19 April 1983

MR MOUNT

Prime Minister

Mes 19/4

cc Mr Scholar
Mr Walters

THE DEVELOPMENT OF CABLE SYSTEMS AND SERVICES: DRAFT WHITE PAPER

The cable industry is a pathway to the IT revolution: cabling will open the way to a range of new services and business methods.

The White Paper is a characteristically British response to the prospect of an exciting new industry - it proposes a new quango - the Cable Authority which will not only regulate the cable industry; it will take decisions about the shape of franchises and about who will have them. The Cable Authority will therefore replace the market - an approach contrary to the philosophy of the Government in other matters. If we are to have an authority with powers to replace the market, its powers of discretion should be restricted to the very minimum.

A market solution for the cable TV industry - if one were to allow it - might involve the following:

- prospective cable owners would apply for permission to instal cable networks, possibly in competition with each other, and recompensing the local authorities or the utilities for any costs imposed

- prospective operators of cable channels available would bid for the channels available.

In many instances, the same companies would own the network and operate cable programmes. Competition would test out the market for new cable services. Where these proved profitable one would expect to see new companies entering the market, who would compete away some or all of the excess profits. The industry's standards would of course be subject to supervision, even under unregulated competition.

The White Paper's proposals depart a long way from this solution. Notably, they provide for:

- BT and Mercury to enjoy protected status on the national transmissions (but are allowed to bid for any local franchise);

- franchises look like being monopolies (for 12 to 20 years). How will new competitors get aboard already cabled areas?

- a new form of providing and charging for TV programmes which cable allows - pay-per-view - is hedged about with conditions;

- foreign (non-EC) programme material will be restricted.

Competition

The White Paper recognises the dangers of monopoly abuse (para 4.14) but proposes nothing to deal with them. It observes that it is 'open' to the Cable Authority, in awarding a franchise, to require a monopoly operator to lease channel capacity "on reasonable terms". The CPRS note suggests, quite rightly, at para 7, that the Authority be required to ensure that monopoly abuse does not occur. This would, of course, reduce the Authority's discretion in selecting operators, and a good thing too. Surely we want the market to decide what programme packages are offered, not some Wise Men? The Cable Authority's responsibility in this context needs to be defined in terms of vetting applicants' suitability, not in terms of choosing on behalf of the viewing public.

Exclusive Rights/Pay Per View

The White Paper proposes to prevent exclusive deals by prohibiting cable operators from purchasing rights to particular events. This should be opposed. Pay-per-view is an essential element for a healthy competitive industry. Why should live sports events not go to the highest bidder with perhaps the BBC or ITV transmitting recordings? Why is it in the "national interest" for the entire population to immediate have access to certain events? How do you decide which ones qualify? Moreover, the technical possibilities for charging on a pay-per-view basis opened up by cable allow audience interest to be more closely measured, and reflected in greater encouragement to special events. There may be large national audiences waiting to see certain events which are not reflected in the BBC's licence fees or in ITV's advertising revenues.

Foreign Programme Material

Why should imported material be restricted in this industry, above all? Surely the arguments for free trade apply as strongly here as elsewhere - efficiency and enabling individuals to secure what they prefer? Many channels will cater for minority interests for whom foreign material will be particularly attractive eg ethnic minorities. And if we want cable TV to encourage the cabling of Britain, and hence the interactive activities that entails, can we afford to slow this process by insisting on the showing of make-weight British material?

I enclose a note from Alan Walters dealing with the position of BT and Mercury.

NICHOLAS OWEN

CONFIDENTIAL

MR. OWEN

CABLE: WHITE PAPER

On the whole I think the measures are good ones. My main reservations are about the residual inhibitions to competition, primarily with respect to BT and Mercury, within the proposals. BT and Mercury have already been given exclusive rights on data transmission in the cities of London, the central business districts of Birmingham and Manchester. We should also look at the context for first developing competition in data services, but above all the possibilities of building competition to BT and Mercury's Royce networks.

One of the disturbing aspects is the tendency to argue as if BT as well as Mercury needs the same protection for their "risky ventures". Unfortunately, it is often necessary to deal with the two public telecommunication networks in the same way to support non-discriminatory and pro-competitive policies. But this is not the same thing as allowing BT to preempt markets on the back of Mercury's perceived need for protection during its tender, developing years. The fundamental objection of BT and Mercury to a liberal cable regime is that it provides scope for alternative networks.

I am rather unhappy too about the confusions which litter the Hunt Report, about the economic significance of operation and ownership. Not only is there no reason for owners of cables to be exclusive operators of the same cables, there can and should be vertical disintegration between ownership and operation. It would be a retrograde step if BT and Mercury were to be encouraged to integrate further towards services. They have a good enough position as it is and excluding prospective competitive operations from lucrative business markets for 12 years, means they are more or less impregnable here.

BT and Mercury are not prohibited from owning TV cables. Of course, it will be argued that BT is in a specially favourable position for laying cables quickly. But they can market the ducts, as indeed London Transport do. And optical fibre networks built for cable TV may also be used for voice telephony.

/However,

CONFIDENTIAL

However, apart from all these points, I share some of the admiration which was expressed in the Economist last Friday, for the truly liberal regime which is anticipated. It should go a long way.

RP

pp ALAN WALTERS
19 April 1983