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Prime Minister:

Agree to publication
on Thursday 28 ~~March~~ April
(the day in the Cutlers (cont))

PRIME MINISTER

Yes Mr

WHITE PAPER ON "THE DEVELOPMENT OF CABLE SYSTEMS AND SERVICES"

TJ

21/4

At the E(TP) meeting which you chaired on Wednesday 20 April we considered this draft White Paper in detail and approved it for printing. At the end of the meeting you invited me to circulate the final text to all Cabinet colleagues for clearance by correspondence.

I therefore annex to this minute the White Paper in the form in which it has now been sent to HMSO. It sets out in concrete terms the Government's proposals for the development of cable systems and services, on which legislation next Session and other early action will be based. It has been drafted in the light of the decisions reached in E(TP) and Cabinet and announced in the Commons Debate last December, and further detailed consideration of the matters that were then left unresolved. A summary of its specific proposals is in the final chapter. The text incorporates the few amendments proposed in the E(TP) discussion and others notified to us by other colleagues or their Departments; I shall of course have in mind the other comments prompted by the draft which, it has been agreed, need not be reflected in the White Paper but will require further consideration in the preparation of the Bill.

E(TP) was anxious that the White Paper should be published by the end of the month, and we have now arranged publication for 3.30 pm on Thursday 28 April. Consequently if there are any further comments on the text I must ask that they reach my office by 1.00 pm on Monday 25 April; unless I hear to the contrary I shall then assume that the text has the concurrence of our Cabinet colleagues, to whom, together with Sir Robert Armstrong, I am sending a copy of this minute and the draft.

Walls

21 April 1983

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Broadcasting file

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25 April 1983

The Prime Minister has now seen the Home Secretary's minute of 21 April about the White Paper on "The Development of Cable Systems and Services". As you know, it has now been agreed that the White Paper should be published on Wednesday, 27 April.

Timothy Flesher'

Mss. Lesley Pallett,
Home Office.

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HOUSE OF LORDS,
SW1A 0PW

25 April 1983

My dear Willie:

White Paper on "The Development of Cable Systems and Services"

attached
On Thursday 21st April you circulated, undercover of a minute to the Prime Minister, a draft of this White Paper, asking for comments at the latest by 1.00 pm today, Monday 25th April.

Paragraph 166, which deals with the question of privacy, briefly reviews existing safeguards but, curiously, makes no mention of the Law Commission's Report on Breach of Confidence, which we have agreed to implement when the report of the Scottish Law Commission on this subject has been received and when legislative time permits. Since the Bill annexed to the Law Commission's Report would constitute a major safeguard against infringements of individual privacy I feel that it would be appropriate to make some mention of it in this paragraph. Owing to the shortness of time my officials have already been in touch with yours to make this suggestion, and I am writing to you simply to put the matter on record.

I am sending a copy of this letter to the Prime Minister, other Cabinet colleagues and Sir Robert Armstrong.

Yrs:

The Rt Hon William Whitelaw CH MC MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
LONDON
SW1

26 APR 1985



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Draft White Paper on Cable Systems and Services

CHAPTER 1 INTRODUCTION

1. The object of this White Paper is to set out, in specific terms, the Government's proposals for a framework for the development of cable systems and services. This introductory chapter sets the scene by recalling briefly how the present opportunity has arisen, and the action taken so far.
2. The Government believes that the need to adapt to and harness the benefits of new technology is one of the greatest challenges facing our country today. With scientific and technological developments it is always necessary to ask how society as a whole will be affected: not all change is necessarily good change. Yet any attempt to disregard the technological revolution which is now upon us, or to embrace it half heartedly, would be shortsighted. As a nation our prosperity has always been built on the vision and genius of those who have been able to look into the future and to shape the present accordingly. Today the pace of change has become such that few can with any confidence predict what tomorrow may hold. But if the opportunities that arise are not taken, this country will run the risk of finding itself increasingly dependent on others, culturally as well as economically and industrially.
3. Nowhere is the rate of change faster than in the realm of communications. Though the radio frequency spectrum remains essentially a finite resource, new techniques are allowing an increasingly intensive use to be made of it. At the same time, developments in cable technology, including switching techniques and, above all, the advent of optical fibres, mean that cable systems have the potential for distributing ever greater volumes of information, whether computerised data, television pictures or telephone conversations. Cable policy is in a sense the crossroads at which broadcasting and telecommunications issues meet. It has never been possible to look at the two sets of issues in isolation from each other. Ever since the British Broadcasting Company was first authorised to transmit in 1922, broadcasting policy has reflected the need, on telecommunications policy grounds, to see that the frequency spectrum is used in as efficient a manner as possible, given that broadcasting is only one user of a limited natural resource. Cable, however, brings telecommunications and broadcasting issues together in a new way.

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4. In all countries broadcasting and telecommunications have traditionally been the object of specific public regulation and in most countries publicly accountable bodies enjoying some measure of monopoly power were set up many years ago. The need for publicly conferred monopolies in the broadcasting and telecommunications fields arose however in a particular technological and economic context. In the United Kingdom there was no competition in broadcasting until 1954, when the Independent Television Authority was created to provide a second television service additional to that of the BBC. Since then, although the number of television and radio channels has further increased, responsibility for the provision of all programme services to the home has remained with the BBC and the Independent Broadcasting Authority (as it became in 1973). Moreover in one crucial area, that of finance, the two broadcasting systems have not been in direct competition with each other: the BBC has enjoyed the monopoly of the licence fee revenue while ITV and independent local radio companies have, each in their own areas, had the monopoly of broadcast advertising. Similarly, in the field of telecommunications the Post Office's exclusive privilege of running telecommunications systems within the United Kingdom could not until 1981 be infringed unless the Post Office (now British Telecommunications) itself was willing to make an exception.

5. Cable technology poses a particular and exciting challenge because it has the potential both for removing many of the previous limitations on the number of programme services, television and sound, which can simultaneously be transmitted to the home, and for increasing the range of interactive telecommunications services available both domestically and at the office. This does not mean that the considerations which have traditionally underpinned the approach of successive Governments to broadcasting and telecommunications now suddenly cease to be valid; but in both areas policy needs to evolve to reflect the rapidly changing state of technology.

6. Moreover, whatever new services are offered it is clear that they will for some considerable time be available to only a proportion of the total population. With all new developments which involve the installation over a long period of substantial physical infrastructure - railways, roads, electricity - it is inevitable that those people who live in the more densely populated areas are the first to benefit. Where this leads to no net loss to those in more scattered

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communities the disparity can readily be accepted as one of those many qualitative differences between town and country life to which people attach more or less importance in relation to their own personally held preferences. It has been one of the notable achievements of broadcasting and telecommunications in this country, however, that basic services have been made available to almost the whole of the population; about 99% of people are within range of a television transmitter and work continues to try to reach the remaining most scattered communities; the telephone too is available to virtually the entire population. The Government believes therefore that it has a responsibility to see that in allowing new facilities to be provided to some it does not sanction the impoverishment of the existing services which are available to all. If one of the consequences of cable expansion were to make worse off those who had to remain dependent on BBC and IBA services for their television and radio, and on BT's telephone network for their means of communications, there would be legitimate public concern. Within the right framework, however, the Government is satisfied that cable can and will develop in a way consistent with the overall public interest.

7. Cable will increase the possibilities for genuine and healthy competition in the provision of programme services and of telecommunications services and equipment. In the past three years the Government has already carried forward a widespread process of liberalisation in the field of telecommunications: monopoly control over many types of telecommunications apparatus has been relaxed; the Mercury consortium has been licensed to run a public telecommunications system in competition with British Telecommunications (BT); a wide range of private value-added services (such as mailbox and videotext) have been licensed to operate over BT lines; two consortia, one involving BT, have been authorised to operate competing radio telephone systems; and currently a Bill is before Parliament to provide for the sale of shares in BT, the abolition of its exclusive privilege of running telecommunications systems, the updating of the Telegraph Acts and the creation of a new regulatory agency, the Office of Telecommunications, to ensure fair play between rival telecommunications operators. In broadcasting, the Government has encouraged a continuing widening of the range of services available. After nearly twenty years of public debate and argument the Government created a framework for the establishment of the fourth terrestrial television channel. Special arrangements were made for Wales, to meet the particular needs of Welsh language speakers. The expansion of local radio has continued with the

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result that approximately 90% of the population are now served by BBC or ILR stations. In 1981 a number of pilot schemes of subscription television over local cable systems started up. In March 1982 the Government announced its intention to proceed with direct broadcasting by satellite (DBS), initially with two BBC channels which will come into operation in 1986 and in due course with up to three more channels which will give scope to commercial broadcasters. In addition the dramatic spread of video cassette recorders has for many people increased the choice of entertainment available in the home. In the broadcasting and telecommunications fields cable will take the move towards greater diversity a stage further.

8. Until 1982, Information Technology Year, there was relatively little public interest in, or discussion of, cable systems. The Information Technology Advisory Panel created by the Prime Minister in July 1981, in a report on cable systems published in March 1982, focussed public attention on the industrial, economic and social opportunities of cable and underlined the importance of early progress if this country was not to be overtaken by others. The Government responded immediately by arranging, as the Panel had recommended, for the many important issues which it had not been able to study in depth to be examined further. The implications for broadcasting policy of the expansion of cable systems were referred to an independent Inquiry under the chairmanship of Lord Hunt of Tanworth, which submitted its report at the end of September 1982 (Cmd 8679). The economic, telecommunications and other implications of cable were examined by the relevant Government Departments. Questions concerning technical standards for new cable systems were submitted to a specially constituted Working Group (The Technical Working Group on Standards for Wideband Cable Systems) chaired by Dr E N Eden, on which the Government, industry, telecommunications and broadcasting interests were represented. The Technical Working Group is producing a number of draft standards for adoption, after the normal process of public consultation, by the British Standards Institution (BSI). Further details of the terms of reference of the Technical Working Group are contained in Annex A. The Government gave the first broad outline of its approach to cable, in the light of these various studies, in a debate in the House of Commons on 2 December. This White Paper sets out in more detail the way in which the Government intends to allow cable to expand.

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9. The Government's broad strategy can be summarised as follows:

- (1) cable investment should be privately financed and market led;
- (2) regulation should be as light as possible so that investors are free to develop a wide range of services and facilities;
- (3) the regulatory framework should be flexible so that it can adapt as technology constantly changes what is practicable and economic;
- (4) a small number of key safeguards are needed both to ensure that existing broadcasting and telecommunications services are not impoverished and to take account of the fact that cable services will be directly available in the home.

10. It is not for the Government to guarantee that cable will expand at any particular rate or in any particular manner. It will be consumers through their own purchasing power who will decide whether they wish to buy the range of new services which cable will offer. The Government's function is to create the opportunities which will enable cable development to happen provided that a market exists for it. The Government believes that a market does exist and that the economic opportunities could be significant.

11. In the House of Commons debate on 2 December a number of initial Government decisions were announced. These decisions, which are explained in detail in the following chapters, alongside the further decisions which the Government has now reached, can be summarised as follows:

- (1) the Government will bring forward legislation to create a new statutory authority to award franchises to cable operators and exercise a measure of supervision over the services provided;
- (2) there should be no mandatory separation between the cable provider and the cable operator though the former will require a licence in addition to the franchise of the latter;
- (3) cable should be able to finance itself by rental payments, subscription, advertising and sponsorship;

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- (4) underground ducts for new cable systems should be laid in a star configuration; tree-and-branch or switched topologies would be allowed;
- (5) optical fibres and coaxial cable would be permitted;
- (6) all new systems should be required to conform to certain minimum performance standards;
- (7) there will be a mandatory requirement from the outset that all newly installed cable systems must have a two-way capability;
- (8) only BT and Mercury should be able to link local systems;
- (9) cable operators should, in general, be free to provide any telecommunications services over local systems other than voice communications, which would remain the exclusive privilege of BT and Mercury;
- (10) licences for cable providers would run for 12 years in the case of tree-and-branch systems laid in ducts in the star configuration and 20 years in the case of fully switched systems installed from the outset. Twelve-year licences would be extended to 20 years if the licensee subsequently upgraded his system. The Home Secretary subsequently announced in a written Parliamentary answer on 14 December (vol 34 col 71-2) that operators' franchises would run for 12 years in the first instance and 8 years thereafter.

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CHAPTER 2

CABLE TECHNOLOGY

Existing Systems

- 12 ~~/~~. About 1.4m households currently receive their television services via commercial cable relay systems. No comparable official figures exist for the number of homes passed by the commercial systems but estimates from the operators suggest that a further 2m households could readily be connected for the marginal cost of an extra cable 'drop'. Broadcast relay developed in areas either where off-air reception was difficult or where local restrictions existed on the installation of individual outdoor aerials. There are a large number of very small systems run by local operators but over 90% of cable homes are served by the four largest companies: Rediffusion, Visionhire, Telefusion and Radio Rentals. The largest of the individual systems run by any of these companies currently serves about 30,000 homes.
- 13 ~~/~~. Most of the large commercial systems were installed over 20 years ago and, because they were intended essentially as broadcast relay systems, were designed with only limited channel capacity. Probably over two thirds of commercial cable subscribers are served by multipair cable systems in a 'tree and branch' configuration with only four or, in some cases, six pairs of wires. As a result only four (or six) television channels can be relayed simultaneously over the systems. None of the systems using multipair technology could readily be adapted to provide the multi-channel wideband service, with interactive capability, which the Government wishes to encourage.
- 14 ~~/~~. Some commercial systems use coaxial cable technology and, although bandwidth is currently limited, more channels could be provided by the installation of appropriate wideband line amplifiers without modifications to the cable itself. How practicable upgrading will be is likely to vary from system to system depending on the quality of the equipment currently in place. All existing coaxial systems are built on the tree and branch system. There is one small experiment serving 18 homes in Milton Keynes using optical fibre technology in a star configuration.

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15 ~~H~~. Over a million homes in this country are served by non-commercial master antenna systems, run almost entirely by district councils and housing associations. All non-commercial systems use coaxial cable technology in a tree and branch configuration. The largest of the systems serve up to about 1000 households but the overwhelming majority are very much smaller, in many cases consisting simply of a master antenna on the top of a block of flats from which cable is run to each of the individual flats. Although they may well continue in existence for some time providing relay facilities on a non-commercial basis (see paragraph ~~80~~⁸⁰) none of these systems will be able to form the basis for the development of the wideband networks of the future.

Network Design

16 ~~S~~. The key decision to be made in this area is the architecture of a cable network. Although there are, in principle, a substantial number of possible combinations for network design, there are two principal options. These are the tree and branch and star structures; the latter may or may not incorporate switches between the subscriber's link and the main cables. Each has its merits and drawbacks and the Government has had to consider whether to require the installation of one type or the other, or to state explicitly that the choice (at least for the moment) will be left to cable system providers.

17 ~~S~~. Tree and Branch (see figure 1) Almost all American cable networks (above 98%) use this type of system. From the head end of the cable system, "trunk" lines carry the electrical signals. Other cables are joined to the trunk lines at suitable points to serve different areas and subscriber links are in turn joined to these lines. The system's topology is thus exactly as described by its name. The connections between cables are effected by relatively simple "taps" which divert a proportion of the signal power from the trunk. This requirement constrains this type of system to the use of coaxial cables for the final distribution links, which involve some 80% of the cable, since it is not possible at present to tap optical fibres in this way. In tree and branch systems the whole bandwidth is supplied to all points of the system, with selection of channels taking place either in the subscriber's terminal or separately. A decoder or descrambler may also be provided to restrict access to certain channels. It is generally accepted that once such systems are installed it is both costly and technically difficult to evolve them into a switched star structure.

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- 10 7. Star Switched (figure 2) This type of system exists only in experimental form. In it, signals are transmitted from the head end down trunk lines to local switching points each serving up to several hundred subscribers. From these switching points a "star" of local links radiates to individual subscribers; the final link to a subscriber needs to carry only the few channels required by any one household simultaneously (perhaps four), since channel selection is carried out at the switching point under instructions from the subscriber. This type of system enables optical fibres to be used throughout the system (although coaxial cable can also be used). Switches also make unauthorised access to the system more difficult than in tree and branch systems; this is an important factor given that some of the tree and branch systems in the US are thought to lose up to one-third of their potential revenue through their lines being tapped into by individuals who have not paid to subscribe.
- 19 8. Star Structure (figure 3) Many hybrid versions of the star switched system exist, for example, the star (or mini star) structure. Under this arrangement, "trunk" lines feed local distribution points to which a number of subscribers are joined. The subscriber links then radiate from the local distribution point in a star topology. The cable can be either coaxial or optical fibre. These systems can evolve into a switched star structure relatively easily once the switches are available for installation at the local distribution points. Without these, however, the whole bandwidth is supplied to subscribers and the system has the essential characteristics (and performance) of a tree and branch network. Estimates of the additional cost of a star configured system over a conventional tree and branch are of the order of 5-15%.
- 20 9. Considerable debate has taken place over the respective merits of the two principal approaches. The characteristics on which attention has focussed may be conveniently listed as follows:

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Tree and Branch

(1) A mature (but still improving) technology, with established products and markets. UK firms could have access to US technology for domestic production. The extent to which they could market overseas might, however, be limited.

(2) Capable of transmitting 25-30 video channels from the head end to subscribers on a single cable and of providing virtually all the projected two-way services with the exception of a universal telephone service with or without pictures. A limited video-phone service would be possible but the system could handle only a few simultaneous calls and booking of calls would probably be necessary.

(3) Very different from the system designs used in telecommunications networks.

Star Switched

(1) A promising but as yet unproven technology, with no established products (but extensive development work in progress in which the UK is prominent). Could not be employed in any substantial number of systems installed before 1985. Switched star systems using optical fibres throughout are not technically feasible on a volume scale before 1985/6.

(2) Where optical fibres are used each will be able to carry only up to four channels with current technology. There would need to be more than one fibre within the outer cover of the trunk cable but this would present no difficulty. The capacity in the up-stream direction would be much greater and the introduction of a full video-phone service would be technically possible. Other forms of two-way service, much less demanding of bandwidth, could be easily provided.

(3) Comparable (in the use of local distribution points) to the system designs used in most telecommunications systems.

- (4) The network is relatively simple, any "intelligence" (channel selection, decoding of encrypted signals etc) being installed at the subscriber terminals and at the cable head end. This puts a greater proportion of the electronic equipment in the home, and makes for convenient installation (but perhaps less convenient maintenance).
- (5) Because it is a mature technology, overall costs may be estimated with confidence. Moreover, a substantial part of the cost is associated with the subscriber's equipment and is incurred only when a subscriber is connected. Revenue can be obtained almost from the day the first cable is connected to the head end.
- (4) The main intelligence is located at switching points, and the subscriber terminal can be quite simple.
- (5) Costs are speculative and are extremely dependent on the characteristics and take-up rates of particular areas. It is estimated, however, that costs will be between 50-150% higher than those of tree and branch systems.

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10. One further comparison may be drawn, on a matter which has not received public attention. This concerns the radio interference characteristics of the two designs. Cable systems employing coaxial cable can cause interference to the wide range of services which utilise the radio frequency spectrum, including safety of life services such as aircraft instrument landing systems. They are also themselves susceptible to interference from off-air transmissions. The problem is greatest where the cable is run above ground. Both designs would, if constructed of coaxial cables, require a high standard of immunity, but switched star systems would have less potential for interference, because of the smaller bandwidth used in the connections between switching points and subscribers which are the most likely parts of both designs to be run above ground.
22. Although tree and branch systems have supporters there is a broad consensus that switched systems are likely to offer more potential for the future, may be capable of easier modification to meet future needs, and are more suited to the development of enhanced telecommunications services. The Government has therefore had to consider whether it should require the use of such systems.
23. The technology of cable systems is changing rapidly. These changes are not restricted to the development of optical fibres and associated opto-electronic devices of switched systems technology, but extend to the enhancement of the capabilities of tree and branch systems. At least one industrial group in the UK believes that tree and branch systems, possibly using teletext techniques for encryption and addressability, are capable of providing a full range of commercial and domestic services with the single exception of a universal videophone service. There are indications that switched systems technology would offer British industry an early opportunity for exports; so might teletext techniques. However it is generally accepted that although pilot scale switched systems could be available earlier, a fully tested and reliable star switched system using coaxial cable could not be installed on a production basis before mid 1985; an optical fibre switched system would not be available for a year or so after that.

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- 24 13. Given the rapid developments to be expected in cable technology, and the lack of precision in current cost estimates, the Government does not believe it would be right at this stage in the development of cable to require cable providers to instal a particular technology, whether tree and branch or fully switched star. Instead this should be left to commercial and market forces.
- 25 14. The one aspect of system architecture where the Government thinks it is important to lay down a firm requirement concerns the routing of cable ducts. Because of the medium to long term attraction of the star switched technology, the Government will insist that all systems which use underground cabling should have (i) a duct network laid out in a star configuration and (ii) the cables installed in ducts of adequate size for any necessary expansion. This would allow easy conversion to a switched system topology subsequently even if initially the actual cable is connected and operated in a tree and branch configuration. This requirement on cable providers should add less than 10% to the total system cost but would very substantially reduce the risk of having unsuitable duct networks in, say, ten years time when the growth in the demand for interactive services and advances in switching technology might make a transition to switched star systems highly desirable. It would also reduce the need to dig up streets and highways more than once.

Choice of Cable Material

- 26 15. With very few exceptions all cable systems in the world use coaxial cable. A small number use optical fibre including BT's fibre optic star switched experimental system at Milton Keynes. Major advances in optical fibre technology, many of them in the UK, have been achieved in the last few years. Internationally, a number of telecommunications agencies are making increasing use of optical fibre in long distance transmission where the requirement for fewer repeaters gives optical fibre a competitive edge over coaxial cable. For short range local distribution links however, which comprise a high proportion of the cable in a system, the advantages of optical fibre may be less relevant, and its use at this stage would be significantly more expensive, at least initially. It is likely that, before the end of the 1980s, use of optical fibre throughout cable systems will be economic but further technical developments are needed, including the production of cheap optical components and transmission devices.

