 4 and 5 will be expected to show high-quality news and current affairs programmes dealing with national and international matters and to show the news, and possibly also current affairs, in main viewing periods. Channel 3 and Channel 5 will be expected to provide a diverse programme service appealing to a variety of tastes and interests to ensure that a minimum of 25 per cent. of original programming came from independent producers and that a proper proportion of programme material is of EC origin.

There will be one additional requirement affecting Channel 3 only. There will be continued provision, like that which brought ITN into existence, to ensure that there is at least one body effectively equipped and financed to provide news for Channel 3. There will be safeguards for the continued provision of a schools programmes service.

The Government agree with the Home Affairs Committee that a new agency, which might be called the Independent Television Commission, should be established, in place of the Independent Broadcasting Authority and the Cable Authority, to license and supervise all parts of the commercial television sector. It will be able to operate with a lighter touch than the IBA and without the

IBA's detailed involvement in scheduling but, as the White Paper sets out, it will have strong sanctions against failure by its licensees to live up to their licence conditions.

The BBC will be expected to continue to provide high-quality programming across the full range of public tastes and interests. The Government look forward to the gradual introduction of subscription on the BBC's television services and to the eventual replacement of the licence fee—which will, however, continue at least for some time to come. We propose that the night hours from one of the BBC's channels should be assigned to the new ITC for allocation, like other licences by competitive tender. The BBC would keep the other set of night hours on the basis that it used it as fully as possible for making a start in developing subscription services.

We envisage that the part played by independent producers in programme making in the United Kingdom will continue to grow, as future licensees will be free to operate as publishers, without programme production capacity of their own. We believe that the transmission infrastructure should be separated from the programmes services.

The Government propose to proceed with the plans that I announced to the House on 19 January for the deregulation and expansion of independent radio, under the light touch regulation of a new Radio Authority. There will be scope for three new national commercial stations and as many as several hundred local services, including community radio stations.

The Broadcasting Standards Council, already established to reinforce standards on sex, violence, taste and decency, will be placed on a statutory footing. We propose that the exemption of broadcasting from the obscenity legislation should be removed at the earliest opportunity.

That is a brief summary of the main proposals set out in the White Paper. We aim to ensure that viewers and listeners have greater freedom of choice from a more varied output of programmes, including programmes of high quality. British television has a deservedly high reputation in the world and we expect that reputation to grow with the new opportunities that are now in sight.

The House will have an opportunity to debate the proposals before they are put into legislative form. We shall also take careful note of views expressed outside the House. We shall then bring forward legislation.

Mr. Roy Hattersley (Birmingham, Sparkbrook): Is the Home Secretary aware that his White Paper announces a number of aspirations for broadcasting with which the Opposition are in wholehearted agreement? We welcome the expansion in broadcasting and recognise the consequent need for changes in organisation. However, we at least know that expansion can bring diversity and high quality only if it is carefully regulated. The Home Secretary, having proclaimed the virtues of choice and quality, makes proposals that will result in a reduction in both.

Does not the right hon. Gentleman realise that, while competition has undoubted benefits in some areas of economic activity, the doctrinal obsession with markets revealed in his White Paper is bound to have an adverse effect on broadcasting? It is just not possible to pretend that viewers are given more choice if what they are offered is, in truth, just a number of extra channels that show

[Mr. Roy Hattersley]

programmes that are increasingly indistinguishable from each other and of a steadily deteriorating quality. That is the prospect which the White Paper holds out.

Will the Home Secretary consider the consequences of auctioning Channel 3 franchises to the highest bidder? It can result only in a deterioration in programme quality, which the minimum standards, laid down in paragraphs 6.10 and 6.11, will do little or nothing to arrest. Programme companies that obtain franchises from the highest bids will be forced into sacrificing new investments and the production of high-cost programmes. The Home Secretary has already conceded that some deterioration is already inevitable, by apparently removing from Channel 3 companies the specific obligation to broadcast high-cost drama, documentary and religious programmes. As a result, the new ITC powers that he announced today—that is, formal warning, right to revoke a franchise, and perhaps even the imposition of fines—are no more than window dressing. They are sanctions that reinforce regulations that are not in themselves strong enough to ensure high quality.

Does the Home Secretary not realise that standards will deteriorate even further when the competition that he claims to seek is reduced by the concentration of ownership? Will he confirm that, in paragraph 6.48, he asserts the need for ownership to be widespread, then announces the abandonment of present controls, and finally confesses that the Government do not have the slightest idea what regulation to put in their place? I make a prediction: they will not be regulations to which Mr. Rupert Murdoch takes exception.

The likelihood of increased uniformity has been heightened by the Home Secretary's decision to require Channel 4 to sell its own advertising. In paragraph 6.23 of the White Paper, he reaffirms the importance of Channel 4 catering for tastes and interests not served by other independent channels. By forcing it into direct competition for advertising, he reduces the chances of Channel 4 providing such essential programmes. Does not the opinion of the Peacock report, which is quoted and endorsed in paragraph 32, illustrate the Home Secretary's basic error? That quotation asserts that the BBC must continue the production of high-quality broadcasts, because, even in a fully developed broadcasting market, independent companies will neglect such broadcasts. The White Paper makes that neglect more likely, and it does not help the BBC to perform its proper function.

The BBC is to be subject to what the White Paper elegantly calls—although the Home Secretary wisely did not refer to the phrase in his statement this afternoon—a “double squeeze”. The value of the licence fee is likely to fall, and there can be absolutely no assurance that the necessary additional funds can be raised by subscription television; nor is subscription television a suitable way for the BBC to raise a major part of its revenue.

Paragraph 24 of the White Paper refers to subscription making it easier for high-quality programmes to be aimed profitably at particular sections of the market. The clear implication of that statement is that those who cannot afford high quality—the old and the poor in particular—will not get it. Clearly, the BBC will not be able, nor should it be prepared, to rely on subscriptions for a large part of its income. The result of the double squeeze is

certain to do desperate damage to radio in particular, a subject to which the White Paper devotes an insulting page and three quarters.

Paragraph 8.7 includes the ominous message that BBC radio will rely on licence fees for some time to come, but there is no suggestion of how BBC radio will be financed when, as the Home Secretary intends, the licence fee is abolished. We have no doubt that the Government mean that, sooner or later, all radio will be commercial radio, and that will be a disaster. [HON. MEMBERS: “Why?”]

I conclude by asking the Home Secretary three specific questions. The statement says that Channel 3 companies will be free to decide their own mix between advertising and subscription. Does that mean that a company will be free to move to financing, predominantly based on the limited subscription system, or will a minimum figure be specified by the Home Secretary?

Secondly, will the Home Secretary explain the real meaning of his restrictions on control—the word in the White Paper—by non-EEC companies? Am I right to fear that it will still be possible for an American conglomerate to own, either directly or through a subsidiary, companies broadcasting in Great Britain?

Thirdly, will the right hon. Gentleman assure us that the powers of the Broadcasting Standards Council, the “other things” that the White Paper coyly says are to be discussed with Lord Rees-Mogg, will not include the right to preview specific broadcasts?

This White Paper reflects commercial values rather than broadcasting values, as is to be expected from a policy that owes more to the Department of Trade and Industry than it does to the Home Office. It pretends to offer choice. In fact, many of the new channels will do no more than offer vast profits to the tycoons of international television. It is a giant retreat from the concept of public service broadcasting. Its result will be less diversity and lower standards.

Mr. Hurd: I think that the right hon. Gentleman must have written the last bit of his speech before he read the White Paper. As usual, his preliminary demonstrations bear little relation to what is actually proposed. This has not been a doctrinal exercise; it is something that we have worked at for a long time now to achieve the right balance between wider choice and the insistence on quality. I do not disagree with the original points that the right hon. Gentleman made and which he put in his lecture at Hexham last week. That is our aim, and I believe that we have found a sensible, practical way of doing that.

I refer to the right hon. Gentleman's specific points. On competitive tender, he has fixed on one point of what is essentially a three-part exercise. Somebody bidding for a franchise will first have to pass a quality threshold. That is not just consumer protection against pornography, excessive partisan politics, and so on. There are some specific things in the White Paper about diversity, about regionality—the regional content of programmes—about schools, and about news and current affairs. When that test is passed—it will be a stiff test—there will be the competitive tender, and then there will be the monitoring and enforcement by the new ITC of the quality threshold in operation.

If the right hon. Gentleman reads the White Paper and sees what is said about the yellow card, the red card, and the possible renewal of franchises, he will see that the business of enforcement is actually more specific than it is

under the present arrangement. If he looks at those three stages all together, he will see that this is a serious balance between quality and wider choice.

Again, I entirely agree with what the right hon. Gentleman said in his speech about ownership on Friday. It is important, as the White Paper states, and as the right hon. Gentleman thought we were not going to say, that there should not be a concentration of ownership. Paragraph 6.48 states:

"But clear rules will also be needed which impose limits on concentration of ownership and on excessive cross-media ownership."

In paragraph 6.53 of the White Paper, we set out various stringent rules on which we invite comments. If the right hon. Gentleman reads the White Paper, he will see that they include

"no licence holder for a particular area should control other broadcast media for that area".

Then there is the relationship between United Kingdom satellites and franchises and international franchises. There is also the relationship between newspaper interests and the media. It is all there, it is just that the right hon. Gentleman has not got quite as far as that in his reading of the White Paper. If he looks at paragraph 6.50, he will see the answer to one of his specific questions about the control of franchises by non-EC companies.

We invite precise comments on possible ideas, but the principle of choice between various severe forms of regulation—that is surely what the right hon. Gentleman would expect of us—is there, and it is severe.

We are entirely clear that preserving the remit of Channel 4, with which the right hon. Gentleman also agrees, is an important part of getting the balance right. We set out different ways in which Channel 4 might be organised to preserve the remit while selling its own advertising. When the House looks in detail at those three options, we shall be interested to have a choice between them. I believe that we can all agree on the presentation of the remit, and that there can be a reasoned argument about how best to achieve it.

The right hon. Gentleman spoke about the BBC and the licence fee. I think that the BBC can be—I am trying to choose my words carefully—reasonably satisfied with the position. Between now and 1991, the licence fee will be indexed and increased in line with inflation as it was a week or so ago. After 1991, we shall discuss with the BBC the extent to which it would be reasonable to limit indexing to take account of what may have been earned by subscription. Subscription is an attractive idea, as I told the House when reporting on the Peacock report. We shall have to see how far it will go and in what form, but the BBC is being given a nudge in that direction, which I consider entirely reasonable.

When he talked about radio, the right hon. Gentleman neglected the fact that we have discussed it, and that Government publications on it have been produced. I am sorry that there is not legislative time in the immediate future for a radio Bill. I am keen to get on with the proposals for radio, which were well received at the time and which are rehearsed in summary form in the White Paper. But there is no neglect there; it is simply a matter of finding legislative time.

Having answered one of the right hon. Gentleman's specific questions, I shall now answer the other two. There will be no tilt in the balance between advertising and subscription: it will be open to the successful franchise

holder to achieve a balance that he considers sensible. As for previewing, the White Paper does not add to what I have already told the House about the British Broadcasting Standards Council. It will be put on a statutory basis. Lord Rees-Mogg, the chairman, is now discussing with the broadcasting authorities how he would operate, and he is making some progress in working out agreement on standards. *[Interruption.]* The right hon. Gentleman should be interested and approving, because this fits absolutely into his general approach—at least, I hope it does. Lord Rees-Mogg will let us know what he believes, in the light of the discussions, to be the right statutory basis for his authority, and we shall make proposals accordingly.

Having listened to the right hon. Gentleman, I believe that the difference between us is that he believes that the only way to sustain quality successfully is by restricting choice. [HON. MEMBERS: "No."] That is the thrust of what the right hon. Gentleman has been saying. But we consider it a negative approach, which puts too much faith in the virtues of detailed bureaucratic regulation—which we have at present and which the IBA has been conscientiously discharging, but which we believe becomes otiose as wider choice is made available. We believe that our proposals offer the right balance between giving wider choice to the viewer and sustaining quality.

Mr. John Wheeler (Westminster, North): Does my right hon. Friend agree that today's statement and the remarks that he has just made will be warmly welcomed not only in the House but outside it? He is balancing carefully the era of change that is about to enter the broadcasting industry, and permitting the public the widest possible choice. His statement will be warmly received by members of the Select Committee on Home Affairs, many of whose key recommendations he has included in the White Paper.

Does my right hon. Friend accept that one of the main aspects of today's proposals is that the new "light touch" arrangements for the regulation of commercial television will be essential to maintaining the quality and standards of British television in the commercial sector, for which this country is rightly famous?

Let me conclude by saying that I would rather that the new authority was called the Commercial Television Authority.

Mr. Hurd: I am grateful to my hon. Friend. He and his colleagues on both sides of the House certainly did a sterling job in producing their report, which undoubtedly influenced us at several points, including the proposal that the IBA and the Cable Authority should be merged into a single new body. As long as it smells sweet, I am not too passionate about its name, and we shall have plenty of opportunities to discuss that.

I agree with my hon. Friend that much will turn on the arrangements for the quality threshold, which I described in answer to the right hon. Gentleman and of which he neglected to take account. The arrangements for sustaining quality involve doing away with the detailed processes of scheduling and regulation of the ITV sector. They involve the BBC, which he called the cornerstone, the Channel 4 remit, the consumer protection provision for Channel 3, positive requirements for Channel 3 including news, schools and diversity and the more rigorous

[Mr. Hurd]

proposals—the yellow card, the red card and the renewal of franchise arrangements. Taken together, I think that those proposals are an important part of the package.

Mr. Robert MacLennan (Caithness and Sutherland): Does the Home Secretary recognise that my right hon. and hon. Friends greatly welcome the extension of consumer choice implicit in the new broadcasting technologies and in increasing competition? Does he also recognise, however, our extreme concern that he has not realised that the increasing multiplicity of channels will not of itself ensure that the public enjoy the quality and variety that we have experienced in this country, which is the envy of the world?

Does the right hon. Gentleman not recognise that the arrangements for competitive tendering for Channel 3 in particular will take money out of independent television, which could result in inferior programming, a narrowing of choice or a combination of both? Does he not recognise that the pace of technological change is not so fast that it requires us to abandon a regulatory regime that has uniquely secured for this country its rich, balanced mixture of entertainment, information and education, and of popular and minority programmes for everyone? Does he not recognise that the public are as interested in quality as in diversity? Channel 4 has been a brilliant achievement. Does the right hon. Gentleman not recognise that it has succeeded because it has had a secure source of finance, and that that has not been secured in the White Paper?

Finally, does the right hon. Gentleman acknowledge that some ambivalence has appeared in his statement, and indeed in the White Paper, between his commitment to what he calls a "light regulatory touch" and his emphasis on the significance of positive programme requirements? In which does he believe?

Mr. Hurd: I must say that the fizz seems to be going out of the attack. Let me say with the greatest courtesy that I have always regarded the hon. Gentleman as one of nature's regulators. He would naturally put emphasis on a detailed system of regulation to remedy every ill, but I feel that television is moving out of that system.

Of course I agree with the hon. Gentleman's main point, that wider choice might not automatically mean diversity. But our proposal is that it should—that it must. There should not simply be a wider choice between quiz shows on different channels. If he reads the White Paper, the hon. Gentleman will see that the thrust of its proposals is to ensure that wider choice for the viewer is real choice, and not simply a choice between identikit shows. He believes that the right way to achieve that is to bring all new opportunities such as the satellite and Channel 5 under the same detailed control, with numerous officials sitting down and regulating exactly what—[HON. MEMBERS: "No."] That is a consequence of the hon. Gentleman's rhetoric. I do not believe it. I believe that television in this country is fast growing out of that framework. We need a new framework ensuring diversity, as the hon. Gentleman mentions, but not relying for that diversity on this kind of nit-picking.

Sir Peter Blaker (Blackpool, South): Will my right hon. Friend say a little more about cable, in which he knows that I have an interest? Is it still the policy of Her Majesty's Government to maintain conditions in which, given entrepreneurship on the part of cable television

companies, the urban areas of the United Kingdom will have the prospect of being cabled within a reasonable time, with the opportunities that that will bring of interactive services and more competitive telecommunications?

Mr. Hurd: Yes, indeed. For various reasons cable has made a slowish start, but it is beginning to pick up. That is both good news and important. We now have the new technology, MVDS, and it was consideration of that which held us up for several weeks. The question is how that new technology should be used. Should it be used simply and solely to help cable forward, or should it be possible for people to use that technology independently of cable? Cable will want to use that technology, and that is entirely legitimate. My right hon. Friend will see from the White Paper the rather complicated balance that we are trying to strike, safeguarding the interests of the existing cable franchise holders and perhaps of those applying now, while not harnessing MVDS technology absolutely to cable. I believe that there is room for both, and certainly, as I know my right hon. Friend hopes, for cable to use MVDS to facilitate its growth.

Mr. Gerald Bermingham (St. Helens, South): Will the Home Secretary accept that, if there is to be choice, the choice must be for all, and that for choice for all, all modes of communication must be available to each and every person? For those in rural areas, that means cable and satellite as well as the five terrestrial channels proposed. Does the Home Secretary agree that the track record of cable in the past few years has been more than a little disappointing? Does he further agree that the White Paper does little to encourage the companies to increase cabling across the country and that without cable and other modes being available to rural and other areas, there cannot possibly be choice for all?

Mr. Hurd: The hon. Gentleman has gone a little astray. A whole series of technologies are moving forward. We have terrestrial television which can reach more people and use more of the spectrum than previously; we have cable, MVDS, satellite and, most important, radio. All are poised for further development. I do not know, and the White Paper does not pretend to guess, which will turn out to be acceptable more quickly than others. That is why I say that we must enable development rather than declare a blueprint. The White Paper takes each to see how we can create a framework into which it can be fitted. The hon. Gentleman may be right about cable and I do not deny what he said. It is now progressing fast after some disappointing years. But I do not think that he is arguing that we should put taxpayers' money into it, as other countries have. Let it be enabled together with the other technologies and we shall see what viewers and entrepreneurs make of it and whether it is the preferred technology.

Sir Geoffrey Johnson Smith (Wealden): I welcome my right hon. Friend's recognition that the television industry must adapt and that the changes proposed in the White Paper offer an exciting challenge to the industry and a wider choice to viewers. Anyone who has been to the lightly regulated market of New York will know that our choice is extremely restricted. Does my right hon. Friend recognise that even among those who welcome his proposals, some are worried about some of the proposals—for example, the tax on turnover? If that is not

sensitively handled, it could undermine the ability of independent television companies to cope successfully with the increased competition and to provide a greater quality of programming under the new regime. Will my right hon. Friend assure the House that he will listen to those anxieties?

Mr. Hurd: I entirely accept that, as the dust settles, hon. Members like my hon. Friend, who knows the industry well, will want to raise a large number of specific and practical points. There is an immediate problem about the nature of the levy in this transitional period, and I owe the industry a decision and statement about that soon. My hon. Friend asked about the permanent arrangements. We believe that there is a strong case on the grounds of encouraging efficiency to move from a profits-based to a revenue-based levy. That principle is set out in the White Paper. Obviously, we shall listen to representations about how that should be worked out and applied.

Dr. David Owen (Plymouth, Devonport): I welcome the diversity and the choice inherent in these proposals, but does the Home Secretary accept that concentration of ownership is a crucial issue? Unless the House can be satisfied on that issue, it would be unwise to deregulate to the extent which he asks the House to accept. Having long argued for an auctioning of licences on Channel 3 and Channel 5, may I ask whether the sum of money that comes in, which could be considerable, will be earmarked for public service broadcasting, particularly on Radio 4 and BBC 2? The Home Secretary asked for views about Channel 4. I hope that he will retain it as a non-profit-making company, although taking advertisements.

Mr. Hurd: I am grateful to the right hon. Gentleman for his first point, and I agree with it. Measures against the concentration of ownership are crucial, and I would not come before the House with a Bill for deregulation which did not also include measures against the concentration of ownership. That is set out in the White Paper—

Mr. Hattersley: No, it is not.

Mr. Hurd:—when the right hon. Gentleman has read that far. I agree with the general point made by the right hon. Member for Plymouth, Devonport (Dr. Owen). The proceeds of the competitive tender will be earmarked for the Treasury as the public's receipt from franchises of leases of a public asset. I am sorry, but I have forgotten the right hon. Gentleman's last point—

Dr. Owen: Channel 4.

Mr. Hurd: I note what the right hon. Gentleman said about Channel 4. He has already chosen one option, and we shall be glad of views from all sides on that matter.

Mr. John Gorst (Hendon, North): In welcoming my right hon. Friend's statement, may I say that it is the most culturally literate development in broadcasting in the 33 years since the BBC lost its monopoly? Will he bear in mind that, during the past 33 years, the Opposition have continuously said that improvements in broadcasting can take place only as a result of the iron grip of regulation and control? At this point, would my right hon. Friend summarise the criteria and principles which have guided the 20 or so new developments contained in this White Paper?

Mr. Hurd: I hope that it breathes through the White Paper that quality and a wider choice for viewers and listeners go hand-in-hand at the top of the list. Independence, meaning a proper place for independent producers and independence against the concentration of ownership, probably comes third. Although the Government would not enforce this, reality will: that viability is the fourth. In other words, the proposals must make sense in terms of what viewers are prepared to accept and finance. Those four—quality, choice, independence and viability—are the criteria.

