



PRIME MINISTER

CABLE

Your minute of 14 March accepted the proposal I made regarding the need for some limitation on competition in the provision of data services in the City, Central London and the business centres in Manchester and Birmingham. You will recall that a limitation of 12 years was proposed for Central London, Manchester and Birmingham and no specific limitation was recommended for the City of London. My purpose in the latter case was not to give an unlimited period of privilege to Mercury/BT in the City but rather to retain for the moment an element of flexibility in the unique communications needs of the City and to decide on the actual period of limitation at a later date. Given your views and those of colleagues that no distinction should be drawn between the City and the other centres I am willing to accept that they should all be subject to the same regime from the outset.

2 The period of the regime is clearly of concern; it need to reflect the investment which Mercury/BT will need to make in the operation and our wish to see full competition from as early a date as possible without undue damage to Mercury. In proposing 12 years rather than a period of, say, 5 years the following considerations were in my mind:

Prime Minister 1 / NO

We asked for a note setting out the arguments for a 5-year, 12 and 15-year limitation on competition; and why the City and the other centres should be treated differently.

Yes not Agree a 12-year limitation all round?

MLS 22/3



i) the shorter period would encourage operators to concentrate initially upon marketing entertainment and delay offering business services until the 5 year period had elapsed and no Mercury/BT participation necessary. This would have the unwelcome effect of inhibiting the development of new services in those very areas of high business density where they would be most needed. Twelve years is a long enough period to convince the operator that he should not hold-off;

ii) Mercury/BT will have invested equipment and possibly equity in the collaboration. A five year 'exit point' would bring in its train difficult discussions about the valuation of these assets. This problem would be avoided by deeming the Mercury/BT investment to have been liquidated by the end of the 12 year period; no compensation or buy-out arrangements would therefore be necessary. Moreover, the shorter period would probably lead to Mercury/BT accelerating the write-off of their investment; this in turn would result in higher tariffs being charged for data services and so inhibit their up-take, to the advantage of alternative services offered separately by BT or Mercury and the detriment of the cable service;

iii) colleagues have agreed that the initial period for the operator's franchise should be 12 years. 12 years is therefore a natural break-point for the Mercury/BT privilege



since it offers the most appropriate occasion for a regrouping of the particular franchise elements and, should the operator wish, for the renewed operation to be a matter for the operator alone.

3 So far as the arguments for a 15 year limitation on competition: there are none that I would particularly wish to pursue. The pressure must be for as short a period as possible; 15 years does not offer the convenience of the franchise break-point and protects Mercury and BT from direct competition in these key business areas for longer than is warranted by the circumstances set out in my earlier minute to you.

4 I am copying this letter to colleagues on E(TP), to John Sparrow and to Sir Robert Armstrong.

P J

21 March 1983

Department of Industry

Broadcasting
cable, Pt 3

21 MAR 1953

11 12 13 23
0 1 2 3 4
5 6 7 8 9

COMMUNICATIONS

CONFIDENTIAL

RM
Broadcasting



FILE

B/c N. Owen

10 DOWNING STREET

E(TP):- HO Min State, Ind.,
L. Pres
Chief Sec
Trade

From the Private Secretary

23 March, 1983

CABLE

The Prime Minister has seen your Secretary of State's further minute dated 21 March about the limitation on competition in the provision of data services in the City of London, Central London and the business centres in Manchester and Birmingham.

The Prime Minister agrees to a 12-year limitation on competition, on the lines proposed, for all these centres.

I am sending copies of this letter to the Private Secretaries to the other members of E(TP), and to Richard Hatfield (Cabinet Office) and Gerry Spence (CPRS).

M. G. SCHOLAR

J. Spencer, Esq.,
Department of Industry

CONFIDENTIAL

B/c



✓ CC NO

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Patrick Jenkin MP
Secretary of State
Department of Industry
Ashdown House
123 Victoria Street
London SW1E 6RB

JK
29/3
28 March 1983

P Patrick

CABLE

In your minute of ~~21~~ March to the Prime Minister you put forward revised proposals for data services in the City and other prime business areas.

As I understand it, rather than the indefinite BT/Mercury duopoly you proposed for the City in your earlier minute of 28 February you are now prepared to allow cable operators to offer data services in all these areas subject to the proviso that for the first 12 years such services are offered in collaboration with BT or Mercury. Thereafter, cable operators would be able to compete directly with BT and Mercury.

This proposal goes a long way towards resolving the concerns I expressed in my letter to you of 4 March. While I would have had a preference for a shorter period of mandatory collaboration I am prepared to accept your view that it is sensible to equate this period with the first 12 year franchise period.

I am copying this letter to the recipients of yours.

Law
Leon

LEON BRITTAN

Broadcasting : Cable Pt 3



MR. SCHOLAR

CABLE - INDUSTRY SECRETARY'S MEMORANDUM 21 MARCH

The Industry Secretary argues that Mercury/BT should have exclusive data transmission rights for 12 years rather than the five we suggested. We, together with the Chief Secretary, thought that a maximum of five years was sufficient compromise indeed with what we anticipate is a competitive system. The three arguments put by the Industry Secretary are unconvincing. In the first two arguments, if they were to be accepted at their face value, they would imply that Mercury and BT would be overbearing in exercising these rights, and also much more inefficient than potential competitors.

The Industry Secretary says first that if the exclusive period were five years then other operators would not enter into a Mercury/BT participation agreement at all, they would wait until the five years was over. This merely means that the conditions of the participation agreement would, as envisaged over the 12 year period, be quite obnoxious to outside operators. If they would be willing to forgo the great advantages and profitability of the five year lead, because that required Mercury/BT participation, then something is clearly dramatically wrong with the participation arrangements and Mercury/BT.

The second point made by the Industry Secretary is also a version of the virtues of shotgun marriages. A five year agreement would enable a renegotiation to take place in a timely fashion and the outlines of the options could be included in the first agreement. I would have thought it advisable to have some renegotiating flexibility in an industry where technology and demand are changing so rapidly.

Similarly, the Industry Secretary's argument that Mercury/BT would "write off their investment" in five years and charge higher tariffs, implies that Mercury/BT would not see themselves as being able to compete at all after the five year period; the assets would be of zero value. Then this would imply that Mercury/BT, if they are so inefficient, should not get the concession in the first place! And I am sure the Industry Secretary would not argue along those lines. Furthermore, Mercury and BT will charge what the traffic will bear and this will be hardly affected by their amortisation programme.

/The last argument

PA

Mr Walkers OK

Thank you. I recorded last week the PM's view that 5 years would not permit Mercury to develop. So I suggest we do not put this to her, but leave it on file. Agree?

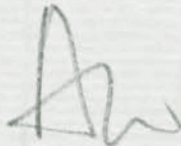
Broadcast

MCS 23/3

The last argument is that 12 years is a "natural break point" for the Mercury/BT privilege. I cannot understand what is natural about it. On the contrary, a natural break point would be about five years which is one complete trade cycle, on the average, and incidentally, one complete Parliamentary term. It is about all one can guarantee anyway.

Conclusion

I find the Industry Secretary's arguments unconvincing. They seem to be the product of pressure from BT and Mercury for a protection of their exclusive privileges. But we are committed to a competitive environment.



ALAN WALTERS
23 March 1983