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21 16. There have been some calls for Government to use the introduction of wideband cable systems to 'pull through' the development of optical fibre technology. At first sight this is an attractive option and one which would be consistent with the commitment of £55m of support which the Department of Industry has made for the development of a fibre optics industry. It does however ignore that, even with additional support, to require all cable systems to use optical fibre throughout the whole system would delay by several years the introduction of wideband cable systems, particularly since current technologies do not permit the use of optical fibre in tree and branch systems. Extensive use of optical fibre would therefore be contingent upon high volume production of wideband switches. Best estimates are that a mandatory requirement for use of optical fibre would mean 1986/7 as the earliest date for proceeding on any scale with cable developments. This delay would prevent UK industry from developing the production capacity in all the areas needed if it is to take advantage of the worldwide demand that is likely to develop. The UK cable manufacturers, who make both kinds of cable, have called for a steady expansion of demand rather than a mandatory requirement to use fibre.

28 17. The Government therefore does not intend to require, at least for the next few years, that optical fibre must be used in any part of a cable transmission system. This will not mean any limitation or reduction in cable services which otherwise might have been achieved: there are no services whether wideband entertainment or narrow band information services which cannot be carried equally well on coaxial cable. Moreover, apart from the restriction on fibre technology referred to in the previous paragraph and the possibility of radio frequency interference, the choice of cable does not affect either the design or the performance of the system.

Performance Standards

29 18. The Government is not prepared to see the introduction of wideband cable systems solely in terms of the provision of more entertainment channels. The range of non-broadcasting services (set out in Table 1) which the new systems can support is seen as a crucial aspect in the development of these systems. It is true that the existing telephone system is capable of providing many but not all of these new services. Until recently however BT has not felt that there was an economic market or demand for them. Wideband cable systems offer the opportunity for non-entertainment services to be made available to subscribers at marginal price levels, since the basic system and infrastructure costs will have been absorbed by the entertainment services.

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- 30 19. It was against this background that the Government concluded that it was important to impose some further requirements upon cable systems providers. It was necessary to ensure that systems would have sufficient capability to meet reasonable future needs and would be compatible with the long term development of an integrated cable network, rather than a collection of individual and isolated cable systems.
- 31 20. Accordingly, in July 1982 the Department of Industry established a Technical Working Group on Standards for Wideband Cable Systems. Its terms of reference are set out in Annex A. The task of the Working Group is to examine the existing British Standards for all the services which can be anticipated for future cable systems, with the principal exception of conventional voice telephony. Where these standards do not exist or are inadequate, the Working Group was asked to prepare drafts of a suitable standard. Each of the drafts will then complete the normal BSI procedures and, in their final form, will become a British Standard. Annex B sets out the titles and details of the work which is in hand and indicates how interested parties may submit comments.
- 32 21. In order to assist the Technical Working Group the Department of Industry gave it guidance on the characteristics of cable systems that it would like to see develop. The minimum service capabilities which the DOI outlined as a working hypothesis were that operators of wideband cable systems might be required to provide systems with a capability of:
- i. a minimum of 25 downstream 8 MHz video channels, or their equivalent, with the associated sound and teletext data channels;
 - ii. audio channels;
 - iii. at least one return video channel, with an associated sound capability, which might be used for a range of services;
 - iv. two-way data channels, some of which should have a signalling rate of 80 k bits/second;
 - v. provision for more than one subscriber to have simultaneous access to the return video and two way data channels.

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In addition cable systems would have to:

- a. be compatible at their head ends with the appropriate technical and service features of the networks operated by BT and Mercury;
- b. avoid causing interference to, and be immune to interference from, any licensed users of the radio frequency spectrum; and
- c. allow existing UHF TV sets to be used on the systems.

33 ~~22~~. Much of the work of the Technical Working Group has now been completed so that the timescale for cable expansion proposed in Chapter 8 can be achieved. However there are some matters, particularly relating to the international agreement of standards and the technical implications for cable of DBS transmission standards, which are unlikely to be completed before mid-summer. The Government's final decision on performance standards must await completion of that work. The Government will require new systems to comply with those technical performance standards.

Industrial and Employment Opportunities

34 ~~23~~. The widespread introduction of cable systems will have significant direct and indirect effects on the economy. It will, for example, provide new jobs for the construction industry and for those concerned with the design, installation and maintenance of cable systems; and there will be new opportunities for providers of cable "software" (programmes, information services etc) and in the operation and administration of cable systems. Probably more important in the longer term will be the indirect effects of cable systems as they begin to provide the underpinning for a wide range of information services and other new activities. The indirect effects on employment of new technological developments in the past (the introduction of the telephone, for example) underline both the potential longer term benefits of cable systems and the impossibility of meaningful forecasts at this stage.

35 ~~24~~. Given the wide range of uncertainties involved, it is not possible to form a reliable estimate of the direct economic effects. Until the market is tested, its precise development cannot be certain since much will depend on factors such

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as the nature of the systems installed and the extent and pace of market penetration. Some aggregate figures have been produced - notably estimates of the capital cost of bringing cable to half the households in the UK (ie urban areas with more than about 50,000 population). The ITAP report suggested that the cost might be £2.5 bn (in 1982 prices). Others consider this figure to be low. BT have suggested a sum of £3-4 bn, and higher figures have come from other sources. It is important to bear in mind, however, that the investment would not be concentrated into a single year; a five to ten year investment programme at least would be needed. The private sector should be able to finance it without any special difficulty from its normal sources.

24 25. The number of jobs likely to be generated, even directly, by the installation of cable systems cannot be reliably estimated. Jobs are likely to be created in the following sectors:

- i. R and D: Currently, about 500 are employed in a direct R and D effort on switches, optical fibre and cable-related opto-electronics. This level is expected to continue throughout the effective lifetime of cable systems and may well increase slightly;
- ii. Cable manufacture: This is not labour-intensive. However, direct manufacture might create several hundred jobs by the end of the 1980s.
- iii. Cable operation: This activity will create a permanent pool of employment unrelated to the actual construction programme, in running the systems, marketing services etc. The average number of permanent staff needed by an individual cable system may prove to be of the order of 40-50.
- iv. Programme making: This is a particularly difficult area to estimate. However, this country's recognised creative abilities in the performing arts, and the international status of the English language, could make this one of the most significant areas of job creation in the longer term.

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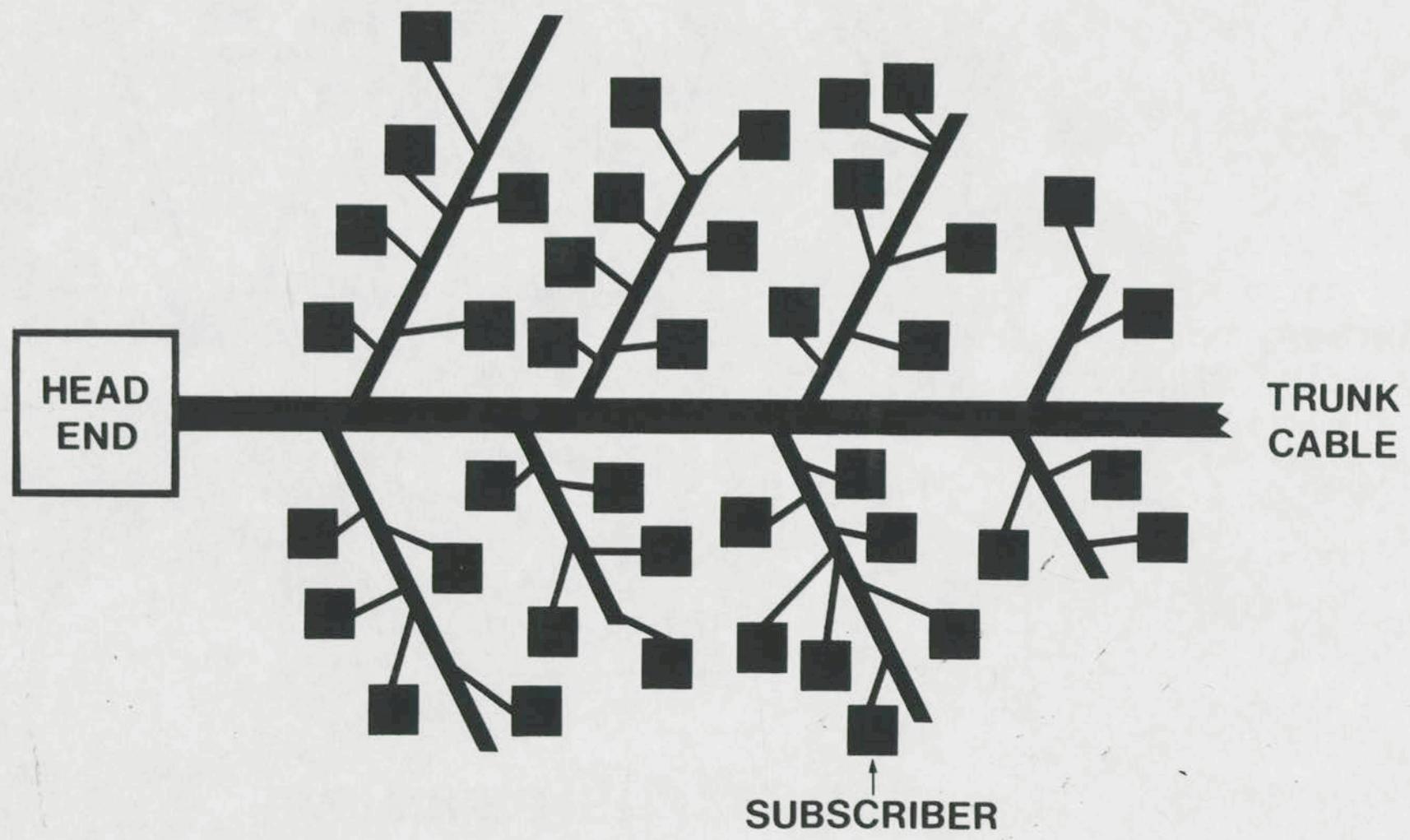
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In addition to the above some 2-3000 might be employed in the manufacture of wideband switches and equipment such as decoders, television sets and electronic components. None of these estimates takes into account possible off-setting reductions elsewhere in the economy and accurate estimates of the total net effect of cable on long term job creation cannot be made.

37 26. ITAP estimated that a further 2000 jobs might be created in construction; given that up to 70 per cent of initial costs might be attributable to construction works such as ducting, this may well be an underestimate. These of course will be relatively short term jobs and employment will not continue at that level beyond, say, the early 1990s.

35 27. The wider, indirect effects of cable systems on the economy would be more pervasive and would become more significant with the passage of time as cable systems begin to provide the underpinning for a wide range of information services. Cable is likely to provide the basis both for new activities and for different ways of performing existing activities (eg if people could work at home rather than in offices, accommodation and transport costs would be reduced, and if banking, retail trade and other business were conducted via cable services, improvements in productivity would result). It is, however, difficult to predict the extent and speed of such developments. US experience suggests that growth in these areas will be steady rather than explosive. Thus it would probably be optimistic to expect much benefit from this source during the early years. But the impact on productivity growth should be favourable and cumulative. As in all cases of technological change, short term problems could occur, adversely affecting jobs in particular sectors, places and types of work. But, in the long run, such growth should have beneficial effects on employment: as productivity gains make lower unit costs possible, the economy should adjust to higher levels of output and activity.

TREE AND BRANCH SYSTEM

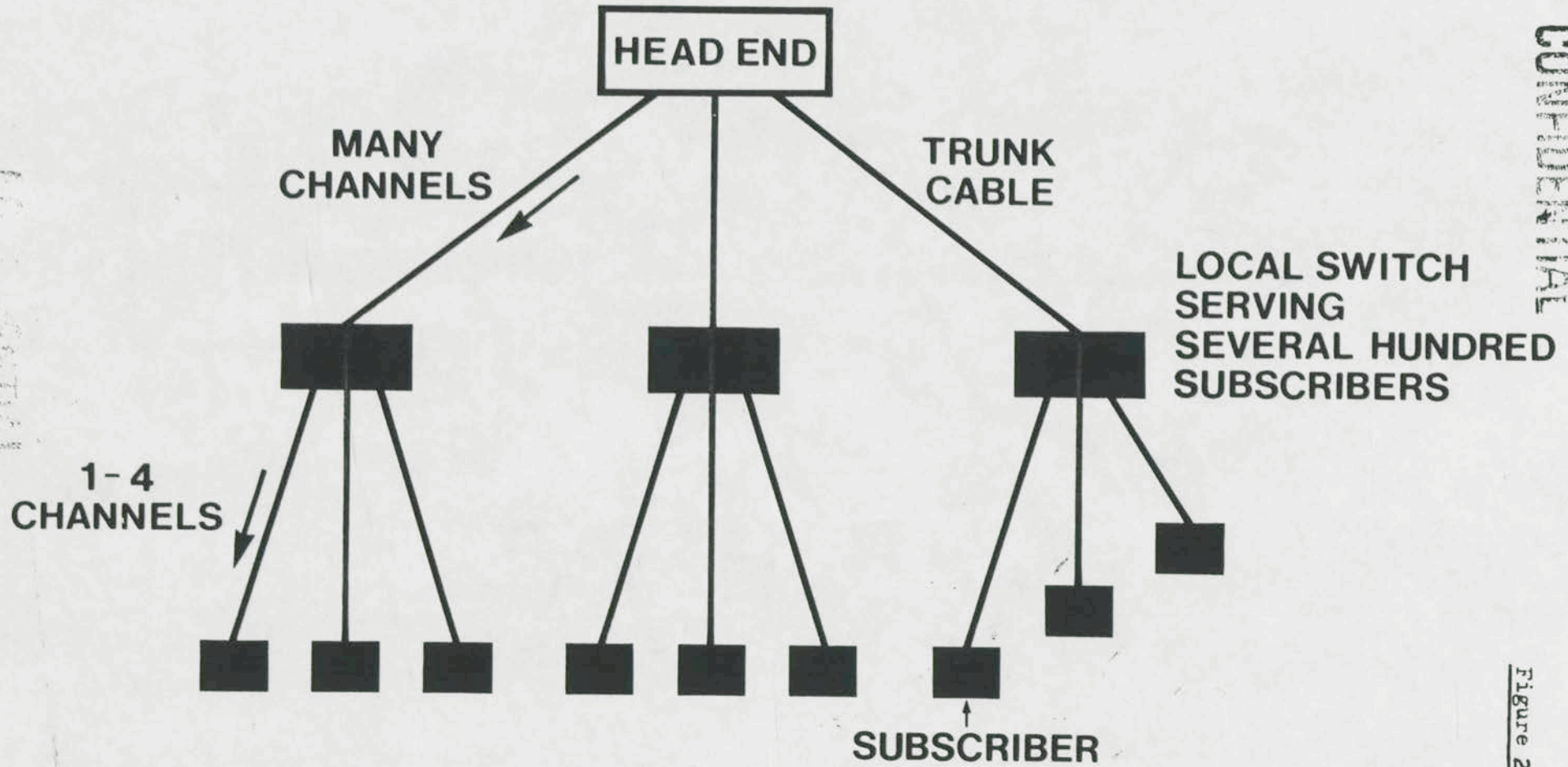


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Figure 1

SWITCHED-STAR SYSTEM

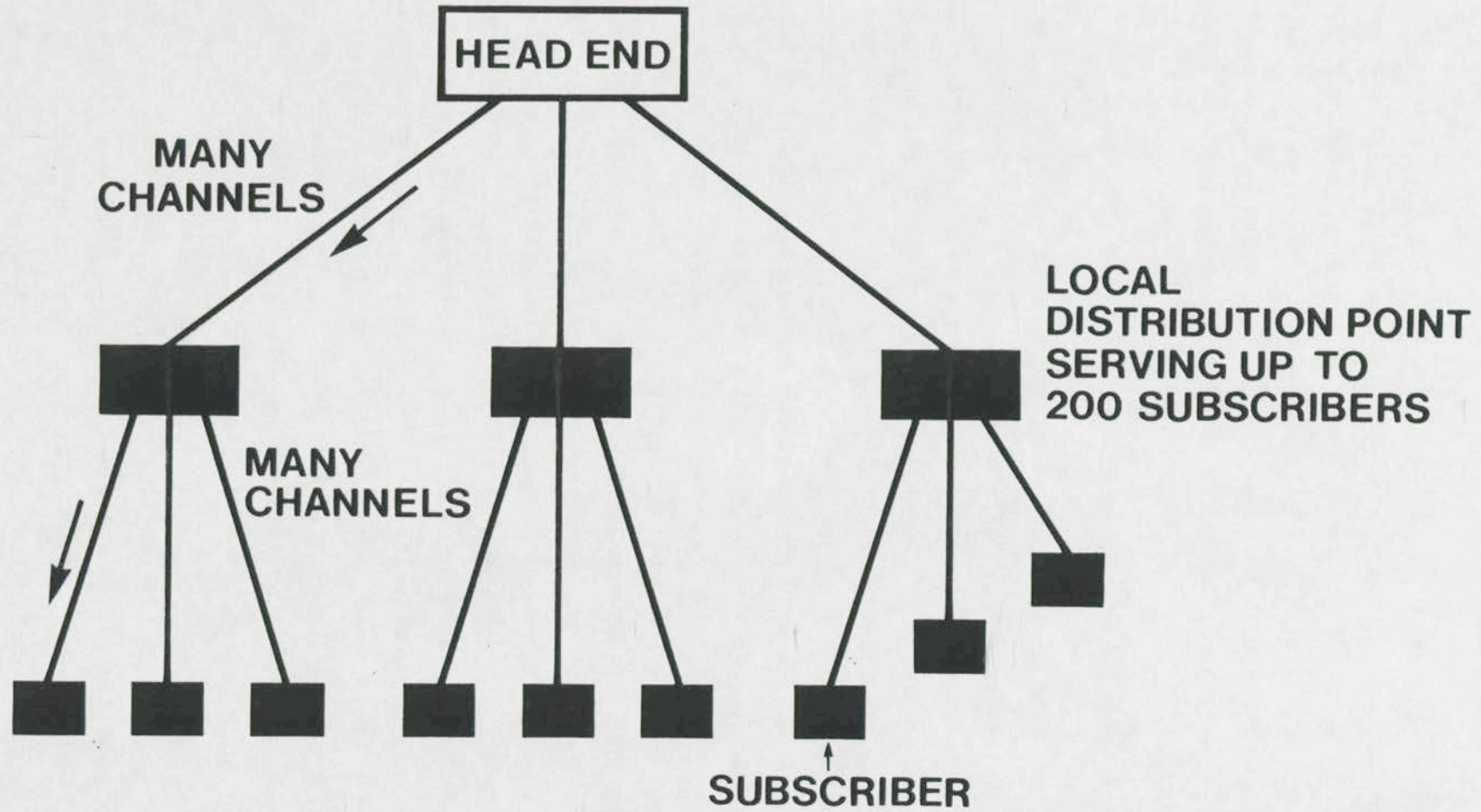


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Figure 2

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STAR SYSTEM



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Figure 3

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CHAPTER 3 THE CABLE AUTHORITY

39 Central to the Government's proposed scheme for the development of cable systems is a new statutory national cable authority as recommended in the Hunt Report. Its main function will be: to award cable franchises; and to exercise a measure of oversight over the provision of services once systems are in operation. This will be a new authority, independent from Government in its day to day affairs but ultimately accountable through the Home Secretary to Parliament.

Need for new authority

40. The Government believes that the case for establishing a new authority is conclusively strong, and widely accepted. There would be severe disadvantages in relying entirely on existing statutory powers to license cable systems, with no formal franchising process. If, as seems inevitable because of the high initial capital cost, cable systems are often in practice going to be local monopolies it is right that the likely monopoly implications should be specifically considered before authorisations are granted so that appropriate safeguards can be included. To rely on existing licensing powers, even if operators were to undertake a measure of self-regulation over programme content, would also leave the Home Secretary directly answerable to Parliament for the programme services provided by licensed operators - contrary to the well established principle of British broadcasting policy that the Government should be distanced from decisions about the application of general obligations (relating to taste and decency or due impartiality for example) to individual programmes. Moreover if the rules were established by administrative action Parliament would be deprived of the opportunity of considering them in any detail, and investors would not be assured of the greater stability deriving from a statutory framework. Nor does the Government believe it would be right to devolve the authorisation and supervision of cable systems and services to local authorities. The Government accepts the Hunt Inquiry's view that franchising should be conducted at a national level, though it will be important that local views and needs are taken into account in the franchising process. Although cable systems will be local, some programme services are likely to be distributed simultaneously from a central point to a number of individual systems and it is desirable that compliance with such rules as apply to, for example, programme standards and advertising content should therefore be overseen centrally and consistently.

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TABLE 1

INFORMATION TRANSFER RATES REQUIRED FOR DIFFERENT SERVICES

Bit rate (bits/sec)		Bandwidth required (Hz)
1000M	High definition television	30M
100M	Television colour pictures	8M
10M	Viewphone, videoconferencing, Picture Prestel	1M
1M	High fidelity music	50k
100k	Speech telephony, slow scan TV, fast facsimile, high speed data, electronic mail	3k
10k	"Office-in-the-home" facilities	less than 3k
1000	Prestel, medium speed data, Teletext, low speed facsimile	"
100	Low speed data	"
10	Remote control burglar alarms, meter reading, Telex, telemetry	"

Notes: One bit is one binary integer, ie a zero or one

k = One thousand

M = One million

Standard bit rate used for voice telephony is 64k bits/sec

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Moreover the Government is impressed by evidence from the United States, where local authorities are responsible for cable franchising, that the process has been beset by delays, excessive demands from local authorities and unrealistic promises from the competing companies. Inflated promises are of course a risk with any franchising system but a central authority with experience of the totality of applications will be well placed to form a fair and critical judgement.