Mr. Norman Buchan (Paisley, South): Does the Home Secretary accept that this is not only a bad day for Britain, but for the reputation of Britain in the world? Our broadcasting system has been the great jewel of our reputation both culturally and educationally. He has never understood that its excellence depends on regulation, that regulation ensures diversity of programme and opinion, and that more channels of themselves do not ensure more kinds of programmes. Does the Home Secretary agree that the majority viewing that has been built up for apparently specialist programmes, such as the Attenborough and Bellamy programmes will not happen under a wholly commercial structure?

Does the right hon. Gentleman agree that he is proposing a minor ghetto for public service broadcasting and commercial freedom for cash for media entrepreneurs? Does he agree that the so-called "light touch" is a means of ensuring that the only competition that will take place will be between different kinds of pap? Is it not time that the Home Secretary took the whole damn lot—Peacock, the Green Paper and himself—out of this Chamber? Is it not time that we took broadcasting away from the Home Office and gave it to a proper Ministry that was interested in standards and programmes?

Mr. Hurd: I know that the hon. Gentleman has always been in favour of a Ministry of Broadcasting, and indeed a shadow Ministry of Broadcasting, and I do not object to those perfectly legitimate ambitions. I remember him posing away the other night in the Sinn Fein debate about the White Paper making the world safe for Murdoch and Maxwell. At least he has not repeated that today. Unlike the right hon. Member for Sparkbrook, perhaps he has read paragraph 6.48, which deals with the concentration of ownership. Those who run BBC 1, BBC 2 and Channel 4—three of the four existing terrestrial channels—would be a little surprised to hear themselves described by the hon. Gentleman as a "minor ghetto" in British broadcasting. They are not. Those three channels will sustain exactly the responsibilities that they have now and which the hon. Gentleman wishes to preserve. I do not agree with the hon. Gentleman. He speaks with the genuine voice of the old-fashioned regulator, whom time has passed by.

Several Hon. Members *rose*—

Mr. Speaker: Order. I remind the House that the Home Secretary said that there will be a debate later on the White Paper. I request hon. Members to ask single questions, not to go into the matter in great detail, because they will have other opportunities. On that basis, I shall allow questions to continue for 15 minutes.

Sir Philip Goodhart (Beckenham): Tens of millions of dollars have been spent on political television advertising in the American presidential elections, which are

[Sir Philip Goodhart]

mercifully coming to an end. Will my right hon. Friend assure us that the new broadcasting arrangements will prevent direct or indirect political advertising on the air?

Mr. Hurd: Yes, I give my hon. Friend that assurance.

Mr. Eric S. Heffer (Liverpool, Walton): I shall obey your strictures, Mr. Speaker. I should tell the Home Secretary that no Opposition Member has seen the White Paper because it has only just come in. The Home Secretary talked about quality control, but who will carry out that control? Who will determine it? Can we ensure that in future, instead of the trivia that we increasingly get on television, with all these game shows, we shall have programmes such as "Brideshead Revisited", the Miss Marple series and "Fortunes of War"? How can he guarantee that we will get such quality programmes if the interests of profit come first?

Mr. Hurd: The answer to the hon. Gentleman's question is, the BBC and the ITC. Those who run the BBC will continue to supply the hon. Gentleman with Miss Marple to his and their heart's content: there will be no change in that respect. The ITC will require variety and diversity from the applicants for franchises. It will be impossible for someone successfully to bid for a franchise, however long his purse, if he is proposing to broadcast only a series of quiz shows.

Mr. Toby Jessel (Twickenham): As to radio, does my right hon. Friend accept that the high standard of British music, which is a national asset, owes a great deal to the BBC's Radio 3? Will he enlarge on what action the Government intend to take in the long run to uphold the high musical standards of Radio 3?

Mr. Hurd: That is a matter for the BBC. Nothing in these proposals would prevent that from continuing.

Ms. Diane Abbott (Hackney, North and Stoke Newington): Will the Secretary of State accept that I and my hon. Friends are impressed by the stand that he is taking against the concentration of ownership in television? What steps will he and his hon. Friends take to guard against the concentration of ownership in the print media? Will he assure us that there will be no exceptions to such concentrations of ownership, even if the companies involved are the most fervent supporters of the Government?

Mr. Hurd: I gladly swallow the hon. Lady's compliment, but I shall not answer her second question. Because of the breakdown of restrictive practices in the press it is becoming increasingly possible, locally and nationally, to produce newspapers at lower prices—
[Interruption.]

Mr. Hurd: The hon. Member for Paisley, South will be calling *The Independent* a poor ghetto in a minute.

That is what is happening, and it is a healthy development.

Mr. Roger Gale (Thanet, North): I congratulate my right hon. Friend on his proposals to abolish the IBA and to establish an Independent Television Commission to take broadcasting into the 21st century. Will he consider an expansion of that to include telecommunications? May

I express the hope that the excellent IBA engineering division will be invited to tender for the new privatised transmission systems? What plans does my right hon. Friend have to encourage investment in cable television and to relax the regulations governing overseas investment in cable?

Mr. Hurd: We are considering the matter raised in my hon. Friend's second point, although it is not defined in the White Paper. On the first point, important transitional arrangements will have to be made for the IBA. We have begun to discuss that with the authority, and this morning I had a word with the chairman and director general, who stressed the importance of the matter. I entirely understand that. They have a staff—a skilled staff—to consider. None of the changes can take place before Parliament has approved the necessary legislation. That will give us time to formulate transitional arrangements to deal with the points made by my hon. Friend.

Neither I nor the White Paper join in any denunciation of the IBA. Although I criticise the bureaucratic niggling, I recognise that that is the job which Parliament laid upon the authority in the 1981 Act and which the hon. Member for Paisley, South (Mr. Buchan) continues to glorify. Time has moved on and passed that by, and the detailed regulation that the authority has carried out, as Parliament wished, is unnecessary. But that does not mean that those who have carried it out should be condemned.

Mr. Austin Mitchell (Great Grimsby): We can all sympathise with the Home Secretary in his humiliation at having to introduce this glossy distillation of the prejudices of Lord Young of Graffham, Saatchi and Saatchi and the Prime Minister. But the grubby changes in the ITV franchises and the abolition of the IBA pose a direct threat to serious programming, especially to current affairs, which is likely to undermine the basis of "World in Action", "First Tuesday" and "This Week" and to cause them to go the way that "Weekend World" has gone. What became of the old Conservative maxim, "If it ain't broke, don't fix it"?

Mr. Hurd: I do not blame the hon. Gentleman, who unlike the right hon. Member for Sparkbrook, has not had time to read the White Paper. Had he read it, he would have seen that, standing out among the positive requirements of any applicant for a Channel 3 franchise, will be the provision of news and current affairs programmes at times when people are viewing or listening. Moreover, section 22 of the Broadcasting Act 1981 provides that there should be at least one organisation providing high-quality news and international news that is sustained by the franchise holders. That is the basis of Independent Television News and that will be preserved. The hon. Gentleman's fears are unfounded.

Mr. Jonathan Aitken (Thanet, South): Will my right hon. Friend clarify precisely what the White Paper means when it says that the new Independent Television Commission will have a lighter regulatory touch to encourage lighter programme requirements? Does my right hon. Friend agree that ITV programming has not always been noted for its gravity and that the IBA has not always been noted for its severity? How does he answer the fear that a lighter regulatory touch may mean television stations with the editorial standards of the lower tabloids?

Mr. Hurd: I do not think that my hon. Friend's conclusion follows from his premise. The fact that he disagrees with some decisions made by the IBA does not justify the existence of much detailed bureaucratic scheduling, most of which never reaches the light of day but is carried out conscientiously by the IBA as part of its present duties. It is not tenable to continue that. That is what we mean by the "lighter touch".

Mr. Tony Banks (Newham, North-West): How does the Home Secretary expect the House to take seriously his assurances about preserving standards in broadcasting when he is to abolish the IBA and is announcing his intention to move towards privatising the BBC? How moveable is he in this consultative document? If there is much protest about, for example, the abolition of the IBA, will he come to the House and say, "I accept what has been said"?

May I congratulate the Home Secretary on being the first Minister who has not succumbed to the temptation of putting his own grinning face on the front page of a glossy White Paper? That self-denying ordinance should be referred to all members of the Cabinet.

Mr. Hurd: I am obliged for the hon. Gentleman's second point. I believe that the IBA should be moved together with the Cable Authority. To be honest, that was not a view that we had firmly reached before we received the report of the Select Committee on Home Affairs, which recommended it. It is common sense to bring together those regulatory authorities and give them a common framework in which to operate. That is what we are proposing and that is something to which we will hold.

Mr. Jeremy Hanley (Richmond and Barnes): Does my right hon. Friend agree that, if one listened to the Opposition, one might think my right hon. Friend had introduced reform for reform's sake rather than reform being forced on the Government by changing technology? Has not the White Paper been a rational, sensible and practical way forward for the future of broadcasting? What effect does my right hon. Friend expect there to be on the BBC when the BBC and the IBA are separated from the licence fee regime? The IBA is currently received in conjunction with the BBC, and only if the BBC licence fee is paid. Secondly, at what level does he believe the subscription would be for IBA viewers—who, after all, currently receive that service free?

Mr. Hurd: I am not entirely following my hon. Friend's point, but we believe that subscription is attractive in principle. The BBC is beginning to experiment with it on one of its night channels; so, too, is the satellite DBS. There is scope for further experimentation, and we propose to nudge the BBC in that direction, without being dogmatic at present as to how far that could go.

If my hon. Friend was talking about the point raised by the right hon. Member for Sparkbrook, of course, BBC radio is a problem. BBC radio is financed out of the licence fee and there is no question of doing away with it, because I regard it as essential to the general structure of broadcasting. As we move towards subscription, that will be a problem which will clearly come on to the agenda fairly soon. I accept that, but we are not at that stage yet. We are at the stage of indexing the licence fee and taking

account after 1991 of the extent to which the BBC might reasonably benefit from subscription income. I hope that that meets my hon. Friend's point.

Mr. Jeff Rooker (Birmingham, Perry Barr): I have not read paragraph 6.48, which the right hon. Gentleman constantly referred to, which is about the concentration of ownership. However, is the concentration of ownership specific to television or does it cover, too, the concentration of ownership within the media? Frankly, with the amount of media and press publishing controlled by Murdoch and Maxwell—I do not mean "the Murdochs" and "the Maxwells"; and mean Murdoch and Maxwell—they should not have even a finger in the pie of any television company. Does the concentration of ownership cross over from television to the press, or is the paragraph exclusive to television? If so, it does not go far enough.

Mr. Hurd: Yes, that is why, in paragraph 6.53, one of the principles that we lay down is:

"national newspaper interests in national services using United Kingdom broadcasting frequencies (and vice versa) should be limited; and a similar principle should apply in the case of local services and the local press. One possibility"—not going as far as the hon. Gentleman would like—"would be to follow the reciprocal 20 per cent. limit already proposed in the case of radio".

However, we go further than that, because another conceivable mischief is that people who own a lot of international television would move in and take franchises; that, too, is covered in this part of the White Paper. We would have to ensure that they did not get the franchises.

Mr. John Greenway (Ryedale): I am sure that my right hon. Friend will agree that regional television companies will greatly welcome the Government's continuing commitment to the regional structure of ITV. I note in paragraph 2 of the annex to the report that the function of the ITC will be to decide with the Government on that regional structure. Can my right hon. Friend tell us how he sees that structure regionally compared with the present structure? Does he accept that the important role of the ITC means that it is essential that a chairman for the new authority is appointed at the earliest possible opportunity?

Mr. Hurd: As my hon. Friend knows, what we need in the near future is a successor to Lord Thomson of Monifieth as chairman of the IBA. What follows for the ITC is something that can be settled a bit later, because the ITC is so far just a proposal in a White Paper which Parliament will want to debate and reach conclusions on.

My hon. Friend mentioned an important point about the regions. We do not think it would be sensible for the Government to lay down in a White Paper the exact frontiers of the regions. My hon. Friend comes from a part of the world where that is a live issue from time to time. I believe that that is something that Governments should have at arm's length and which the new ITC should settle. However, we are emphatic that the regional principle should not only be kept, but should be strengthened when we are dealing with Channel 3 and the ITV franchises.

Mr. David Clelland (Tyne Bridge): Does the right hon. Gentleman agree that, even if the Government were to succeed in preventing a concentration of ownership, the danger is that an increase in competition for advertisers, together with the so-called "light touch" regime, will mean that the overwhelming influence will be in the hands of the advertisers? That will lead to restrictions in choice and the

[Mr. David Clelland]

lowering of standards. That has been the experience of every country that relies on competition rather than regulation.

Mr. Hurd: I do not believe that is entirely right. Channel 4 is doing well. It is paying for itself and has carved out for itself a particular form of advertising market that obviously works. There is a strong argument that Channel 4 could be completely privatised and still retain that rather special advertising finance which would enable it to keep the remit. There are counter-arguments, which are set out in the White Paper. I do not agree that it has been the experience up to now that keeping a certain number of channels financed by advertisers has the effect to which the hon. Gentleman referred.

Mr. Michael Morris (Northampton, South): As the Minister of State has been defending the United Kingdom's commercial interest so well over the Council of Europe draft convention, can my right hon. Friend the Home Secretary tell us that there are no proposals in the White Paper that will fall foul of that convention? Additionally, will the proposals on the BBC mean a change in the BBC's charter?

Mr. Hurd: My hon. Friend's first point is quite right. My hon. Friend the Member for Mid-Sussex (Mr. Renton) has been doing noble work in trying to reach an international agreement in the Council of Europe, which is dealt with in the White Paper. We are keen that that should be concluded. My hon. Friend has made a good deal of progress in resolving the difficulty about advertising breaks. Other member states of the Council of Europe have raised difficulties, but we hope to have a further meeting in Stockholm later this month, which my hon. Friend will attend, and it is possible that decisive progress will then be made.

The BBC charter expires at the end of 1996 and there are no proposals to seek to alter it before then. I suppose that those people who are around in 1994 will begin a new debate about what the revised charter should contain. At that stage, some of the points mentioned today and contained in the White Paper will come to the fore, and by then we shall know more about the way subscription has gone.

Mrs. Margaret Ewing (Moray): Does the Home Secretary accept that many of us are deeply concerned about the regional implications due to the failure of the White Paper to bring forward a clear framework on the takeover procedures, because it seems likely that powerful predators will be able to put profit before variety, standards and quality? Can he tell us why there is no specific reference to SC4 and the provision for Gaelic, as there is for the Welsh channel and the Welsh language?

Mr. Hurd: There is provision, because my right hon. and learned Friend the Secretary of State for Scotland insisted that there should be. If we cannot find the reference in the next few seconds, I will inform the hon. Lady later. The provision is there, it is very specific and it will fully satisfy.

I have been informed that it is paragraph 6.37. It says:

"The Government recognises the importance of broadcasting to the Gaelic language and its future development and,

while no change is implied in present policies towards Gaelic broadcasting at national or regional level, new local services could be an important means of meeting Gaelic needs."

It is better news for the hon. Lady.

Mr. Peter Griffiths (Portsmouth, North): Does my right hon. Friend agree that the main barrier to the effective exercise of popular choice on television is the continued existence of the BBC licence fee? If the evidence is that subscription will not lead to an early demise of the licence fee after 1991, will my right hon. Friend be ready to consider alternative forms of funding for the BBC that will lead to an early abolition of the licence?

Mr. Hurd: I have got into trouble in the past for saying that, as choice multiplies, the rationale behind the BBC licence fee—which is paid whether one does or does not watch the BBC—becomes weak. I believe that that is true; that is why I do not believe that the licence fee should be regarded as immortal. We have set out carefully in the White Paper the steps that we propose to take to nudge the BBC towards looking at subscription, but it is too early to answer my hon. Friend's point. The Peacock report's advice, which we accepted, was against having advertising on the BBC. The White Paper does not reopen that question.

Mr. Hattersley: The Home Secretary has said some 10 or 12 times that the White Paper is explicit and specific in its proposal to avoid concentration. If that is the case, why does the paragraph dealing with that subject conclude, after several sentences of platitudes:

"the Government would welcome comments on the scope and formulation of such rules"?

Do the Government know what they intend or not? The Home Secretary should face the fact that if the argument between us is to be about "choice", he must try to concentrate on what that word means. For viewers to have a real choice there must be real alternatives between which they can choose. Does he not worry to the slightest degree that he will reduce variety by placing so much power in the hands of the producers in the market that he will attempt to create?

Mr. Hurd: On the first point—I think that the right hon. Gentleman is on a false point—we state quite clearly in paragraph 6.48:

"clear rules will also be needed which impose limits on concentration of ownership"

In paragraph 6.53, we sketch the ground that those rules will need to cover, which I have already outlined in answer to the hon. Member for Birmingham, Perry Barr (Mr. Rooker). The general principles include newspapers, concentration of ownership within the television industry and the possible concentration among foreign holders of television interests and our own. Those are possible proposals set out to consider the concentration of ownership.

Since we are a democratic and listening Government—[Interruption.]—particularly in this sphere, we have asked for views on precisely how those principles, which are absolutely clear and firm, should be applied. The right hon. Gentleman would have been furious if, almost a year before we introduce legislation, we said that, on this important issue, our minds were entirely closed. The principles are there, they are firm and they meet the points which the right hon. Gentleman has raised. After he has finished his rhetoric, should he favour us with precise ideas

on how the principles should be implemented, we shall add them to our own and those expressed by other hon. Members who have raised this issue.

As I told the right hon. Member for Plymouth, Devonport (Dr. Owen), when we come next year, to produce a detailed plan for this House to consider, he is right to say that side by side with the proposals for deregulation must be proposals against a concentration of ownership.

Several Hon. Members *rose*—

Mr. Speaker: Order. I am sorry that I have not been able to call all the hon. Members who wished to participate, but as usual, I shall keep a list and give them precedence when this matter comes before the House again.

Mr. Bob Cryer (Bradford, South): On a point of order, Mr. Speaker. When the Home Secretary began his statement the White Paper was available in the Vote Office. As you will appreciate, Mr. Speaker, it is extremely difficult within two or three minutes, to examine that document. There is a summary, in the Home Secretary's statement, and as soon as he began that statement, copies were distributed in the Press Gallery. That statement is not available in the Vote Office, but I believe that it should be because it gives a more comprehensive summary of the position rather than having to go through the entire White Paper. If you, Mr. Speaker, could deprecate the omission of a statement from the Vote Office when a White Paper is placed there, it would help all of us.

Mr. Speaker: It is normal practice for embargoed copies of a ministerial statement to be issued to the press, but they are embargoed until the Secretary of State gets up—*[Interruption]* I really do not see why the press should have those statements before Members. It is not for me to impose the practice, but I believe that it would be helpful to the House if summaries could be put in the Vote Office with the White Paper.

Orders of the Day

Rate Support Grants Bill

Considered in Committee.

[MR. HAROLD WALKER *in the Chair.*]

Ordered,

That the Bill be considered in the following order: Clauses 1 and 2, Schedule 1, Clause 3, Schedule 2, Clauses 4 to 7, new Clauses, and new Schedules.—*[Mr. Gummer.]*

Clause 1

TOTAL EXPENDITURE: 1985-86 to 1988-89

5.4 pm

Mr. Jeff Rooker (Birmingham, Perry Barr): I beg to move amendment No. 1, in page 1, line 9, at end insert 'except where in relation to any year a local authority has before 7th July 1988 approved its accounts in which case he shall treat total expenditure as equal to the amount approved by the authority'.

The Chairman of Ways and Means (Mr. Harold Walker): With this it will be convenient to discuss the following amendments:

No. 19, in page 1, line 9, at the end insert 'except where in relation to any year a local authority has before 7th July 1988 approved its accounts and submitted them to the district auditor in which case he shall treat total expenditure as equal to the amount approved by the authority'.

Amendment No. 4, in schedule 1, page 8, line 44, at end insert 'except where paragraph 3A applies'.

No. 6, in page 8, line 50, after 'the relevant amount', insert

'except where paragraph 3B applies'.

No. 8, in page 8, line 50, after 'the relevant amount' insert

'subject to sub-paragraph (2A) below'.

No. 9, in page 8, line 50, at end insert—

'(2A) Where a local authority has made a decision before 7th July 1988 which affects its total expenditure in relation to the year and the authority has submitted to the Secretary of State by 31st January 1989 a statement certified by the auditor appointed under Part III of the Local Government Finance Act 1982 that the decision increases or decreases the authority's total expenditure by a certified amount, the relevant amount is (as regards the authority) the amount submitted under sub-paragraph (2) above as adjusted by the certified amount.'

No. 5, in page 9, line 40, at end insert—

'3A.—(1) This paragraph applies where a local authority has approved its accounts after 6th July 1988 and before 31st October 1988 and where the amount of its total expenditure in relation to the year has been certified by the auditor appointed under Part III of the Local Government Finance Act 1982.

(2) In such a case the relevant amount is the amount certified by the auditor.'

No. 7, in page 9, line 40, at end insert—

'3B.(1)—This paragraph applies where—

(a) A local authority or a Committee of a local authority has received before 7th July 1988 from the person having responsibility for the administration of its financial affairs a report containing estimates of expenditure in the relation to the year, and

(b) the authority has submitted to the Secretary of State before 31st January 1989 a statement containing an amount of total expenditure consistent with the

[Mr. Harold Walker]

estimates and certified by the auditor appointed under Part III of the Local Government Finance Act 1982.

(2) In such a case the relevant amount is the amount certified by the auditor.

(3) Where there is more than one report received, the report referred to in sub-paragraph (1)(a) above is the latest to be received before 7th July 1988.

Mr. Rooker: This is the largest group of amendments and, in effect, they encompass four separate points although they are all related to the retrospective nature of the Bill and the fact that many local authorities feel extremely hard done by because of the nature of the Government's announcement in July. Certainly I do not intend to repeat the points that I made on Second Reading last week, but obviously I suspect there will be constant reference to those local authorities that will lose considerable sums of money because of the operation of the Bill.

