

Broadbent



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HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

26 November 1982

Dear Richard,

CABLE POLICY

JD

26/11

The Home Secretary has seen your letter of 25 November to me enclosing a draft paper for next week's Cabinet. He is content with the indication given in the paper of his general intentions in speaking in the debate, although he thinks it will be necessary for him to say that the Government accepts the Hunt recommendation that cable programmes should not have to provide the "range and quality" of public service broadcasting. Although this is left for further decision (B.7 of the Annex) deferment of the decision on this recommendation would not sit easily with announcement of the decision to follow the main line of the Hunt recommendations, including the "light regulatory hand".

The Home Secretary wonders whether Sir Robert Armstrong envisages the MISC 73 Report being circulated with the present paper. Although it is a long and detailed report, those of his Cabinet colleagues who have not already seen it might find it essential explanatory material to some of the issues put before them, and useful background to the subsequent Parliamentary debates.

We have a number of detailed comments on the Annex to the paper. These are shown in the enclosed note.

I am sending a copy of this letter and enclosure to Jonathan Spencer and Michael Scholar. I also enclose for easy reference a copy of a letter which we are sending today about the Part Report on DBS Transmission Standards in which attention is drawn to the strong representations from the BBC on certain of the Hunt recommendations.

Yours ever,

J. F. HALLIDAY

R. P. Hatfield, Esq.

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COMMENTS ON ANNEX

- A.5 Much of the pre-vetting of advertisements is done by ITCA and not the IBA. Amend the second sentence of comment to read: "But without some form of pre-vetting compliance with the IBA rules could not be assumed".
- A.9 Insert second sentence: "BBC and ITV attach importance to the recommendation".
- B.5 Amend first sentence to read: "Hunt recommends that some initiative on bidding for franchises for particular areas should be taken by applicants".
- B.7 Amend last sentence to read: "To impose such a requirement would make programmes less profitable and reduce the chance of development of new systems financed by entertainment programmes".
- B.8 We think Ministers may have misunderstood the present position. There are some X films which, on grounds of taste and decency, are not shown by BBC and ITV, even after 10 p.m. At the risk of lengthening the comment we think it should read: "Hunt recommends that the ordinary broadcasting taste and decency standards should apply to cable, except in relation to lockable subscription channels capable of parental locking, on which adult material now shown late at night could be shown at any time and, in addition, cable operators could show certain X films which are not now shown on television at all".
- Issues for decision are:
- should X films be shown at all?
 - should the present time restriction be waived for lockable cable channels?
 - should cable channels be permitted, even with locks, to relay films which would not meet present taste and decency requirements applying to broadcasting?
- B.9 Again, at the risk of expansion, we think the issues need to be brought out and suggest: "Hunt recommends no limitation. This will reduce costs and may help to break restrictive union practices. It would lead to strong pressure for similar relaxation for BBC/ITV requiring controversial legislation and allegations that British screens were dominated by US material".
12. Add at the end, "and could pre-empt subsequent Parliamentary discussion on them".

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CABINET OFFICE

70 Whitehall, London SW1A 2AS Telephone 01-233 8319

From the Secretary of the Cabinet: Sir Robert Armstrong KCB, CVO

Ref. A082/0270

25th November 1982

Dear John,

Cable Policy

At the meeting of E(TP) on Tuesday 23rd November it was agreed that the Secretary of the Cabinet should circulate a note to the Cabinet for consideration at its meeting on 2nd December, setting out as recommendations the conclusions which E(TP) had reached on cable policy and the matters on which they had not felt able to reach a decision. This note will, in particular, provide a basis on which Ministers collectively can approve the line to be taken by the Home Secretary and the Secretary of State for Industry in the debate on cable policy which is to take place in the House of Commons on 2nd December.

I enclose the draft of such a note, which has been prepared by the Cabinet Office. Before it is circulated I should be glad to know whether it accords with the Home Secretary's intentions for his speech in the debate. Any general comments you may have would, of course, be very welcome. I should be grateful for a reply by close of play tomorrow, 26th November.

I am sending a copy of this letter and enclosure, with a similar request, to Jonathan Spencer (Department of Industry) and, for information, to Michael Scholar (No 10).

(R P Hatfield)
Private Secretary

J F Halliday Esq.

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DRAFT Cabinet Paper

COPY NO

November 1982

CABINET

CABLE POLICY

Note by the Secretary of the Cabinet

The Sub-Committee on Telecommunications Policy of the Ministerial Committee on Economic Strategy (E(TP)) considered on 18 and 23 November a report on cable policy by the Official Group on Cable Systems. This made recommendations on the report on cable systems by the Information Technology Advisory Panel published on 22 March, and on the report on the broadcasting aspects of cable by the enquiry under Lord Hunt of Tanworth which was published on 12 October.