41/3. The Government has also considered whether, to avoid the creation of a new body, responsibility for cable could be given to an existing statutory organisation - the Independent Broadcasting Authority, or the new Office of Telecommunications to be created under the Telecommunications Bill now before Parliament. However, the Government is satisfied that neither organisation would be appropriate. The Office of Telecommunications, which will be concerned with the running of telecommunications systems and the structure of the telecommunications market, is to be established as a non-Ministerial Department and will be staffed by civilservants. While this arrangement is entirely appropriate for a body with essentially economic and technical responsibilities it would be much less satisfactory for an organisation charged with reaching judgements on sensitive issues relating to programme services. General assessments of the relative attractiveness of rival programme packages and specific decisions on matters such as taste and decency and political impartiality are much more appropriate for consideration by an independent board than a single Crown Officer, albeit one with a measure of statutory independence from Government. The Independent Broadcasting Authority makes a valuable and varied contribution to the development and organisation of British broadcasting. But there must be a risk that the Authority would see cable too narrowly in broadcasting terms, whereas the Government's wish is that cable should develop as a new medium in its own right. Where programme services on cable are subject to different rules from those of IBA television or radio channels it will in the Government's view be more satisfactory if they are interpreted and applied by two separate organisations. Moreover, while cable will essentially complement existing broadcasting services there are bound to be circumstances in which the interests of cable operators and the existing broadcasters will conflict. An organisation with responsibilities for both areas could find itself in an invidious position.

42/4. For these reasons, the Government is convinced that the establishment of a new authority is the right course.

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Functions and duties of new authority

42 *B.* The new Authority will have the overall responsibility for promoting and overseeing the development of cable systems and services within the United Kingdom. The process of franchising cable operators for particular areas will stand at the heart of the authority's activity. Flowing from it will be the Authority's responsibility for monitoring the performance of cable operators to ensure that promises made are promises kept, and that the regulations for cable are observed and the public interest served. Some of the Authority's tasks will have affinities with those carried out by other bodies - for example the Office of Telecommunications, the Independent Broadcasting Authority and the Monopolies and Mergers Commission, and on certain matters the authority may need to work in consultation with them. The duties of the Authority, and divisions of responsibility with other bodies, will need to be set out carefully in the legislation to avoid any confusion or risk of overlap. The Authority's responsibilities are set out in detail in the subsequent chapters of this White Paper, but they can be summarised briefly as follows:

- (1) to have a general duty to promote the development of cable systems and services in this country;
- (2) to award franchises to cable operators to provide cable services;
- (3) to develop and apply certain rules on programme content and advertising;
- (4) to monitor the performance of operators and to consider such representations as are received from the public about the services provided.

44 B. The Authority will need to develop a style of its own to reflect the particular nature of its task. The franchising operation itself, for example, and the degree of supervision which will subsequently be appropriate, will not be the same as for independent broadcasting. Moreover, the Authority's remit will not be confined to the programme services provided by cable. It will be part of the Authority's responsibility to promote the development of interactive

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services. The Government has noted that in the United States the tendency of the franchising process to lead to unrealistic promises has been particularly marked in the area of interactive services, where local authorities with franchising powers have been more enthusiastic in requiring such services than the public have been in paying for them. It is therefore important that the Cable Authority should take account of what the market will bear and should assess, in the light of that, the seriousness of an applicant's intention to offer in practice what he promises. What the Government proposes is that in awarding a franchise the Authority should have a duty to consider what proposals an applicant has for offering services other than television and sound channels. The operation of the franchising and licensing process is considered in more detail in the next chapter.

45A. The Hunt Inquiry envisaged that once a franchise was awarded the Authority would be able to remain in the background unless important developments or specific complaints required it to intervene. The Government shares the view of the Inquiry that once in operation commercial companies should be free to carry on their business with the minimum of detailed supervision on the part of the Authority. Some monitoring will, however, be necessary. As well as dealing with individual complaints from the public it will be a duty of the Authority to satisfy itself that the general performance of an operator is broadly consistent with the terms on which his franchise was granted. The Authority will be required to produce an Annual Report on its work for submission to Parliament by the Home Secretary. The role of the authority in overseeing operators' programme services is considered in more detail in paragraph ~~6-19-22~~. 42-148.

Structure and composition of the Authority

46 B. The Government is anxious to avoid the creation of a large bureaucratic Authority. The more streamlined its structure and procedures, the smaller the risk that it will overregulate the companies. The members of the Authority will be appointed by the Home Secretary in close consultation with the Secretary of State for Industry - in view of the latter's responsibility for telecommunications policy. The Government proposes that there should be a Chairman and six other members one of whom would act as deputy chairman. The legislation would

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contain provision for the number to be varied within certain limits should experience show that this was desirable. This means that the Authority will be smaller than a number of comparable public bodies. The members although they will serve part-time will all bear a considerable responsibility, especially in this initial period. Members will be appointed on a personal basis and not as the representatives of any particular group or interest. It will be important to find people with a wide range of interests and backgrounds, including some with commercial and technological experience, and experience of the existing media. An appropriate period of appointment would be five years, with the possibility of renewal.

47 9. The Authority will need a small but well qualified staff. For each franchising operation, and especially where there is more than one applicant, the Authority will have considerable demands placed on it and will need to be able to look to its chief executive and other senior officers to give it high-quality administrative support. The Authority itself will be responsible for their appointment. Their remuneration will need to be on a scale which will attract staff of sufficient calibre and experience. In the Government's view it is likely to prove more satisfactory if the Authority's main resources are concentrated in a single location rather than spread thinly throughout the United Kingdom. This should prove wholly compatible with the need for specific local consultation during the franchising process which is touched on in the next chapter. In order to carry out its continuing responsibility of keeping in touch with cable operation and exercising a measure of oversight the authority is likely, however, to need some regional presence and the Authority may well arrange for a small number of its staff to be based away from the headquarters.

48 10. The Government does not envisage that the Authority should have a fixed lifespan. If in the light of experience it appears that changes are needed to the regulatory framework for cable it will of course be possible for Parliament to consider the necessary amending legislation in the usual way. Once established the Authority should not be a net cost to public funds. Franchise holders will be required to pay an initial fee and subsequent annual fees to the Authority to cover its administrative expenses. However, until the first franchises are awarded and fees begin to be paid, the Authority will require alternative means of finance. The Government will make the necessary money available to the authority on a loan basis, through provision in the Home Office estimates.

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CHAPTER 4 THE FRANCHISING AND LICENSING PROCESS

Franchises and licences

- 44 X. Cable services will be authorised by a franchising process. This will in some respects resemble the system for franchising ITV and ILR companies. The process will centre on the cable operator. The cable operator, as envisaged in the Hunt Report, will be the person, or in practice the company, responsible both for assembling a package of services to offer to the public over a local cable system, and for marketing those services. The Cable Authority's franchising powers will subsume the existing powers of the Home Secretary under Section 89 of the Post Office Act 1969 (see paragraph 51 below).
- 50 X. The cable operator may also act as the programme provider, who would assemble material into whole channels or parts of channels and could, also, be an actual maker of programme material - though this is not likely to be the common pattern. In addition he might, or might not, have some stake in the provision of the cable system itself. The Government, following the Hunt Report, sees no need for any enforced separation between any of these functions. To require a strict "common carrier" approach whereby the cable provider installed and maintained the cable system but was precluded from any part in cable operation would be unnecessarily restrictive. There are likely to be a number of different patterns of ownership and operation, depending on the finances and experience of individual companies, and in the absence of any overriding considerations the Government does not believe that it should seek to limit these permutations. Already in some instances a number of companies have expressed interest in forming a consortium both to instal the system and to operate the services. Among the existing relay companies there is an interest in building on existing company or group expertise so that responsibility both for the installation and ownership of the system and for the management of the services might in some instances remain within the one organisation. Other companies are focusing on the design and installation of cable systems and may prefer to have a contractual relationship with a separate cable operator. Given the heavy capital cost it seems certain that the planning of individual projects will involve close co-operation between the cable provider and the operator where they are not a single company or consortium.

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51 B. Under existing legislation operators of existing cable systems can require as many as three different licences: one provided by British Telecommunications or the Secretary of State for Industry after consultation with British Telecommunications under Section 15 of the British Telecommunications Act 1981 to permit the installation and running of a telecommunications system; one issued by the Home Secretary under Section 1 of the Wireless Telegraphy Act 1949 to allow the reception and distribution of off-air programmes of the broadcasting authorities; and, in the case of the subscription television pilot schemes and the community sound and television experiments, another issued by the Home Secretary under section 89 of the Post Office Act 1969 for the running of a programme distribution system for non broadcast services. Changes in the arrangements for licensing telecommunications systems are contained in the Telecommunications Bill now before Parliament. With the abolition of BT's exclusive privilege a licence to instal and run a telecommunications system will in future be required from the Secretary of State for Industry.

52 A. There are obvious advantages in devising a single procedure for these various authorisations so that the applicant has merely to submit one application to a single body. This desired simplicity however masks the difficulties which arise because the cable operator (and franchise applicant) would not necessarily be the same person as the cable provider (and telecommunications licence applicant). Moreover the range of functions which will need to be considered, regulated and, where appropriate, monitored is a wide one. These functions will include:-

- i. awarding franchises to cable operators to provide cable services;
- ii. licensing cable providers to instal and maintain cable systems;
- iii. controlling the possible 'monopoly' power of cable operators;
- iv. controlling the possible 'monopoly' power of cable providers;
- v. authorising and regulating information services (such as home shopping and telebanking);
- vi. oversight of the provision of programme services;
- vii. defining and enforcing technical standards, specifications and other conditions of provision of cable systems.

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53. Responsibility for some of these functions would under existing legislation fall to bodies or persons such as the Home Secretary, the Secretary of State for Industry, the Secretary of State for Trade, the Office of Fair Trading (OFT) and the Monopolies and Mergers Commission. In addition the Office of Telecommunications (OFTEL) will be created once the Telecommunications Bill now before Parliament has become law. It is difficult to envisage that it would be feasible or desirable to bring all of these tasks within the responsibility of a single authority.

54. 6. The task of avoiding unnecessary complexity in licensing, franchising and monitoring procedures while respecting these various responsibilities is, therefore, a difficult one and the Government will wish to give further thought to many of the details in the preparation of the cable legislation. Whatever procedures are adopted it is clear that a close and coordinated relationship will need to be established at an early date, particularly between the Cable Authority, OFTEL and the OFT, not least because of the on-going interest of OFT and OFTEL in activities (iv), (v) and (vii) above. This relationship can perhaps be best illustrated by considering their respective roles in the provision of a service such as teleshopping on cable. The fact that the transaction would be via the cable system is not central to the service itself; consequently on matters pertaining to the service itself and the relationship between the customer and the shop the OFT would be responsible. However OFTEL will be responsible for the terms and charges laid down by the cable provider for access to the cable system; it will also be responsible for any terms of interconnection between such a system and any public telecommunication system.

55. The Government has given careful consideration to the appropriate division of responsibilities between the Cable Authority and OFTEL in the licensing and franchising process. In theory there are three possible approaches. In the first ('one step shopping') the telecommunications licensing powers of the Secretary of State for Industry would be delegated to the cable authority; the latter would then be responsible for both activities. While administratively simple this arrangement would require the Cable Authority to build up its technical competence in order to deal with and assess the complex technical issues inherent in modern telecommunications systems. This would not only

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result in a larger Authority than desirable but would mean the duplication of the resource which OFTEL will necessarily have acquired for its own tasks. It would also mean that the Secretary of State's powers to apply the Telecommunications Code under the legislation currently before Parliament would have to be delegated to the Cable Authority; there would be difficulties about this.

56. A second approach ('two step shopping') would involve the cable authority assessing franchise applications while, in parallel, the Secretary of State for Industry, aided by OFTEL, considered telecommunications licence applications from potential system providers. The risk inherent in this arrangement, particularly where there were a number of applications in each case, would be that OFTEL might prefer, on technological grounds, the cable system of one applicant but the Cable Authority might favour the programme proposals offered by another. This difficulty could be avoided by the licence application being considered only after the franchise had been awarded. This approach would however mean a lengthening of the timetable for handling applications: it would also carry the risk that there would be a reduced stimulus for the cable provider to introduce more technologically advanced systems.

57. It might be possible for either of these two approaches to be administered successfully given close liaison between the authorising bodies. In the Government's view however, the key decision must be that of the award of the franchise by the Cable Authority, and the presumption will therefore be that an application to the Secretary of State for Industry by the franchisee or his nominee for a licence to run a telecommunications system will be successful, provided that the proposed system meets the necessary general technical specifications and such other licence conditions as the Secretary of State for Industry, in consultation with the Office of Telecommunications as appropriate, may require. Under this approach, which the Government intends to adopt, applicants to the Cable Authority for a franchise will be required to give details of the cable system over which their services would be provided; in considering franchise applications the Cable Authority will be required to consult OFTEL. The granting of the franchise will not prejudice the separate consideration which the Secretary of State will need to give in each case as to whether or not the franchisee or his nominee should have the benefit of the new Telecommunications Code (see paragraph 70 below). In such cases the Secretary of State will first need to go through the statutory consultation procedures, including the consideration of representations or objections.

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Franchise areas

58. Cable investment is to be provided by the private sector in the light of assessments by interested companies or consortia of the market which will exist for cable services. It would not therefore be sensible, in the Government's view, for the Cable Authority to draw up at the outset a prescriptive plan for cable expansion with the whole country divided up into franchise areas. The initiative must rest largely with those who wish to instal and operate the systems. Nevertheless, it is likely to be helpful to applicant companies, and to make for orderly development, if the Authority has first given a broad indication of the range of size which it envisages for franchise areas. The Hunt Inquiry recommended that even the largest systems should not cover more than about half a million homes and the Government endorses this as an upper limit. The majority of franchises are likely to be significantly smaller than this. The Government believes that it is right to leave the Authority with a wide measure of discretion and there will be no prescribed statutory maximum size, but in the legislation the Government proposes to give the Authority the duty, in considering the award of franchises, to take into account natural community groupings and to ensure that systems, while being of a size capable of supporting a wide range of services, are not so large that they lose any sense of local identity.

59. A further possibility, which it will be for the Authority to consider, would be to draw up what may be described as an "indicative map" for franchise areas, in advance of inviting applications. This would reduce the risk that different companies might submit proposals based on such a diversity of assumptions about franchise areas that it was difficult for the Authority to consider them on the same footing. On the other hand, it might be difficult for the Authority to prepare such a map in advance of direct contact with the companies. Whether or not the Authority decides to adopt this procedure, it will need to prepare itself for a situation in which a substantial number of potential operators apply straightaway as soon as it opens its doors. It will clearly not be possible for the Authority to consider large numbers of applications simultaneously with the thoroughness which will be required. In this situation the Government would expect the Authority to draw up a timetable for dealing with applications in such a way as to ensure that franchises for a number of different parts of the country were considered at an early stage.

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60.12. The Cable Authority will have a general duty to promote the development of cable systems. In considering an application it will be open to the Authority to suggest modifications to the original proposals at the margin so that peripheral areas of less economic appeal to the investor can be covered. It is generally recognised, however, that cable will be a long-term investment, and in the Government's view it would not be right at this stage to impose on the Authority a formal duty to seek to extend cabling to the whole of the country. Such a requirement, if it led the Authority to demand excessive and premature cross-subsidisation by companies when they had still to establish the basis of a profitable operation, could actually have the effect of retarding the spread of cable.

Ownership

61.23. The Government's approach to the question who, if anyone, should be restricted in the control of cable systems recognises different though related considerations in respect of the cable provider and the cable operator. While companies from any part of the world may participate in cable provision, the Authority will be required to ensure that licences are issued only to companies under UK/EC control. The Government also proposes to give the Cable Authority a duty to exclude from any stake in the ownership of the system any organisation which seems to the authority to be of a directly political or religious character, and any individual who would, in the view of the Authority, seek to use his position in order to favour a particular political or religious cause. The Government believes moreover that central and local government ought not to participate directly in the ownership of cable systems. With these exceptions any company, including existing telecommunications organisations such as BT and Mercury and companies with other media interests, will be free to obtain a licence as a cable provider.

62.14. As a matter of general principle the Government does not favour the creation of new monopolies and would wish the Cable Authority to work towards the development of genuine competition wherever possible. Where as is frequently likely to be the case, the economics of cable investment make the creation of a monopoly unavoidable it will be open to the Cable Authority, in awarding a franchise, to mitigate the monopoly position of the operator by requiring him to offer some of his channel capacity for leasing on reasonable terms. The ownership rules for cable operators will however need to reflect the monopoly position which they may often occupy in the provision of the overall package of cabled information and entertainment services

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for any particular area. Here again the Government is satisfied, as the Hunt Report recommended, that central and local government should not have a direct stake in cable operation, and that the cable authority should not issue a franchise to any company in which an organisation appearing to the Authority to be of a directly political or religious nature, or an individual likely to use his position for religious or political ends, has a stake. The Government also accepts that control of a cable operating company should, as with ITV and ILR, not rest with a company or individual from outside the European Community. This will not preclude companies with experience of cable operation elsewhere, particularly the United States and Canada, from deploying their expertise and financial resources to the benefit of cable development in this country, provided they do not acquire what in the judgement of the Authority constitutes a controlling interest.

63. The participation of existing press, radio and television companies requires, in the Government's view, a flexible approach. The Government believes that, in the interests of encouraging diversity, it would be undesirable for a company which held the ITV or ILR franchise for a particular area also to be the cable franchise holder for part or all of the same area. The same consideration would not apply where a company held an ITV or ILR franchise in one part of the country and sought a cable franchise in another. An analogous consideration applies, and a similar distinction can be made, in the case of local newspapers. However, the existing media have an essential contribution to make to cable expansion in this country, and the Government welcomes the positive attitude which many companies are taking to the development. It does not accept that there should be a general restriction on the extent to which press, television or radio companies or consortia can acquire a stake in cable. The Cable Authority will have a duty when considering a franchise application to take such steps as are necessary to ensure that the participation of existing media companies or consortia would not be such as to produce a concentration of power in that particular area which would be contrary to the public interest. The Government also thinks it right that the Authority should have as an objective the need to secure a diversity of ownership of cable operations in the country as a whole. In preparing legislation on cable the Government will be considering further the possible need for certain reserve powers in relation to monopolies.

64. The rules on ownership will be particularly important at the time of an application. But the Authority will also need to monitor any subsequent change in the ownership of a cable operating company. Franchise holders will therefore have a duty to inform the Authority of any significant changes of shareholding; and the Authority will have power to determine a franchise if such changes provide an ownership arrangement which would have ruled out the granting of the franchise in the first instance.

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Criteria for selecting operators

65. ~~27~~. In awarding a franchise the Cable Authority will need to take a number of factors into account. At the preliminary stage it will of course have to be satisfied after consultation with OFTEL that the cable services are to be offered over a system which meets the minimum technical requirements necessary for the grant of the cable provider's licence and that the organisation responsible for the installation and technical operation of the system (which may or may not be the same as the cable operator) has the necessary expertise and financial backing. On the substance of the franchise application the Authority will amongst other things need to consider:-

- (1) whether the ownership arrangements of the operating company are satisfactory;
- (2) whether the services are to be offered to an area of a suitable size;
- (3) whether the financial provisions of the company are realistic;
- (4) whether the promised services are likely in practice to be provided throughout the franchise area within a reasonable time;
- (5) the range and diversity of the television and sound channels proposed;
- (6) the extent to which the operator will draw on programme material and indeed generate original material from this country;
- (7) the arrangements proposed for educational services, community programmes and local access;
- (8) the range of interactive services the operator is likely to provide;
- (9) the arrangements, if any, proposed for leasing channels to other users;
- (10) whether more than one franchise can be granted to avoid the creation of a monopoly.

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66. These factors are discussed in more detail elsewhere in the White Paper: the questions of ownership and franchise area have been discussed in the preceding paragraphs; programme services are considered in chapters 5 and 6 and other telecommunications services in chapter 7. The third and fourth questions, relating to the financial position of applicants and the rate at which services will be introduced, are largely self explanatory. Even where the cable operator does not himself construct and own the cable system, but leases it from a separate cable provider, he will require considerable financial resources. In the initial period before revenue comes in he can expect to have to lay out quite large sums of money to get together a package of programmes and other services for offer to the public. The Authority's scrutiny cannot in the nature of things guarantee that a company found to have sufficient financial backing will in the event operate profitably; but it should help to reduce the risk of cable development being blighted in particular areas by the award of franchises to companies with an unsound financial structure who as a result rapidly go out of business. A further consideration with which the Authority will need to concern itself is that all franchises are likely to cover areas containing some streets or groups of streets which appear to offer fewer opportunities for profit than others. There will thus be commercial pressures to cable the most profitable parts of a franchise area first. As cable starts to extend elsewhere in the franchise area there could be the risk that the pace of cabling might slow down. To guard against this the Authority will wish to know an applicant's proposed timetable for cabling when considering the award of a franchise and will be able to attach appropriate conditions to the franchise. Once the extent of the franchise area and the proposed timetable has been set it will be the Authority's responsibility to see that the successful applicant does not renege on his undertaking.

The franchising exercise

67. It is important that the franchising and licensing operation should not only be fair but be seen to be fair. No one can be sure how great a demand there will be for opportunities to cable up particular areas. In the United States franchising is often the occasion for fierce competition between a number of rival applicants. Similarly in this country when the IBA awards the franchises for independent television and local radio there is for the more profitable areas a keen contest between the aspiring candidates. Nevertheless in the case of the more financially marginal television and radio franchises there has on

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occasions been only one applicant. It seems likely that with cable there will be some areas where more than one company or consortium bids for the franchise, and others where, given the large investment involved, there will, at least in the early days while cable is proving itself, be at most a single applicant. The Government accepts the Hunt Inquiry's recommendation that in all cases the Cable Authority should be required to give an opportunity for competing bids to be received and considered before a franchise is awarded. In some areas the Authority may take the initiative and simply advertise for applications, as the IBA does now when intending to set up a new local radio station. In others, particularly when the Authority is starting up, the initiative may come from a potential operator. The Authority will then give notice of the application so that any other companies anxious to obtain the franchise for cabling that area have the opportunity to make their bid.