The purpose of amendment No. 1 and the purpose of several other amendments, is to allow information that was known about a local authority's expenditure and which was already in the public domain before 7 July, to be used, even though that information had not been received by the Secretary of State. His close-down date for such information was midnight 6 July.

Amendment No. 1 is certainly the most straightforward of the amendments, which will inevitably contain a great degree of technical detail. It deals specifically with the circumstances of an authority which had approved the accounts for any of the years beginning 1985-86, 1986-87 or 1987-88. Of course, I accept that the amendment principally affects the year 1987-88 because, in most cases, the 1985-86 and 1986-87 accounts had been closed before the beginning of this year.

Although accounts may have been closed it would not normally be a matter that would be immediately reported to the Department of the Environment. I understand that, for the accounts for 1987-88 the normal course of events would have been for the authorities to report the outturn of expenditure on a group of forms, not due for return to the Department of the Environment until 1 August. They would not even have been issued by the Department until 24 June. Of course, 6 July comes virtually in the middle of those two dates.

Authorities that have been prompt in closing their accounts and have managed to reduce expenditure below the level anticipated in their budgets or have produced revised estimates are now denied any advantage they would have received because of the Secretary of State's insistence on using information that was received by him before 7 July. Those authorities feel roughly treated, to put it mildly. At this stage I shall give one example that has been well documented. The authority does not constitute a large urban area—I tended to concentrate upon such examples on Second Reading. It is helpful that my new example comes from a district in the constituency of a Cabinet member. Obviously that is advantageous because I do not want to be seen to be seeking to make partisan points. This is an example of local government feeling badly treated by central Government. Last week I made it clear that Conservative authorities will lose hundreds of

millions of pounds, as will Labour authorities, and that it will be the ratepayers and the poll tax payers who will have to foot the bill.

I hope that the Minister will give us the reason why west Somerset district council has been so roughly treated. I should like to draw the attention of the Committee to correspondence sent from that council to its Member of Parliament, the Secretary of State for Northern Ireland. A few short sentences, giving the relevant dates, show how a well-run, efficient authority, which is not large, has been shortchanged by more than £100,000 as a result of the Bill. The letter was sent to the Secretary of State from the treasurer and is dated 11 July. It makes it clear that as a result of the decision of midnight on 6 July, the council will lose £133,000. It is worth giving details of some of the dates because that will show how other authorities are affected. The treasurer states:

"On 4th March, 1988 I returned RER89 showing the Council's revised estimated 1987-88 'Total Expenditure' for Rates Support Grant of £1,621,000. On 6th May, 1988 the Council's Final Accounts for 1987-88 were completed and the actual 'Total Expenditure' for Rate Support Grant was £1,477,808. The effect of this reduction of £143,000 enabled me to calculate an additional amount of Rate Support Grant of £133,000 at a marginal grant rate of 93p for every £1 of reduced expenditure."

The treasurer made it clear that there had been a reduction from what was originally budgeted. Whereas councils that spend over the figures laid down by the Government have their grant reduced, if councils spend under those figures, they get additional grant that is not even pro rata, in this case, 93p for every £1 of reduced expenditure. The treasurer continues:

"The Council's Statement of Accounts for 1987-88 was completed on 18th May, 1988 and signed by me.

The Council's Finance Sub Committee received a report . . . on 14th June, 1988 about the Final Accounts-General Rate Fund Net Rate Fund Expenditure 1987-88 which it approved.

The Department of the Environment sent me the Annual Revenue Outturn Returns for 1987-88 including the Rate Support Grant Return on 24th June, 1988 which I received on Tuesday 28th June, 1988. This was four weeks later than in 1987. My Deputy tackled them immediately and completed them on Wednesday, 6th July, 1988. All Returns were posted 2nd class the next day".

That local authority saved ratepayers' money and did not automatically use first-class post. There was no reason to do so. The letter continues:

"the Department stipulates that it requires them back by 1st August, 1988."

Clearly, the Department would have received the returns by 1 August. However, in the meantime, the 6 July decision was made and as a result the council lost £133,000.

I ask the Minister what was slipshod and lethargic about the council's behaviour. What was inefficient about the way in which the council dealt with the forms that it was required to send to the Department, and the way in which the treasurer and his deputy dealt with its committee meetings? What is lethargic, incompetent or inefficient about that? The council lost a considerable sum. I do not know what the percentage is, but it will be a fairly hefty percentage of the council's expenditure.

5.15 pm

The reply from the Secretary of State for the Environment to his Cabinet colleague can be summed up as, "Tough." According to the treasurer, the £133,000 is "a loss equivalent to a 2.2p rate for ratepayers in West Somerset."

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NDRM

file 6 st

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

4 November 1988

The Rt. Hon. Douglas Hurd CBE MP
Secretary of State for Home Affairs
50 Queen Anne's Gate
LONDON
SW1H 9AT

[Handwritten signature]

COMMUNITY RADIO

dep

Thank you for your letter of 31 October.

I welcome your proposal to limit to six the number of community radio contracts to be awarded to existing contractors. And I am content for you to make clear to the IBA that the actual term of each contract should reflect the size and investment of each new station, subject to a maximum of six years. In those cases where contracts are awarded to pirate radio stations that are already broadcasting and no further substantial investment is required, this should mean the contracts are no longer than two to three years.

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

[Handwritten signature]
NIGEL LAWSON

08. XI. 1958

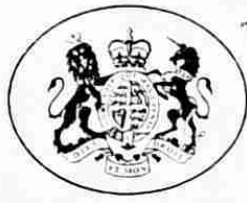
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1. *Lyn Parker* From THE PRIVATE SECRETARY
- to see

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2. cf - p -
REC 7/11
Prime Minister
Useful papers.

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

1 November 1988

Dear Lyn

REC 2/11
[Signature]

DRAFT CONVENTION AND DIRECTIVE ON BROADCASTING

Following his recent discussion with your Secretary of State about the draft Council of Europe Convention and draft EC Directive, the Home Secretary thought it would be useful to summarise the latest developments and take stock of our future approach.

As you know, one of the most serious problems presented for us by the two draft instruments is the need to safeguard our present practice in relation to our "natural break" system of broadcast advertising, as against the preference of the FRG and some other countries for longer periods of block advertising inserted between programmes. Mr Renton discussed this issue in Bonn with his opposite number Herr Spranger last month and it was agreed that further talks would be held in London to attempt to identify an acceptable compromise. These discussions took place last Friday, when Herr Spranger was accompanied by Herr Schleyer, State Secretary of Rheinland Pfalz. Although the talks were without commitment on either side, it soon became clear that the German side were prepared to make significant concessions in order to resolve the issue and thereby facilitate the early conclusion of a Convention, which in their view would remove the case for a Community Directive, at least for the time being. They continued to see the need for an article in the Convention regulating the insertion of advertisements, to guard against what they regarded as a danger of a slide towards frequent and intrusive American-style broadcast advertising. But they accepted that our experience with ITV showed that natural break advertising could be handled in a satisfactory manner, and to that end were prepared to see amendments to the existing draft provision which would allow our practices to continue largely unchanged.

It remains to be seen whether the FRG representatives will be able to sell these proposals to all the Lander (who have individual competence in this field); and we for our part will be

/consulting urgently

Lyn Parker, Esq
Private Secretary, FCO

consulting urgently with our broadcasting and advertising interests to make sure that there are no unforeseen problems with the resultant text. But the Home Secretary is reasonably optimistic that the proposals represent an acceptable way forward which will pave the way for ultimate agreement on this difficult issue.

Following these discussions in London, the Ministers Deputies of the Council of Europe met last Monday in Strasbourg. You will by now have seen the telegram from our Permanent Representative recording the outcome. Although a number of difficulties still remain it was, we think, helpful that the meeting seemed to reduce the areas of disagreement to no more than four principal articles, of which one - advertising breaks - may be near to a solution. As to the other issues - quotas for European productions, advertising aimed at a single state, and power to suspend services which breach the Convention - it was accepted that these were essentially political questions which required a political solution. There was, therefore, general support for the proposition that these matters should be put on the agenda for the Ministerial Conference in Stockholm in November which Mr Renton will be attending. As you know, the Home Secretary sees great advantage in having these problems discussed at Stockholm and we are therefore pleased that this is now to happen.

As regards the draft Directive, the Council Working Group that has been considering the text has now, at the instance of the Greek Presidency, submitted its work to Coreper with a view to discussion at the Internal Market Council on 18 November. Since so many outstanding points remain on the text - notably quotas, advertising breaks, and copyright - it seems most unlikely that there will be any decisions on 18 November. Indeed, the failure of the Commission to undertake bilateral contacts or to table compromise texts suggests that they themselves see no chance of early agreement. Lord Cockfield, who met Mr Renton recently in London, appeared to take a gloomy view of the immediate prospects for the Directive. This being so, the Home Secretary considers that there is every reason to continue on the basis of a pragmatic approach, working for the necessary improvements to both instruments, but in practice giving priority to the Convention.

It remains to be seen whether, if the Stockholm Conference serves to resolve the remaining issues on the Convention, any EC member states will accept the arguments recently put forward by the Commission for priority to be given, in timing as well as substance, to the Directive as against the Convention. Italy and Luxembourg (despite what Mr Santer said to the Prime Minister during her recent visit to Luxembourg) have both indicated that

/they may seek

they may seek to block the Convention pending agreement on a Directive. But it seems to us that it may be difficult politically for those countries to maintain such a stance in isolation once other outstanding problems on the text of the Convention have been resolved. Indeed, when Mr Renton met Signor Mammi from Italy on 26 October, there seemed to be a greater willingness on the part of Italy to conclude the Convention.

To sum up, therefore, the prospects for a Convention now look a little better than they did previously, following our discussions with the Germans on advertising, and with Italy on the approach to the Convention. Although other issues still remain to be resolved, there is some hope that the Stockholm Conference will provide the forum for a political solution if the will is there. Meanwhile discussions continue on the draft Directive but without any immediate prospect of agreement.

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

Yours

Catherine

MISS C J BANNISTER



QUEEN ANNE'S GATE LONDON SW1H 9AT

31 October 1988

Dear David,

COMMUNITY RADIO

Thank you for your letter of 20 October. I am glad that you broadly agree with the proposals I outlined and are content that an announcement need not be delayed while the details are finalised.

I have, as you suggested, asked my officials to take this forward with yours as soon as possible. Perhaps I could say, at once, however, that it is quite clear that the IBA expects its additional services to include pop music appealing to ethnic minority and indeed other audience demands which are not at present being sufficiently satisfied within the law. I also agree with your point, and Nigel Lawson's, that 6 should be the ceiling on the number of services involving current contractors.

In his letter of 26 October Nigel Lawson queried whether the proposed "extra contracts" should be able to run until the end of 1994, and suggested that they should be limited to two or three years. Some of the aspiring new entrants who have expressed interest in the IBA's proposals are looking for a longer period than two or three years for a return on their investment. Such a limitation would be a great disappointment to the Association for Broadcasting Development, which represents such groups. It is also relevant that the most recent ILR contracts advertised by the IBA have been for terms running until the end of 1994. I agree, however, that in the case of the smaller stations under the IBA's proposals a shorter term may be sensible. I therefore propose to modify the scheme to the effect that the terms may last up to the end of 1994, while making it clear to the IBA that this is a maximum, and that the actual term should reflect the size and investment of the new station in each case.

In his minute of 27 October, Geoffrey Howe expressed concern about supervision of the programme content of the proposed extra stations. The IBA are well seized of the need to exercise very

/careful oversight

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

CAFU

NBLM
REC

31/10

careful oversight in this regard. The full range of consumer protection requirements under the Broadcasting Act 1981 would apply, and the IBA envisage requiring the "extra contractors" to comply with their detailed "ILR programming notes of guidance". They also envisage monitoring the output of stations and requiring them to keep tapes. I propose to re-emphasise the importance of close programme content supervision in following up their proposals with them.

... I enclose a copy of the statements I propose to make on 2 November in reply to an arranged Question and (on the disqualification of convicted pirate broadcasters) to one from Greg Knight.

I am copying this letter and its enclosures as before.

Lowry

Doy'n.

1. ARRANGED QUESTION AND REPLY

To ask the Secretary of State for the Home Department, whether he has yet reached any conclusion on the IBA's proposals to establish 20 community radio stations under the Broadcasting Act 1981, and if he will make a statement.

Draft Reply

The IBA's proposals are a positive step towards the new radio arrangements which I outlined on 19 January (at Columns 647-649). They provide a way, in advance of new legislation, of broadening the choice available to radio listeners. I am therefore glad to make frequencies available, and have asked the IBA to begin detailed planning, in consultation with my Department and the Department of Trade and Industry, for the introduction as soon as practicable of additional services.

Competition between the new community radio stations and the IBA's present contractors must be fair within the constraints of the Broadcasting Act 1981. In advertising additional contracts the IBA will accordingly make clear its willingness to consider applications from existing contractors proposing to subcontract or otherwise work in association with new entrant groups. This form of co-operation may provide useful experience for certain kinds of broadcasting under the supervision of the Radio Authority when it is established. Where additional services are established they will be expected to make a realistic contribution to regulatory costs with a corresponding reduction in present ILR rentals. The IBA will also take account of the programme output of additional services in considering the requirements on its present contractors.

With these safeguards I believe that the IBA's proposals will benefit the radio industry as a whole, provide valuable new broadcasting opportunities for minority communities and enhance listener choice as far as is practicable in advance of the major changes needing legislation which I outlined on 19 January.

/cont.

2. QUESTION BY MR GREG KNIGHT MP FOR PRIORITY WRITTEN ANSWER ON
2 NOVEMBER

To ask the Secretary of State for the Home Department if he will make it his policy that, following deregulation, licences will not be granted to any radio station or consortium containing persons who have been convicted of broadcasting illegally during the 10 years prior to such a licence application being made.

Draft Reply

There is a good case for a disqualification of this kind. Unlawful broadcasting causes interference to other users of the radio spectrum, including safety of life services, creates unfair competition to authorised broadcasters and imposes unnecessary additional costs on the industry. I have today announced, in reply to a Question from [], my intention to make additional frequencies available to the IBA for community radio in advance of broadcasting legislation. It will be open to anyone previously but no longer involved in unlawful broadcasting to apply for such a contract. But it is not acceptable, especially when new broadcasting opportunities are being opened up, for those continuing to act outside the law to be able to compete in due course on equal terms for Radio Authority licences with those who have respected the law. I accordingly propose to include in the legislative proposals I outlined on 19 January at Columns 647-649 a provision making it a condition of all Radio Authority licences that the licensee neither has a conviction after 1 January 1989 for an offence of unlicensed broadcasting within 5 years of the date of an application for such a licence nor employs such a person in the activities covered by the licence.



file JD

bc = B9

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

31 October, 1988.

Dear Catherine,

COMMUNITY RADIO

The Prime Minister has seen the Home Secretary's letter to the Secretary of State for Trade and Industry dated 11 October, his response of 20 October and the subsequent comments by the Chancellor of the Exchequer and the Foreign Secretary.

The Prime Minister is content with the Home Secretary's proposal, subject to further consideration of the duration of the new contracts along the lines suggested by the Chancellor.

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

*Yours
Pd*
Paul Gray

Miss Catherine Bannister,
Home Office.

CONFIDENTIAL

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the department for Enterprise

cc PO

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

Dominic Morris Esq
Personal Secretary to
Prime Minister
10 Downing Street
London
SW1A 2AA

**Department of
Trade and Industry**

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref PB5AEQ
Your ref
Date 28 October 1988

Dear Dominic,

COMMUNITY RADIO

file with PG

I am enclosing a copy of a letter which Lord Young has written to the Home Secretary on this subject. My apologies that it was not copied to the Prime Minister and other Misc 128 members originally.

I am copying this letter and enclosures to members of Misc 128, Sir Geoffrey Howe and Sir Robin Butler.

Yours Sincerely,

D. Simpson

DAVID SIMPSON
Assistant Private Secretary

**the
Enterprise
initiative**

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PRIME MINISTER

COMMUNITY RADIO

The Home Secretary's letter of 11 October (Flag A) sets out his proposal to endorse, subject to certain qualifications, an interim regime for the IBA to let twenty contracts for community radio services in advance of the new radio regime.

The Chancellor's letter of 26 October (Flag B), Lord Young's of 20 October (Flag C) and the Foreign Secretary's minute of 27 October (Flag D) offer qualified support to the proposal.

Brian Griffiths and I have discussed this. We agree that, although additional radio stations during this interim period are not the most pressing priority, it would represent a useful step. However, we see force in the Chancellor's comment that the interim contracts should not run for as long as the six years proposed by the Home Secretary, but rather should last only two or three years.

Content to agree the Home Secretary's proposal subject to the Chancellor's qualification about the duration of the contracts and other details being sorted out by colleagues?

face.

Yes

PAUL GRAY

28 October 1988

DS2AKF

CONFIDENTIAL



cc/PU

FCS/88/178HOME SECRETARYCommunity Radio

file with PS

1. Thank you for copying to me your letter of 11 October to David Young about your proposed response to the IBA scheme for community radio stations.
2. I am generally content that you should approve the IBA scheme with the modifications set out in Annex B to your letter. But, as you know from previous exchanges on this subject, my main worry is that some of these new stations may be misused by broadcasters wishing to expound views which affect the interests of foreign governments and so damage our foreign policy and national interests abroad.
3. Close and effective IBA supervision of the programme content of these new stations will therefore be extremely important, particularly of any broadcasting in foreign languages. It will also be important for the IBA promptly to investigate and where necessary to take action over well-founded complaints from overseas governments. I retain a number of concerns in this area, which I hope will be reflected in your discussions of detailed arrangements with the IBA. Officials will be setting them out more fully.
4. I am copying this letter to the members of MISC 128, David Young and Sir Robin Butler.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
27 October 1988



ccpu

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

26 October 1988

The Rt Hon Douglas Hurd CBE MP
Secretary of State
for Home Affairs
Queen Anne's Gate
LONDON SW1H 9AT

A handwritten signature in dark ink, appearing to read 'John Major'.

COMMUNITY RADIO

Your letter of 11 October proposed that 20 contracts for community radio be let in areas already served by ILR contractors. There are however two points which cause me some concern.

First, the IBA propose that the "extra contracts" should run to 1994 with provision for a switch to the new Radio Authority regime once the necessary legislation is in place. Six year contracts would preserve this essentially interim arrangement for a considerable time. My preference would be for much shorter contracts, say two or three years which would bridge the gap to the new regime.

Second, you propose that the new community radio stations should be charged fees over and above the cost of regulating them. I support the principle of charging for the use of scarce spectrum. But you propose that these fees should be used to reduce the rentals paid by the independent local radio station already operating in the area. There must be a risk that this arrangement will mean that existing radio stations are willing to pay substantial fees to capture the new contracts, so limiting the amount of new competition between radio stations. I would be content to see 5 or 6 contracts awarded to existing stations and subcontracted as you propose. But I hope the IBA would award a majority of the new contracts to new radio stations.

I note that you propose to encourage the IBA not to select stations dependent on local authority finance. This aim needs to be achieved to avoid unfair competition at the expense of the taxpayer.

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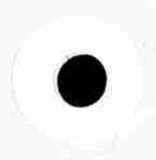


I am copying this letter to the members of MISC 128,
Geoffrey Howe, and Sir Robin Butler.

A handwritten signature in black ink, appearing to be "Nigel Lawson".

NIGEL LAWSON

BROADCASTING: Legislation PT3



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PMBB

dti

the department for Enterprise
CONFIDENTIAL

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

The Rt Hon Douglas Hurd MP
Home Secretary
Queen Anne's Gate
London
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
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Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422

Our ref PB3ABB

Your ref

Date 20 October 1988



COMMUNITY RADIO

I am grateful to you for your very full reply of 11 October to Robert Atkins's letter to Tim Renton of 27 September.

This remains a very difficult issue of striving to balance the wishes of those who support community radio against the interests of existing contractors whilst at the same time working towards a lasting long term regime for radio.

As Robert Atkins said in his letter, the problem for DTI in all this is to try to curtail the activities of pirate radio. We see the IBA proposals as a possible route of help to us in this difficult task if the proposals resulted in a reduction of the number of pirate broadcasters. More widely, we saw the IBA proposals as increasing the opportunities for competition and having a helpful effect on inner city policies by encouraging the 'community of interest' stations serving ethnic and non-ethnic audiences.

With this sort of background, I obviously welcome your conclusion that the balance of advantage lies in agreeing to an earlier start for community radio along the lines of the IBA's proposed interim regime. I also strongly support your intention to announce a disqualification provision for pirates who are convicted of offences after 1 January 1989. I am sure that this will assist my Department's enforcement activities. I do, however, have some reservations about the detail of the package that is emerging.



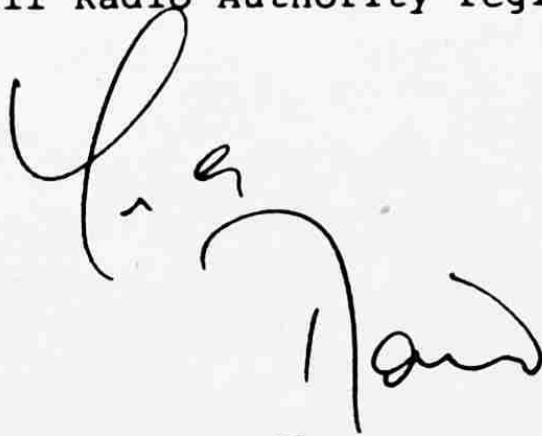

the
Enterprise
Initiative

It was not clear from the IBA's original News Release that in suggesting that out of the 20 new stations 5 will be for ethnic minority interests and a further 5 will be for 'communities of interest (such as jazz fans)'. It is clear from my Department's enforcement work that a major wish of stations catering for the ethnic minority interest is to be able to play the sort of pop music that the minority supports. I think that this point needs further clarification before the scheme is announced. Exclusion of pop-based stations would be a severe disappointment to ethnic minority community radio aspirants.