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2. E(TP) reached a number of conclusions subject to consideration by the Cabinet. ^{The} Annex ~~is~~ contains a summary of these conclusions and of those decisions that remain to be taken.

3. The Sub-Committee agreed that, in order to give potential investors as early an indication as possible of the Government's intentions, it would be desirable for the main decisions taken to be announced in the debate on cable systems in the House of Commons on 2 December. These announcements might then be reflected and reinforced in the Prime Minister's speech at the Barbican Information Technology Year Conference on 8 December. Full details would ~~then~~ be set out in a White Paper to be published in the early months of next year. This would take into account the recommendations of the Technical Working Group on cable standards established by the Department of Industry. In the course of the debate there ^{could} be an opportunity to test Parliamentary reaction to the proposal that, in advance of legislation to provide for a statutory cable authority, an Advisory Committee might be set up as a shadow authority. If the reaction was favourable, a proposal to this effect might be included in the White Paper for subsequent endorsement by Parliament.

4. E(TP) therefore agreed, subject to the views of the Cabinet, that the Home Secretary might, in opening the debate on 2 December, announce the following broad policy decisions:

- (i) that the Government for the most part accept the Hunt recommendations, including certain safeguards for public service broadcasting, although some aspects will need further consideration;

- (ii) that a new statutory cable authority, other than the IBA, will need to be established to award franchises and exercise oversight over programmes and other services, with a light regulatory hand;
 - (iii) that although legislation will not be feasible within the current session, a White Paper will be issued in the early part of next year setting out the proposals for legislation;
 - (iv) that the Government will welcome the views of Parliament on the steps which might be taken in advance of legislation, including the setting up of an Advisory Committee as a shadow cable authority.
5. An opportunity might also be taken at an appropriate stage in the debate to make known some other main decisions notably:
- (v) that the choice of cable network, design etc should be left primarily to the market; but ducts for new systems should be suitable for eventual installation of "switched-star" systems; and some incentives (eg longer licence periods) should be granted for more advanced systems.
 - (vi) that cable systems should be allowed to offer locally all services (except voice telephony) in competition with British Telecom (BT) and Mercury, but BT and Mercury should be free to compete for the roles of sub-contractor, cable provider or, in association with others, cable operator.

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ANNEX

A. ISSUES PROVISIONALLY DECIDED BY E(TP) SUBJECT TO CONSIDERATION BY THE CABINET

| ISSUE | DECISION | COMMENT |
|---|--|---|
| 1. <u>Technology</u> (design and type of cable system) | leave technology choice to market, subject to - connexion/performance standards; - ducts to be suitable for 'switched star' systems; - longer licence periods for switched-star systems. | Technology developing rapidly. No industrial consensus. Therefore best to leave basic choice to market, with some incentives for more advanced systems. |
| 2. <u>Telecommunications Policy</u> | (a) Allow cable systems to offer switched 2-way services (except voice telephony) locally in competition with BT; (b) allow BT and Mercury to compete as sub-contractor, cable provider or (in association with others) cable operator. | More likely to attract private investment than if association with BT/Mercury compulsory. Will enable BT/Mercury to benefit cable through existing experience, investment etc without giving them mandatory or monopoly role. |
| 3. <u>Regulatory Structure</u> | Set up <u>new</u> national statutory authority (separate from IBA) responsible for awarding franchises and subsequent oversight - latter to be as light handed as possible. | Independent body necessary to distance Government from decisions on franchising, programme content etc. But minimum regulation desirable if cable development to be encouraged. |
| 4. <u>Ownership of Cable Systems</u> | (a) No mandatory separation of cable operation and provision functions; (b) allow foreign companies to participate in ownership of cable systems but debar them from majority shareholding; (c) debar central/local | As recommended by Hunt. Possibility of unified ownership will allow cable provider (who incurs bulk of expenditure) to control source of revenue. Ownership restrictions designed to prevent foreign control and reduce risk of political/ideological bias. |

government and political/
religious bodies from direct
stake in ownership.

5. Subscription,
Advertising and
Sponsorship

Permit subject to
further consideration of:

- how to apply IBA
advertising rules;
- whether there should be
any limit on amount of
advertising.

Advertising will be
important source of
marginal income. But
without prevetting (which
would increase bureau-
cracy of cable authority)
implementation of IBA
rules not easy.