68. 20. Most of the detailed procedures for the franchising exercise will be for the Authority to determine. The Government believes that it is important, however, for the Authority to have a duty to consider local views before awarding a franchise for any particular area, and therefore envisages that it will be required to consult the relevant local authorities in each case and to make such other arrangements as appear to it to be expedient to enable the public generally to make their views known. The applications will in all cases be set out in detail, and the Authority will be under an obligation to make them public before the services come into operation, as the IBA does for independent local radio, so that those living in the areas concerned will be able to compare a company's performance with its promise. Whether the applications should be made public during the franchising operation itself is something which will be for the Authority to determine: there are advantages and disadvantages in either approach. It will also be for the Authority to decide whether, and if so to what extent, it wishes applicants for franchises to enlarge on their proposals in public rather than in private.

69. 21. The Authority's task will involve the assessment of a large number of considerations, some objective, some subjective. Its decision will be reached in each case after full and detailed consideration of the proposals from each applicant, consulting the relevant local authorities and seeking out other local views. The Government is satisfied that the Authority's decision should be final.

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Other authorisations

70. 22. Existing operators of broadcast relay systems have to obtain, in addition to the necessary licences, planning permission, Highways Act authorisations and the grant of wayleaves from the relevant land and property owners. With the creation of a central Cable Authority and a statutory franchising procedure it would be undesirable however if the continued existence of separate powers meant that the decisions of the Authority, arrived at after due process, could be unreasonably frustrated. The Telecommunications Bill now before Parliament enables the Secretary of State to apply to all cable providers the new Telecommunications Code so that they may lay cable under or over public roads. There will be safeguards to ensure that costly and inconvenient disruption to the road system is kept to the minimum (see paragraph 57). Appropriate conditions will need to be attached to any licence applying the Telecommunications Code to ensure that proper reinstatement of the road surface is carried out in order to avoid dangerous conditions for pedestrians and road users and the need for further expensive and disruptive repair works. The Code will also enable the courts to review an unreasonable refusal by landowners to grant way leaves. Coaxial cable is more obtrusive than the normal telephone wires which run from telegraph poles to the home and there will therefore be a number of minimum requirements to take account of the environmental aspects of cable. Subject to those the Government intends to amend the General Development Order so that the laying and maintenance of cable systems by licensed cable providers will be deemed 'permitted development' and not require planning permission from the local authority. The Government welcomes the consideration which is being given to the possible use, for cable installation, of the sewerage system and other existing ducting networks. This could help to limit both the environmental impact of cable and the potential disruption to the highway system.

Length of franchise and licences

71. 23. The Government's view on the length of franchises and licences has already been announced. By setting a 20 year licence period for those cable providers willing to instal a fully switched system from the start, despite the additional cost compared with a tree and branch system, the Government is providing an important incentive to companies to invest in the most advanced technology. Those who prefer to instal a tree and branch system initially will receive a twelve year licence, extendable to 20 if they subsequently instal switches. The ducts for the underground sections of systems will be in the star configuration from the outset. The Government considers that these periods provide the continuity which is essential if large capital investment is to be undertaken.

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72²⁴. In the case of cable operators it is important that the franchise period should be sufficiently long to encourage investment and to enable programme and other services to establish themselves. However, the longer the period the greater would be the danger that monopolistic abuses might start to develop, and the less the effectiveness of the refranchising exercise as a disincentive to violations of the rules. The Government has accepted the case for the franchise and licence periods to remain in step as far as possible. Initial franchises will thus be for 12 years and subsequent ones for 8 years (rather than the 10 and 8 years respectively recommended by the Hunt Inquiry). There will inevitably be a gap between the grant of a franchise and the start of services to the public given the time needed for the initial installation work. This period will not count against the 12 year period. The Cable Authority will, however, have the power to prevent unreasonable delay in the installation of a system by setting the operator targets when awarding the franchise. The Government accepts that where the cable operator and provider are the same company there should be an obligation on the company to sell or lease its system to another operator or on a basis acceptable to the Authority should it cease to hold a franchise.

Relicensing and supervision and renewal of franchises

73²⁵. When the cable provider's licence comes to the end of its term an assessment will have to be made as to whether the system has operated satisfactorily from the consumer's point of view and whether technologically it is likely to continue to do a good job, in the light of any applications which may be made for installing a more advanced system. Technical advances since the system was initially installed may make it appropriate for certain modifications to be required even though the licence of the original cable provider is to be renewed. But since no licence will fall to be renewed until the second half of the next decade, it is impracticable at this stage to be more specific than that.

74²⁶. In the case of operators' franchises, the Authority will have to assess the quality of the service which the operator has provided throughout the period. The need for continuing supervision of particular aspects of the programme services is dealt with in more detail in the next chapter. In addition to these specific tasks the Authority will have followed, at arm's length, the performance of the franchise holder generally. It has been suggested that the renewal of a franchise should be automatic unless in the Authority's view a particular

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company has consistently offered mediocre service to the public or been less than scrupulous in observing the Authority's ground rules. The Government does not accept this proposition. A cable operator will be the recipient of a publicly conferred privilege which other applicants may have sought and failed to obtain. Very often the effect of the franchise may be to put him in a monopoly position in his area and there is no reason why, once in place, he should have a prescriptive right in perpetuity to that franchise short of specific fault. The current possessor of a franchise, able to point to his performance, must always be at some advantage over the new applicant who has to rely on his potential (and, possibly, such reputation as he may have acquired in another area). The Government nevertheless thinks it right that at the end of a franchise period the Authority should be under an obligation to readvertise the franchise and to give all applicants a fair chance.

Sanctions

75 27. The Authority's duty to readvertise franchises periodically will, the Government believes, act as a salutary reminder to operators that if they seek renewal they will need to be able to justify their stewardship of the privilege which has been conferred on them. But since franchises will last for twelve years initially, and eight years thereafter, the Government has had to consider whether some further sanction is necessary to give the Authority credible powers to use when faced with an operator who falls seriously short of his obligations. The Government has concluded that the approach recommended by the Hunt Inquiry is the right one.

76 28. The Cable Authority, while generally remaining more in the background than the IBA is with independent television, will need to have a sanction at its disposal to deal with the situation where, with the franchise renewal operation still some years off, the operator's performance gives rise to concern without being sufficiently bad to warrant premature termination of the franchise. Financial penalties are not particularly appropriate in an area where, as the Hunt Inquiry pointed out, the Authority will be reaching mainly qualitative judgements. The Government therefore accepts the Inquiry's recommendation that the Authority should have the power:

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- (1) to direct that certain programmes or channels should not appear.
- (2) after issuing a public warning to the operator to impose for a period, a tighter degree of supervision over part or all of the operator's services;

77 29. The Authority's power to impose sanctions in certain circumstances will in no way affect the operator's general duty to be bound by the provisions of the civil and criminal law. In chapter 6 there is discussion of the need for some amendment of certain parts of the criminal law, in particular the Obscene Publications Act, to clarify the position of programmes distributed by cable.

78 30. The non-renewal or premature withdrawal of an operator's franchise remains however the Authority's ultimate sanction. It will have the power, where it is satisfied that the operator has committed such breaches of his obligations that it is not in the public interest for his franchise to continue for the full period, to give notice of the early termination of the franchise. The Authority would then readvertise the franchise and appoint a successor. Such action in the middle of a franchise period would of course be a very serious step, and is very much in the nature of a reserve power. It would imply a much more substantial failing on the part of the operator than the sort of mildly unsatisfactory record which might persuade the Authority, at the end of a franchise term, not to reappoint the company. The Government notes that in nearly thirty years of independent television no company has had to be deprived of its contract before its expiry and is confident that with cable the mere existence of an ultimate sanction ought similarly to ensure that the circumstances in which it would need to be invoked would not arise. Section 21(5) of the Broadcasting Act 1981 provides for disputes between the Independent Broadcasting Authority and a contractor to be determined by arbitration; the Government envisages a similar procedure where the Cable Authority proposes to terminate an operator's franchise prematurely.

79 31. Similar considerations apply to the cable provider where the Government believes that some form of sanction will be required to ensure that cable systems are installed and maintained satisfactorily. However, the Government recognises that it will generally be in the interests of the cable provider to instal equipment which accords with the terms of his licence and which performs

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to a high standard. The Government therefore considers that it will be sufficient sanction for the Secretary of State for Industry to issue a public warning to a cable provider to modify his system in cases where its technical performance is below standard or is inconsistent with the terms of the licence. In the unlikely event of the warning being ignored, the Secretary of State will have the power to terminate the cable provider's licence.

Existing operators

80 ~~32~~. The discussion of the franchising and licensing process in the preceding paragraphs has been in terms of the services which are to be offered on new broadband cable systems designed to the minimum technical specifications discussed in chapter 2. Those systems which currently operate in the United Kingdom are described in paragraph ~~2-14~~¹²⁻¹⁵; none meet the new standards which the Government intends to prescribe for the granting of new cable licences although some may be capable of being redesigned. Existing commercial operators are understandably anxious to build on their expertise and experience and pending the installation of new systems, or the upgrading of present systems to new requirements, a number of them would like to be free to distribute additional programme services to their customers, where necessary providing individual aerials for the reception of BBC and IBA services in order to release cable channels for the purpose (few of the systems have capacity for more than six channels and many have only four). In each of 13 areas operators are currently offering at between £6.50 and £9.95 a month a channel of subscription television under licence from the Home Secretary and their intention would be to offer a greater number of channels and a wider range of programming than at present where the service consists almost entirely of recent feature films. At the end of January about 19,000 homes were subscribing to the extra channel out of the 107,000 cable customers in those 13 areas. The numbers of homes passed by cable in the areas was estimated at over 300,000.

81 ~~35~~. The position of the commercial cable systems raises a number of issues. In presenting applications for new franchises existing relay operators will of course be able to point to their previous experience and this is no doubt one of the considerations which the Authority will take into account. There is no reason however why present operators, simply because in the past they installed narrowband systems to relay BBC and IBA services in areas of poor reception, should be formally placed at any particular advantage over new companies competing with them for franchises. The Government believes that in awarding franchises the Cable Authority should consider all applications on their merits. The

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further question remains whether, in the interim before newly franchised systems come into operation in areas where there are existing systems, existing operators should, as they have requested, be able to offer additional services on their systems. The companies argue that their object would be not to perpetuate the use of obsolescent equipment but to generate some revenue for future cable investment and to experiment with new kinds of programme service while they prepared plans for installing wideband technology. The Hunt Inquiry recommended that for a limited period such an arrangement should be sanctioned and the Government accepts in principle the case for making some special arrangements for existing commercial operators during the interim period. These could provide a welcome stimulus to the development of new programming sources. The details are discussed further in chapter 8.

82. 34. The Government accepts the Hunt Inquiry's recommendation that the franchising and licensing of new cable systems and the authorising of new services on existing commercial systems should not affect the continuation of small master antenna systems or indeed the construction of new ones designed simply to facilitate reception of broadcast services. As cable spreads it is possible that the need for many of these small installations will disappear; but this will be a natural development rather than something which needs to be regulated. Their design will as now need to conform to basic safety requirements and to certain safeguards aimed at reducing the risk of electrical interference but in principle there is no reason why each of these small systems should continue to be subject to individual licensing. The Government is currently considering therefore the terms of suitable exemption regulations under the Wireless Telegraphy Act 1949, which will, when made, produce small but useful administrative savings.

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CHAPTER 5 BROADCASTING POLICY AND CABLE

83 A. The potential of cable technology means much more than the possibility of increasing the number of television channels available to the home. Yet, understandably, it is the effect which cable will have on the availability of programme services in this country which has dominated public discussion of its merits. It was because of the particularly close interrelationship between cable and broadcasting and the fundamental importance of broadcasting in our society that the Government decided not to reach conclusions about cable policy until there had first been an independent Inquiry, chaired by Lord Hunt of Tanworth, to give the opportunity for a wide range of views to be submitted and assessed. The Inquiry's view was that public service broadcasting and cable could coexist. At the same time they concluded that some limited safeguards for public service broadcasting were necessary and that in addition a measure of special regulation for cable was necessary, for example on matters of taste and decency, to take account of its characteristics as a medium in its own right. The Government accepts this basic approach. In this and the following chapter the Government's detailed views are set out, first on the general interrelationship between cable and broadcasting and on some of the major issues arising from that (advertising, pay per view, exclusive rights and overseas programmes) and subsequently on a number of other matters relating to the programme services which cable will offer.

Interrelationship between cable and broadcasting

84 2. Broadcasting would certainly not have developed as it did, whether in this country or elsewhere, but for the finite nature of the frequency spectrum. Gradually over the years some of the technical constraints have been eased as technology has opened up new parts of the spectrum for the transmission of programme services. Thus the advent of direct broadcasting by satellite in 1986 has been made possible because frequencies in bands much higher than those used for terrestrial broadcasting can now be exploited. With conventional broadcasting, however, the process has been a gradual one and has been further limited by the need to find frequencies for other important services. Thus the Government announced on 11 November 1982 (Official Report vol 31 col 221) that the VHF bands which have for many years been used for the obsolescent 405 line television service will be reallocated to land mobile radio services once the television service is shut down. Wideband cable will herald a quantum leap in the number of channels available for television type services.

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85 Z. It is the potentially revolutionary consequences of cable development for channel availability that challenges the assumptions on which broadcasting policy has hitherto been founded, and concern has been expressed about its likely impact on the system of public service broadcasting in this country. The broadcasters themselves have made their own worries clear. They fear that cable could lead to a progressive fragmentation of the television audience which will directly reduce the advertising income available to independent television and indirectly undermine the acceptability of the television licence fee system on which the BBC relies. Financial pressures would lead, they have suggested, to cuts in the production of high-cost quality programming. The need to compete with cable by offering more programmes of mass appeal could lead them to drop much of the existing minority programming including current affairs coverage. General production standards might fall if the available talent does not increase proportionately to the increase in the number of channels. The costs of the most sought-after programme material (particularly feature films and sport) would, it is feared, be pushed up by competition so that the broadcasters would not be able to afford to maintain the range of material now available to their viewers. Those not on cable could be deprived of some of these programmes altogether.

86 A. The Government, like the Hunt Inquiry, wholeheartedly endorses the objective of the BBC and the IBA to maintain the range and quality of the broadcasting services now freely available to all, subject only to possession of the necessary equipment and a television licence. The achievements of our system of public service broadcasting are beyond question. It has succeeded in bringing education, information and entertainment to the whole country in a manner which has been of profound social and cultural benefit. It has created a strong domestic programme production industry whose output is appreciated for its quality, not only in this country but around the world. Above all it has operated to reinforce the democratic and open nature of our society. Many countries envy the degree of political and commercial independence which the BBC and the IBA enjoy. Ultimate accountability to Parliament, and the benefits of commercial decision-making, have been moulded into a framework which has ensured the independent control of the content of broadcasting. For all of these reasons the Government accepts that it has a responsibility to safeguard public service broadcasting.

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51 β. Side by side with its duty to public service broadcasting the Government has a duty to enable new technology to flourish and fulfil its potential unfettered by unnecessary restrictions. It is not practicable to seek to safeguard what now exists by looking only to the past. The BBC's monopoly served the nation well for the first thirty years of national broadcasting in this country. In the changed climate of the 1950's it was judged right to break the BBC monopoly, initially as regards television only, and introduce a measure of competitiveness into broadcasting. However, the limitations of the frequency spectrum were instrumental in restricting the extent of competition within independent television, and the result was the BBC/ITV "duopoly" which has lasted for nearly 30 years, under which the BBC is sole recipient of the licence fee revenue and the ITV companies have sole right to sell television advertising in their area. The duopoly too has been an outstanding success. But the Annan Committee on the Future of Broadcasting (Cmnd 6753) took the view in 1977 that it 'has already shown signs of becoming a strait-jacket and inhibiting the development of new services (page 29)' and concluded that 'the duopoly should come to an end because during the next 15 years it will be possible to bring new services into operation (page 30)'. The Committee went on to say that they saw the 1980's as 'an interlude between two eras, in which the swansong of the era of conventional broadcasting is likely to develop into the prelude to the era of multiplicity of telecommunication services (page 381)'. The present Government however, in the arrangements which it set in place for the Fourth Channel and in its proposals for the first two UK channels of direct broadcasting by satellite, thought it right to maintain the principle underlying the duopoly, namely that broadcasters ought not to compete directly for the same sources of finance.

52 β. The time has now come for a further step along the evolutionary path which was identified by the Annan Committee six years ago. The Government's desire to facilitate the development of multi-channel cable systems means that it is no longer possible to think in terms of providing different means of finance for the exclusive use of each programme providing organisation. Advertising, sponsorship and subscription are all sources on which cable services will need to draw. Sponsorship will be largely new in British broadcasting; but subscription will compete with the BBC's DBS service (and possibly others) and advertising is of course what sustains independent television and independent local radio. Audience fragmentation is one of the inevitable corollaries of moving from a limited number of channels to a multiplicity: the rapid growth of video cassette recorders is already contributing to this phenomenon. Sources of finance will similarly be fragmented. In addition, the broadcasters, who have up to now been

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able to exercise a powerful influence over the price paid for films, sports events and other programme material, will no longer be alone in seeking to buy the rights. These developments will make the economics of broadcasting more complicated. The challenge is to find ways of preserving the benefits which the duopoly has brought while at the same time giving cable and DBS the freedom which they will need to fulfil their natural potential.

89 A. The Hunt Inquiry say (para 65) that 'assuming the BBC and ITV continue to maintain the quality of their programmes, we do not think that they need fear the loss of the bulk of their audience, even when cable eventually achieves a high penetration in this country.' This may well prove true; but, as the Inquiry say elsewhere in their report, it is very difficult to predict what may happen in the longer term. In the USA the networks are already worried that the decline in their ratings caused by cable is no longer marginal. It is quite possible that if many new services do flourish throughout this country they will in the longer term, as Annan suggested, 'be the cause of formidable change in the constitutional arrangements for what are now called broadcasting services' (page 381). What does seem clear is that cable will take time to establish itself. The present broadcasters start from a position of strength. They already have resources, expertise and audiences. Moreover, cable will give them the opportunity to diversify their activity by making programmes for new channels and selling material from their extensive archives. The BBC has already been providing the programming for one of the 13 pilot schemes of subscription television and it hopes that profits from its own DBS subscription service will eventually benefit the Corporation's activities generally. The Government believes that public service broadcasting will best respond to the challenge of cable by drawing on its own capacities in order to participate in cable and, above all, by maintaining the quality of its own channels. Whatever changes may be warranted in the longer term the Government believes that the introduction of cable in no way justifies any amendment at this stage of the duties and obligations of the public service broadcasting organisations. The BBC occupies and will continue to occupy a unique position in the life of the nation. Its services will, as now, be financed by a licence fee which will be mandatory for all television households. The licence fee settlement of December 1981 was an earnest of the Government's continuing commitment to ensuring that the BBC has the funds which it needs to maintain the range and quality of its services. Independent broadcasting is only now readjusting to the implications of a second commercial television channel and the Government is satisfied that the present regulatory arrangements, embodied in the Broadcasting Act 1981,

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should not be modified. Independent television companies will in many cases wish to participate in cable and the Government accepts that they should be free to do so provided their ability to perform their duties under their contract with the IBA is not thereby impaired and provided there are certain safeguards against any undesirable concentration of monopoly power. Where different rules apply to independent broadcasting and cable the companies will need to observe those relevant to each activity.

90/8. The very excellence of British broadcasting means that cable television will have to work hard to establish itself. It will also have to compete for consumer expenditure with the video cassette recorder, which has secured a higher penetration in this country than anywhere else in the world, and with DBS. Against this background, as well as for its belief that cable as a medium cannot simply be considered as an extension of broadcasting and does not therefore justify a high level of regulation, the Government endorses the light and flexible approach to supervision proposed by the Hunt Inquiry. There are four particular issues examined in the Hunt report, however, which are of particular significance for the relationship between cable and broadcasting and the Government has considered these in some detail: they are advertising; pay per view; exclusive rights and non-British programmes.

Advertising

91/8. The Hunt Inquiry saw advertising and advertising revenue as playing a significant part in the development of cable systems and services. Cable, it recognised, would need advertising revenue as a source of income; while the Inquiry acknowledged that cable might drain advertising revenue from ITV and ILR, it did not judge this to be a serious enough risk to warrant any preventive measure, at least for the time being. The Inquiry saw cable as lending itself to a wider range of advertising techniques than ITV, including 'classified' and other local advertising, 'home shopping' services, and (subject to safeguards) sponsorship. As regards the content of advertising on cable, the Inquiry saw a need for the same standards as apply to advertising on ITV.

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92 X0. The Government endorses much of the general thinking of the Inquiry on this subject. In its approach the Government also recognises that, because of the powerfulness and intimacy of television as a medium, there is and has always been a proper degree of public concern about its use for advertising. At the time of the introduction of independent television, there was quite widespread misgiving about its use as a vehicle for advertising. Over the years there has been a considerable growth in acceptance of television advertising; for this, much credit can be claimed by the IBA (and, before it, the ITA) for the sensitive way in which it has steered the control of independent broadcasting in the public interest. Cable will of course be different from independent broadcasting; but advertisements on the television screen will in many cases appear much the same to the consumer whether they come on a cable or independent broadcasting service, and the same care will be needed in ensuring that they conform to high standards in the general interest of consumers.