I feel that there may also be some suspicion about the role of existing contractors as proposed in your modifications to the IBA proposals. I suspect that this role of managing agent will need further defining in order to convince aspirants that there will be real competition to the existing contractors. I hope that there could be some flexibility about your significant minority. Certainly any more than 6 out of 20 awarded on this basis would be likely to provoke criticism and I would hope that the number would be less than 6.

Finally, the proposed modifications are virtually silent on frequency planning. Obviously, the locations of the new stations are a vital consideration but it would be helpful to know what frequencies are in mind and whether there will need to be any negotiation with other spectrum users. My Department is also currently drawing up specifications for community radio transmitters and there will be a need for liaison with the IBA to ensure that any proposed standards are similar. I am glad that you envisage further detailed consideration by officials on frequency matters. Certainly the choice of AM only assignments is likely to be seen as a major restriction. This would remove much of the goodwill that an interim scheme could produce.

I suggest that officials meet as soon as possible to resolve these points but I would not wish to delay your announcement approving the IBA scheme if this can be done while the detail is being finalised. I certainly share your view that the IBA proposals represent a real chance to satisfy some consumer demand in advance of the full Radio Authority regime.

Broadcasting legislation.

CONFIDENTIAL

CEPL

P9 or.



QUEEN ANNE'S GATE LONDON SW1H 9AT

W. B. ...

11 October 1988

Dear Secretary of State

will respond if required.

COMMUNITY RADIO

As you know, Robert Atkins wrote to Tim Renton on 27 September to express support for the IBA's proposals for an interim regime for community radio, which he thought would be helpful against pirate radio. This letter sets out how I intend to pursue these proposals.

Background

With the agreement of MISC 128 I announced our plans for the future of radio on 19 January 1988. Following our decision not to proceed with the community radio experiment in 1986, it came as a further disappointment to aspiring new entrant radio broadcasters when it became known earlier this year that legislation for a new radio regime was unlikely to find a place in the legislative programme for 1988/89. I then said that the Government would be prepared to consider any suggestions for developing independent radio in advance of the new legislation.

The IBA's proposal

The IBA have now proposed that they should move quickly to award, through a streamlined competitive process, 20 contracts ("extra contracts") for community radio services in areas already served by ILR contractors. This includes most major conurbations, where unmet demand for community radio is strongest. Most of the new stations would come on air during the first half of next year. Further details of the IBA's proposal are in Annex A.

The proposal turns on the point that the established contractors already meet the positive requirements on the IBA under the Broadcasting Act 1981, including those to provide a service which maintains a wide range in its subject matter and

/gives sufficient

The Rt Hon Lord Young of Graffham

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gives sufficient time to news, so that extra contractors in these areas need not be held to all the positive programming requirements laid down in the Act. They would, however, be subject to the full range of "consumer protection" requirements on taste, decency, impartiality etc.

Reactions

The IBA's proposals have been cautiously welcomed by community radio interests, even if only a small minority of prospective broadcasters would benefit. The reaction of existing ILR contractors has been mixed. Several of the smaller stations would not object. But the biggest stations and, under their influence, the Association of Independent Radio Contractors, have strongly criticised the proposals as threatening them with unfair competition, in that the new stations would be allowed to undertake their own transmissions, and so would not be locked into expensive IBA arrangements, and would be subject to lighter programming requirements. I have some sympathy with their position; but various modifications to the IBA's scheme are possible and should go a long way towards meeting reasonable concerns. These are outlined in Annex B to this letter.

Assessment

The IBA's scheme offers the only realistic prospect of enabling community radio to start in advance of new legislation. The framework provided by the Broadcasting Act 1981 is of course far from ideal; it is more prescriptive and burdensome than that proposed in our radio Green Paper. But it does escape the difficulties over the enforcement of programme standards which led us to cancel the community radio experiment, since responsibility for the supervision of the programme content of the new services would rest clearly with the IBA. The IBA will pay particular attention to services directed to ethnic minority groups which might impinge on the interests of foreign governments.

There are some arguments for holding the line that community radio must wait for the new legislative framework before it can start. The IBA's scheme is limited and will not fully satisfy the extent of demand which now exists. Waiting for a clean start with a level of playing field would inevitably entail less pre-emption of the Radio Authority's frequency planning and licensing strategy. I believe, however, that the balance of advantage lies with our agreeing to an earlier start for community radio along the lines proposed by the IBA, subject to the modifications set out in Annex B. The scheme is consistent with, and can be presented as a step towards, our own proposals. There will be an intense disappointment among community radio aspirants if the

/IBA's proposals

IBA's proposal is rejected. It will be hard to explain why the Government is denying opportunities for new entrants and wider listener choice, at a time when advertising revenue is buoyant, when these are clear aims of Government broadcasting policy. I continue to believe that responsible community radio, adequately supervised, can make an important contribution to our strategy for the inner cities. Robert Atkins' argument that the scheme may reduce the number of pirate broadcasters is also relevant.

There is no suggestion that the IBA's proposal is calculated to reopen our decision that the new radio regime should be supervised by a new Radio Authority. As Annex A makes clear, when our proposed broadcasting legislation takes effect the 20 extra contractors proposed by the IBA will become Radio Authority licensees.

Pirate radio

I had separately concluded that we should include in broadcasting legislation a provision which would debar the Radio Authority from licensing anybody convicted of an offence of unlawful broadcasting committed after 1 January 1989 or employing such an offender. This disqualification would run for 5 years from the offence. There has been a continuing increase in the volume of pirate radio broadcasting and its boldness. Established radio stations have been pressing hard for effective counter-measures.

I propose to announce this disqualification provision as part of our response to the IBA scheme. We know that some of the existing pirate radio operators would be ready to compete for an opportunity to become legal. Although ex-pirates would not be ineligible under the IBA scheme it would be made clear that the IBA would not expect to award any of the proposed "extra contracts" to pirates who had not come off the air.

Financial, manpower and EC implications

There are no EC implications and no financial and manpower implications for central Government.

Next steps

If we give the IBA the go ahead there is every advantage in their proceeding as swiftly as possible. I propose, therefore, to authorise the IBA to begin detailed planning, in consultation with our officials, for a scheme for community radio modified in the ways I have suggested, and to make an announcement in a Written Answer as soon as the Commons are back.

/The broadcasting

4.

The broadcasting White Paper might include a brief reference to the scheme, on the lines of the following sentence in paragraph 7 of Chapter VIII: "In the meantime the Government has endorsed, as a step towards the new radio arrangements, proposals by the IBA for additional stations able to undertake their own transmissions".

I should be grateful to know, by 25 October if possible, whether you and other colleagues are content that I should approve the IBA scheme, as modified in the ways I have suggested, and make an announcement accordingly.

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

Yours sincerely

Catherine Bannock

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

ANNEX A

THE IBA'S PROPOSAL: FURTHER DETAILS

1. The broad distribution of the 20 extra contracts envisaged by the IBA is five stations catering primarily for ethnic minority interests, five for "communities of interest" (such as jazz fans) and 10 smaller neighbourhood stations covering small towns or small parts of large cities. The IBA would propose to award about 5 contracts in all in the London area. The IBA would want to be satisfied that applicants were financially viable and would extend listener choice. The IBA would not expect to award "extra contracts" to further pop-based stations on the lines of ILR.

2. The IBA have suggested that the "extra contracts" might run until the end of 1994: provision would need to be made in legislation for them to be exchanged for Radio Authority licences when the IBA's radio regime comes to an end.

3. The IBA proposal envisages that the "extra contractors" would be free to own and operate their own transmitters, although responsibility for transmission, and for observing proper technical standards, would rest with the IBA until new legislation is in force. The proposed extra contractors would have to be able to meet their own transmission costs. The IBA would charge them fees to cover regulatory costs.

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ANNEX B

THE IBA'S PROPOSAL: MODIFICATIONS

I envisage that the IBA's scheme should be amplified or modified in the following ways in order to meet AIRC points about unfair competition or to satisfy Government radio policy objectives

(i) Existing ILR contractors would not be disqualified from applying for the "extra contracts". In advertising the "extra contracts", the IBA would make clear its willingness to consider applications in which an existing ILR contractor proposed to subcontract out programmes to new entrant groups. On this model the management expertise and facilities of the existing contractor would be available to new services on a commercial basis, and in these circumstances the existing contractor would remain answerable to the IBA for such matters as the programme content of the service. This "managing agent/subcontractor" model would be very welcome to the AIRC and to some community radio groups. But other such groups will regard it as essential that they should be able to compete to become contractors in their own right. For this reason I am clear that, to be acceptable, any scheme must also provide for self-standing "extra contracts" of the sort envisaged by the IBA, but I propose to encourage the IBA to approve new services on the "managing agent/subcontractor" model in a significant minority - say 5 or 6 out of 20 - of cases. The IBA should also be ready to steer the best applicant in this direction in other cases where this seemed sensible, eg in the case of very small stations which might not otherwise be viable.

(ii) The IBA should be prepared, for the remainder of the present regime, to relax the programming obligations on the existing ILR stations to the extent that new stations within their franchises contributed towards meeting these.

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(iii) The IBA should devise a formula for charging fees to the "extra contractors" commensurate with their coverage and likely popularity (while also taking account of the costs to the IBA of administering the scheme) in such a way that this would correspondingly reduce the rental of the incumbent ILR station without reducing the overall rental from the ILR franchise. The AIRC would regard this, and the modification proposed at (ii) above, as doing much to meet their argument that the extra contractors afforded unfair competition to existing ILR stations, and as safeguarding the transitional arrangements for the new legislative regime which the Home Office and the IBA have been negotiating with them.

(iv) The IBA should exercise close supervision of the programme content of the new stations, especially in such sensitive areas as taste, decency and impartiality. This should not be confined to ex post facto regulation, but, where necessary, should include monitoring and prior approval requirements. The IBA should not hesitate to withdraw a contract where necessary.

(v) MISC 128 has agreed that under the proposed new regime stations should not be able to receive local authority funding towards running costs (although this prohibition will not apply in the case of defined categories of socially useful radio-based projects). There is no present prohibition on such funding under the 1981 Act, so the IBA could not unilaterally make it a contract condition under the proposed scheme. But I propose that the IBA should be encouraged to do all they legitimately can not to select stations dependent on local authority funding, bearing in mind that this will not be allowed when the stations go over to the new regime.

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(vi) Subject to more detailed consideration by officials, I envisage that most if not all of the frequencies made available for the scheme will be AM rather than FM assignments. This will disappoint some community radio aspirants. But small or speech-based stations have a weaker claim than others to the better technical characteristics of FM (such as stereo capability), and the Radio Authority's frequency planning position would be better preserved if the scheme relied mainly on AM frequencies.

5[F0]<wk>D/comm/rad/enc

CONFIDENTIAL

PRIME MINISTER

3 October 1989

C
C. Barlow

BROADCASTING BILL: CHANNEL 4

Trustees & Management

Douglas Hurd has gone a little way to meeting your proposals regarding the constitution of Channel 4 - he agrees that the Channel 4 Trust and the Channel 4 Company should be one entity, but then also says that there should be statutory arrangements to restrict the Trustees from being involved in the day-to-day management of the Channel.

It seems as if Channel 4 management, who are clearly lobbying ferociously, would like to enshrine in a statutory form the de facto position which existed in the BBC before Hussey fired Milne. That is, that the Management Board should run the Company with maximum freedom and minimum accountability.

As Channel 4 could well become the focus for radical discontent in the field of current affairs and censorship in the next five years in this country, this would almost certainly prove to be an impossible situation. For example, does statutory independence for management mean that the Trustees would be unable to preview certain programmes? Or to issue detailed guidelines?

On this point it would be much better if the Home Secretary were to accept that the present position in the BBC is far superior to that which existed previously, and to structure Channel 4 on the current BBC. Naturally this will be resisted by Channel 4 management, but that is the price they must pay for being shielded from the pressures of commercial television.

Appointment of Trustees

On this point the Home Secretary restates his original proposal - namely that out of a total of 7-9 Trustees, 2 should be appointed by Government, 2 should be ex-officio members of the Board of Management and between 3 and 5 should be appointed by the ITC.

In my judgement this remains wholly unsatisfactory for the reasons I gave earlier - namely that the ITC is easily captured by the television lobby, so that there exists a majority of Trustees who will publicly back whatever the editors of Channel 4 decide to put out.

The Home Secretary puts forward two arguments to support his proposal, both of which are weak:

- (a) that the Trustees must not be seen as under Government control. The Government appoints trustees to many bodies and gets little criticism that they are simply the spokesmen of Government, eg BBC, IBA, Arts Council, Tate Gallery, etc. It is surely enough for the Government to appoint people of character with a commitment to public service, an independence of judgement and wide experience.

What the Government must not do is give over the power to appoint such trustees to the immediate constituency of the industry;

- (b) that it would be more difficult to remove trustees if they failed to keep to the Channel 4 remit and if they were appointed by Government.

Trustees cannot be under Govt control. They have to act as an independent with the trust of their Trust.

Let us assume that Channel 4 does fail to keep to its remit. This would almost certainly mean that the ITC would issue a statement and support it with facts. If a case was made out then it would surely be difficult for any Home Secretary to retain existing trustees. Much more likely, however, is that the ITC would caution the Trustees of Channel 4 well in advance of such an action, and that appropriate measures would be taken by the Board to improve the situation.

In such an eventuality, one can make out a strong case that the ITC should not appoint Trustees as this would make them both judge and jury.

This is a weak case on which to base the proposal.

Recommendation

As Channel 4 has successfully resisted privatisation, the Government should not hand it over to the broadcasting fraternity for them to run it as they wish.

The powers and appointment of Trustees are crucial.

Keep to your previous proposal.

Brian Griffiths

BRIAN GRIFFITHS



10 DOWNING STREET

LONDON SW1A 2AA

From the Press Secretary

26 September 1988

Mr N. Jackson,

The Prime Minister has asked me to thank you for your paper on the future financing of Channel 4.

As you will be aware, the Government is shortly to publish a White Paper on broadcasting policy. You will be able to pursue your ideas as part of the consultation on the proposals contained in it.

A handwritten signature in black ink, appearing to read 'Bernard Ingham', written in a cursive style.

BERNARD INGHAM

Mike Yershon
Chairman
The Association of Media Independents

R21/9

BI
AA - Bouleau
Da Saan

21st September 1988

The Right Honourable Mrs. Margaret Thatcher M.P.,
10 Downing Street
London SW1

You should see this, and
I have acknowledged.
It advocates selling C4
on time by a separate
sales force, breaking
ITV's regional monopoly &
reinforcing the complementary
nature of C4

Dear Prime Minister,

The Future Financing of Channel Four

By the way 26/9

Attached is a paper on the above subject, which is of vital concern to independent television and to the advertisers and agencies who support it. Members of the Association spend some £150 million a year on buying television advertising on behalf of their clients

I do hope that you will have an opportunity to read this paper and that you will find merits in its arguments. We would be happy to amplify or explain any aspects of it.

Yours sincerely,



Mike Yershon
Chairman

THE ASSOCIATION
OF MEDIA

INDEPENDENTS

THE ASSOCIATION OF MEDIA
INDEPENDENTS LIMITED
34 GRAND AVENUE
LONDON N10 3BP
TELEPHONE 01-883 9854
01-444 4891
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THE FUTURE FINANCING OF CHANNEL FOUR

A Paper Produced on Behalf of the
Association of Media Independents

By

MIKE YERSON
CLINT EASTHORPE
GRAHAM HUTTON
NICK MANNING

SEPTEMBER 1988

REGISTERED OFFICE
AS ABOVE
REGISTERED NUMBER
1606719
VAT REGISTERED NUMBER
370 7273 51

DIRECTOR
MARK ELWES

THE FUTURE FINANCING OF CHANNEL FOUR

Channel Four has been one of the premier media success stories of the 1980's. In just seven years it has built for itself a distinctive and strongly rooted position within the Public Service Broadcasting system.

During this period Channel Four has brought substantial benefits to a wide range of people and companies. Through its policy of commissioning outside programming, it has provided a valuable stimulus to independent programme-makers; it has given the public a wider and more imaginative variety of choice and so enhanced audiences to commercial television; and it has given advertisers and agencies fresh options, particularly by encouraging advertisers to develop more sophisticated targetting methods for planning and buying.

The IBA deserves credit for the part it has played in Channel Four's success, by overseeing the birth of the new channel and then nurturing it through the difficult early years.

Some ITV contractors also deserve credit. Initiatives such as LWT's audience sub group sales policy and their business package along with the subvention rate card from LWT, TVS and Anglia are notable examples of a fresh and positive approach. Sadly, initiatives have been the exception and the general rule is for each ITV contractor to treat C4 airtime sales as their own commodity which is at variance with the channel's programming policy.

Now the broadcasting map is about to be redrawn. Channel Four was designed to be the final piece in the jigsaw of the old television system; the carefully balanced, strongly-regulated limited access public broadcasting duopoly. As such it has been well protected and has flourished.

But in the 1990's there will be competition from a host of new channels, many of which will not be bound by the duties and commitments laid on those within the public broadcasting system. There will be Channel 5, multi-channel satellite services such as BSB and Astra, along with other foreign DBS satellite systems and any future UK DBS channels that may be licensed by the Government.

In the light of this dramatic change in the UK television system, one must ask whether the present system of funding and selling airtime for Channel Four is the best strategy for the future.

The Association of Media Independents believes that the opportunity exists for an entirely fresh approach to be adopted, which will bring benefits to the viewer, C4, the advertiser and the ITV contractors.

The AMI is the official association of the country's leading media independents, i.e. those companies that specialise in the planning and buying of advertising time and space on behalf of a wide cross-section of UK companies, from large multi-national corporations to small regionally-based firms.

As media independents we are therefore in a unique position. This is our sole business and it is in our interests to help to plan the future of the industry through which we earn our living. Anything which will help to maximise the return companies gain from their advertising expenditure will help our businesses to grow and prosper. In this regard we firmly believe that a strong, successful Channel Four is essential for the health of commercial television in the UK.

However we believe that Channel Four has yet to realise it's full potential as an advertising medium. Some months ago the AMI set up a working party to evaluate the channel's current performance and review its prospects for the future.

The work for this project included reading carefully all the recent reports and papers on the future of broadcasting and an intensive meeting with Channel Four Chief Executive Michael Grade and Head of Marketing Sue Stoessl, in which we listened to their plans and gained a fuller perspective on the aims and potential of the channel.

We also commissioned an independent survey of the views of media buyers who work in AMI member companies carried out by a respected research firm.

Our view on the future of Channel Four is based firmly on the belief that Public Service Broadcasting, and Channel Four's place within this system, should be supported and strengthened so that it can meet any challenge posed by the forthcoming outside competition.

The Home Affairs Committee report on the Future of Broadcasting states that the principles of Public Broadcasting are as follows:

- a. the service should inform and educate as well as entertain;
- b. high standards should be maintained in technical and other matters;
- c. programmes should cover a wide and balanced range of subject matter in order to meet all interests in the population;
- d. there should be a wide distribution for programmes of merit;
- e. a proper proportion of programmes should be of British (now European Community) origin and performance;
- f. a suitable proportion of material should be calculated to appeal specially to the tastes and outlook of the persons serviced by the station, including broadcasting in languages other than English (ie for ethnic minority or Gaelic or Welsh communities).

Within the time frame of the next franchise for land based commercial television there will be competition for viewers from channels outside the control of the UK's existing PSB framework. We believe however that this framework should be retained because it is in the interests of both viewer and advertiser alike.

Within this context, Channel Four as currently funded has produced substantial benefits for viewers, TV contractors and advertisers, but it is clear to us that the regional monopoly, whereby Channel Four is sold in each region by the contractor which holds the ITV franchise, is not the best mechanism for airtime sales.

Previous attempts to conceive a better solution have generally been based on the suggestion that sufficient funds are available from advertisers for Channel Four to fund itself and therefore run in competition with ITV. But if this had been the formula right at the start, Channel Four would never have been able to survive without large public subsidies. It would have had to compete fiercely for sizeable audiences while the principle of complementarity, which derives from the PSB requirement for coverage of all groups and minorities, would have been completely brushed aside. We believe that a change from ITV funding Channel Four would lead to a change in the complementary nature of the Channel and this would not be beneficial.

But we believe that there is an important distinction which has been ignored by all those who have previously looked at this issue. It is perfectly possible for Channel Four airtime to be sold by a separate sales force, without changing the nature of the channel's funding and therefore its remit.

Our proposals are as follows:

- * The Channel Four remit should continue as at present but the station airtime should be sold by a new company appointed by the C4 board and responsible to the board, with effect from January 1990.
- * The ITV companies should continue to underwrite the budget for C4 and receive the balance of funds from the sale of C4 airtime after all its costs have been met, including the new cost and profit of a separate selling organisation.
- * C4 should have to argue for its budget in a similar way to the present method.
- * The new sales organisation and its resources should be of the size and stature similar to that of a major ITV contractor.
- * The IBA should continue to apportion the cost of and allocate the revenue of C4 by individual ITV contractor.