6. Regulation of
Programme content
(taste, decency,
impartiality etc)

(a) Systems as whole to be
free of political bias and
objective in news reporting.
But no need for impartiality
in comment;

(b) Religious and political
bodies must not provide
whole channels;

(c) Systems to observe same
taste and decency rules as
BBC/ITV; to be subject to
sanctions proposed by Hunt,
including more intense
supervision; and to be
brought within criminal law
on obscenity, racial hatred
etc.

Minimum safeguards
recommended by Hunt to
preserve balance between
maintaining acceptable
public standards and
encouraging diversity of
programme material.

7. Distribution of
BBC & ITV
programmes
("must-carry"
rule)

Accept Hunt recommendation
that cable systems must
distribute BBC & ITV
programmes (other than DBS
subscription services).

Most cable systems will
wish to provide anyway.
But formal requirement
will guarantee continu-
ation of national networks
to persons renting cable.
Important politically with
BBC/ITV.

8. Exclusive Rights
for major
national events

Agree with Hunt that there
should be no exclusive
rights for such events.

Will safeguard (majority
of) viewers to whom cable
will not be available.
Regarded as crucial
concession by BBC/ITV.

9. Pay-per-View
(special charges
for individual
programmes)

Leave possibility open - eg
for special events,
exhibition performances etc
not likely to be available
to national networks.

Hunt recommends against
pay-per-view. But it
could be important means
of attracting extra
subscriber income.

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10. Local authorities Local authorities not to issue franchises; and General Development Order to be amended (with environmental safeguards) to prevent local authorities blocking cable development. Must ensure that local authorities cannot impede cable development by use of existing planning etc powers.

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B. ISSUES STILL TO BE DECIDED

| ISSUE | COMMENT |
|--|---|
| 1. <u>Arrangements for awarding franchises (to operators) and licences (to providers).</u> | Issue is whether cable authority should have sole responsibility for awarding franchises to operators and, in the name of the Secretary of State, licences to providers. This would simplify procedures for the applicant and provide better means of adjudicating competing applications. |
| 2. <u>Duration of franchise periods (for cable operators)</u> | Hunt recommends 10 years initially and 8 years subsequently. But 12 years initially (and 8 years subsequently) would better fit E(TP) recommendation on licences at 3 below. |
| 3. <u>Duration of licence periods (for cable providers)</u> | Hunt makes no proposal. Official Group recommend 20 years for switched systems and 12 years for tree and branch systems. This would provide reasonable period for latter and positive incentive for former. |
| 4. <u>Relationship of cable authority to other regulatory bodies</u> | Other bodies (eg OFT, OFTEL) will have locus in some aspects of cable regulation. Further consideration will need to be given to the precise division of responsibilities. |
| 5. <u>Franchise areas</u> | Hunt recommends that initiative on bidding for franchises for particular areas should be left entirely to applicants. But there may be case for requiring cable authority to draw up and publish a broad indicative map for franchise area as initial guide to prospective investors. |
| 6. <u>Ownership by press, radio or TV companies</u> | Hunt recommends that, in order to avoid undesirable monopoly power, no individual company should have controlling interest. But, if this principle is accepted, there is a case for debarring control by media consortia as well as individual companies, and confining restriction to areas where companies operate. |
| 7. <u>Range and quality of programmes</u> | Hunt recommends against requirement for a "full range and balance" of programmes either within a channel or across a system as a whole, although cable authority should take range of programmes into account in awarding franchises. Is this acceptable? To impose such a requirement could inhibit cable development which will tailor programmes to specific tastes. |
| 8. <u>Showing of X Films</u> | Hunt permits showing of all films passed by British Board of Film Censors in categories up to and including X (and X films before late evening if on channels with "parental locking" |

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facilities). Issues for decision are:

- should X films be shown at all (they are allowed on BBC and ITV after 10 pm)?
- if so, is the "parental locking" proposal acceptable, given that many children may be more adept at the technology than parents?

9. Use of Foreign (non-EC) programme material

Hunt recommends no limitation. This will help to break restrictive union practices but could necessitate similar relaxation for BBC/ITV, requiring legislation.

10. Local Interests

Should local interests, as Hunt recommended, be consulted in selection and subsequent oversight of cable operators?

11. Excess Profits

Should early powers be taken to recover any excess monopoly profits (eg on the lines of ITV levy)? This would add to uncertainty for potential investors.

12. Legislation/Interim Arrangements

Legislation in current Session does not seem feasible. Should a start be made before the legislation, under existing powers and with the help of an Advisory Committee, on:

(a) permitting extension of services of existing systems;

or (b) in addition, awarding some franchises to new systems?

Both options would place direct responsibility for decisions on franchise areas, programme standards etc on Ministers.

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→ J.V.

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CABINET OFFICE

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With the compliments of
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Secretary of the Cabinet

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