93 X1. The first question to which the Government has had to address itself is whether there should be any limit to the amount of advertising on cable, so as to preserve some kind of balance with ITV and ILR advertising. The Hunt Inquiry saw no need for this, at least in the early years, when cable advertising was unlikely to threaten ITV/ILR advertising revenue. The Inquiry noted that cable would not be part of public service broadcasting and that consequently there was no reason in principle for imposing a restriction which in origin was designed to uphold the quality of the programme service. Moreover, cable would permit the development of new forms of advertising such as television classified advertisements, recruitment advertising and sponsored programmes. This would make any rules necessarily complicated. However the Inquiry did suggest that this was an area where after some years of experience it might become necessary to impose restrictions.

94 X2. Since the Inquiry's report was published the ITV and ILR companies and the IBA, while reaffirming that they accept the principle of advertising on cable, have reiterated their concern at the proposal that the amount should be unlimited. This they claim, would, be unfair. The IBA have a duty under the Broadcasting Act 1981 (section 8 and schedule 2) to make rules about the frequency of television and radio and advertisements; for television the maximum since the inception of ITV has been six minutes per hour as an average, with not more than seven minutes in any one hour; for radio the maximum is 9 minutes in any one clock hour. It would, it is suggested, be unreasonable if a cable channel offering much the same type of nationally generated advertising as ITV (and

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having no obligation to provide minority programming) could include unlimited advertising while independent channels remained restricted. In equity either cable advertising should be subject to the same limits as the IBA applies, or independent television and local radio should themselves be deregulated.

95 ~~13~~. As the Hunt Report recognised there are both differences and similarities between the sort of advertising which is likely to appear on cable and that which has featured in independent broadcasting. In the Government's view it would not be right to treat the two media differently at those points at which they most resemble each other. It has therefore considered whether to accept the Hunt recommendations for cable and at the same time to allow unlimited advertising on independent broadcasting or to devise some limited restrictions for that cable advertising which is analagous to ITV and ILR advertising.

96 ~~14~~. The Government is satisfied that it would be wrong to remove from the Broadcasting Act those provisions which give the IBA an obligation to restrict the amount of advertising on its services. The high quality of independent television has been achieved and maintained because the amount of advertising has not been allowed to detract from the actual programmes. By careful regulation it has been possible to allow for more television advertising than on any other public service in a major Western European country, with all the financial advantages which that has brought for programme production, without going to the excesses apparent in the United States - where indeed one of the selling points of cable has been its relative freedom from the intrusive advertisements on the networks. Abandoning all restrictions on the permissible amount of advertising would inevitably alter the nature of independent broadcasting. In the Government's view the change would be for the worse.

97 ~~15~~. The Government has therefore concluded that the right course is to impose some restrictions on cable advertising, at those points where it most closely resembles ITV and ILR advertising. This qualification is an important one. As the Hunt Report pointed out, cable will create opportunity for new kinds of television advertising for some of which a time limit would clearly be inappropriate. Interactive channels may facilitate new forms of marketing and selling. There will be the possibility on cable for the sort of classified advertising now mainly confined to newspapers. Nevertheless, there are likely to be some cable channels, nationally generated and widely distributed to cable systems around the country, which will show material much more similar to the popular

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programming currently available on independent broadcasting: some may be general entertainment channels, others, such as films and sport channels, more specialised. Equally there may be local cable sound channels offering a similar service to that now provided by independent local radio. It would be inequitable if these channels were free to take an unlimited amount of advertising while IBA channels continued to be subject to restrictions. Accordingly the Government proposes that the Cable Authority should have a duty to ensure that on those cable television or sound channels which it considers to be broadly comparable with IBA television and sound services the amount of advertising should not exceed the maxima (both overall and in any one hour) for the time being set by the IBA for independent broadcasting. No doubt against the background of this requirement mutual consultation would take place between the two Authorities as to amounts of advertising, and the channels and types of advertising to which the restrictions should apply. It would of course not apply to any channel wholly dedicated to classified or other advertising, and special consideration would need to be given by the Cable Authority to any forms of advertising or sponsorship which might be permitted on general channels but are not currently allowed in independent broadcasting. In this way, the Government believes, cable can enjoy a very wide measure of freedom while at the same time not creating anomalies which could be damaging to independent broadcasting.

98 26. The Government shares the view of the Hunt Inquiry that there is a clear need for a code of practice for cable advertising. It would not be sensible for different standards to apply to similar advertisements appearing on the same screen depending on the channel of origin - in particular, if it were possible for an advertisement rejected for ITV to be acceptable for transmission on a cable entertainment channel. The Government therefore agrees with the Hunt Report that the code developed by the IBA is the foundation upon which to build. However account needs to be taken of the point that cable advertising, as the previous paragraph brought out, will be likely to comprehend a much wider range of advertising than has featured in independent broadcasting. Classified advertising on the screen will be much more analogous to the "print advertising" carried by newspapers and periodicals, where the form of code and control is a system of self-regulation operated by the advertising industry under the British Code of Advertising Practice which is overseen by the non statutory Advertising Standards Authority (ASA). The Government has therefore considered the respective roles of the IBA, the Cable Authority and the ASA in the arrangements for cable advertising.

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99 27. One possibility which the Government has considered would be to confine the responsibility of the Cable Authority to advertising broadly analogous to what is customarily broadcast on ITV and ILR, leaving "print advertising" on cable to come within the self-regulatory system supervised by the ASA. The Government does not believe that this would be a satisfactory or workable division of functions. It would be difficult, both in legislative terms and in practice, to draw a line that made good sense between the Cable Authority's area of responsibility and the ASA's. Nor would it be in the best interests of the consumer: he or she is likely to find it simpler to pursue a complaint if one organisation has overall oversight of the totality of cable advertising. The Government believes, therefore, that statutory responsibility for advertising standards on all cable services should be given to the new Cable Authority. This means that there will be a need for effective cooperation among the three organisations with an interest in advertising standards.

100 28. The Government, as indicated above, also believes that the IBA Code should be the foundation of the code for cable advertisements, though modifications will be needed to take account of differences in the medium or the type of advertising being transmitted. The Government does not consider it necessary to require the two statutory Authorities to adopt and maintain a single joint code. They should however be required to consult together so as to ensure that the two codes adopt and maintain a common core. To this shared core of rules each Authority would be free to add further requirements which reflect the individual nature of particular channels. There are already differences in the rules which the IBA applies, as between television, radio and teletext: for example, advertisements for betting are allowed on teletext but not on television. This variety could, and probably would need to, be taken further. It may be possible for some products or services to be advertised on specialist cable channels which would not be appropriate for independent television. The range of information services available on cable may call for more detailed rules than those appropriate for Oracle, independent television's teletext service. Special rules may also be necessary to cope with advertising 'programmes' (as opposed to spot advertising) which the Government is in principle willing to permit on cable. In building on to the "common core" of advertising code provisions to suit the new forms of advertising to which cable may particularly lend itself, the Cable Authority will no doubt wish to consult the ASA and to draw upon the Association's experience and code of practice.

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101 19. In the detailed application of the two statutory codes, there is an obvious need for joint operation. Clearly it would be undesirable for the control of cable advertising to be exercised wholly separately from the existing machinery for independent broadcasting, given that broadly the same rules are to apply. Such an arrangement would risk leading to anomalies and to an unnecessary duplication of resources. The existing machinery is rather more complex than the brief reference in the Hunt Report (paragraph 49) might suggest. The work of copy control is largely entrusted by the IBA to the Independent Television Companies Association (ITCA), who also act, for sound radio advertising, on behalf of the Association of Independent Radio Contractors (AIRC). Application of the IBA code depends upon a measure of central "prevetting" of advertisements, in particular those intended for general distribution. (The Hunt Report took the view that the multiplicity of cable advertising was incompatible with pre-vetting.) Currently some 20% of scripts which are submitted for copy clearance are not acceptable without amendments because they infringe some part of the code. At that stage changes can readily be made because the advertisement has yet to be recorded. If compliance with the code were simply a matter of retrospective review in response to complaints it would be much more difficult to enforce because the company would already have invested considerable sums in the production. However the procedures currently operating within independent broadcasting already contain a good deal of flexibility, dependent on the nature of the product and on whether the advertisement is to be broadcast on ILR, in only one ITV area, or in several. Local advertisements, except for certain sensitive categories (eg medicines), are normally cleared locally by the individual broadcasting company, which takes responsibility for ensuring that such advertisements comply with the code, consulting ITCA (or the IBA) in cases of doubt.

102 20. The Government believes that it would be sensible to build on this clearance system for cable advertisements. The IBA and ITCA have indicated that they would be sympathetic to this approach. It would involve establishing joint machinery and procedures. In place of the existing IBA advisory committee on advertising which the IBA is required to appoint under section 16(2) of the Broadcasting Act 1981, there would be a similar statutory body appointed jointly by the IBA and the Cable Authority. It would be desirable for the existing IBA/ITCA Joint Advertising Control Committee to be broadened so as to include representatives of the Cable Authority and cable operators. The emphasis on local advertising on cable would probably mean that a high proportion of cable advertising would be cleared locally, on the responsibility of the cable operator,

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by analogy with ILR and one-station ITV material, although the central copy clearance machinery would be available for material for wider dissemination, and in cases of doubt. There may be some categories of classified, local or other advertising more analogous to the kind now supervised by the ASA where the Cable Authority would be content for a less formalised clearance arrangement, and a greater degree of reliance on self-regulation, even than that operated by ILR. This will be within the Cable Authority's discretion, and subject to its retaining overall statutory responsibility for dealing with complaints about all cable advertising.

- 103 21. An area where there will be a specific need for the Cable Authority to draw up rules additional to those agreed with the IBA will be that of sponsored programmes. The Hunt Inquiry saw the need for clearly defined rules, particularly to ensure that editorial matter was kept separate from advertisements. The Government accepts this approach.

Exclusive Rights

- 104 22. The Hunt report recognised the concern which has been expressed about the possible siphoning from broadcast channels to cable of the great sporting and national events, and made recommendations to safeguard the situation. These the Government accepts as a sensible safeguard and reassurance.
- 105 23. Similar anxieties were expressed prior to the introduction of independent television. Then the perceived danger was that the rights to events such as the Cup Final or the Test Matches, which the BBC had previously bought for television at a relatively modest price, would be bought up by the commercial broadcasters and thus denied to people living in those parts of the country which (it was then foreseen) would for some time not be served by ITA transmitters. The solution adopted by the Government of the day, and enshrined in legislation (now section 30 of the Broadcasting Act 1981), was to give the Minister responsible (at the time the Postmaster General) power to make regulations with a view to preventing the making of exclusive arrangements for the broadcasting of sporting or other events of national interest. The regulations were to concern the grant of broadcasting facilities to the BBC and independent television and would require the approval of each House of Parliament. In the event the broadcasters drew up between themselves a list of events over which exclusive rights would

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not be sought; and the reserve powers have never been used. For years now there has been coterminous coverage of BBC and IBA transmitters; consequently the original justification for the reserve power has disappeared, and such public concern as there is in this area focuses more on the occasional duplication of events such as the Cup Final on BBC and ITV.

106 ~~24~~. The Hunt Inquiry's recommendation, which the Government accepts, is that the development of cable necessitates some similar safeguard to that envisaged in 1954 at the inception of independent television. The Inquiry left open the question of precisely which major events should be safeguarded and how the rules should be drawn up and enforced. The safeguards which the Government envisages for pay per view (paragraph ¹¹⁰⁻¹¹⁶~~28-34~~) will in themselves reduce the possibility that cable operators would be able to afford to buy up the rights to events such as the Cup Final on an exclusive basis. Nevertheless, once cable systems start to grow, the point could come where, without some specific rules, cable operators were, even without pay per view, generating sufficient revenue to be able to purchase, no doubt through the intermediary of a national programme provider, one or more of the major events for offering on a subscription channel.

107 ~~25~~. It can be argued that the Government should not seek to intervene in commercial transactions between television bodies, whether broadcasters or cable, and the owners of the rights to sporting and other events. Similar arguments have been raised about any restriction of pay per view on cable. At the same time the Government believes that it has a responsibility to take such steps as it can to preserve the range and quality of service which has hitherto been available to all.

108 ~~26~~. The Government proposes therefore to place the Cable Authority under a duty to ensure, by means of the franchise conditions, that no cable operator shall distribute a protected event to his customers unless the rights have also been available to the broadcasters on comparable terms. It has of course to be recognised that in the last resort the Government cannot guarantee that any particular event will continue to be available on public service television since the broadcasters may decide that the price demanded by the rights holder is too high. But the safeguards which the Government proposes against exclusive deals, together with the rules on pay per view (paras ¹¹⁰⁻¹¹⁶~~28-34~~), should help. It is the Government's hope that the precise content of the list of protected

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events could be resolved by agreement amongst the BBC, the IBA and the independent companies, the Welsh Fourth Channel Authority and the Cable Authority and cable operators. There is a case for reviewing the present list (the FA Cup Final, Wimbledon, Test Matches, the Derby, The Grand National, the Boat Race and the Commonwealth Games when held in the United Kingdom), which has remained unchanged for nearly thirty years. While it is not the Government's intention to subject cable channels to unreasonable restrictions there may be scope for a limited number of additions to take account of, for example, certain international events such as the World Cup finals or the Olympic Games, which the broadcasters have, in recent years, with the growth in satellite communications, covered live from overseas, often on the same non-exclusive basis as for the traditional restricted events.

- 109 27. The Government hopes that the details of a new list can be agreed between the parties concerned. But this cannot be guaranteed: the success of the voluntary agreement between the existing broadcasters may be more difficult to achieve when there is a multiplicity of potential bidders. The cable legislation will, therefore, give the Home Secretary a reserve power, in default of an agreement between the parties, to determine the list of protected events which cable may not cover on an exclusive basis.

Pay per view

- 110 28. The distinction between 'pay per view', that is payment for particular programme items, and other forms of pay television has become the focus of public debate since the publication of the Hunt Inquiry's report. The Inquiry endorsed the case which had been put to it by the BBC to the effect that pay per view represented a particularly potent threat to the range of material available on public service channels. Thus while the Inquiry accepted that cable should be able to offer channels on a subscription basis it recommended that pay per view, should not be permitted for the time being.
- 111 29. The potential attractions to cable operators of various forms of pay television have changed over the years as technology has progressed. The pay television experiment which was authorised in London and Sheffield between 1966 and 1968 operated on the basis of slot meters with different programmes being charged at different rates. In the United States the rapid growth of pay cable in recent years has been based largely on the provision of premium channels for

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which customers subscribe on a weekly or monthly basis rather than on individually priced programmes. From the point of view of the operator there are obvious advantages in methods of finance which do not require regular visits to the home to collect money from meters. Pay per view is now on the increase in the United States, however, because with more advanced technology it is possible to include on a single cable system facilities for charging both by the channel and by the programme, without the need for cumbersome arrangements for collecting money. Sophisticated decoders exist which make it possible for operators to have centralised control of individual customers' access to particular programmes or channels. In the case of services charged on a per programme basis the operator can, from a central point, meter each customer separately.

112-20. It is difficult to discern any underlying reasons or principle for distinguishing between different forms of pay television. Indeed the Inquiry itself clearly reached its conclusions on essentially pragmatic grounds, taking the view that the disadvantages for the public at large outweighed, at least for the time being, the advantages to cable operators and those served by them. Any form of pay television has implications for public service broadcasting but the Hunt Inquiry's judgement was that subscription channels were more acceptable than pay per view, since the latter would enable operators to generate large amounts of revenue for particularly popular events or programme material and thus, even with audiences much smaller than those of the broadcasters, be able to outbid them for the rights. The Inquiry concluded that while large numbers of people around the country continued to depend on existing broadcast services this kind of siphoning ought not to be allowed.

113 21. Those who have reacted critically to the Inquiry's rejection of pay per view have pointed out that to be successful cable will need to be free to draw on the whole range of possible means of finance. To distinguish between pay per channel and pay per programme is in their view artificial. They believe moreover that given the specific ban which Hunt recommends, and which is widely accepted, on the acquisition by cable operators of exclusive rights for certain sporting and national events, a prohibition on pay per view for other programmes is unnecessary and would restrict the range of services which cable could provide. Examples given of programmes which cable might wish to provide on a pay per view basis and which would not, it is argued, impoverish public service broadcasting are:

- (a) events staged specifically for cable, for example a cable tennis championship or a cable variety show;

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- (b) top level live sport, theatre or opera which is not now available on television but which the rights holders might be prepared to sell to cable on a pay per view basis because the greatly increased revenue generated would more than offset any drop in money from admission charges.
- (c) events, including sporting fixtures, of local interest not available to or of sufficient general interest to feature on public service channels;
- (d) feature films which are too recent to be available to the broadcasters under prevailing arrangements with the distributors;
- (e) specialist programmes of interest to limited audiences.

114 22. The Government shares the concern of the BBC and the IBA that cable should not lead to an impoverishment of the range and quality of programmes now provided on the four nationally available television channels. This applies in particular to sporting events. Equally the Government is anxious that cable development should not be hindered by unnecessary restrictions. The Government's conclusion is that the interests of public service broadcasting do not point to the need for a complete ban on pay per view, which would be detrimental both to the potential of cable and DBS. However some special safeguards are needed over and above those concerning exclusive rights for the major national events (paragraph 104-109 ~~227~~). There will be the need for rules and guidelines which will take account of the fact that pay per view and pay per channel are two extremes of a spectrum in the middle of which stand a whole series of possible tiering arrangements whereby the viewer pays for different portions of channels at different rates.

115 23. The Government accordingly proposes that pay per view should be permitted except in those particular circumstances where it would pose a specific threat to public service broadcasting. The Cable Authority will therefore have a duty to ensure, by means of the conditions attached to operators' franchises, that no programme shall be offered on a pay per view basis if an event customarily shown on one of the existing public service channels would as a result no longer be available for such a channel. Thus, for example, where coverage of a sporting event has customarily been confined to live extracts or to a recorded showing,

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the cable operator will be able to offer the whole event live on pay per view provided the general viewing public are not thereby denied what they have customarily been able to see. The Cable Authority will need to draw up detailed guidance in consultation with the broadcasters, the cable operators and other organisations with an interest, and to keep a continuing watch on the effects of pay per view. The Government hopes that it will be possible for any disagreements to be resolved by discussion but if in the last resort the Cable Authority and the broadcasters are unable to reach an agreement there may need to be a prescribed procedure for settling disputes. The Government will, in preparing the cable legislation, consider further how best to provide for this.

116-34. As a consequence, it will be open to the BBC (and any other DBS broadcaster in future) to adopt pay per view on their DBS subscription service, should they so wish. The BBC have indicated that there would be advantages for them in being able to charge differential rates for some programmes on their DBS subscription service though, since pay per view on cable would in their judgement pose a threat to their existing services, they would rather have foregone it for DBS than see it allowed on both DBS and cable.

Foreign Programme Material

117-35. The Government's desire to encourage cable development springs from a belief that there could be economic as well as other benefits for this country. Jobs will be created in the manufacture and installation of the cable systems and other equipment, in the service industries associated with the management and marketing both of local systems and nationally distributed programme packages, and in programme production. It is in the area of programmes that British broadcasters have established an unrivalled worldwide reputation. Cable should provide increased opportunities for those associated with the production of programme material.

118-36. Against this background the Hunt Inquiry's approach to the question of foreign material on cable channels has provoked a sharp divergence of views. The Inquiry's view was that there should not, at least initially, be prescribed quotas for British material on cable channels but that the Cable Authority might in the longer term impose general obligations relating to British content once

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cable was established and the domestic production industry had grown sufficiently to meet the demand. The existing broadcasters, film producers, trade unions and others have argued that the full benefit to this country would be lost if cable were free of any formal limitation on the amount of foreign programming it could use. Those wishing to develop cable systems have broadly gone along with the Inquiry's recommendation on the grounds that, while they would hope to use an increasing amount of British material, at first they would have no choice on grounds both of cost and availability but to rely on a high level of ready made material, much of which would be American.

119 ~~37~~. The Hunt Inquiry in reaching its conclusion was influenced by the ineffectiveness of the Films Act quota, which has now been suspended, in providing means of support for the British films industry. This, they suggested, did not give grounds for optimism that any quota for cable would be any more effective. The example of television is, however, rather different. When independent television began, the Government of the day resisted pressure for a specific statutory quota to be prescribed, but instead the Television Act 1954 required the ITA to ensure that proper proportions of British material were included. The ITA decided, after discussion with the ITV companies and others, that, overall, not more than 14% of material should come from abroad. Detailed guidelines were drawn up as to how certain programmes should be classified and there were also rules on how much of the quota could be used up at peak viewing times. The details have been modified over the years (in particular, with the accession of the United Kingdom to the European Community "foreign" now means from outside the Community) but the 14% figure still applies; and the BBC have limited the foreign content of their programmes to the same level (their obligation being self imposed by the Board of Governors). Both the BBC and the IBA have operated a much more effective definition of 'British material' than applied for the purposes of the Films Act quota. There is little doubt that the existence of the quota for television has contributed to the establishment of a strong domestic production capability, within both the BBC and independent television. This is not to deny that many feature films and series made for television purchased from abroad, in particular the United States, have enriched British broadcasting. Some have been at least as popular as anything produced in this country. But the quota has ensured that foreign material has not flooded the screens and that what has been shown has generally been the best of what is available.

120 ~~38~~. The Government recognises the strength of the arguments, which the Hunt Inquiry found persuasive, that cable may in the early days have to rely on more American programme material than would otherwise be the case because domestic

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production capacity, and the capacity of the cable operators to purchase and commission British material, will take time to develop; and that any restrictions would be more complicated to apply than the BBC and IBA rules. Moreover, the Government in general does not favour artificial barriers to international trade which hinder the normal workings of market forces. Nevertheless, the Government's view is that while a formal quota would not be justified there is a strong case for going somewhat further than the Hunt report in enabling British producers to take full advantage of cable. What is at stake is not simply jobs in the UK film and television industry, but the maintenance of the necessary sources of finance and corporate control which will enable it to continue to produce a wide range of high quality programme material with a distinctive national cultural identity. To move in one step from the stringent obligations which the broadcasters observe in the area of domestic content to an entirely unregulated situation for cable could do irreparable harm.