We believe that the merit of these proposals lies in the way they offer a series of additional benefits to all parties without affecting the gains that have been achieved through the present system.

In our view the separate selling of Channel Four would:

- * Protect the strength of the PSB system in the UK and preserve the consequent benefits enjoyed by the viewer.
- * Offer ITV contractors the safeguard of regular income at a time when their revenue base is coming under attack from new and developing channels. Hence there would be two major sources of revenue to maintain the highest programme standards.
- * Give Channel Four the guaranteed funding it requires in order to provide viewers with high-quality service.
- * Enable Channel Four to present a clearer and stronger case to advertisers and media buyers regarding its merits as an advertising medium in each ITV region.
- * Offer advertisers the opportunity of a larger share of the total viewing audience, which would result from closer complementary scheduling of ITV and C4 programmes.
- * Offer advertisers a competitive airtime sales system at the earliest practical date. At the most basic level it would remove the monopoly in each ITV region.
- * Allow the continued selling and placing of commercials according to the current regional system.
- * Allow television advertisers to negotiate national campaigns through one contact point instead of having to deal with several different sales forces.
- * Produce reduced overheads or improved service to advertisers, or a combination of the two, because ITV sales departments would no longer have to sell C4 airtime.

Underlying these proposals it is our belief that now Channel Four is established, it should be allowed to follow the classic marketing strategy of a second brand. Separating the airtime sales for Channel Four will give it a sharper, clearer focus from one sales house rather than the inconsistent and commodity oriented result to date.

This may lead to higher margins which could in turn lead to raised apparent costs for the advertiser. However, there is an analogy that can be drawn from the press. The advertiser pays a higher cost per consumer contact for the Sunday Times than the News of the World. The two publications appeal to complementary groups and that is how we see ITV and C4 developing. There is a critical difference between the commodity price of airtime per thousand heads and the value of reaching specified viewing groups such as businessmen, AB adults and young adults all of whom are light viewers of ITV 1. Complimentary programming and the fact that sales revenue would still be returned to ITV would ensure that it is in the ITV1 and C4 interest to optimise the share of the two brands in audience terms.

Our proposal is not revolutionary. There is another well-established entity whose existence derives from television and which has ITV directors on its board, but which sells its advertising separately - the TV Times.

This is the first of a series of papers on the future of commercial television to be produced by the AMI. Further topics to be covered include Channel 5 and the BSB/Astra satellite TV expansion. We believe that these proposals for Channel Four are a pointer to the future selling of commercial airtime in the UK.

This paper was produced for the Association of Media Independents by its Future of the UK Commercial Television Group. The group comprises the following members:

Mike Yershon	Yershon Media Ltd. - Chairman
Clint Easthorpe	Media Buying Services Ltd.
Graham Hutton	Billett & Co.
Nick Manning	Chris Ingram & Associates Ltd.

September 1988

THE ASSOCIATION OF MEDIA INDEPENDENTS

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Tel: 883 9854

CONFIDENTIAL

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Celanof



10 DOWNING STREET
LONDON SW1A 2AA

11 September 1989

From the Private Secretary

Dear Catherine,

CHANNEL 4

Thank you for your letter of 17 August to Caroline Slocock which the Prime Minister has now had chance to consider. She has also seen Duncan Sparkes' letter of 4 September recording the Chancellor's views.

The Prime Minister is content with the Home Secretary's revised proposals for the procedure to be adopted if Channel 4 were to receive revenue in excess of its 14 per cent budget baseline.

She is, however, concerned about the proposals for the appointment of the Trustees and for the relationship between the Trust and the operating company. She feels that the proposals give too little responsibility to the Trustees, and that they should be made responsible for the whole of Channel 4; while the Management Board should run it on a day-to-day basis, in so doing they should implement guidelines set down by the Trustees. She thinks this will be difficult to achieve if the Trustees are made a legal entity which is separate from the Channel 4 company, and she would therefore prefer a single legal entity. If there are compelling reasons why this is not possible then she considers that the licence should be held by the Trustees and not by the Management.

As regards the appointment of the Trustees, the Prime Minister does not consider it would be appropriate for up to 7 out of the total of 9 either to work for Channel 4 or be appointed by the ITC. She considers that rather than the ITC having the power to appoint the majority of the members of the Trust, these appointments should be made by the Government, taking into account the need for people to be drawn from different areas of public life.

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

Yan.
Pai
PAUL GRAY

Miss Catherine J. Bannister,
Home Office

CONFIDENTIAL

mem

PRIME MINISTER

cc Mr. Ingham

POSSIBLE MEETING WITH CHAIRMAN OF LWT

Before your departure you indicated that you would like to meet the chairman of LWT, Christopher Bland, to discuss his case against the introduction of ITV tendering (paper attached).

Since you saw Mr. Bland's paper MISC 128 has considered these issues further, and commissioned further work on the duration of licences to be given to ITV companies following auctioning.

Against that background you may want to reconsider whether to see Bland.

Do you still want to see him in the autumn, in parallel with MISC 128's continuing discussions?

free.

PAUL GRAY
29 July 1988

KKLABK

No

me

1. *✓* *Mr Ingham* to see

2. *✓* *PG* or *or.*

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(1)
PRIME MINISTER

LWT

The chairman of LWT, Christopher Bland, has asked me to let you have the case he has prepared against ITV tendering and for an alternative system.

The alternative would effectively convert the present fixed term, renewable leases into long leasehold on payment of a consideration to the Exchequer of £500million over 10 years - reflecting the windfall gain to shareholders from the new security of franchise.

Mr Bland, who is often mentioned for bigger jobs in broadcasting, would like to meet you in the autumn to discuss their proposals and other broadcasting issues.

Do you want to meet him?

With the Home Sec

Mr Ingham

BERNARD INGHAM

25 July 1988

THE 1992 FRANCHISE PROCESS

- I. SUMMARY
- II. THE CASE AGAINST TENDERING
- III. AN ALTERNATIVE APPROACH

March 1988

I. SUMMARY

THE CASE AGAINST TENDERING

1. The introduction of tendering is unnecessary: the major changes within ITV which the Government wants to introduce are already under way
2. The prospect of tendering - even in 4½ years time - is commercially destabilising
3. The outcome of the tendering process is entirely unpredictable; sound commercial judgements about appropriate tendering levels are almost impossible to make
4. A tendering system is likely to discriminate unfairly against the existing ITV companies, unless the rules are changed now
5. Programmes are impossible to specify with the precision required for a satisfactory tendering process
6. No other broadcasting system uses tendering to allocate broadcasting franchises

THE ALTERNATIVE

1. A five-yearly formal public review of the performance of each franchise holder, against clearly identified and objective criteria, should be established from 1992 onwards, beginning in that year
2. Failure to perform should be penalised by compulsory divestment
3. Ownership of television companies should in future only be controlled through monopolies and mergers legislation and the rules of The Stock Exchange
4. The levy system should continue: its level should be reviewed each year, although its basis should be fixed for five year periods
5. A charge of £500 million should be made for changing the basis of the ITV franchises and giving the existing companies significantly increased security of tenure

II. THE CASE AGAINST TENDERING

1. The Introduction Of Tendering Is Unnecessary: The Major Changes Within ITV Which The Government Wants To Introduce Are Already Under Way.

- . Increased competition for the supply of advertising time will accelerate in the early nineties through additional minutage - from BSB, from Astra, and possibly from the 5th and 6th Channels. The cost per advertising minute will fall.
- . Tendering doesn't increase competition within the system, but only, and for a moment, for the right to hold the franchise for a specified period.
- . Increased access to the system at the programme-making level is already under way, for both independents and regional companies.
- . Industrial relations within ITV are changing rapidly, as a direct consequence of
 - independent access
 - successful management services organised by Thames, Ulster, Tyne Tees and TV-am in response to strikes.

By the end of 1988 the ITV work-force will have been substantially reduced, major productivity gains will have been achieved, and the National Agreement will have a significantly reduced importance.

2. The Prospect Of Tendering - Even In 4½ Years Time - Is Commercially Destabilising

- . Each of the 5 major ITV companies, and several of the others, is a PLC with a wide range of institutional and individual shareholders. All, except Granada, depend almost entirely on ITV for their commercial existence.
- . The export record of ITV is excellent, in spite of the strength of the American producers. The UK, including the BBC, is the world's second largest provider of international programming. ITV's total exports in 1986 were £65 million.

- . Nevertheless, the ITV companies are small in international terms. The market capitalisation of the four 'pure' television companies' (Thames, Central, LWT, Yorkshire) totalled £511 million on February 29th. Warner Brothers, one of half-a-dozen major US programme makers, is alone capitalised at approximately £1,700 million.
- . The ability of the ITV companies to make a commercial response to the prospect of tendering is limited. In particular
 - they are unable to merge with or be taken over by a larger partner
 - until last autumn they were not allowed to make significant acquisitions themselves: their low PE ratios (averaging 10.3 on 2.3.88, compared with a leisure average of 16.2 and a consumer group average of 14.9) now rule out that possibility
 - their public service obligations continue for another 4½ years

3. The Outcome Of The Tendering Process Is Entirely Unpredictable; Sound Commercial Judgements About Appropriate Tendering Levels Are Almost Impossible To Make

- . Assessing the appropriate tendering level requires an ability to assess
 - A. future operating costs
 - B. future capital requirements
 - C. future revenue and cash flows

A & B are relatively easy. C is notoriously difficult under existing conditions; with competition beginning to intensify by the end of 1992 but not yet at maximum levels, revenue will be almost impossible to predict with the required degree of accuracy.

- . The potential competition (the Atlantic Richfield, Conrad Black factor) from uncommercial tenders is hard to gauge and difficult to counter. Large international groups have always been fascinated by the media, and, if they wish, can afford to tender at levels which cannot be matched by companies wholly dependent on television for their livelihood.

4. A Tendering System Is Likely To Discriminate Unfairly Against The Existing ITV Companies, Unless The Rules Are Changed Now

- . Tenderers will presumably not be required to own studios or employ programme-makers, and will rely entirely or extensively on acquisition, and, if allowed, on low-cost imported programming.
- . The existing companies are contractually prevented from adopting this approach for 4½ years - unless the IBA rules are changed now. While extensive dependence on commissioning and imports would maximise short-term revenues, it would have a long-term and adverse impact on programme-making ability.

5. Programmes Are Impossible To Specify With The Precision Required For A Satisfactory Tendering Process

- . Tendering is a satisfactory process provided that a detailed and precise specification can be provided; only in such circumstances (construction contracts are the obvious example) can competing tenders be satisfactorily compared.
- . Television programmes cannot be specified with the required degree of precision. For example, Weekend World ("a one-hour current affairs programme addressing the political issues of the week") costs approximately £75,000 per week to make. A programme apparently meeting a similar specification could be made for a quarter the cost - without research, ENG inserts, three cameras etc.
- . LWT produced a detailed seven-page specification for tenders for its local news service (10½ minutes per week). It selected the fourth lowest bid, because experience and quality requirements outweighed the purely financial considerations, although these were not ignored.

6. No Other Broadcasting System Uses Tendering To Allocate Broadcasting Franchises

- . This is not an argument against tendering: it only underlines the difficulties of assessing, in the absence of international comparisons, the impact of tendering on ITV and on UK broadcasting as a whole.
- . One reason why tendering has not been adopted elsewhere in Europe is that it is a system that has to allow all EEC companies to compete on equal terms. At present no UK broadcaster can own other than minority stakes in other EEC television companies - in practise only in France have minority stakes become available.

III. THE ALTERNATIVE

If tendering is considered an unsatisfactory system, what alternative approach can meet the objectives of ensuring

- (i) regular review, on an objective and transparent basis of, the franchise holder's performance, with the sanction of termination
- (ii) expansion of the ability to own and control television companies
- (iii) stimulus to efficiency
- (iv) returns to the Exchequer at satisfactory levels

Against a background of increasing competition from new channels, and a substantial amount of programme production by independents in the early nineties, these objectives could be achieved by the approach summarised below

1. A Five-Yearly Formal Public Review Of The Performance Of Each Franchise Holder, Against Clearly Identified And Objective Criteria, Should Be Established From 1992 Onwards, Beginning In That Year

Each franchise holder's performance should be formally and publicly reviewed every five years against established, clearly identified and objective performance criteria. These criteria should be quantified where possible, under such headings as

- network programme output by category, hours and expenditure
- local programme output by category, hours and expenditure
- compliance with the rules on the portrayal of violence
- compliance with the rules on taste and decency
- compliance with Family Viewing Policy
- compliance with the rules on accuracy and impartiality
- compliance with the rules about advertising
- technical quality

. Subjective assessments of programme quality, or shareholding structure, or the comparative appeal of the existing franchise holder's performance with the promises of rivals, would not be relevant.

. The first review should be held in January-July 1992, against performance criteria established by the end of 1990.

2. Failure To Perform Should Be Penalised By Compulsory Divestment

. Any television company failing to perform should be forced to divest itself of its franchise through sale within six months. Each television company would require a holding company/television subsidiary structure to make this possible.

. Failure to perform should be clearly defined; five breaches of performance criteria during the five years should be considered enough to force divestment.

. There should be a formal appeal against the review/divestment process.

3. Ownership Of Television Companies Should In Future Only Be Controlled Through Monopolies And Mergers Legislation And The Rules Of The Stock Exchange

. Control of quoted and unquoted television companies should in future be allowed to change hands in the same way as any other company

. Change of control should be subject only to the limitations imposed by

- monopolies and mergers legislation, and the Government's policy on the desirability of newspaper groups owning or being owned by television companies.
- Stock Exchange regulations.
- Government policy on non-UK or non-EEC ownership.

Under this system television companies would be free to acquire as well as be acquired, subject to the rules set out above.

The regulatory authority should have the right to approve appointments to the Boards of television companies.

4. The Levy System Should Continue: Its Level Should Be Reviewed Each Year, Although Its Basis Should Be Fixed For Five Year Periods

In return for increased commercial certainty (although reduced security of tenure/ownership) provided by this system, a monopoly rent in the form of a Levy should continue.

The basis of the Levy (revenue based, profits based or a mixture of both) should be fixed for five year periods. The levy percentage or rate should be reviewed annually.

As competition for advertising revenue increases and the monopoly erodes, it would seem likely that by the mid nineties the requirement for a Levy will have significantly reduced or disappeared.

5. A Charge Of £500 Million Should Be Made For Changing The Basis Of The ITV Franchises And Giving The Existing Companies Significantly Increased Security Of Tenure

The proposals outlined above would effectively change the basis of the ITV franchises from the present fixed-term, short leasehold basis, renewable under certain circumstances, to a long leasehold (with an annual levy), transferable through acquisition or compulsory divestment.

The share prices of the ITV companies reflect the insecurity of the franchise and their invulnerability to takeover, and as a result ITV company P.E.s are substantially lower than Stock Market averages.

A charge of £500 million, reflecting the gain that would otherwise accrue to shareholders, should be made by the Home Office and apportioned between the 15 ITV companies. It should be payable through an increase in the rental over, say, a 10 year period. The basis for the calculation is set out in Exhibit I following this page.

EXHIBIT I

A POSSIBLE BASIS FOR
CHARGING ITV COMPANIES
FOR CHANGING THE BASIS
OF THE ITV FRANCHISE

. The market capitalisation of the quoted "pure" ITV companies (Anglia, Border, Central, Grampian, HTV, LWT, Scottish, TVS, TV-am, TSW, Thames, Tyne-Tees, Ulster, Yorkshire) on May 23rd was £977 million, with Granada Television accounting for a further estimated (pro-rata to LWT) £121 million. Channel is not quoted and can be ignored for the purpose of this calculation.

. ITV has, therefore, a total stock market valuation of around £1,098 million.

. The average P.E.s of the companies (excluding Anglia, high in anticipation of imminent results) was 8.7, compared with an FT 500 P.E. of 12.8.

. If it is assumed that the difference is accounted for largely by franchise uncertainty, then a charge for removing that uncertainty of about £500 million to the industry as a whole would be appropriate.

. It should be emphasised that this is a simple - and perhaps simplistic - approach, but it is doubtful whether a more elaborate calculation would necessarily produce a better result.

COMMERCIAL IN CONFIDENCE

cc Nigel Hicks ✓
Paul Gray
Professor Griffiths

CP - to see part attached at
X

NOTE FOR RECORD

Subject a master

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The Prime Minister met Mr George Russell, the new chairman of ITN, in her room at the House of Commons on the afternoon of Thursday, July 7. Mr Russell was accompanied by Sir Alastair Burnet who some weeks previously had sent to the Prime Minister his proposal for ITN becoming the holder of a commercial night-time franchise starting at 10pm.

The Prime Minister was accompanied by Bernard Ingham, Chief Press Secretary.

The meeting was disrupted by Government business. It began 25 minutes late and lasted some 15 minutes.

Mr Russell, the first ITN chairman to be drawn from outside the industry, quickly sized up the situation and made extremely good use of his limited time. He came over as a positive leader and as a real enthusiast for ITN and its potential.

Mr Russell said that after six weeks in office he believed there was advantage in ITN having an independent chairman owned, as it was, by 15 different companies.

He had spent a great deal of time asking people mainly within ITN to define ITN's problem. It was clear it was not seen to be political, technological, quality of product or costs, the last having been dramatically reduced over the last two years. The labour force had been slimmed down by 150 while the service had been expanded, notably with contracts to supply news programmes for British people in Gibraltar and Spain.

Morale was extremely good. One example of this had been the decision by camera crews to implement single manning in advance of the availability of modern cameras. They had gone to Wimbledon with makeshift lighting on their existing cameras and demonstrated their ability to work single-handed.

Mr Russell added that the real problems at ITN were structural.

COMMERCIAL IN CONFIDENCE

COMMERCIAL IN CONFIDENCE

He hoped that ITN could:

- (i) clarify its role for a period ahead as a supplier of news programmes for the commercial companies;
- (ii) be established as a profit centre in its own right so that it could be floated off when it had established its own commercial record.

He said that David Nicholas, Editor and Chief Executive, and Alastair Burnet had formed a good relationship with Rupert Murdoch. ITN were consequently hopeful of securing a contract to supply Murdoch with a 24-hour satellite news programme.

Mr Russell, in response to a question by the Prime Minister, said that ITN was not short of capital. As a result of the rise in value of the old Sunday Times building which they had acquired relatively cheaply, and the value of their existing Wells Street HQ, they would be able to equip themselves with a new TV Centre in Grays Inn Road incorporating all the latest equipment. They had a "fantastic" asset if they could develop it.

The Prime Minister asked Mr Russell point blank "What do you want from Government?"

Mr Russell: "We have nothing to ask of you".

On this ideal note the meeting was brought rather quickly to an end because of other pressing business for the Prime Minister. She asked Mr Russell to keep her posted on their progress and wished him well in his chairmanship.

As they were leaving Alastair Burnet expressed concern about the EC plan to restrict advertising breaks to roughly every 45 minutes. The Prime Minister showed great impatience with the idea and said that it underlined her concern that the EC should become less not more regulatory.



BERNARD INGHAM

8 July 1988

COMMERCIAL IN CONFIDENCE

MSJECN



10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

1 July 1988

A little time ago the Managing Director of Yorkshire Television, Mr Clive Leach, sent the Prime Minister a memorandum with his views on television broadcasting. I attach a copy for your information.

I do not believe that any response is required to Mr Leach's memorandum. But you should know that the Prime Minister has noted with some concern his point, in paragraph 5 of the memorandum, that:

"Rightly or wrongly, the management of ITV companies came to believe that a "bad" (i.e. confrontational) record of labour relations would count heavily against them when it came to the renewal of franchises."

The Prime Minister would be disturbed if, as Mr Leach suggests, the situation he described in that paragraph represented IBA's policy.

N. L. Wicks

Philip Mawer, Esq.,
Home Office.

M



QUEEN ANNE'S GATE LONDON SW1H 9AT

29 June 1988

NBPm

Dear David,

GOVERNMENT'S REPLY TO REPORT BY
HOME AFFAIRS COMMITTEE ON RADIO

The Home Affairs Committee's report on "The Government's plans for radio broadcasting" was published on 5 May. The report was short and low key, but contained some useful support for the Government's proposals to set up a new Radio Authority and to provide for the new national commercial radio licences to be allocated by competitive tender subject to a diversity test.

The Government's reply - which is based entirely on policy decisions previously agreed by MISC 128 - will be published at 3.30 p.m. on 30 June.
.... You might like to have the enclosed copy.

I am copying this letter and enclosure to the Prime Minister and other members of MISC 128.

Yours,
Douglas

The Rt Hon Lord Young of Graffham



**THE GOVERNMENT REPLY TO THE SECOND
REPORT FROM THE HOME AFFAIRS COMMITTEE
SESSION 1987-88 HC 386**

The Government's Plans for Radio Broadcasting

**Presented to Parliament by the Secretary of State for the
Home Department, by Command of Her Majesty
June 1988**

LONDON

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The Government Reply to the Second Report from the Home Affairs Committee (Session 1987-88)

Introduction

1. The Home Affairs Committee's Report on the Government's Plans for Radio Broadcasting was published in May 1988. The Committee had announced on 10 December 1987 its inquiry into the future of broadcasting. The terms of reference indicated that this inquiry would relate primarily to television. Following the Home Secretary's announcement on 19 January of the Government's plans for radio broadcasting in the light of responses to the Government's Green Paper "Radio: Choices and Opportunities" (February 1987), the Committee decided to invite interested parties to submit separate Memoranda on radio broadcasting. Fourteen Memoranda were received, and other organisations made reference to the future of radio in Memoranda submitted for the Committee's main inquiry. On 21 March 1988 the Committee took oral evidence on radio broadcasting from Mr Tim Renton MP, Minister of State at the Home Office responsible for broadcasting policy.

2. This White Paper, which is presented to Parliament by the Home Secretary, follows the Report published by the Committee in May 1988 in being concerned solely with radio broadcasting. The Government notes that the Committee decided not to cover in its Report the whole subject of the future of radio broadcasting, but instead concentrated on a number of points of Government policy. Similarly, this White Paper responds on these points rather than seeking to treat the subject comprehensively. For this reason it does not deal with a range of important topics, such as the development of local radio services, including community radio, covered in the Home Secretary's announcement on 19 January.

3. The Committee's investigation of radio policy has been of great value. The Memoranda published with the Committee's Report also make an important contribution to the subject. In preparing for the proposed new regime for radio broadcasting the Government will take careful account of the matters raised in the Committee's Report.

4. There has been some speculation about the timing of the proposed broadcasting legislation. The Government intends to bring forward such legislation in the course of this Parliament. It cannot comment further on timing in a way which would anticipate the Queen's Speech. The Government is well aware of, and fully understands, the desire of many people in the radio world to make the earliest possible start under the proposed new lighter enabling framework for radio broadcasting. It intends that as much preparatory work as possible should be done in advance for the proposed new regime.

The New Regulatory Authority

5. The Government is glad that the Committee accepted that a new Radio Authority, in the words of the Report, "will be the best means of regulating the burgeoning radio industry" (paragraph 7). The decision to propose a new Radio Authority implied no criticism of the IBA, to whom the Government is grateful for developing independent radio within the original regulatory framework established by Parliament. But, with the prospect in sight of many more stations, and much wider choice for the listener, the Government

considered that a new body, with independent radio as its sole concern, was needed to oversee the proposed new, enabling framework.

6. As the Committee's Report notes (paragraph 7), direct cost comparisons cannot be made between the proposed new Authority and the IBA's radio division, not least because – as the Government has made clear – individual stations will become free to make their own transmission arrangements under the proposed new deregulated regime. The Committee recommended "*that the new Radio Authority should be funded and staffed sufficiently to enable it to carry out its functions effectively in the greatly expanded field of commercial radio*" (paragraph 7). The Government agrees. In establishing the new Authority it will take careful account of its responsibilities and tasks and the deregulated environment in which it will operate. It will be for the Authority to determine its staffing requirements in the light of duties laid upon it by Parliament. It is therefore also desirable, not least from the viewpoint of the radio operators who will pay the licence fees which will enable the Authority in due course to become self-financing, that the Radio Authority should operate economically and efficiently as well as effectively. On the question of effectiveness, it is relevant that, as the Committee's Report noted (paragraph 12), the Government is proposing a graduated set of sanctions, ranging from warnings to licence withdrawal, which the new Authority will be able to take against stations which fail to live up to their promises of performance or otherwise depart from their licence conditions.

The New National Commercial Networks

7. The second main area covered in the Committee's Report concerned the proposed new national commercial networks. The new national stations will be expected to offer a diverse programme service. The Government has stressed that this will not preclude a weighted approach, or require them to operate as general channels trying to be all things to all people, although it will mean that a single narrow format or focus will not be good enough. The Government is glad that the Committee commented that this approach seemed to them to strike a proper balance (paragraph 12). The Government also welcomes the Committee's recognition (paragraph 13) that the proposed competitive tender procedure for national commercial radio licences does not mean that these will be allocated on financial grounds alone, since applications will also be tested against the proposed diversity requirement.

8. The Committee suggested (paragraph 15) that the Government should ensure that the BBC, as the sole radio provider subject under the new regime to public service requirements, was not under financial or other pressures to reduce its standards in this field in the face of competition from commercially financed competitors. The Government's Green Paper envisaged that it would remain for the BBC, not the Government, to decide how its public service broadcasting obligations should be met, subject to the availability of resources and frequency spectrum assigned to the BBC. The memorandum by the BBC reprinted as Appendix 10 in the Committee's Report set out the BBC's plans, and made clear the BBC's determination to strengthen the editorial content of all its radio services to meet the new competition.



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PRIME MINISTER

LETTERS FROM ITV COMPANIES

Mr Wicks

Rease note PM's comment
in magazine; and see para 5 of
attached paper. This is however
in the past. Technology is
breaking any resistance
down. No action?
ms
Bernard Ingham

You should be aware that over recent months I have been approached by a number of regional TV companies concerned about the suggestion, put to you during your visit to Central TV, that the number of ITV companies should be reduced.

Channel TV's managing director, John Henwood, has written to you claiming that the smaller companies have had greater incentive than the five "majors" to keep efficient and adopt new technology. He says the swallowing up of the small companies by the large would seriously damage the TV service outside the conurbations.

The new managing director of Yorkshire TV, Clive Leach, has also written to you accepting that the ITV companies have been guilty of tolerating restrictive practices but pleads three points in mitigation.

1. Because advertising time is rationed the effect of restrictive practices has been to cost the ITV companies profits rather than the advertiser higher charges.
2. The IBA led the companies to believe that they would not look favourably on companies with a record of confrontation with unions when it came to allocation of franchises.
3. ITV companies have been protected from takeover bids.

If there is
correction, we
should take
some action.

He goes on to claim that things are changing as the companies become more commercially minded. But he argues strongly against:

- the auctioning of franchises because the Government, concerned with quality, could not allow a truly free auction; instead he suggests a more open system of public criticism and correction of existing franchise holders.
- a levy on profits; he thinks a levy on revenue would produce a more efficient industry.

I have acknowledged their letters and have copies if you wish to see them.

BERNARD INGHAM

28 June 1988

010

6069

From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

22 June 1988

Dear Jeremy,

PA

I attach for information a copy of a speech on developments in television which the Home Secretary will be making this evening to a meeting of the Coningsby Club.

3

Copies go to Dominic Morris (No 10), Alex Allen (Treasury) and Trevor Woolley (Cabinet Office).

Yours sincerely,

P J C Mawer

P J C MAWER

PA

Jeremy Godfrey, Esq

Sony. 4mm.

du.

SPEECH BY THE HOME SECRETARY,
THE RT HON DOUGLAS HURD, CBE., MP.,
TO THE CONINGSBY CLUB: 22 JUNE 1988

Every speech about television begins with the statement that British television is entering an age of rapid change. It is relatively easy to go one stage further and state the principles on which that change will be based.

First, there will be much wider choice for the British viewer, and I do not doubt myself that he will use that choice as it becomes available.

Second, with this much greater freedom he will insist on some consumer protection against such excesses as unbalanced partisan politics, or pornography, or excessive violence. He will also want to retain some variety of programmes so that we do not sink in a sea of pap.

/Third, the whole....

Third, the whole process is rapidly becoming global, so that Acts of the Westminster Parliament or decisions of British regulatory bodies will by themselves have only limited effect.

So far so good. It is less easy to go on from the principles to the actual construction of the framework. The Government has been labouring at this for some time now. Every week, it seems, our deliberations are interrupted by [ingenious entrepreneurs] or [passionate evangelists] bustling through the door with a new consultant's report, or a new technical marvel which they say transforms the whole scene. We have made good progress, but since there was never likely to be major legislation on television in the next Parliamentary session we have a few months in hand before we need to publish our proposals. We are, of course, amply supplied with advice from the different interests involved. These interests [are well-heeled, articulate and adept at identifying their own well-being with the public good.] We have to look outside the clash of interests and consider also, indeed mainly, the viewer, for whose benefit the whole industry exists. I hope that in the coming debates and outside Parliament the viewers as well as the interests will find their voice.

Let me run through the agenda in its present form.

/We have announced...

We have announced the important decisions on the BBC for the time being. We have adopted the Peacock recommendation against advertising on the BBC. The licence fee will be linked to the retail price index, which imposes in practice a substantial financial squeeze. The BBC will, with one or two possible exceptions which I shall mention, be left to use its finances and its spectrum as it thinks best within the terms of the Charter. That is for the time being. I do not myself think that the licence fee can be regarded as immortal. As choice multiplies and the average viewer has more and more channels to choose from, it will become less and less defensible that he should have to pay a compulsory licence fee to the BBC regardless of the extent to which he watches its programmes. The emphasis which the Peacock Report placed on subscription as the technique of the future must be right. Subscription enables the viewer to pay precisely for what he wants, and I am sure that this is a direction in which the BBC should move.

Next we come to the independent terrestrial channels. We have to consider the future organisation of Channel 4. We have to consider whether there should be a Channel 5, as is now technically feasible. [It is hard to imagine any substantial argument against this.] We have to consider how the ITV contracts on the present third channel should be let in future. This is a subject on which the interests are

/particularly and

particularly and legitimately vocal. Equally important is the question of regulation across the ITV sector. Is it necessary in the interests of standards to continue the detailed scheduling arrangements now conducted by the IBA? Would it be possible instead of that detailed control to envisage a quality threshold embodied in a contract enforceable by the courts? How is the desirable variety to be defined and secured?

Next we come to further possibilities of expansion of the terrestrial system. Should we after a period, while people buy dishes, provide for BBC 2 and Channel 4 to broadcast from satellite instead of from the ground? That is the suggestion we have just put to the broadcasters - as a suggestion. It could not happen at all quickly, for there would have to be a period during which the two channels were broadcast from both ground and satellite. The advantage of an eventual transfer to satellite would be higher quality picture and the freeing of a good deal of terrestrial spectrum which could be used to provide more regional television and bring down the cost of advertising. How should we handle the night hours, which both BBC and ITV now know are not to be regarded as the inevitable possession of those who broadcast on the same frequencies during the day? Here is good scope for subscription - people would buy programmes which would be loaded onto their sets while they slept and received by them whenever it suited.

Copyright!

/Next we have cable,

Next we have cable, which is looking up after a long period in the doldrums. Should cable be given a boost by harnessing it to the new possibilities of microwave broadcasting, now called in the jargon MVDS? Instead of having to dig up the streets at great expense, the cable operators would be able to use short range television from the transmitter to particular points in the line of sight, from which cable could carry services to the individual customer.

Then again there is a question which applies to all terrestrial services. We are used to one organisation putting together the programmes and transmitting the result. Is that the best system, or should transmission be separate from the provision of programmes?

Up in the sky the competitive battle between different satellites and different hirers of space on satellites is well under way. The market place is buzzing, as it should be, with competing claims about dishes and the variety and cost of programmes. Here the protection of the consumer is much more difficult to achieve because some of those responsible are outside the jurisdiction. That is why we are negotiating a treaty within the Council of Europe. There is a hiccup in the negotiations at present over the question of advertising in the middle of programmes, which the Germans and some others

/find reprehensible..

find reprehensible but which is familiar to us and important to our industry. We shall press ahead with trying to bring these negotiations to a successful conclusion, at the same time joining rather more warily in the discussions in Brussels for arrangements under Community law within the Community of Twelve. We also have to consider whether in the last resort we may need powers to penalise the British interests of any concerns with advertising on programmes which are unacceptable in terms of consumer protection but which originate outside this country and indeed outside Europe.

In this area we should be greatly helped by the new Broadcasting Standards Council as it takes shape and gathers strength. Recent developments have clearly strengthened the case for a body which can take an overall view of standards, particularly as regards sex and violence, and act as a focus for anxieties and criticisms.

That is quite an agenda. We have worked our way through a large part of it already, but obviously our conclusions on particular parts must await our conclusions on the whole. We are emphatically not trying to impose a blueprint for British television or trying to lay down for the viewer what he or she should choose. On the contrary, we aim to create a garden in which many flowers may bloom and many people work or wander with pleasure and benefit. This is a remarkably lively and

/creative sector of..

creative sector of British industry, and indeed British society. The pace of change is exhilarating and we shall produce imaginative proposals to match it.

MR WICKS

ITN PROPOSALS

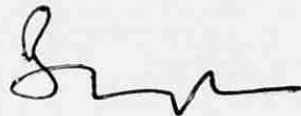
I have spoken to Alastair Burnet, ITN, who is content for me to pass the attached papers (as underlined by the Prime Minister) to the Home Secretary on a restricted basis.

Can I suggest you pass on the paper with something like the following note:

"The Prime Minister has read (and underlined) the attached note about the future of ITN which Alastair Burnet gave to Bernard Ingham last week. She has commented: "Has Douglas Hurd seen this paper? It is most impressive".

"Our understanding is that the paper is Alastair Burnet's own work and is not yet formal ITN policy. It does however seem to represent thinking in ITN."

"Alastair Burnet is anxious that the paper should be kept to a close circle but he is aware that I am passing it to the Home Secretary. I would be grateful if you would treat it as Personal in Confidence".



BERNARD INGHAM

2 June 1988

THE PROBLEM:

There is a growing possibility that the increased competition in television, encouraged by the Government, will lead in Independent Television, at least initially, to a reduction in existing programme standards, innovation and variety in news and current affairs.

The impetus towards cost-cutting which the Government has fostered is welcome all round. ITN is itself the product of competition. But the commercial companies' first, and in a sense understandable, reaction to speculation about the future has been visibly negative.

- * Thus, the ITV companies and Channel 4 have decided not to give live coverage of the party conferences this year. A feed from the BBC is being negotiated for ITN's and the regional news summaries.
- * The ITV companies and Channel 4 have indicated that they will not broadcast a nightly round-up of Parliament, even after the cameras are introduced into the Commons.
- * London Weekend is scrapping its "Weekend World" flagship programme on Sunday mornings.
- * No coverage of the 1988 local government elections was carried in London or in several other regions; where there was coverage it was criticised as recognisably superficial.
- * The ITV companies have refused to broadcast President Reagan's speech at the Guildhall on his return from the Moscow summit.
- * Central TV has just approached the Prime Minister with a proposal to cut the English television companies to five, to cut costs.
- * ITN's Super Channel News to more than 20 countries in Europe, and to Japan, faces closure for lack of £900,000 (or less) to give it a second year to establish itself financially.
- * The new satellite company, BSB, has said that its news operation will be down-market compared with ITN and the BBC. No one has said there will be a more up-market news. It is sensible to expect, initially, an increase in triviality and the dilution of information.

The Government has still to decide on the Peacock idea of tendering for franchises and separating Channel 4 from ITV. It has not yet given the go-ahead for a Channel 5. Even so, the spur of competition, of tendering, of talk of new channels and, indeed, of more uncertainty, have made many of the present companies highly defensive about anything that is not part of their main core business and responsibility.

/...

In this atmosphere it seems sensible to suggest a plan for, say, the first seven years after 1992 (or the end of Peacock stage 1), which will take ITV through to the next stage, when new terrestrial channels, satellite and cable, and international competition will actually be upon us. The proposal will leave the companies to do what they do best under a new regime, and allow ITN to do what it does best, including care for public affairs and similar programmes on which both the public appreciation of any television network, and the collective benefit of access to matters of serious national concern will depend.

THE AIM:

To identify the advertising revenue that the ITN news, especially News at Ten, brings into the ITV system, and use it

- 1) to foster ITN's national and international development; and
- 2) to encourage public service broadcasting in a more competitive television world.

Although the ITV companies have chosen to regard ITN as a cost centre, advertising agency estimates put the ITV revenue from the premium slots around and in News at Ten at more than double ITN's present budget. A neutral analysis of the ITV network revenue from slots in and around News at Ten -- especially the premium slots in the centre break which earn £60,000 per 30 seconds -- is £120 million a year. ITN's total budget from ITV is £45 million. This subsidising of entertainment by news is anomalous in broadcasting. It is not, by any stretch of the imagination, an efficient allocation of resources.

THE METHOD:

To introduce a separate Through-the-Night Franchise on ITV-1 at the next franchise review.

The criteria (see Peacock recommendation 10) for it would include a clear responsibility for providing regular news, coverage of special events, and time for a late-night parliamentary report -- besides entertainment. ITN already earns the advertising income to finance such a franchise. What the franchise would also provide is the second necessity in television: control of air time -- to use for public affairs broadcasting whenever necessary.

This is a better solution to the problem which Peacock recognised (paras 682-689) but to which the report failed to give a convincing answer. There is no need to go the cumbersome (and readily misconstrued) way of a public

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subsidy, plus an accompanying regulatory body, for news or current affairs.

THE ARGUMENT:

There are four main grounds for such a service:

- 1) It's an opportunity to start something recognisably new. Up to now the handful of companies who patronise a night-time service have not seemed to approach it as other than the fag-end of a normal day.
- 2) It would be a national service. That is to say, it would be available to smaller companies, which now opt out of night-time, at a cheap rate, allowing them to give an extra service to their viewers, without drawing on the local advertising which matters to them at other times.
- 3) It would be a public service, open for flexible programming whenever good or bad news required it. Its priorities would put breaking news, sport and major national and international events on a par with films, music and light entertainment.
- 4) It would provide ITN with a form of financial and scheduling independence which could be made complementary to the ITV companies' interests.

THE TIME:

The definition of Through-the-Night should start with known viewing habits. The normal breakpoint for the normal family, especially north of the Trent, is 10.30pm. This is exemplified by the programme companies' own reluctance to schedule network programmes after that time.

Naturally, major sports occasions and programmes like the South Bank Show on Sunday nights would be accommodated if the originating ITV companies so wished.

If 10.30pm is the natural end to evening viewing, and as News at Ten occupies the preceding half-hour, there is a clear merit in starting Through-the-Night at 10pm.

THIS ENSURES:

- 1) A guaranteed future for the main ITV news in years when the programme companies can, understandably, be expected to concentrate more on

/...

entertainment programmes.

- 2) The advertising attracted by News at Ten, and so available to the new company, would repair the historical ITV failure to see news as a profit centre rather than a cost centre.
- 3) For those companies who wish to continue to see news as a cost, it is a relief from a responsibility. For those companies who go along with the NERA suggestion ("1992 and Beyond ... Options for ITV", page 155) that ITN should be sold, it offers a way out. For the more purposeful it offers a way of getting back in with quotable shares.
- 4) For all ITV companies faced with increasing, popular competition at peak times, it frees the evening to 10pm for the films and light entertainment that they say they will need to keep their ratings.
- 5) It would free them from those remaining current affairs slots, which lose peak-time audiences. The current affairs people -- especially, say, This Week, -- could now be redeployed, normally, on follow-up programmes on Thursday nights (which is what Thames asked the IBA to approve three years ago).
- 6) But the chief executive of Through-the-Night would have the ability to postpone current affairs and entertainment if actuality (Zeebrugge, King's Cross, Belfast, a summit, a hanging debate, a Falklands war) dictated. British and American elections and by-elections, American Conventions, Japanese and Australian events, sports and markets offer other excellent opportunities for a service starting at 10pm.
- 7) This would allow a regular 11pm - 11.15pm start to a daily review of Parliament, precisely at the time when MPs would be able to see it. The more Channel 4 decides it would rather not know, as it is saying now, the better the argument for a Through-the-Night franchise.
- 8) Besides enabling the provision of breaking news, it would exploit ITN's ability to provide a backbone of news-updates through the night hours.
- 9) ITN would also provide a first-class news for early-morning viewers from 5.30am with contributions which would really set the news agenda for the rest of the morning -- so providing immediate competition for the Breakfast Time company.
- 10) The franchise would, of course, supply films, light entertainment, popular music etc, especially on Friday, Saturday and Sunday nights when the demand would be most evident. There may even be a case for a split franchise, dividing authority between weekday and weekend programmes.

But it should also offer clear opportunities for minority and specialised

/...

interests, allowing for personal recording of such programmes ("downline loading") in the deepest night hours. It should also offer more than 25 per cent of the viewing time to independent producers, for whom the scope to test consumer taste would be valuable.

THE ADVANTAGES:

- 1) For the Government, it answers the numerous critics who argue and will argue that the new ideas about broadcasting are unlikely to pay sufficient attention to quality or public service.
- 2) It also provides new resources for the development of British international broadcasting by satellite without calling on a penny of public money. This is essential for the 1990s.
- 3) For the IBA, it gives the opportunity to back a radically new programme idea, which would help to give it a new lease of life and reputation in licensing and regulating broadcasting.
- 4) For the companies who choose to look on ITN as a burden, it ends tedious arguments over budgeting and scheduling. For those that want to take a financial and programme interest it is likely to prove a profitable opportunity.
- 5) For ITN it is an overdue release from colonial status within ITV.

(It is pertinent to add that the franchise would, for the first time, (1) allow ITN employees to acquire shares in the company they work for and (2) link ITN management's remuneration to their financial performance. That these incentives do not exist now is another anomaly of the existing system.)

SOME OBJECTIONS — AND ANSWERS:

- 1) Isn't this something that plainly protects ITN, or is devised to do so, at a time when the Government wishes to see more open competition?

A: News has never before, in the United States or here, offered to take the risk of living on its own earnings -- in return for control of its own time on the network. How much more competitive can one get?

Second, there is going to be distinct public and political disquiet at the signs that ITV companies will go down-market, as Peacock admits.

/...

Third, a particular merit of ITN is that it has developed assets of experience and scale in covering news world-wide. This will be difficult to imitate, far less to replace. It is not like covering business and local or regional news, which can be done by new companies which simply would not have the resources to cover the Gulf or Central America or South-East Asia, or even a hijack anywhere, at a minute's notice.

Fourth, the BBC (which is not being invited to introduce internal competition within the airtime of its news system) has said it will now deliberately spend more money on more news bureaux and more specialist reporters.

It cannot be to anyone's interest to have a national broadcasting market which deliberately allowed the BBC, financed by a national levy, to retain 50 per cent of the market, while the private half alone were subjected to intense competition and down-market pressure. That would be so lop-sided a result to be a denial of consumer sovereignty.

2) How can a news organisation hope to cope with a franchise which also depends on entertainment?