121 39. While cable subscribers would no doubt resist an uninterrupted supply of overseas material the economics of programme production will, unless there are some safeguards, militate for the maximum possible use of the sort of ready-made material of which there are vast archives in the United States available off the shelf at marginal cost. For ITV the average cost per hour of transmission (excluding advertising) in 1981 was just under £40,000 averaging out original productions, repeats and bought-in material. In 1981/82 the BBC's operating expenditure for its two television channels was about £30,000 an hour. Channel Four is operating on a tighter budget and is spending around £25,000 an hour. An hour of original material can range from around £20,000 for a current affairs programme to £200,000 for drama (or even more in the case of prestige projects). Bought in material from the USA, where the production costs have already been largely if not wholly recovered on the domestic market, can be obtained by the broadcasters for as little as £2000 an hour.

122 40. The Government is satisfied, therefore, that some specific provision is needed from the outset to encourage cable operators and programme providers not simply to opt for cheap overseas material. There will need to be flexibility. An overall quota for the whole output of a cable system is clearly not the answer. The Government's intention is to include in the legislation an obligation on the Cable Authority to require those seeking a franchise to specify the proportion of material of British or European Community origin they intend to

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include in their services. They will be required to identify separately the amount of new production which they intend to include. The Cable Authority in considering competing applications will be under a specific duty to give weight to plans for using British/EC material and for stimulating new domestic production. It will moreover be required to satisfy itself that a proper proportion of such material is shown on each channel having regard to the channel's intended character and taking account as relevant of BBC/IBA practice. Services offering feature films are likely to include a high proportion of American material. Equally the Government would not wish to inhibit the reception and distribution of the existing terrestrial or planned satellite broadcasting services of our European neighbours (though see paragraphs 151-154). At the other extreme, local or access channels will be likely to be 100% British.

123. The Cable Authority will be required to keep these arrangements under review and will report on them to the Government periodically. The Government accepts that in the early years cable operators may need to use a significant amount of overseas material if cable is to get going. But from the outset it is important that the Cable Authority should steer operators away from an unreasonable reliance on foreign programming generally and individual sources of supply in particular. As cable establishes itself the Government expects to see the proportion of British programming, and particularly of new productions, increase. It will be the Authority's responsibility to work towards that.

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CHAPTER 6 PROGRAMME SERVICES AND CONTENT, AND THE ROLE OF THE CABLE AUTHORITY

124 ~~1~~. This chapter sets out the Government's proposals on a wide range of issues connected with the nature of the programme services which cable will provide. If the questions dealt with in the previous chapter are among the most difficult which cable expansion poses some of those touched on in the following paragraphs are no less important for the way in which cable services will develop and for their implications for public service broadcasting.

125 ~~2~~. All new cable systems will have to be capable of carrying of the order of 25* television channels of the bandwidth currently used for terrestrial broadcasting in the United Kingdom. The Hunt Inquiry envisaged that these channels should be devoted to:

- the relay of public service broadcasting channels to which the "must carry" obligation would apply;
- other programming the choice of which would in the first instance be for the cable operator to determine. It could include "out of area" UK broadcasting services, and foreign services.

The following paragraphs discuss the provision of services of these different types, and the role of the Cable Authority in approving and supervising them.

'Must Carry' Obligations

126 ~~3~~. The Government believes that new cable systems should in all cases carry the four existing BBC and IBA television channels. It would, in the Government's view be wrong if subscribers to cable systems were unable readily to receive any of the basic public broadcasting services appropriate for their area. In the case of radio the grounds for requiring cable operators to relay BBC and ILR services are, as the Hunt Inquiry recognised, less compelling given that much radio listening is from portable sets. However, radio channels will take up

*The extra bandwidth required for satellite channels may mean that systems designed with only the minimum prescribed capacity will be able to carry somewhat fewer than 25 different services.

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very little bandwidth on a modern cable system, and the Government believes that operators should be required to carry BBC and ILR services. Given the complications of split networking (for example, Radio 4 VHF and Radio 4 medium wave at present carry different programmes at certain times of the day) it will be for the Cable Authority to determine the precise scope of this obligation; but as a general rule operators will be expected to make the totality of BBC and ILR services available before being allowed to add additional non-broadcast sound channels.

127. There is a special problem about some of the existing narrowband cable systems and the question of a possible waiver of the must carry rule for them for an interim period is discussed in chapter 8.

128. For direct broadcasting by satellite the Hunt Inquiry distinguished between those channels generally available to all viewers and those for which a special subscription had to be paid. The Inquiry recommended that the "must carry" obligation should apply only in the former case. Thus an operator would, on the basis of the Inquiry's recommendations, be under an obligation to include any generally available DBS channels (financed by a licence fee or some form of advertising) in the basic tier of services for which customers paid a fixed rental, whereas with a subscription service he would have the choice whether to offer it to his customers, depending on the financial arrangements which he might negotiate with the channel provider. The Government accepts that the method of finance is relevant to the way in which the "must carry" rule should apply to DBS services. At the same time DBS like cable is a technology which the Government wishes to encourage. It would not be consistent with the principle of complementarity set out in the Information Technology Advisory Panel's report if cable operators were in a position to refuse to carry one or more DBS services. If the cable operator were left with an entirely free hand the situation could arise where he preferred not to carry a particular DBS channel on his system. This would not, in the Government's view, be in the public interest. The Government proposes therefore that cable operators should be required to make provision on their systems for all five of the DBS channels allocated to this country by international agreement.

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129 / 6. The precise operation of the "must carry" obligation in its application DBS will vary according to the nature of the channel. The Cable Television Association have suggested that while the Hunt Inquiry's recommendation would be reasonable in the case of any service funded from the television licence fee the operator ought to be free to negotiate a financial arrangement with the provider of an advertising financed DBS service. The Government does not accept this. Those served by cable systems ought to have access, as part of the basic service, to the same range of services as is available to those equipped with individual receiving equipment. Operators will of course be reimbursed through the basic rental payment from each customer for providing the relay facility and the obvious cost savings compared with individual DBS receiving equipment will be a useful selling point in the marketing of cable. It would however be inequitable if the cable operator were able to impose a specific additional charge over and above the basic rental for supplying a service which he could receive freely off air without having to pay the broadcaster for the rights. The Government concludes therefore that any UK DBS service which is generally available to the public without payment of a special subscription should form part of the basic package offered by operators of wideband cable systems. Where a DBS service is transmitted in an encrypted form and available only on payment of a subscription, the operator will be required to offer it to those of his customers who wish to pay for it. Appropriate financial arrangements will need to be negotiated between the broadcaster and the cable operator. The BBC, who have been authorised to provide the first two UK DBS channels, have made it clear that they do not envisage any particular difficulty in reaching an agreement with cable operators which will be acceptable to both sides. Nevertheless, there will need to be provision for the possibility of arbitration so that the "must carry" obligation can be made to work even in the event of an unresolved dispute between the parties.

Other Programming

130 / 1. The Government accepts the view of the Hunt Inquiry that, in the additional programme services which they can offer over and above the "must carry" services, cable systems should be seen not as a further instalment of public service broadcasting but as something different from and supplementary to it. The character of public service broadcasting, and the range of duties imposed upon

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the broadcasting authorities (and, through their contracts with the IBA, upon the ITV and ILR companies), reflect the fact that this is broadcasting intended for all and available to all, the only prerequisite being the possession (for TV reception) of a licence and the necessary equipment. Use of cable will depend more on the initiative, first, of a particular cable operator to offer services to people in a particular locality; and then of the individuals offered the opportunity, to pay the subscription involved and take up the service. It follows that it is not necessary, or even appropriate, for cable services to be required to achieve in their programmes a wide range and balance, or high quality, in the way that has been thought right, in the public interest, on BBC/IBA services. However the cable operator will not have an entirely free hand: the Cable Authority in the pursuance of the interests of consumers will, in choosing among applicants for franchises, have as one of its criteria the quality of the service offered; and it will have a duty to follow up the performance of franchise-holders to see that they are offering consumers the service promised.

13] 8. Nor does the Government propose that the Cable Authority should be required to impose on cable operators specific obligations to provide services for minority or specialist interests. For example, it has been suggested that channels should be reserved for a variety of different services including education, community access, local authorities, the deaf and Christian organisations. The Government's view, however, is that it would be unwise to impose in the legislation any obligation on cable operators to reserve channels for particular uses other than those set aside for the public broadcasting services. It is of the essence of wideband cable systems that they will have the capacity to deliver a much wider range of services than can be accommodated on general broadcasting channels. There will be much greater scope for specialised programme services aimed at particular sections of the community, including the ethnic minorities, whose needs can be only partially met by the broadcasters. The Government is aware that a good deal of interest already exists in a number of quarters and that some plans are being worked up. The Government welcomes this. At the same time it believes that to attempt to prescribe in advance those kinds of channel which all operators would have to provide would inevitably involve invidious and to some extent arbitrary distinctions between many intrinsically meritorious causes. Moreover, the likelihood is, at least in the early days of cable while programme production capacity is expanding, that cable operators with a large number of channels at their disposal will be much more in a position of trying to acquire sufficient suitable material than of having to turn away

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those wishing to offer attractive programme packages aimed at particular audiences. In the franchising process the Cable Authority will be required to take account of the range and diversity of the services proposed and of the arrangements for community programmes and local access. This should ensure that prospective cable operators take seriously the need to provide a programme package which will be in the best interests of the whole community.

Programme Standards - Taste and Decency

13/8. It follows that the Government does not consider it appropriate to place on the Cable Authority the kind of general and positive obligation to ensure programmes of "a high general standard in all respects, and in particular in respect of their content and quality" that applies to the IBA*. To do so would blur the distinction between public service broadcasting and cable services, and involve the authority too closely in the contractual relationship between the cable operator and his subscribers. Nor could the Authority adequately give effect to such an obligation without there being a tighter regulatory regime than the Government considers appropriate. In the Government's view cable has the potential for increasing the range of good quality services available to the public and this will best be encouraged by giving the consumer the opportunity to determine what he is willing to buy.

13/8 10. However, in one important respect - that of taste and decency - the Government thinks it right to impose a specific duty on cable operators, through the Cable Authority and the franchise system. Following the Hunt Inquiry's recommendation, the Government intends that operators should be subject to the same obligations as those observed by the broadcasting organisations: they will be required to ensure so far as possible that nothing distributed offends against good taste and decency, or is likely to encourage crime or lead to disorder or to be offensive to public feeling; and to have special regard to programmes broadcast when large numbers of children and young persons are likely to be watching.

*Broadcasting Act 1981, section 2(2). Similar language occurs in the duty imposed on themselves by the Board of Governors of the BBC (text at annex to BBC Licence and Agreement of 2 April 1981: Cmnd 8233).

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11. The Inquiry proposed one important exception to this general proposition. They suggested that on subscription channels to which access was controlled by an electronic lock the normal restrictions on the time of day at which certain material was shown need not apply. Furthermore, on such channels they proposed that any feature films passed by the British Board of Film Censors (BBFC) for public exhibition (but not those in the new 'Restricted' category) might be shown even if they would not normally meet accepted standards of good taste and decency. Currently the BBC and IBA operate their own scrutiny procedures and are not bound by BBFC classifications but in practice some films passed for the cinema with an 'X' (now '18') certificate are shown on television only in a cut form and others are not broadcast at all. The existing pilot schemes of subscription television are not allowed to show 'X' films until after 10.00 pm. Operators are also required to observe a 'good taste and decency' obligation and in consequence have refrained from showing certain 'X' films.

131 12. The Government has given careful consideration to this question. There are certainly arguments for saying that people should in general be free to decide what they wish to see and hear in the privacy of their own homes subject only to the restrictions imposed by the criminal and civil law. Nevertheless the Government is aware of a growing concern that violence and pornography have already established too strong a presence in our society. Parliament has in recent years moved to tighten the law on child pornography, indecent displays, sex shops and sex cinemas and it would, in the Government's view, be wholly undesirable if, in the face of this move towards increased safeguards, cable television were to give a new boost to those who seek to make money out of the exploitation of sex and violence. If experience in the United States and Canada is any guide it may well be that so called 'adult' channels will be provided on cable unless specifically prevented.

136 13. The Government has decided, therefore, that cable operators should have the same duties in matters such as good taste and decency as those which now apply to the BBC and IBA, across the totality of cable channels, with no special exemption for electronically lockable channels. The interpretation and application of those duties will be a matter to which the Authority will no doubt play close attention (see paragraph ~~15~~ below).

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137 14. As with the BBC and IBA, the classifications of the British Board of Censors will have no formal bearing on decisions on what should be shown. It may be that in certain carefully defined circumstances it will be acceptable for operators to show some material passed for public exhibition by the BBFC which would not be appropriate on a generally available channel broadcast by the BBC and IBA. The Government does not believe that it would be right, however, for the Cable Authority to issue a franchise to an operator who proposed to offer a channel specifically devoted to films of a sexual or violent nature. So called 'adult channels' have no place on the sort of cable systems which the Government wishes to see develop.

138 15. The Hunt Inquiry did not specifically consider the question whether cable operators should, unlike the broadcasters, be liable to prosecution under such statutes as the Obscene Publications Act 1959. For the reasons given above, the Government does not propose to leave issues of programme standards on cable entirely for resolution within the judicial process. This does not, however, dispose of the arguments for making cable operators subject to the normal standards of the law. Given the large number of cable systems which are likely to develop, each with a multiplicity of channels and given the relatively light supervision which the Authority will exercise it is inevitable that operators will enjoy a wide measure of freedom. Moreover the Cable Authority, unlike the BBC and IBA, will not have direct control over the means of transmission which will be in private hands. The Government believes therefore, that the reasons for which the BBC and IBA are, exceptionally, not subject to the normal provisions of the criminal law in this area do not apply to cable. There is some doubt whether the Obscene Publications Act currently extends to cable and the Government proposes to clarify the position, as well as dealing with other criminal provisions relevant to cable in the cable legislation.

Religious and Political Impartiality

139 16. Another area where the Government accepts the need for some special rules is that of religious and political programming. In chapter 4 the Government endorsed the Hunt Inquiry's view that the Cable Authority should be required to exclude religious and political groups from participation in the ownership of

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cable operating companies. The Inquiry went on to make a number of recommendations about the religious and political nature of the programme services provided. They suggested that there should be no bias across the generality of the services on a particular system; that impartiality of access should be a requirement on any community access channels; in all cases news coverage should be accurate and impartial; and that individual channels should not be controlled by political parties and religious groups, given the undesirability, in those especially sensitive areas, of the extent of television exposure being determined exclusively in proportion to the respective financial resources of each organisation. Subject to these safeguards the Inquiry envisaged a much greater scope for religious and politically committed material than has been possible within the confines of public service broadcasting.

140 27. The Government believes that the approach proposed by the Inquiry is the right one. Even with a large number of channels cable systems will not, for the foreseeable future, offer the same unlimited possibilities for the expression of opposing viewpoints as the written word. To see cable as a kind of electronic magazine rack and thus to argue that cable should be subject only to those restrictions of the criminal and civil law which apply to publishing generally is, at the very least, premature. At the same time to seek to extend to a large number of channels the closely regulated approach of existing broadcasting arrangements would be incompatible with the fundamental principles of freedom of expression in our society. Most people who readily accept that their newspapers should adopt a particular political stance have become accustomed to the fact that television and radio programmes do not reflect any underlying political preference and may not immediately welcome the inclusion of more committed material on cable channels. But once people are able to choose what they wish to hear and see from a wide range of different channels the idea that programmes can reflect points of view which may be unattractive to some is likely to be widely and readily accepted.

141 18. The suggestion that whole channels should not be controlled by particular religious or political groups is one which, in the Government's view, will command widespread support. It is often those with the more idiosyncratic ideologies and limited following in terms of numbers who are able to raise especially large sums of money and if left with a free hand would be likely to secure whole cable channels for their own purposes. What the Government

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proposes is not intended to cut across plans for local channels serving particular communities who also share a common religion. Nor is the Government opposed to the creation of channels specially devoted to dealing with religious and political matters which give an opportunity for a variety of views to be expressed. The Cable Authority will have a duty to ensure, however, that any religious or political affairs channels are not controlled by a particular sectional group and may wish to take positive steps to satisfy itself that there is wide-ranging access to such a channel. In the field of religious broadcasting the device of the advisory committee with broad representation has proved useful in this respect.

Role of the Cable Authority

147¹⁸. A number of the proposals in this and the previous chapter prompt the question how the Cable Authority is to carry out the obligations which the legislation will impose on it, and how it will satisfy itself that cable operators are fulfilling their obligations under their franchises: what will be the powers and procedures, and what will be the 'style' of supervision?

143²⁰. The Government's approach starts from acceptance of the general proposition of the Hunt Report that, once the Cable Authority has granted a franchise, it should use a light regulatory touch and adopt a reactive rather than a proactive style. This would be in accordance with the distinction drawn earlier between cable systems and public service broadcasting. It would also reflect an important practical distinction between the position of the Cable Authority and that of the broadcasting authorities. The BBC and the IBA are responsible for the actual transmission of their respective radio and television services, as well as for the content of the programmes which they broadcast. The Cable Authority will not have physical control of the means of distribution even though it will be statutorily responsible for securing the compliance of operators with rules on programme content. In the last resort it will of course be able to refuse to renew or even to withdraw prematurely an operator's franchise and short of that it will, as discussed in paragraph ⁷⁶4-28, have the power to subject an operator to a closer than usual degree of supervision and to direct that certain programmes or channels should not appear. Nevertheless, the absence of Cable Authority control of transmissions means that more of the responsibility for programme content must, in practical terms, be placed on the cable operator.

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21. Thus, the Cable Authority will not be a broadcasting authority. Once franchises for particular areas have been granted the Authority will not, unlike the IBA, be in the position of discussing programme plans with the companies in order to ensure a particular range or quality of material, whether on individual channels or across the generality of channels on each system. Nevertheless the Cable Authority cannot be an entirely passive body doing no more than respond to complaints as and when they arise. First it will need to keep in touch with the general performance of each operator to see how it compares with the promises made at the time of the franchise application. Second, it will need to have the means of overseeing the extent to which operators comply with those specific obligations on programme content set out in chapter 5 and in the preceding paragraphs of this chapter.

145 22. There will be no single method of supervision appropriate to all these circumstances: the procedures will need to vary according to the nature of the obligation and in some cases must be left for the Authority to determine in detail. Thus in the case of advertising content the day to day work will be carried out by the operators (in conjunction, as appropriate, with the programme providers) for almost all local advertisements and by an extension of the ITCA machinery for more widely distributed advertisements; the requirements on programme material of British or European Community origin will be likely to involve the periodic submission of returns by the operators to the Authority; political impartiality across the generality of a system's output may best be monitored both by occasional spot checks and by following up specific complaints.

146 23. In the area of programme standards, the duty to observe standards of good taste and decency, to take account of the impact of programmes shown when large number of young people are likely to be watching and not to distribute material likely to encourage or incite to crime will rest formally with each operator. The Government does not envisage that the Authority will need, as a matter of course, to require operators to submit programme schedules for approval in the way that ITV companies need the agreement of the IBA for their programmes to be broadcast. In the ordinary course it should be sufficient, in the circumstances of cable systems, for the Cable Authority to operate retrospectively on the basis of complaints or its own selective sampling of programmes as they are transmitted. In serious or persistent cases of poor performance it will have available the range of sanctions discussed in chapter 4. In the more sensitive

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categories of material, cable operators will have the benefit of general guidance from the Authority which, if observed, should reduce the likelihood of complaint. To enable the Authority to investigate complaints, cable operators will be placed under an obligation to keep such recordings of their output as the Authority may reasonably require to enable it to discharge its own responsibilities.

147 24. The approach described here would not mean that the Authority was powerless to take any action before a programme was shown. If, for example, it came to the Authority's notice that a film was not suitable for showing before a certain time of night it would clearly be desirable for it to be able to act preemptively should an operator propose, whether by oversight or design, to screen it earlier in the evening.

148 25. Nothing said above would rule out informal consultation with the Authority if a cable operator wished to be satisfied that programme material was in its opinion acceptable. In the case of programme material packaged nationally for distribution to a number of local cable operators consultation between the programme provider and the Cable Authority will obviously be sensible.

Role of Programme Providers

149 26. The Hunt Inquiry saw the cable operator as the key figure in the growth of cable systems and services. As the recipient of the Cable Authority's franchise for a particular area he would be responsible for observing the conditions attached to it. The Inquiry did not believe that there was a need to devise any separate licensing or supervisory arrangements for those who actually produced programme material (referred to in the report as the 'programme maker') or who assembled programme packages into channels (the 'programme (or service) provider') for distribution to a number of local cable systems. Nevertheless the Inquiry did envisage that in certain circumstances the Cable Authority might need to apply sanctions against particular programmes or channels carried over a local cable system rather than the whole of a cable operator's service and this does raise the question of what role if any the Authority should have in supervising those programme services which are shown on more than one system.

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150 27. The economics of making and buying television programmes as well as the complexities of negotiating with rights holders mean that a number of cable channels are likely to be assembled nationally. The relationship between the cable operator and the programme provider will vary from case to case. In some instances the programme provider may assemble a package including advertising. The package would then be available at little or no cost to the operator. In other cases the operator may buy a package free of advertising but have the discretion to insert local advertising. Different arrangements again will obtain in the case of subscription channels. In general the precise relationship between the programme provider and the cable operator will not need to concern the Cable Authority, and the Government endorses the Hunt Inquiry's view that any formal licensing arrangements for the former would be unnecessary and undesirable. Nevertheless, whatever the means by which programme packages are distributed to large numbers of local systems (whether by terrestrial or satellite microwave links, trunk cables or simply by 'bicycling' - that is, the physical delivery of video tapes to each system), their content will clearly be of interest to the Cable Authority and it would be unrealistic if the Authority had no means of central control. If, for example, a nationally distributed channel was not adhering to the Authority's guidelines on some of the matters dealt with earlier in this chapter such as taste and decency or impartiality in news reporting the Authority would need to be in a position to act against the channel at the national level. This does not mean that the Authority need have any direct powers over a programme provider. It is the operator who will be responsible for observing the conditions of his franchise. The Government believes, however, that the Authority should be able to monitor centrally those channels which are distributed to more than one cable system, to give programme providers guidance on the rules set out in the operators' franchises and, in the last resort, if its advice is disregarded, to rule that a particular channel or programme should not be shown on cable. Such a ruling (which should in practice be wholly exceptional) would be binding on all cable operators under the terms of their franchises; sanctions for non compliance would be directed against them rather than the programme provider.