A: It is not difficult to hire expert help in the entertainment field. Indeed, what is needed in the ITV companies who accept a Through-the-Night service now is, precisely, more enthusiasm and coherence for such a service. The IBA, belatedly, has now approached the companies to try to correct this.

There could be no difficulty in ITN sharing with, or sub-contracting to, another group for entertainment -- provided the Chief Executive of ITN had the authority to put entertainment aside on those occasions when he considered the gravity of the news, or its aftermath, justified it.

3) Has ITN's present management the ability to take on such new responsibilities?

A: ITN will naturally react to whatever the situation needs. There is no shortage of talent. If it's needed it will be brought in.

4) Would this service really pay its way? Crude budget figures do not include ITV rentals, levy or the cost of getting advertising in.

A: The IBA has a practice already of setting its rentals to suit companies that need time to establish themselves. The question of a levy on profit answers itself. A national franchise would not need the expense of branch offices in Aberdeen or Plymouth -- though it could always pay an agent's fee -- and if there were a sound national breakfast-time contractor there might be grounds for a joint arrangement.

/...

5) Doesn't this remove from the companies the opportunity of doing something different in their regions after 10.30pm?

A: Yes, but the advantage the companies take of this opportunity under the present system, where it is not derisory, is less than impressive. The companies will have the best broadcasting hours, from 9.30am to 10pm to show their best to their local audiences. If they had confidence in their local production, why not add local current affairs or arts programmes after the regional news at 6pm, lasting to 7pm? BBC competition is not especially aggressive from 6.30pm to 7pm. It is common practice in the United States to have an hour or even two of local news and similar public events at such a time in the early evening.

ITN could not have any objection to a five-minute local news update at 10.30pm in regional opt-outs. The trouble is that, apart from the weather, there is often a dearth of new local news at that time.

6) What will happen to other news broadcasts on ITV?

A: ITN will be glad to tender for the 5.45pm news slot, and, from a secure base, is confident of giving any competitor a beating.

ITN will also tender for the 1pm news slot, although it would be prepared to provide the service, and news flashes through the day, free.



10 DOWNING STREET
LONDON SW1A 2AA

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DA
bc 81

From the Principal Private Secretary

1 June 1988

Dear Philip,

I should be grateful if you could ensure that this letter is only seen by the Home Secretary for the reasons explained below.

Alastair Burnet has recently sent Bernard Ingham here a note about the future of ITN. When the Prime Minister saw the note, she commented:

"Has Douglas Hurd seen this paper? It is most impressive".

Our understanding is that the paper is Alastair Burnet's own work and is not yet formal ITN policy. It does, however, seem to represent thinking in ITN. Since the paper is not formal ITN policy, Alastair Burnet is anxious that it should be kept to a close circle. But he is aware that I am passing it to you for the Home Secretary's personal information only.

PS: The understanding is the PM's.

Nigel Wicks

(N.L. WICKS)

Philip Mawer, Esq.,
Home Office.

dm

23 May 1988



**YORKSHIRE
TELEVISION**

*From the
Managing Director*

The Rt Hon Margaret Thatcher MP
10 Downing Street
LONDON
SW1A 2AA

Dear Prime Minister,

I have taken the liberty of sending you a paper with my views on television broadcasting. It is my hope that it will help your deliberations on the subject.

I will, of course, be pleased to develop any of the points in my paper, should you so wish.

*yours sincerely
C. Leach.*

Clive W Leach



**YORKSHIRE
TELEVISION**

*From the
Managing Director*

TELEVISION BROADCASTING IN THE UK

The Past

1. The ITV companies must begin by pleading guilty to the charge that for many years they have permitted the trade unions in the industry to carry out a variety of expensive and inefficient restrictive practices. One may quibble with the phrase "last bastion", since there are a number of other candidates for that position. For instance, Her Majesty's Stationery Office springs to mind in this connection. But these are debating points. The relevant issue is that the restrictive practices took place and, to some extent still exist, to a degree which has worried many senior managers in the ITV companies, perhaps particularly those with a commercial background, since they have direct contact with many sectors of industry.

2. Before considering recent developments, three points have to be made in what might be considered as a plea in mitigation. The first is that it is simply untrue to argue that the extra costs imposed on the ITV companies by restrictive practices have caused the increase in television airtime which has occurred over the past decade. Prices for television advertising time are influenced almost exclusively by demand conditions. With airtime strictly limited by IBA fiat, the pre-empt system of selling airtime, which is the one used by most television companies, creates a form of auction, whereby any spot goes to the buyer who is prepared to pay most for it. It is difficult to conceive of a better system of allocating a scarce resource than an open auction.

3. However when demand for TV time falls, the ITV companies lack the one significant advantage of the monopolist - they cannot cut back on the sales of their product so as to maintain a price while demand is falling. The IBA insists that all airtime be sold, and both the Authority and the Advertisers keep all television companies under scrutiny to ensure that they comply with this requirement.
4. Thus, the effect of the restrictive practices of the television unions has not been to make advertisers pay more, but to make television companies earn less. This affects their profits and therefore dividends, and, while it is based on profits, also affects the levy paid to the Treasury.
5. The second point of mitigation is that the ITV companies can only work within the structure imposed by the IBA. For many years, the companies have been led to believe that the IBA would not look kindly on labour relations policies which led to confrontation when compromise might be possible. This belief was strengthened by the results of the 1979 strike, when the ITV Companies felt that they were left to fight on their own, and indeed with the suspicion that the Authority was at best neutral between the two parties. This may not excuse the growth in restrictive practices, but it certainly helps to explain it. Rightly or wrongly, the management of ITV companies came to believe that a "bad" (ie confrontational) record of Labour relations would count heavily against them when it came to the renewal of franchises.
6. A third factor encouraging restrictive practices was the relative protection which the ITV companies enjoyed from market predators. Until the last few years, many were not even public companies, but even

those which were, normally had as their most important asset the franchise to sell television time in their area. The IBA made it clear that this had been offered to a particular company and there was therefore no guarantee that if a television company was taken over by outside bidders, the new management would be allowed to retain the franchise. The announcement of IBA displeasure prevented a bid for Granada and Thames some years ago, and the knowledge that the power existed, obviously inhibited and continues to inhibit outside firms from considering takeover bids for ITV companies.

The Present

7. There is general agreement, even among enemies of the ITV companies, that the position on restrictive practices is beginning to change rapidly and to a large extent. I am not sure what ITV Company spokesmen say officially, but off the record, this was obviously due to governmental pressure. I would argue that it was in any case entirely right for the ITV companies to take account of the government's wishes in this area, but in addition, the belief (right or wrong) that the IBA would also be affected by this change in policy made their stand much easier. It is also noticeable that 4 of the 5 networking Company's Managing Directors are executives with commercial backgrounds as against the "public service programming" background of previous incumbents.

8. This is not the place to detail the various moves being made by the ITV companies against restrictive practices. Different companies are adopting different tactics, moving at different speeds and, to a large extent, face different problems. All

that needs to be said is that movement is taking place everywhere, and that it is almost certain that within a year the face of industrial relations within every ITV company will be changed almost beyond recognition.

9. It is understandable that the government should feel that even if its earlier pressure has achieved largely the results required, continuing pressure needs to be maintained, if only to prevent backsliding. But the key question is what sort of pressure, and the key requirement is to ensure that the result of the pressure is to foster those ends which the government believes to be desirable. It has been known in the past for certain policies of certain governments to prove exactly counter productive to the ends they intended to achieve, and every effort should be made to ensure that this does not happen with this government's policies in regard to television.

The Future

10. Perhaps the supreme example where such counter productivity could take place would be in the auctioning of franchises. The case for this method looks deceptively clear and rational. Exactly as with our TV spots, when there is a limited resource, the only way of fixing the "right" price is to allow potential buyers to bid for it. If this is true of television airtime, as I believe it to be, why is it not equally true of television stations? The case is further strengthened by the admitted inefficiency with which the IBA allocated franchises in the last round, leading to Lord Thomson saying "There must be a better way". Auctions, with their appearance of objectivity might well appear to be such a way.

11. Unfortunately, the analogy between selling TV airtime and TV stations is not as close as it appears. At worst, if a mistake is made in permitting the wrong company to show the wrong advertisement in a spot, the damage is limited, and it can rapidly be ensured that it will not be repeated. A company buying a television franchise is in a quite different position, and the rules of auction would only suit the government's purposes if it were not particularly concerned with the subsequent output over what would be bound to be a period of a number of years. Since the government is already highly concerned, and apparently becoming more so about the nature of television output, this cannot be the case. In practice, the government could not permit anything approaching an open auction. Buyers would have to be vetted with great care, and when once issued with the franchise they would have to be monitored to ensure that they lived up to their promises. This may appear remarkably close to the present system, requiring a body very similar to the present IBA, except that in so far as the auction became somewhat more open, the need for monitoring would become even greater than at present, where the IBA has a reasonable degree of confidence in the intentions of the organizations to whom it offers a franchise. The problem with auctions, as with many other aspects of economic theory, is that there are no halfway houses. Auctions work as efficient methods of economic allocation only when there is no non economic interest either in the nature of the buyer or the subsequent fate of the object bought. As soon as these non economic considerations are brought in, an auction no longer achieves its purpose, and might just as well be replaced by a system whereby bidders are judged on the extent to which they meet the non economic criteria governing the operation.

12. This does not of course mean that there could be no improvements on the franchise allocation system used in 1981. The IBA, for instance, could openly tell existing franchise holders how it regards their strengths and weakness, both as a service to them and to other companies which might wish to apply for the franchise. Similarly, when a decision is made, the thinking behind it could and should be made public. But this would correct flaws in the present system, leaving the basic system intact, which may be regrettable from some aspects of economic theory, but which in practice would be needed to meet the requirements of the government, and, as they are increasingly making clear, of advertisers as well.

13. A somewhat similar argument can be made against the case for splitting regional franchises to create competition. This argument too has a sound economic pedigree. After all, competition among sellers must surely bring down prices for buyers. The fallacy here is that such arguments are implicitly based on the assumption that more sellers mean more goods. But the goods sold by competing ITV companies, (audiences) will not necessarily grow in total. The splitting of franchises would only split audiences, still requiring advertisers to use both stations if they wanted to get a full coverage of the population. Furthermore, the splitting of revenue within a region might adversely affect the smaller companies who would have less resources to invest in programmes.

14. Backing for this view can be found by an examination of the position in London, where such competition has been in effect for decades. One may not blame this competition for the fact that London is by far the most expensive television region, but at least

it suggests that it has done little to keep down prices. The competition has also led to a less widely recognized problem. The two London companies do indeed compete, and normally do so by offering discounts subject to preferential share of the advertisers' TV expenditure in the area. This means that advertisers can make advantageous deals either for weekdays or weekends, but not both, which is hardly conducive to efficient advertising planning.

15. The question of competition to ITV from new channels taking advertising has already been discussed at considerable length. Speaking purely for myself, I believe it is right for the public to be offered more choice, and believe that the ITV companies gain nothing by adopting a dog in the manger attitude to new channels, whether terrestrial, cable or satellite. The threat of such channels should also have a salutary effect in forcing the ITV companies to think about their efficiency, as was illustrated by the recent NERA Report which urged rapid and comprehensive reform of ITV's cost and production patterns.
16. It is easy to be negative about proposals to make ITV companies more business like while retaining the public service obligations imposed by various Television Acts. If there was an easy solution to the problem, it would have been found by now. It is almost certainly the case that whatever happens, there is bound to be some trade off between profit maximisation and the sort of public service responsibilities which all governments, not least the present one, feel strongly should be maintained. Nevertheless, there are means by which the worst excesses brought about by lack of competition can be eliminated.

17. One factor working in favour of beneficial economic change is the general climate of opinion within the regulatory bodies. In some ways it is surprising that it has taken so long for the changed economic climate to register with the broadcasting authorities, but there is growing evidence that significant change is taking place now. This can be expected to make a growing impact on both the senior personnel and the policies of the ITV companies.

18. There are also more direct methods of spurring efficiency in ITV companies. The present levy, for instance, is based on profits, which gives those companies paying at the top rates the comforting feeling that the great bulk of any expenditure they make is carried by the Treasury rather than by themselves. This type of thinking is inevitable when taxation levels are exorbitantly high, and it is destructive to efficient business, a point which the Conservative party came to understand in the late 70's, and which has been in no small measure responsible for their electoral success and the success of the nation since. So how can the ITV companies escape from this trap? It would be unrealistic to suggest that the levy be abandoned, and neither would it be fair while the ITV companies continue to reap commercial benefits from holding a government granted franchise. But there is no reason why the tax has to be on profits.

19. The levy on ITV companies was originally on revenue, and was shifted to profits in the early 70's because the former system worked so inequitably. However this was not a function of the revenue levy itself, but the fact that it contained no provision for adjustment as the high inflation rates in effect

increased the incidence of the tax. The advantage of a levy on revenue is that the ITV companies would be encouraged to make themselves more efficient, since the tax they pay would be fixed, and they would be allowed to keep the difference between revenue and costs (except for profit tax) and thus be encouraged to maximise that difference. The earlier problems with a revenue levy could be overcome by making appropriate provisions to adjust for changes in the RPI, the same principle as that on which the BBC licence fee is now to be based.

20. The change of levy from profits to revenue would provide the carrot to encourage ITV companies to be more efficient. Regrettably, most companies also benefit from the use of a stick. For public companies, the most easily available stick is the threat of takeover if their performance falls consistently below acceptable levels. In the past, as mentioned above, this threat has not been relevant to ITV companies, in particular because the IBA was prepared to remove the franchise from any new management of which it did not approve, at least unless the company was in such dire financial trouble that any rescuer was welcome. This knowledge gave any ITV company on reasonably good terms with the IBA, the assurance that it had much wider scope for poor financial returns than similar companies in other industries.

21. The simple solution to this problem would be to open up ITV companies completely to the market, permitting any take over which did not fall foul of the M&MC. Unfortunately, simple solutions rarely work in this area. The problem is once again that just as a completely open auction for franchises might vitiate the continuing public service

requirements of ITV companies, so might an equally open subsequent auction for shares when a particular company had been awarded the franchise. So is it possible to combine some form of market discipline with some form of public service safeguard?

22. There are precedents for such combinations. For instance, many private firms in the defence industries recognize, at least tacitly, that defence contracts from the British government would dry up if they came under the control of doubtful foreign interests. In practice, the main onus would once again lie with the IBA to pay somewhat more attention to commercial considerations when considering hostile takeover bids, as well as considering merely the public service success of the existing contractor. One accepted hostile takeover bid for a poorly run ITV contractor would have a very considerable educational impact on the remainder.

CONCLUSIONS

23. For a number of reasons, economic efficiency came low on the list of priorities of ITV companies for the past 15 years. Contrary to a widely held belief, this did not increase the cost of advertising, but it made production less profitable and flexible than it ought to have been and was generally bad for morale. Thanks largely to government pressure and the beginnings of a change of heart in the IBA, this position is beginning to improve rapidly, and will certainly have changed beyond recognition in almost all ITV companies within the next year. Nevertheless, these improvements will not be adopted equally effectively by all companies, and, like all good resolutions,

are susceptible to backsliding unless constantly reinforced.

24. The problem is that many of the solutions for maintaining this pressure would not work in the way intended. For reasons explained above, this includes the auctioning of franchises and the introduction of competition within regions on the London model. The most likely methods to encourage ITV companies to maintain efficiency are the standard pressures of the market. These would certainly be assisted by changing the levy from a profits to a revenue base (with adjustments for inflation), thus encouraging companies to keep their costs down. Since all ITV companies are now public, they should also benefit from the pressures which the stock market puts on inefficient performers - the fear of a hostile takeover. There are problems here, since some potential buyers would defeat the public service objectives which this government is anxious to maintain, but the precedent of the defence industries with its safeguards, suggest that it should be possible to produce a more competitive environment for ITV companies in the future, which will help to prevent them from slipping back into the errors of the past. This kind of pressure is likely to prove far more effective than more flamboyant gestures which could well have unintended and counter productive effects.

With this scenario in place, the other services, be they Channel 5 and Channel 6, Superchannel or BSB, together with the development of cable, can be given the green light to provide proper and sensible competition to ITV and Channel 4 whilst ensuring the continuation of the high quality of television that our nation is noted for all around the world.

RESTRICTED



NBP

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

11 May 1988

Dear Jill,

BROADCASTING STANDARDS COUNCIL (BSC)

with PM 11/5

In my letter earlier today to Nigel Wicks I mentioned that I would be writing to you in reply to your letter of 9 May to Catherine Bannister about the budget for the Broadcasting Standards Council (BSC). I have subsequently spoken to Zoe Everest-Phillips about this.

The Home Secretary entirely accepts the Chief Secretary's view that the budget for the BSC should be worked out according to need and in close discussion with Treasury officials. No commitment has been entered into with Sir William Rees-Mogg over the size of the BSC's budget during the discussions with him about his acceptance of the Chairmanship, indeed the Home Secretary has made clear the reservations which both the Prime Minister and the Chief Secretary have expressed about Sir William's initial views on resources. The position which the Home Secretary has established with Sir William is that Sir William will be involved with the Minister of State, Mr Renton, and Treasury and Home Office officials in discussion of the detail of the budget following the announcement of Sir William's appointment. Sir William has indicated that he is content to proceed on this basis.

Expenditure by the BSC is likely to build up slowly as the organisation finds its feet. The Home Secretary is not looking for anything more this year by way of financial provision than is already in Home Office estimates. Whether more is needed in later years will depend upon the outcome of the discussions with Sir William which I have mentioned, in which Treasury officials would be involved. The Home Secretary believes that it would be reasonable for the outcome of those discussions to be considered further, as far as future years are concerned, as part of this year's PES round.

You mention the possibility of considering again the possibility of the broadcasters paying for the Council. We have given the reasons why we do not believe this to be a runner in earlier correspondence. Quite apart from the need to avoid giving any incentive to the broadcasting authorities to run down their own work in the area of standards, the BSC will be involved

/additionally

Miss Jill Rutter

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2.

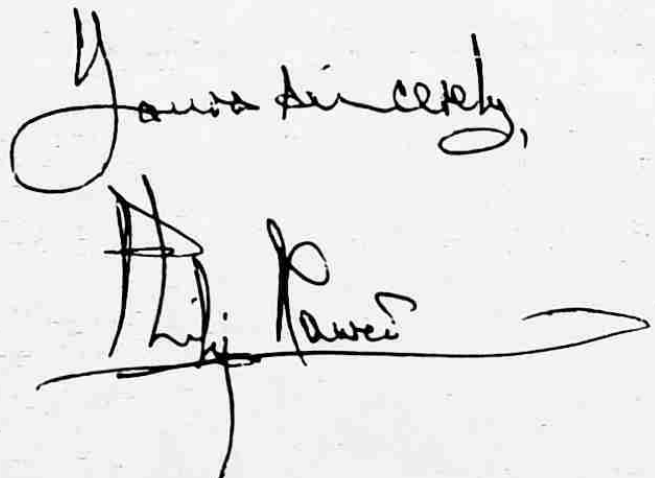
additionally with forms of broadcasting such as foreign satellite services from which the existing broadcasting and cable interests could not gather revenue, and of course with videos.

As regards the timing of legislation on the BSC, the Home Secretary understands the arguments for securing such legislation at the earliest possible opportunity. But there are sound reasons of policy for leaving over legislation on the BSC till the 1989/90 session. The co-operation of the broadcasting authorities and of the cable and broadcasting companies is essential to the Council's success and if they have the opportunity of developing a satisfactory working relationship with the BSC in advance of legislation it will produce the right climate for progress and smooth the passage of the eventual legislation. Moreover there is the additional consideration that the prospects for a broadcasting Bill in the 1988/89 session are now somewhat uncertain in view of other pressures on the legislative programme.

As you will have seen, there is continuing speculation in the press about the powers of the BSC and about the appointment of its Chairman. The Home Secretary therefore regards it as desirable that the announcement of the establishment of the Council and of Sir William's appointment should proceed as rapidly as possible. You will have gathered from my letter earlier today to Nigel Wicks that he would like the announcement to be made next Monday, 16 May.

For the reasons I have given, the Home Secretary attaches considerable importance to this matter, and would be glad of the opportunity of a word with the Chief Secretary about it. Zoe has kindly undertaken to consider how best this might be achieved before Cabinet tomorrow.

I am copying this letter to Nigel Wicks (No 10), Jeremy Godfrey (DTI), Alison Smith (Lord President's Office), Murdo Maclean (Chief Whip's Office), and Trevor Woolley (Cabinet Office).

Yours sincerely,


P J C MAWER

PRIME MINISTER

MISC 128: 5 MAY

Tomorrow's meeting starts after Cabinet; given the light Cabinet agenda, this should give more than enough time.

The Papers

There are three formal MISC 128 papers you have not seen before, although the main one, MISC 128(88)7 - Lord Young's paper - you saw in draft over the weekend. Fortunately none of the three papers is long; they are included in the 1 and 2 dividers.

I have also included a number of earlier papers in the background papers divider. These include the papers considered at the last MISC 128 meeting and the letters from Lord Buxton and Central Television that you saw over the weekend. But there is no need for you to refer back to any of the papers in this divider.

On top of the dividers are:

- a note by the Lord President on the link between a 1988/89 Broadcasting Bill and the overall legislative programme for that year;
- the Cabinet Office brief for the meeting;
- two notes by Brian Griffiths: the first commenting on the papers before the meeting, and the second on the "hidden agenda" about departmental responsibility for broadcasting policy.

Handling the Meeting

I suggest you use the Cabinet Office brief to steer the discussion. The suggestion in it is that you merge all three papers into a single agenda item; I am sure this is sensible given the interactions between the papers.

The key issues to resolve are:

- should further work be done - perhaps by the official group MISC 129 - on Lord Young's latest proposals for use of the spectrum (paper 7)?

Douglas Hurd (paper 8) is content for further work, but both he and Brian Griffiths draw attention to the political sensitivity of viewers having to pay out £200 to continue to be able to receive BBC 2 and Channel 4;

- if further work is to be done on the Lord Young approach, should the plan for two separate Broadcasting Bills in the 1988/89 and 1989/90 sessions be scrapped in favour of a single jumbo Bill in 1989/90?

This links in with the Lord President's note on top of the folder. Like the Cabinet Office, I see considerable force in the argument for dropping plans for a Bill in 1988/89. Aside from the implications for the overall legislative programme, this would substantially relax the immediate timetable constraints on MISC 128's work. It is surely right to get the right decisions on broadcasting rather than be hemmed in by the clock.

RG

Paul Gray
4 May 1988

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PRIME MINISTER

MINISTERIAL GROUP ON BROADCASTING SERVICES
OPTIONS FOR NEW PROGRAMME SERVICES: MISC 128(88)7 and 8
BROADCASTING WHITE PAPER: MISC 128(88)6

DECISIONS

The main aim of the meeting will be to decide

- i. whether to instruct the Official Group to put in further work on the Trade and Industry Secretary's latest proposals for additional services, and rearrangement of existing services; and
 - ii. whether a Broadcasting White Paper before the summer recess is still a realistic aim.
2. If the meeting should decide that Lord Young's proposals should not be pursued, then the Home Secretary's earlier proposals (MISC 128(88)5) will need to be considered at a further meeting.
3. You may also decide to use this meeting to question not only whether a White Paper can be produced by July, but also whether the Group should reconsider its earlier decision to have separate Broadcasting Bills in each of the next two sessions. It would be technically possible for all this legislation to be postponed until the 1989-90 session.

BACKGROUND

4. At the last meeting, on 21 April, the Group decided that the UK should bid for the allocation of additional direct broadcasting

by satellite (DBS) channels, with preference for those that would be capable of being received on the same equipment as would be needed to receive BSB services. The Group also decided that the possibility of an additional VHF channel need not be pursued further. The remaining possibilities were new MVDS services (on a regime that would need to be worked out) and/or a fifth UHF commercial channel, either national or regional.

5. The paper that the Home Secretary had put into the last meeting (MISC 128(88)5) suggested that the main considerations in deciding on new services should be the impact that they would have on BSB (which is currently scheduled to start in October 1989) and the question whether new services should be required to operate under public service broadcasting (PSB) requirements. The Home Secretary suggested that the earlier that additional services were authorised to start, the stronger the case for imposing PSB requirements on them. But the Group did not go on to consider these questions (which lead to various questions about the appropriate supervisory authority etc), since you only intended the last meeting to be a "second reading" discussion. At the end of the meeting Lord Young said that he was developing some further thoughts about the way in which the spectrum might be used more efficiently, and you invited him to bring these forward, in consultation with the Home Secretary.

6. As you know, Lord Young's paper (MISC 128(88)7) only emerged in its final form today, though earlier drafts had been seen by other departments over the weekend. The Home Secretary's paper (MISC 128(88)8), commenting on Lord Young's proposals, was only seen late this afternoon, though the Home Secretary had earlier circulated a paper (MISC 128(88)6) reminding the Group of the need for decisions on various topics if he was to reach his target of a White Paper before the summer recess.

7. Given this late emergence of very radical ideas, you will probably want to use this meeting as an occasion to take stock of where the Group now stands, and to take a preliminary view on the main issues that Lord Young is raising. Since the working up of

any new policies would clearly have an impact on the timing of a White Paper, you may wish both items on the agenda to be drawn into a single discussion. This brief therefore covers both items.

MAIN ISSUES

a. The Trade and Industry Secretary's proposals

8. Lord Young's new proposals rest on three main arguments -

a. that the need for additional television advertising outlets has been under-estimated;

b. that the requirement of universal coverage, imposed on all four present (public service broadcasting) channels, is wasteful of UHF spectrum; and

c. that DBS satellite broadcasting is inherently the most suitable mode for national services.

9. Lord Young therefore proposes that BBC 2 and Channel 4 should be required to shift from terrestrial to DBS broadcasting in 1993 or 1994, thereby releasing their present UHF frequencies for allocation to new, advertising-financed, services. There might be four or five of these, depending on the geographical coverage that was aimed for. Lord Young also proposes that the fifth UHF channel with 70% coverage, outlined at the Group's last meeting, should go ahead in any event in 1992. This is the earliest practicable date within the spirit of the undertaking that the Government has given to BSB.

10. On MVDS, Lord Young notes that the possibility of MVDS broadcasting in the 12GHz band cannot be settled until we know the outcome of our application for additional DBS services. He is also influenced by the extra clutter on rooftops that would be created by MVDS dishes (which would be twice the size of those needed for DBS reception). He therefore proposes that, for the time being, MVDS should be limited to operating in the

2.5GHz band, as an ancillary to cable franchises, and with dishes being restricted to a few prominent sites.

11. These new ideas clearly expose a wide range of questions that would need to be considered in detail if the proposals are to be taken any further. All the technical assumptions would need to be probed. The costs of transferring BBC2 and Channel 4 to DBS would need to be established, and acceptable ways worked out for meeting the cost. As for MVDS, the Group would need to consider whether the proposal to use this technology solely in support of cable was compatible with the philosophy of 'technology neutrality' which at first sight seems to condemn such arbitrary constraints. The Official Group (MISC 129) would be the obvious machinery for looking at these issues in detail.

12. However, the dominant question is whether it would be politically feasible to transfer BBC2 and Channel 4 to a different broadcasting medium in the way Lord Young proposes, and it is this issue on which the Home Secretary's paper concentrates.

b. The Home Secretary's comments

13. The Home Secretary's central point is the problem of requiring people to invest in a new £200 dish in order to go on receiving two high-quality services that they currently perceive as free. He points out that this cost would bear especially hard on pensioners, for example. He also believes that a transfer to DBS broadcasting would, in the event, exclude a number of people who lived in accommodation where dishes could not be installed. In short, he fears that the complaints from the losers would drown the expressions of gratitude from those who welcomed the change.

14. Second, the Home Secretary believes that transferring Channel 4 to DBS would reduce its audience and finance, and prejudice its remit. Third, he does not believe that the transfer to DBS could be accomplished without a considerable injection of public money.

15. In essence, there is a direct conflict between the Home Secretary and the Trade and Industry Secretary on two basic principles. Up to this point the Group have assumed, first, that the Government should adopt a "hands-off" attitude to DBS broadcasting, which should be a purely commercial venture competing in the market place; and, second, it has been assumed to be politically essential for existing services to remain receivable by viewers on their existing equipment. The Trade and Industry Secretary would overturn both assumptions, while the Home Secretary would say that both assumptions are right. The Home Secretary is, however, prepared for further work to be put into Lord Young's proposals, without commitment.

c. A White Paper

16. The Home Secretary circulated his paper MISC 128(88)6 simply to remind the Group that time was running out for the preparation of a White Paper to be published before the summer recess, and that the main decisions would now need to be taken very soon if he was to keep to that timetable. Lord Young suggests that the White Paper could be allowed to slip, in order to give time for his proposals to be worked up, and the Home Secretary has ended up by asking that the whole question can be considered at tomorrow's meeting.

17. If further work is commissioned on Lord Young's proposals, then time is indeed getting very short for a White Paper to be published before the summer recess. Even if the Group should decide on a simpler approach to additional services than Lord Young advocates, you may think that a July White Paper would put unnecessary pressure on you and the Group at a time when there are many other heavy preoccupations. At the least, therefore, you may wish the Home Secretary to accept that the White Paper should not be published until the Autumn.

18. You may, however, wish to take the matter further than that, and question the whole timetable to which the Group is currently committed. As you will recall, the idea of having two separate

Broadcasting Bills, with a White Paper this summer, was agreed at the meeting of 28 October (MISC 128(87) 3rd Meeting), where it was supported both by the Home Secretary and the Trade and Industry Secretary. The main argument for bring forward some legislation in the 1988-89 session was simply that there was now a high expectation of action, and that it would be unsustainable to go through until the 1989-90 session without bringing something before Parliament.

See
separate
paper
at the top
of the
order.

19. Against that, however, the Lord President has recently approached your office about the dispositions that would need to be made to accommodate a Student Support Bill next session, if E(EP) decided in favour of that. The Lord President commented not only that the first Broadcasting Bill appeared to be the only measure that could be deferred to make room for Student Support, but also that he doubted whether it would be tactically wise to promote broadcasting legislation in two consecutive sessions, with a White Paper at the outset. In his view, there was a risk that the first Bill would become a prey to amendments drawn from the White Paper, and the whole exercise could be very difficult to manage.

20. The logical conclusion of the line of thought indicated by the Lord President is that the Government might do better to have a single large Broadcasting Bill in the 1989-90 session, with a White Paper not published excessively far in advance of that. Final decisions on this do not need to be made yet, and you may want to wait until the Student Support Bill is settled before you force the issue to a conclusion. (E(EP) is currently due to consider Student Support on 19 May, though preparation of the papers is proving difficult.) Nevertheless, you may wish to use tomorrow's meeting to probe with the Home Secretary how necessary it is to have a separate first Bill on radio policy, and to test with him and the Trade and Industry Secretary what they could do to damp down expectations in the media about a fairly early statement of Government policy on broadcasting.

HANDLING

21. You may wish to begin by saying that you intend to have a single discussion on both additional programme services and the timing of a broadcasting White Paper.

22. You may then wish the TRADE AND INDUSTRY SECRETARY to introduce his paper, and the HOME SECRETARY to speak to both the papers that he has circulated.

23. The CHANCELLOR OF THE EXCHEQUER will have views generally, and in particular on the financial implications of transferring BBC2 and Channel 4 to DBS.

24. The WELSH SECRETARY may wish to emphasise the importance of maintaining the S4C service on UHF.

AJL

A J LANGDON

4 May 1988

PRIME MINISTER4 May 1988

MISC 128:

ADDITIONAL PROGRAMME SERVICES AND BROADCASTING WHITE PAPER

The paper by the Secretary of State for Trade and Industry for tomorrow's meeting on additional programme services raises a fundamentally new issue namely the possibility of a more efficient use of the existing spectrum. Hitherto, the debate has been on additional new services, not on additional and existing new services.

It is difficult not to agree to further work on this subject, as the Secretary of State proposes, as the potential rewards are very high and the extra work might well come up with fresh ideas on the existing spectrum.

However, there is one political point that needs to be sorted out immediately.

Is there any way in which a more efficient use of the spectrum can be arranged without there being 'losers'; that is, viewers who would no longer be able to receive BBC 2 and Channel 4 without paying an extra £200?

If you felt that the possibility of losers ruled out discussing the more efficient use of this existing spectrum then David Young's paper would need to be put aside. It might be argued this is too narrow a concept of 'losers'. Even people who would not wish to pay the extra cost of

CONFIDENTIAL

continuing to receive BBC 2 and Channel 4 would find themselves able to receive four extra new channels. It may even be that BC, BSB and C4 might subsidise the production of hardware so that households would pay less than £200. All of these are issues which need to be explored.

Recommendations

1. The potential benefits for a more efficient use of the spectrum are certainly worth investigating. It is worth therefore commissioning extra work on this subject from officials.
2. As a result of this, discussion of Home Office papers on additional programme services will need to be postponed for a few weeks.
3. Such postponement will also have implications for the timetable of the White Paper and the Broadcasting Bill, which the Home Secretary would need to expand on.

Brian Griffiths

BRIAN GRIFFITHS

CONFIDENTIAL

PRIME MINISTER

4 May 1988

BROADCASTING: HOME OFFICE VERSUS DTI

There is a strong hidden agenda underlying tomorrow's papers for MISC 128. The Home Office wish to conclude the debate soon while the DTI are keen to demonstrate their prowess in all things commercial.

The complexity of the issues on tomorrow's agenda as well as the future of the levy regime for independent television companies, provide ample evidence that the major task of Government in this whole sector over the next decade is to manage change from a highly regulated to a competitive industry - subject of course to maintaining certain standards of taste and decency.

Against this background, David Young is surely right in suggesting that the commercial side of broadcasting is better located alongside the allocation of the radio spectrum at the DTI, rather than at the Home Office, which is more equipped to deal with matters of standards and decency.

While MISC 128 is not the appropriate place to discuss this matter, it would seem desirable that the issue should be resolved, otherwise there will almost certainly be speculation in the press of a growing disagreement between Douglas Hurd and David Young.

Incidentally the most recent suggestion from David Young is that in exchange for the commercial side of broadcasting, it might be possible for certain areas of consumer protection legislation to move from DTI to the Home Office!

I'm not
sure the
logic
of this
has been
thought
through.

Conclusion

pkc.

My own personal view is that the sooner this issue is resolved the better and that it would be worth taking some initiative soon.

Brian Griffiths

BRIAN GRIFFITHS



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

29 April 1988

I am writing on the Prime Minister's behalf to thank you for your letter of 25 April and for sending her the IBA's major policy statement on independent television in the 1990s.

Paul Gray

The Right Honourable Lord Thomson of Monifieth, KT



Cite sh

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

3 May 1988

I am writing on the Prime Minister's behalf to thank you for your letter of 27 April and the attached paper. The Prime Minister was able to study your paper over the weekend, and was most grateful to you for setting out this further detail of the points raised when she visited Central ten days ago.

PAUL GRAY

Leslie Hill, Esq.

LD

RA
PRIME MINISTER

ITV

I attach three letters you may like to glance at over the weekend:-

Flag A - the IBA policy statement which received publicity earlier this week

Flag B - the promised letter from Central Television spelling out the ideas they mentioned to you in Nottingham

Flag C - a political letter from Lord Buxton on the future of ITV, in which he comments on Central's ideas.

I have already acknowledged the IBA material. We will put together replies to the other two letters next week.

RecG

Paul Gray

29 April 1988

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Television Birmingham

028/4



Leslie Hill
Managing Director

mh

The Rt. Hon. Margaret Thatcher, MP.,
10 Downing Street,
LONDON SW1

27 April 1988

Dear Prime Minister,

We were grateful for the interest you took in all that you saw during your visit to Central on Friday.

As promised, I am enclosing a one page list of major action points and a short paper which sets out our thinking about ITV's approach to the future. The paper also includes some comments on Channel 4 and competitive tendering for franchises in response to your question on the two things we would not want to happen.

I would be delighted to amplify any of the points made in the paper.

Yours sincerely,

Leslie Hill

Leslie Hill
Managing Director



CENTRAL INDEPENDENT TELEVISION PLC

ITV - MAJOR ACTION POINTS FOR THE 1990's

1. THE ITV FEDERAL SYSTEM

Re-structure the 15-company ITV system so that there are no more than 6 equal sized companies.

2. REGULATION

Reduce programme scheduling regulations and constraints to provide greater viewer satisfaction and lower "cost per thousand viewers" for the benefit of advertisers.

3. ITN

Set up ITN to become a worldwide news service and profit earner. *ditto*

4. SPONSORSHIP

Relax restrictions on sponsorship.

5. FRANCHISE ALLOCATION AND PAYMENT

Base competitive tendering for franchises on the quality of programming offered after fixing a lump sum payment or percentage of revenue to represent the value of the franchise.

Free up ownership controls, so that ITV companies may be taken over, subject to certain specific safeguards. Speed-up franchise allocation process, and make hearings public.

27 April 1988

CENTRAL INDEPENDENT TELEVISION PLC

THE FUTURE OF ITV

Central is in the process of re-structuring its activities into a series of profit centres. In this way, groups of managers will respond to the market place, satisfy customers, and earn profit. Overall performance will be improved and growth achieved. For example, we will sell our production facilities both to independents and overseas producers.

Central has moved quickly to use independent producers and we are well set to achieve our proportionate share of IBA targets.

Central has identified its strengths and a number of new business developments are under consideration. Already we have set-up with American and French partners, a Los Angeles based company to develop, produce, and exploit world class film and television programmes for the international market. We are selling our programmes on video and commissioning special programming for video.

However, as part of the ITV federal system, Central is heavily constrained from operating as a normal commercial business. We would like to see the following changes:-

1. THE ITV FEDERAL SYSTEM

The 15-company system is expensive, bureaucratic, slow to make decisions and inward looking. It will not be sustainable through the next decade in its present form since it is not in a fit shape to take on competition in the nineties. It is unable to promote itself or schedule its programmes effectively enough, or promote its programmes properly. The solution is fewer companies. Some will argue that this will result in the destruction of ITV's great strength, its regional system. This need not be so. In fact, savings from the huge costs (see recent NERA report) of running the 15-company system could be directed towards increasing and enhancing regional and local interest programming.

2. REGULATION - PROGRAMMING AND SCHEDULING CONSTRAINTS

It is our intention to preserve quality and high programming standards. However, the programme schedule is currently subject to too many constraints, more, it sometimes seems, than the BBC, and certainly more than the new BSB satellite channels. One of the reasons for the "cost per thousand viewers" to the advertiser increasing so rapidly is ITV's declining audience. Fewer scheduling constraints could produce better audience ratings for the advertiser and more satisfaction for the majority of viewers.

It is not practicable for ITV companies to produce their own programme schedule totally divorced from the national network. The economics of running ITV companies and the need to compete for top artists looking for a national audience require a national network. A reduction in the number of ITV companies would mean that fewer, stronger companies could produce an improved network schedule.

3. ITN

We believe that ITN should become a worldwide news provider, aggressively marketing its service to international customers. To this end we would take the following steps:-

- a) Set up ITN as a profit centre with real commercial incentives.
- b) Finance it adequately from a limited number of the larger ITV companies or, if necessary, obtain outside finance, possibly by widening the ownership of ITN.
- c) Appoint an outside independent Chairman of ITN with no allegiance to any one ITV company.

We see ITN as having major growth prospects and would like it to be provided with the management and financial resources to achieve a UK based international news service, run on commercial lines.

4. SPONSORSHIP

We would welcome an easing of restrictions on sponsorship which would allow more sponsorship of programming including public service strands of programming. We would see this as a way of ensuring the survival of minority programming in a more commercial environment.

Turning to other current issues in the industry, we would like to make comments on two subjects:-

COMPETITIVE TENDERING FOR FRANCHISES

We do not think that franchises should be awarded to the highest bidder because:-

- a) It will not be possible to make a realistic estimate of the worth of an 8 or 10 year franchise in the early nineties.
- b) TV Contracts are interesting and glamorous. Those with deep pockets, but with no real commitment to quality programming, may bid highly for personal aggrandisement.
- c) It has and will remain extraordinarily difficult to hold a successful bidder to a programme remit, particularly if the financial going gets tough.
- d) Some of the winning bids may be too low, in which case the Exchequer will lose. Others will be too high, in which case resources devoted to programme making will decline. The entry of "highest bidders" into the ITV company federal system will cause further strains and the network could break down under these strains.

But the method of franchise allocation and payment can be improved. For example, payment for the franchise could be calculated as a lump sum by the Treasury, IBA, and merchant bankers, and reviewed every three years. Or alternatively, a new formula for calculating levy could be a percentage based on turnover, provided certain fixed levels of profit are also achieved. In conjunction with changes in payment for franchises, it would also be worth considering allowing the ITV companies to operate under the normal Stock Exchange discipline, i.e. the threat of takeover, although there would need to be some special safeguards.

.../....

CHANNEL FOUR

Channel Four has satisfied its remit well and has been helped in this by its unique structure and method of financing. It has provided the viewer with more choice. If C4 is separated from ITV or privatised it is unlikely that the present programme service could be maintained since commercial pressures would inevitably weaken the programme remit.

The complete separation of Channel Four from ITV would, in any case, produce no real overall benefits. Operated separately its airtime would probably be sold nationally at premium rates, thus removing advertising revenue from the ITV companies, particularly smaller regional companies. At the same time the opportunities for the smaller first time advertiser, who can experiment with C4 on a regional and low cost basis, would be reduced.

Overall advertisers would gain nothing, since there would be no increase in total air time. The larger advertiser might be able to strike better deals with a nationally sold Channel Four versus Regional ITV. However, since the amount of airtime would remain the same, as probably would the total monies devoted to television advertising, the larger advertiser would benefit at the expense of the small advertiser. The case for the separation and/or the selling of C4 airtime separately, remains unproven, both in terms of benefit to the advertiser and the viewer.

GENERAL SUMMARY

Our overall vision of British television in the mid-nineties is:-

- a) Two BBC channels financed initially by the licence fee and carrying out the major public service broadcasting role. Subscription should be considered as an alternative to the Licence Fee.
- b) Channel Four developing its distinctive role without the need to seek high audience ratings.
- c) ITV as a genuine commercial broadcaster producing high quality programming but with less programme regulation, although still using its great regional strength to contribute news and local interest programmes. This would be achieved more effectively at lower cost through far fewer separate companies.

.../....

- d) A fifth channel could provide a subscription based movie channel, or alternatively an advertising financed service, filling the gap between regional and national TV. The use of Channel 5 needs to be looked at in the light of all new developments in British broadcasting and used to fill the greatest gap.
- e) Three BSB channels as already approved.
- f) ITN as a UK based provider of news to worldwide customers including, although not necessarily ITV and Channel Four.
- g) All services increasingly operating within the law as the primary regulator, rather than existing regulations which will come under strain as new channels develop.

Leslie Hill
27 April 1988