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Relay of Foreign Broadcasting Services

151 ~~28~~. The advent of satellite broadcasting will open up new possibilities for the reception of television services across national boundaries. Since the earliest days of radio it has been perfectly possible to hear sound programmes from abroad, but the more limited range of television signals, combined with the geographical separation of this country from the rest of Europe, has meant that reception of continental television services has been extremely difficult except near the coast. Even then differences in transmission standards have made individual reception on standard equipment impossible, and while cable operators would in theory be able to cope with this difficulty by converting the signals at the aerial site, in practice they have not relayed television from the Continent, no doubt judging that the market for foreign language television services was limited. It is moreover the case that frequency bands used by foreign broadcasters may not always be used in a similar way in this country. Thus, for example, television services in Europe are continuing in VHF bands I and III whereas in this country land mobile radio will be taking over the frequencies once the 405 line television service has been withdrawn. Reception points in this country for some foreign terrestrial broadcasts will therefore be vulnerable to interference from UK land mobile services.

152 ~~29~~. Overspill from direct broadcasting satellites will be much greater than from terrestrial transmitters. This is not to say that it will be possible to guarantee interference free reception of services from other countries. While the five UK DBS channels should be available in this country free of interference the services of some of our neighbours will be using frequencies in the upper 300 MHz of the 11.7 to 12.5 GHz band which will continue to be needed in this country for terrestrial outside broadcasting links. Thus anyone wishing to receive those foreign DBS services will have to accept the risk of some interference from domestic terrestrial transmissions. Individual reception of foreign satellites will moreover not be entirely straightforward. While the Government hopes to see a European agreement reached on a single European transmission standard for DBS, international reception will still be complicated by the need for dishes to receive transmissions of different kinds of polarisation and across a large bandwidth from satellites in a variety of orbital positions. The necessary equipment for receiving continental European channels will, inevitably, therefore, be more sophisticated and expensive than that required

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for reception of the UK services (and any services from an Irish satellite). In practice this means that any widespread availability of television services from outside the British Isles is likely to depend on the possibility of cable distribution; equipment too expensive for the individual viewer would represent only a modest outlay for a cable operator.

153 20. The Government accepts that cable operators should in general be allowed to distribute television channels from outside this country. Reception cannot be guaranteed freedom from interference from radio frequency users in this country and it will be up to the operator to make the best arrangements he can but in many cases he is likely to be able to obtain a reasonable signal. Under copyright legislation operators will of course require the permission of the relevant rights owners for the diffusion of their copyright material and whether in practice many will find it worthwhile to secure the necessary rights in order to carry channels primarily aimed at a foreign audience must be a matter of some doubt. There is a further possibility, however. Direct broadcasting by satellite may lead to the development of services deliberately designed for an international audience. In that case cable reception in this country, far from being an incidental extra, will become an essential part of the economics of the operation and the channel provider will be actively seeking to sell the rights to as many cable operators as possible. Channels originating from outside this country will of course not be under British control in areas such as programme standards, advertising content and, in particular, proper proportions of British/EC material. Discussions, in which the United Kingdom is playing a full part, are currently taking place within the Council of Europe on the possibility of securing a measure of European agreement on certain aspects of satellite broadcasting within Europe, but at least in the meantime the question arises of the extent to which cable operators in this country should be responsible for ensuring that foreign broadcast channels (whether from satellites or terrestrial transmitters) conform to the normal rules for cable programmes.

154 21. No one can predict with any degree of certainty how broadcasting will evolve in Europe over the next ten years. The Government believes therefore that a flexible approach is needed to the questions posed by the relaying of programmes broadcast from outside this country. To allow operators a completely free hand might leave the way open to an undermining of the rules applicable to other cable channels; to make operators strictly liable for the content of all

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foreign channels in exactly the same way as for domestic channels might be unduly onerous however, for practical reasons. The Government proposes to place on the Cable Authority a duty to draw up rules specifically dealing with the relaying of non-British channels. The cable operator will normally be expected to distribute only those channels which broadly comply with British rules on matters such as taste and decency and advertising content. In the case of the proportion of British/European Community programme material the Cable Authority will usually be able to take a relaxed view: most non British services receivable in this country are likely to come from one of our fellow Community members and even where a channel contained a higher than normal proportion of non Community material the Cable Authority ought not readily to consider restricting its relay. Nevertheless, if the situation were to arise in which a non British station intended to broadcast a high proportion of programme material from outside the Community with the intention of circumventing the general rules for cable channels it would be right for the Cable Authority to have some power to intervene. Otherwise the arrangements for encouraging British programme production and for limiting the extent of overseas influence and control in the broadcasting field could be seriously undermined.

'Out of area' UK Broadcasting Services

157 32. The one extra facility which a relay operator has traditionally been able to offer his customers, over and above the broadcast channels readily available off air, has been the provision of an additional ITV service from outside the area. The provision of these services has been regulated by the Home Office in consultation with the IBA in order to safeguard the federal nature of the ITV system, under which companies do not enter into competition with each other for advertising revenue in the same parts of the country. The choice of additional service has been somewhat circumscribed by the requirement that it should be receivable at the operator's aerial site rather than brought in by cable; thus, although operators, by using large aerials at strategic points, have been able to pick up from neighbouring areas signals not available for individual domestic reception, they have not been able to bring in services from very far away. A further inhibition on the extension of out of area reception is the important existing use of UHF TV Bands IV and V, where conventional public broadcasting permits, for services ancillary to broadcasting. Out of area reception could therefore suffer some interference from these activities. The arrival of the Fourth Channel has meant that many of the narrowband systems now have no capacity for offering an out of area programme given the obligation to carry all four basic services.

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33. The Government accepts that for wideband systems there should be no general restriction on the relaying of broadcast channels from one part of the country to the other provided the broadcasting company or organisation concerned gives it consent for its programmes to be 'exported' in this way. In the case of independent television this would mean that both the local ITV company and the IBA would need to give their agreement.

Low-powered Telecommunications Satellites

157 34. Direct broadcasting by satellite will involve the use of high-powered transponders transmitting signals which will be readily receivable by individual dishes even though many people may prefer to receive them via cable systems. Lower-powered satellites operating in frequency bands not allocated for broadcasting have been used for some time in the United States for feeding programme services to cable systems, and a similar experiment has for the past year or so been conducted by a British company for cable systems in certain European countries. Larger and more costly receiving equipment is needed than for the reception of signals from broadcasting satellites.

158 35. The use of communications satellites to distribute television programme material to cable networks is likely to be an attractive option for cable systems in the UK, as it is in the United States. There is no objection in principle to such use as an alternative to terrestrial microwave links for trunk cable routes. There is, however, the practical difficulty that, because of the limited availability of satellite capacity, operators will want, at least for an initial period, to distribute television programme material to cable networks using frequency bands which communications satellite services share with terrestrial microwave radio relay networks. The use of frequencies in the terrestrial networks is intensive, and British Telecom, for example, is in the course of a major development of the important 11 GHz band for a new digital radio relay network. It should nevertheless be possible to receive satisfactory signals from a communications satellite at a television receive-only (TVRO) earth station installed at or near most cable head ends, provided that the precise site is selected with care and that suitable measures are taken to screen the TVRO earth station from interference caused by the terrestrial network. In the bands which are not shared with terrestrial services (and in particular the band 12.5-12.75 GHz) TVRO stations will be able to operate without the need for restrictions of this nature.

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159/36. In the bands shared between space services and terrestrial relays it will be necessary to ensure that the establishment of TVRO earth stations at cable heads does not come to represent a constraint on the legitimate development of the terrestrial network. The siting and characteristics of TVRO earth stations will therefore have to take into account the existing and foreseen operation of the terrestrial network. Cable operators who wish to install TVRO earth stations will be required to notify the terrestrial operator in the bands concerned (usually British Telecom) of their intentions; the terrestrial operator will then notify the cable operator of any existing or planned terrestrial links which might affect the TVRO station. If the cable operator can accept the interference environment so revealed he will then be in a position to apply to the Home Office for a TVRO earth station licence; if he cannot accept the interference environment at his first choice of site, the cable operator will have to find an alternative site at which he can do so.

160/37. Once established, the TVRO operator will be expected to co-operate in the implementation of any new links in the terrestrial network not foreseen at the time of the original coordination. In some cases this may involve a re-siting of the TVRO earth station to avoid interference from a new terrestrial link. The operators of terrestrial networks will be asked to give as early notice as possible to TVRO earth station operators of new terrestrial links which might affect their service, to enable consequent changes to the site or other characteristics of the affected TVRO earth station to be made with the minimum of disruption. In the longer term, TVRO earth stations will find that they enjoy greater security when operating in frequency bands not shared with terrestrial services, and for this reason the providers of satellite-distributed programme material may eventually wish to transfer their operations from the shared into the exclusive bands. TVRO earth station operators will therefore be encouraged to use equipment which can be easily switched over for reception in the exclusive bands when satellite capacity for television distribution becomes available in those bands.

161/38. The foregoing will apply to the reception for cable distribution of programme material originating within the UK. As paragraph ~~186~~¹⁸⁷ indicates, British Telecom and Mercury will be responsible for providing the telecommunications links between local systems. The TVRO earth station licence will also permit for cable distribution the reception without protection from interference of programme material originating from overseas satellites, and not primarily intended for reception in the UK, provided that the originators of the material

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so allow. The question of authorising the individual reception of low powered satellite services, whether originated from this country or overseas, raises further issues to which the Government wishes to give further thought.

162 ~~39~~. The Cable Authority will, as discussed in paragraph ¹⁴⁹⁻¹⁵⁰ ~~26-27~~ above, need to maintain an interest in the programme content of channels distributed to cable systems by satellite. In the last resort it will have the power to rule against the relaying over cable of material contrary to the normal guidelines. In the case of any programmes distributed by foreign telecommunications satellites the Authority will apply the same rules as if the services originated within this country; the case for some flexibility is less than in the case of non-British DBS services primarily aimed at the audience of the country concerned. The Government has considered whether it should go further in the case of satellite services originated within the United Kingdom and institute some form of direct control over programme content at the point of transmission to the satellite. This would arguably be superfluous from the domestic point of view since the Authority's powers over the operator should be sufficient. There is however the question of the reception of these services abroad. All satellite transmissions will invariably produce some overspill into Europe, and our neighbours are, understandably, interested in the implications for their own broadcasting and cable policies. One approach would be to leave each country to determine its own rules on the reception and distribution of these services. Given, however, that all satellite transmissions from this country require frequencies which only the Government can make available, the principle of good neighbourliness together with the concerns which have already been expressed within the Council of Europe point to the need for some additional safeguards; otherwise a programme or channel which the Cable Authority had deemed unsuitable for distribution on cable systems in this country could nevertheless be transmitted for potential reception in Europe. The Government is willing therefore to use its own powers over the use of the frequency spectrum to ensure that no television service or part of a service shall be transmitted by satellite if the Cable Authority certifies that it would be unsuitable for distribution by a cable operator in this country. If a satellite service beamed from this country was intended only for reception abroad the Cable Authority would normally have no formal locus; but in such cases the Government would wish to be able to seek the advice of the Cable Authority on the compliance of the service with the usual cable channel rules before agreeing to license the use of the necessary frequencies.

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Copyright

163 ~~40~~. Cable will add a new medium for the distribution of copyright works but adds no new substantive issues of principle. Copyright will exist in the programmes distributed by cable operators and will belong to the authors, producing companies and owners of film and music rights. The Government is currently considering proposals for a general reform of the law on copyright in the light of the response to its Green Paper published in July 1981 and will take account of particular points related to the development of cable television in that review. Whether it will prove possible to deal with any of these in the cable legislation in advance of more general copyright legislation remains to be seen.

Feature Films

164 ~~A1~~. Experience of cable in the United States as well as the popularity of video cassette recorders in this country suggests that the provision of recent feature films on a subscription or pay per view basis is potentially one of the most attractive of the services which are not currently available on existing broadcast channels. Cable and DBS will both be looking to the feature film industry, therefore, as a primary source of premium material. The Department of Trade is currently considering all aspects of its relations with the film industry and their implications for other Departments and organisations concerned. Issues such as the Eady levy will be dealt with in the context of this general review, which the Government hopes will be completed during the course of the summer.

165 ~~A2~~. There is one matter on which cable operators and programme providers will find it helpful to have the Government's view now, however. Traditionally the broadcasters have been denied access by the film industry to the most recent feature films in order to allow cinemas the opportunity to derive the maximum benefit at the box office first. Originally the restriction applied to all films less than ten years old; it was then reduced to five years and in 1980 was further reduced to three years. This is a trade agreement in which the Government has no standing. For the pilot schemes of subscription television by cable the Government did agree, exceptionally, to write into the licence a specific restriction on the showing of new films within twelve months of registration. The cinema exhibitors believe that where the cable subscription contains a

premium element for films a similar limitation should apply in the future. The Government's view, however, is that it is for the film industry itself to determine how best it wishes to promote and market its own product. The arrival of the video cassette recorder has already led the industry to review and adapt the way in which films are distributed; and in the United States, where cable is already well developed, a sophisticated set of arrangements has developed for the progressive release of new films with the aim of generating the maximum possible revenue. The Government does not believe that it should intervene in the commercial judgements which the industry itself should take.

Privacy

166 A3. Some concern has been expressed about the possibility that cable systems might be used to monitor domestic activity in a way that would constitute an infringement of individual privacy. It has been suggested that in the USA there have been instances where operators have monitored individual television viewing preferences without the consumer's consent. In the area of interactive telecommunications services (for example telebanking and teleshopping) there will inevitably be a good deal of sensitive personal data which is passed over the cable system. The data protection legislation which is currently before Parliament and existing statutory restrictions on the disclosure of messages carried by telecommunications systems should together, in the Government's view, provide significant safeguards against the misuse of cable systems for infringing individual privacy. Whether any specific additional safeguards are needed is something which the Government will consider further in preparing legislation on cable.

Miscellaneous matters

167 A4. There are a number of statutory arrangements relating to broadcasting which have implications for cable development without being central to the main issues. These include: the powers of the Broadcasting Complaints Commission to investigate unjust or unfair treatment or unwarranted infringements of privacy in television or radio programmes; the Government's reserve powers both to require the transmission of particular announcements and to veto particular

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programmes; the provisions in electoral law designed to ensure impartial coverage of parliamentary elections; restrictions on the value of prizes which can be offered in programmes; and restrictions in gambling legislation on the use of radio and television. In preparing legislation the Government will be considering further the adaptations which may be necessary to apply the provisions to cable.

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CHAPTER 7: TELECOMMUNICATIONS

168 a. The Government considers it important to establish the correct relationship between wideband cable systems and existing and potential public telecommunications systems in order to ensure that cable expands in a way which will bring with it improvements in the standard of national methods of communications. This chapter considers what steps need to be taken in order to meet this objective.

Present legal position and proposed changes under the Telecommunications Bill

169 z. Cable systems whether distributing entertainment programmes or supplying telecommunication services come within the definition of a telecommunication system in Sections 12 and 13 of the British Telecommunications Act 1981. Under Section 12 of the Act, British Telecommunications (BT) has the exclusive privilege of running such telecommunication systems and it is a criminal offence for a person to infringe that privilege by running any other telecommunications system, unless specifically authorised by a licence granted under Section 15 by either the Secretary of State or BT. The Secretary of State for Industry has licensed the Mercury consortium to run a public telecommunications system in competition with BT. Similarly, BT has licensed a number of private telecommunications systems including the existing broadcast relay systems and the Hull telephone undertaking which provides telephone services within that area. It should be noted that a licence to run a telecommunications system merely confers an immunity from prosecution on the grounds of breaching BT's exclusive privilege; it does not authorise the licensee to do any of the things that may be necessary to instal his system (such as erecting poles and digging up the roads).

170 z. As outlined in ^{paragraph 51} ~~chapter 4 paragraph 3~~, operators of cable systems currently require a separate licence, issued by the Home Secretary under Section 1 of the Wireless Telegraphy Act 1949, before they can use wireless telegraphy apparatus to receive broadcast programmes for distribution to their subscribers. BT, which itself runs a number of broadcast relay systems, is not exempt from this licensing requirement. Cable operators require an additional licence from the Home Secretary under Section 89 of the Post Office Act 1969 for distributing other programme services such as the subscription TV channels which have been in operation on a pilot scheme basis since 1981.

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1714. The physical installation of a telecommunication system can involve the acquisition both of planning permission and of the agreement of those with an interest in the land concerned. Under existing legislation BT is in a privileged position. Some BT installations, for example, are statutorily exempt from the need for planning permission and others are exempt under a General Development Order. BT remains subject to planning controls only for its buildings. Mercury has been authorised to place equipment along railway lines, without the need for planning control, under a Special Development Order but is subject to normal planning controls for all other installations.

1725. Highway authorities have statutory powers to license individuals to break up street surfaces in their areas in order to instal telecommunications apparatus and some existing broadcast relay systems have been licensed in this manner. BT, however, as well as having certain powers to instal apparatus across railways and canals, has special statutory rights under the Telegraph Acts to break up street surfaces. It can authorise others to do so, although only the Hull telephone system has been so authorised. In applying its powers BT is treated as a statutory undertaker under the Public Utilities Street Works Act 1950 and is therefore bound by the code set out there.

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173/6. Under the existing framework BT is therefore in a privileged position, compared with other telecommunication and cable operators, in respect of the legal permissions required before a cable system may be installed and operated. Government policy is, however, aimed at removing barriers to new market entry into telecommunications. The Telecommunications Bill will, amongst other things:

- (i) end BT's exclusive privilege and its licensing function;
- (ii) require BT to operate under a licence similar to that under which the Hull system and Mercury operate, but requiring it to provide services to all parts of the country, including remote and rural areas;
- (iii) convert BT into a public limited company ("BT plc") and provide for the sale of BT shares to the public;
- (iv) repeal the Telegraph Acts (1863-1960) and replace them by a modern uniform code (the Telecommunications Code) with all authorisations to apply the Code being given by the Secretary of State; and
- (v) put all public telecommunications operators on an equal footing.

Telecommunications policy and its implications for cable systems

174/7. Government telecommunications policy has as its main aim the creation of an environment within which the United Kingdom can develop and exploit the most modern telecommunications infrastructure to satisfy the needs of commerce and industry whilst simultaneously meeting the social and domestic needs of all parts of the country. Users of telecommunications should have a choice of a full range of telecommunication services and apparatus, supplied efficiently and competitively. The Government's policy is one of introducing and promoting competition so that both industry and the consumer can benefit from the resultant gains in efficiency. The Government's Telecommunications Bill now before Parliament introduces new regulatory arrangements reflecting this balanced approach. These arrangements place first importance on securing the supply of telecommunication services, in so far as it is practicable, to meet all reasonable demands in all parts of the country, and on enabling suppliers of these services to earn sufficient profits to finance their continued provision. The regulatory arrangements also stress the desirability of increasing competition which will in turn benefit consumers in the form of lower prices and increased choice. There is also emphasis on the desirability of increasing exports and creating a centre of communications excellence in the UK.

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175/8. The Government wishes to ensure that so far as is practicable, there is new market entry and competition in the supply of telecommunications services and telecommunication apparatus. The Government also considers that the telecommunications needs of the nation should, as far as possible, be met by private enterprise. It has therefore decided that services of social importance provided by BT's local network - that is to say the 999 emergency service, the network of kiosks and unprofitable services to rural or remote areas - should be supported by the revenue from profitable trunk^{and international} services. In future, all trunk calls which connect with BT local network will pay an access fee. This fee will be paid both by BT's competitors such as Mercury and the two cellular radio companies and by BT's own trunk division. In this way all who benefit from access to the BT local network will help to subsidise loss-making services.

176/8. One key element in this telecommunications policy has been the licensing of the Mercury consortium to run a public telecommunication system in competition with BT*. The particular element in the BT and Mercury networks, which distinguishes them from existing cable relay systems, is their switching capability. This allows a subscriber to select the person with whom he wishes to communicate. Only BT and Mercury currently may provide the facility for "switched interactive services" to the public on a telecommunication system. Given the potential which wideband cable systems offer for the provision of interactive services, it is timely to consider whether it is appropriate to permit cable operators to provide these services and, if so, how this relaxation should be accommodated with the existing telecommunications policy. In particular, the Government has sought to define the respective roles which BT and Mercury should play in the expansion of cable.

177/10. The Government has received representations that BT should not be allowed any role in the development of cable. The legal constraints that have prevented AT & T in the US from entering the cable field have been cited. There have been claims and counter-claims about the situation in Canada. It has been suggested that BT does not appreciate the difficulties of designing, constructing and financing speculative networks. Others have argued that only BT (or BT and Mercury) should be permitted to instal wideband cable systems and that they should be required to operate them on a common carrier basis, that is by providing channel space to anyone who sought and could pay for it. If BT were given an exclusive role as common carrier it could ensure that cable systems were developed as an integral part of the national telecommunications infrastructure and that profits earned in densely populated areas would help finance the provision of services in less populated regions. Proponents of this course argue that even where BT and Mercury play no part in financing the cable system, they should have the exclusive right to provide 'switched interactive services.'

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*Note: Subsequent references to BT's facilities include the Hull Telephone Department.

178 11. Against this background the Government has had to consider the relationship between local wideband cable system and the national telecommunications structure. For with suitable switching equipment cable systems could offer all the telecommunications services now provided through the BT and Mercury networks. They could also provide the services which will be introduced following the creation of the Intergrated Services Digital Network (ISDN) and other services involving moving video transmissions or high data transfer rates which, under present plans, the national telecommunications operators do not have any immediate intention of providing, except at a premium to a few subscribers. On the other hand, with the exception of video services, the telecommunications services which cable could offer could also be provided by the telephone system. For example, many of the current proposals for these services such as security alarms, remote meter reading and home banking do not depend on the provision of a cable system. The Government recognises the argument in favour of a close relationship between cable systems and the national telecommunications structure. It believes that such a close relationship will develop. But it does not consider that at the local level the BT and Mercury networks should be the sole carriers of all new cable traffic.

Switched Interactive Services

179 12. There are more specific considerations that relate solely to the provision of switched interactive services. As has been noted earlier, current telecommunications policy would require these to be provided only by BT and Mercury. What this would mean in practice is that BT and Mercury would have to be satisfied that the design and installation of any cable systems met all necessary standards and was carried out to their satisfaction. They would also be responsible for connecting, checking and maintaining the switching equipment and for approving the maintenance of the cable systems, including any extensions that might be undertaken. Such control over the design and operation of a system could probably be guaranteed only through a majority shareholding in its ownership since the principal investment in a cable system lies in the physical plant.

180 13. Against this background the Government has considered a number of different options for its future strategy with regard to new cable systems. One approach might be to maintain present telecommunications policy by not requiring the introduction of switched interactive services. While such an approach might be

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welcomed by some potential cable consortia, it would run counter to the Government's wish to see **new** types of service develop on the back of programme services. A second possibility might be to require systems to have a capability for a wide range of interactive services even if that capability were not immediately utilised. The introduction of switched interactive services would then require the participation of BT or Mercury. However, the difficulty with this approach is that a cable operator would **almost** certainly be unwilling to upgrade his service in this way when such a step would result in a loss of control over all or part of his system. The situation would then effectively be the same as if only the simplest of systems had been installed.

18 | 14. A third approach would be to require systems to offer switched interactive services run by BT or Mercury, the choice depending on commercial arrangements reached with the cable operator and provider. This would be fully consistent with existing telecommunications policy but would have the effect of reducing the level of competition in the provision of interactive services. Moreover, while some companies have said that they would only invest in cable systems in association with BT, many have had it plain that they would not be prepared to invest in such circumstances.

182 | 15. A fourth approach would represent a limited extension of current telecommunications policy. A decision that cable operators should have complete freedom to compete in telecommunications services carries financial implications for the national telecommunications network. But some more limited freedom for cable operators **is feasible**. For example, they could be limited to the provision of switched interactive services (other than voice communication) only in their own area (this would, for example, allow communication with local shops and banks) or to the provision of services which normal ISDN subscriber lines either could not deliver (high capacity data links and video services) or which BT and Mercury had no plans to offer. If such services involved the linking of different systems, appropriate interconnect arrangements would need to be agreed with BT and Mercury, who would have to be satisfied that the cable systems would not **impair** the operation of their own systems.

The Government's approach

183 | 16. The Government believes that the expansion of cable must not be at the expense of the existing arrangements for ensuring the provision of telecommunications services throughout the country and, in particular, the ability of existing telecommunication operators to finance the universal service. Nevertheless, having reviewed its existing telecommunications policy the Government has decided that BT and Mercury should not be given the exclusive right to run cable systems. To do so

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would be to reinforce the dominance of telecommunications currently enjoyed by the existing operators and would prevent competitive entry into the telecommunications market by cable system providers and operators. Nor, for the same reasons, does the Government consider that there is a sufficiently strong case to justify BT and Mercury being granted mandatory participation in every cable consortium.

184. The Government does however recognise the skills and expertise which these two organisations could contribute to the development of cable. On this basis it would be wrong to exclude BT and Mercury from competing freely with others for the provision and installation of cable networks, either independently or in partnership with cable consortia. Their skills will bring out the best competitive spirit in other potential cable system providers while, by the same token, the pressures of the market place will act as a spur to BT and Mercury.

185. Notwithstanding the likely participation of BT and Mercury in many cable consortia, the Government is however concerned at the prospect of BT and Mercury's financial position being eroded in the event of interactive services depriving them of local and national traffic. Accordingly the Government has decided that only BT or Mercury should offer voice telephony services on cable systems, either alone or in partnership with a cable operator.

186. The Government has also considered whether BT and Mercury should be provided with additional protection in those business locations which generate a significant proportion of their revenue. While appreciating the importance of this business traffic to BT and Mercury, the Government is not prepared to give them the exclusive right of providing data services in these business centres. Nevertheless, it recognises that for a limited period some form of protection is required. Accordingly a cable operator wishing to provide data services in the City of London, the Boroughs of Westminster and Camden in Central London and the business centres of Manchester and Birmingham will be required to do so in collaboration with BT or Mercury. The choice of collaborative partner will be for the prospective cable operators to make. But in deciding which cable operator to franchise for these areas, it will be necessary to take particular account of the need to ensure that business services offer a high standard of reliability and are not liable to disruption and also that proposed arrangements for interconnection with national networks will be fully implemented. The collaborative arrangements described in this paragraph will be mandatory for the initial franchise period (ie 12 years), following which the cable operator then holding the franchise will be free to decide whether to continue to provide the data services in collaboration with BT

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or Mercury or to offer them independently.

187. While the cabling of Britain will almost certainly take place gradually in the years ahead it is important for the development of comprehensive information services that individual cable systems should be capable of being inter-linked. System specifications being drafted by the Technical Working Group will enable this to be achieved. BT and Mercury are uniquely well placed to provide the transmission network to link individual cable systems with each other and with sources of programme material originating in the UK. It is the intention of Government that, for the foreseeable future, only BT or Mercury may provide such links whatever the distances concerned.

188. Subject to these restrictions, cable systems will be free to provide to subscribers any service whether of a switched or non-switched variety.

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CHAPTER 8 THE WAY FORWARD

- 189 Previous chapters of this White Paper have described in turn various aspects of the Government's proposals for the future of cable systems. In this chapter the focus changes to questions of how, and in what timescale, to move towards the new arrangements. The Government is anxious both to promote orderly development and to ensure that the momentum which has been created in the past few months is not lost.
- 190 Z. The creation of a new national Authority is central to the way in which the Government wishes to enable cable to develop. Much will depend on the Authority's success in remaining flexible and adaptable. The need for this is apparent in a period when technology is evolving rapidly and when, as a result, the pattern of broadcasting and telecommunications services in this country is itself continually changing. A small Authority ready to respond to market forces and to exercise the minimum of regulation consistent with the public interest will be well placed to facilitate the growth of cable in a manner which is at the same time dynamic and orderly. By giving the Authority a wide measure of discretion the Government will enable it to respond flexibly as the economics and the technology of cable evolve.
- 191 S. Legislation will be necessary to set up the Authority, to give it the powers which it will need to carry out the franchising and supervision of cable services (with consequential changes to the provisions under which Ministerial licences are currently granted) and to define the broad framework of rules which it will then have to apply and interpret. The Government proposes to introduce a Bill at the earliest practicable opportunity. Legislation in the next session of Parliament should enable a statutory Cable Authority to be appointed in the spring or summer of next year.
- 192 A. The Government has also considered in the light of the conclusions of the Hunt Inquiry, and of various representations which have been made since, whether steps should be taken, before a statutory Cable Authority has been set up, to issue licences for new cable systems or for new programme services over existing systems. The Government could do this under the existing statutory powers outlined in paragraph ~~4~~ 51.

New cable systems

- 143 ~~B~~. The general development of the Government's new policies for cable must await the enactment of legislation and the establishment by a new Cable Authority of its strategy and policy in the various matters which this White Paper proposes should be within the Authority's discretion. But the Government has concluded that the importance of maintaining the momentum that has been generated for the expansion of cable systems justifies some limited steps being taken, in advance of legislation, to encourage the development of cable. The Government is fully alive to the risk that too great a pre-legislative development might pre-empt the decisions of the Cable Authority or in practice narrow the area of its discretion. The Government therefore has in mind a limited pilot scheme in which it would grant a small number of licences which would enable industry to move ahead with the production and testing in operation of new cable technology and the assessment of the market for cable services.
- 144 ~~B~~. The Government accordingly proposes that, after Parliament has had the opportunity to debate and approve this White Paper, it should invite applications for the installation and operation of cable systems, as pilot projects, in areas proposed by the applicants. It is the Government's intention to issue only a limited number of licences - perhaps ten or twelve - for those proposals which appear likely to offer the most positive contribution to the application of advanced technology in this field and which provide both a comprehensive range of programme services and the capability for interactive services. Those installing new cable systems will be expected to take into account the work of the Technical Working Group including the draft standards forwarded to the British Standards Institution. The Government proposes that the term of these licences should be 12 years with the telecommunications licence extendable to 20 years where switches are installed.
- 145 ~~Z~~. Cable operators who are granted interim licences in this way will be required to conform generally with the arrangements prescribed in this White Paper, in particular the programming requirements laid down in Chapters 5 and 6. As indicated below, these will necessarily be subject to some modification in the absence of a Cable Authority. Moreover, operators will have to accept that the permissions granted to them in interim licences may have to be modified in the light of the requirements contained in the eventual legislation enacted by Parliament and of the specific decisions of the Cable Authority to which they will become subject.

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- 116 8. It will not be possible to apply to interim licences of the kind described in the previous paragraph franchising arrangements similar to those which this White Paper envisages for operation by the Cable Authority in due course. In particular, the initiative in delineating an area suitable to be cabled must come from the applicant and not the licensing authority; there will be no advertising of the franchise for that area to invite competitive applications; and there will be no process of local consultation. It will be for applicants to propose an area but, in order to minimise conflict with the future pattern of franchising, which will be established in due course by the Cable Authority, the Government will normally be prepared to consider only cable areas covering an identifiable and self-contained community of not more than 100,000 homes.
- 147 9. Interim licensing involves certain disadvantages in relation to those aspects of programme services in which the Cable Authority would have a role in the permanent scheme. As indicated above, the Government takes the view that there must be certain respects in which the freedom of cable operators should be circumscribed until a cable system's services can come under the direct supervision of the Cable Authority; while in certain other respects their freedom could be subject to curtailment once a Cable Authority was in operation. More specifically, since the Government proposes that the ability to make programmes available on the basis of pay per view should be conditioned by the exercise of the Cable Authority's judgement, pay per view will not be permitted until the Cable Authority is set up and assumes control. Equally since the franchising of programmes through sponsorship is to be subject to rules drawn up by the Authority, no sponsored programmes will be allowed in the interim period outside the guidelines currently operated by the IBA.
- 148 10. Advertising is another matter on which the Cable Authority will be responsible for making rules. However the Government does not consider it necessary to rule it out during the interim period. Its inclusion in cable services in the absence of a Cable Authority ought not to present severe problems (such as pay per view and sponsorship would be likely to present) because the proposal in Chapter 5 above is that the rules on the content of cable advertising should be largely the same as those applying to ITV. Advertising would therefore be permitted on cable provided that it conformed to IBA rules. In the absence of a Cable Authority and the joint machinery proposed in Chapter 5, there must be alternative means of ensuring that the content of advertisements is in line with the IBA Code of Advertising Practice. In the case of advertisements for nationally

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available products and services, likely to be shown on a number of cable systems, means will be needed of securing that the advertisement has passed, or would pass, the copy control system operated by the Independent Television Companies Association. The Government has it in mind that a requirement to this effect would be included in the licence issued by the Home Secretary. As with ITV, advertising generated locally to be shown only on the local network would not normally need central clearance. It would be the local operator's responsibility to ensure compliance with the requirements of the code.

199 ~~11~~. Another area in which this White Paper proposes that the Cable Authority should have a positive role is in the encouragement of British production of programme material. The extent to which an applicant for an interim licence proposes to use existing British material or to promote the production of new programmes will be among the factors which the Government will take into account in considering applications for these licences. The continuing role outlined for the Cable Authority in Chapter 5 of encouraging home production will apply to these as to other licences as soon as the Cable Authority is set up and in a position to give effect to it.

200 ~~12~~. The other programming obligations and restrictions proposed in Chapter 6 will apply to those licensed to provide cable services in advance of legislation, but cable operators will be directly responsible to the Home Secretary for their adherence to the terms of the licence. There are disadvantages in making a Minister of the Crown directly responsible for supervising programme services and interpreting the rules applicable to them, and therefore answerable for them to Parliament. However, most of the period before legislation is enacted and this function is passed to the Cable Authority will be taken up with the planning and installation of systems; the direct supervision by the Home Secretary of a wide range of programme services will be comparatively short-lived. This will mean that some of the potential problems which it will be the responsibility of the Cable Authority to avoid, such as the control of cable channels by particular religious and political groups and the risk of cable contracting for exclusive rights to major events, are unlikely to arise before such responsibilities are assumed by the new Authority. The Government proposes moreover to set up the Authority on a shadow basis after Second Reading of the Bill. As well as enabling the Authority to prepare to embark on the franchising operation

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immediately after Royal Assent this will provide a source of advice for the Home Secretary on programming questions which may arise in the interim. The risks inherent in temporary, direct governmental control are therefore not considered to be sufficient to outweigh the benefits for British industry of maintaining the impetus of the Government's commitment to cable expansion.

- 201 ~~13~~. Detailed guidance notes for companies interested in submitting applications will be issued by the Department of Industry and the Home Office once Parliament has debated and approved this White Paper.

Existing cable systems

- 202 ~~14~~. The Government has also considered the question of authorising new services on existing cable systems in the interim period. This question presents different considerations from those applying to new pilot schemes. Existing cable operators are confined to relaying BBC and IBA services except for the single channel of subscription television which has been authorised for a two-year period in 13 towns and cities around the country (and except for a small number of community sound channels and one community television experiment which were authorised in the 1970s and still operate on a modest scale). Giving greater freedom for the use of these cable systems is not justified by the same objective of encouraging new technology which has led the Government to conclude that some interim licences for new cable systems should be authorised. Indeed there is a danger that to permit the investment which will be necessary to enable narrowband cable systems to be used for other programme services may have the effect of delaying the development of wideband systems in those areas. There are however two significant arguments in favour of allowing the expansion of new services on existing systems.

- 203 ~~15~~. One argument is that for some years now improved off-air reception has meant that commercial relay systems have become increasingly unprofitable. The largest companies have made it clear that, if present trends continued, they would have to close down their relay operations altogether and concentrate on more viable parts of their business (such as the rental of television sets and video cassette recorders). The question which the Government has had to consider

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is whether something should be done to alleviate the problems which the existing operators face, as the Hunt Inquiry recommended should be done through the waiver of the must-carry rule for up to five years.

204 16. The second argument relates more directly to the Government's proposal that a limited number of new cable licences should be granted in advance of legislation. The success of cable is bound to depend heavily on the attractiveness of the programme services which cable operators can offer to their customers. Programmes of high quality and wide appeal will be expensive to provide and extremely difficult to sustain if the audience is confined in the early days to those connected to a limited number of new cable pilot schemes. It will be much easier to build up the kind of audiences which would make new programme channels worthwhile if existing operators are enabled at the same time to offer those channels to those people who already receive broadcast programmes by cable.

205 17. What is to be done in the interim period before legislation has to take account of what arrangements would be appropriate for existing systems in the longer term, once legislation has been passed. The Hunt Inquiry recommended that existing companies should be allowed to provide new services on their old systems until such time as a duly franchised wideband system, whether belonging to the same company or a new one, was operating in their area. For many, though not all, existing systems, this would necessitate a waiver of the normal obligation to carry BBC1, BBC2, ITV and the Fourth Channel. The Inquiry recommended that such a waiver should be granted for up to five years provided that the operator made aerials available to his customers, at no extra cost to them, to enable them to receive BBC and IBA services off-air. A maximum period was set in order to guard against the risk that any relaxation of the rules for existing systems might give such a new lease of life to them that operators would have little incentive to invest in wideband technology. The Inquiry envisaged that the waiver would be granted by the Cable Authority, who would authorise and supervise the additional programme channels which the companies wished to provide. The Inquiry did not suggest that the Cable Authority should be in any way constrained when awarding new franchises by the presence in an area of an existing system. The waiver of up to five years of the "must-carry" rule was intended as a maximum rather than as a guaranteed period free of competition. Equally the Inquiry recommended, and the Government accepts (see above, ^{paragraph 71} ~~Chapter 4 para 23~~), that all applicants for new franchises should have the same opportunities whether or not they have already operated a relay system.

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206 18. There are conflicting considerations here. Existing operators are anxious to have freedom to provide additional services at the earliest date and wish to be given a guaranteed period free from competition so that they can have time to see some return from the initial outlay involved in launching new programme channels and installing individual aerials for the reception of BBC and IBA services. Other companies who have no existing systems but are anxious to invest in wideband cable have expressed concern at the proposition that relay operators should be treated preferentially. They are anxious not to be locked out of whole areas for a substantial period merely because of the presence there of a narrowband relay system.

207 19. The Government believes that a balance has to be struck, in the light of the recommendations of the Hunt Inquiry, so as to give the relay companies some freedom to develop new services without delaying unduly the introduction of new technology by sterilising those parts of the country where commercial relay systems now exist. The Home Office will therefore be prepared to license existing companies to offer additional services and, where necessary, to do so by removing BBC and IBA channels from their systems so long as they provide satisfactory alternative means of reception (which in practice will usually mean outdoor aerials) at no extra cost to the viewer. Licences will run in the first instance until 31 July 1986; but once the statutory franchising operation has begun, the Cable Authority will have the discretion to extend authorisation for the provision of services in individual areas if it is satisfied, in the light of the applications received for new system franchises and the likely franchising timetable, that to do so would not prejudice the early cabling of that area. Priority will therefore be given to the new technology, but in a way that should leave considerable scope for some additional services to be provided on existing systems.

208 20. The Hunt Inquiry envisaged that the relaxation of the must-carry rule and the authorisation of new programme services would be one of the first tasks of the Cable Authority. The Government considers it right, however, that for the reasons explained above it should use its existing licensing powers to permit, on the conditions proposed by the Hunt Inquiry, new programme services on existing cable systems. After this White Paper has been debated therefore, the Government will be prepared to consider, as well as applications

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for licences for a limited number of new systems as pilot schemes, applications for new programme licences from existing operators. Such licences would not be limited in number in the same way as those for new systems. Thus any operator prepared to accept the conditions set out in the preceding paragraph will be eligible to be licensed to provide programmes acceptable on the basis already described in relation to newly installed systems. In an area where an existing system is authorised to provide additional programme services in line with these arrangements the Government will not be prepared to issue a licence for a new system as a pilot project under the procedure described in paragraph ~~68~~¹⁹⁴⁻¹⁹⁶ above. Most existing systems will not in practice be able to provide more than four additional programme channels. Given this consideration, the Government believes that the disadvantages inherent in the Home Secretary's having direct responsibility for programme licences can be accepted for the relatively short period before the Cable Authority takes over the responsibility - even though the period of direct supervision by the Home Secretary will probably be slightly longer than in respect of those systems which have to be installed from scratch.

- 209 21. The Government envisages that this short initial period of direct supervision by the Home Office will be followed by two stages. First, after Second Reading of the Bill, the Government will set up a shadow authority which the Home Secretary will be able to consult in connection with the supervision of the licensed programme services (see paragraph ~~72~~²⁰⁰ above). The shadow authority will not itself be able to amend any licences already issued nor to issue fresh licences.
- 210 22. The final stage will come with the bringing into force of the new legislation and the assumption by the Cable Authority of its full powers. At this stage, cable programme services licensed under existing legislative powers will become subject solely to the control of the Cable Authority and to the provisions of the new legislation and will have to adapt accordingly to any changed conditions that may have been incorporated in the Act as passed, or derive from the policies adopted by the Cable Authority.
- 211 23. The authority will have to decide at that stage how long, if at all, a licence should run beyond July 1986 for the provision of services on existing systems. The Authority's first duty will be to promote the development of wideband cable systems, and the awarding of franchises will not therefore be

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delayed in any particular area because of the presence there of an existing cable system whether or not it is offering services additional to those of the BBC and IBA. The Authority will however be able to give guidance to existing operators on the likely timetable for franchising, and will ensure that the licences issued to them are for periods which take this timetable into account. Once a franchised wideband system is in operation in any particular area it will no longer be possible to continue providing non-broadcast programme services over existing systems. The Hunt Inquiry recommended that where a relay operator took advantage of the waiver of the must-carry rule in order to provide additional programme services he should not be allowed to benefit from the waiver for more than five years since otherwise out of date systems might be perpetuated unreasonably. The Government, likewise, believes that it is important that the freedom which it intends to give to existing cable companies should act as an incentive to new technology and not the reverse. The Cable Authority will therefore have a duty not to extend beyond a maximum of five years from the date of first issue (whether by the Authority or, between this White Paper and the enactment of the legislation, by the Home Secretary) any licence for the provision of non BBC and IBA services over a narrowband cable system unless it is satisfied that there are special circumstances (where for example there has been some delay in the franchising of a particular area). This duty will extend to all licences, whether or not the operator has needed to take advantage of the must-carry waiver.

212 24. The Government believes that the freedom that it is prepared to allow to existing cable systems, as well as a limited number of newly installed systems, to begin at an early date to provide new programme services provides the opportunity for valuable experience to be gained of providing cable services to the public. The existing pilot schemes of subscription television have already enabled some lessons to be learned. The provision of a wider range of programme material over a number of channels will allow more detailed indications to be obtained both of the ways in which viewers would like to see the existing range of television channels supplemented and of how much they are prepared to pay for extra services.

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CHAPTER 9 SUMMARY OF THE GOVERNMENT'S PROPOSALS

- 213 ~~/~~. The preceding chapters set out the Government's detailed proposals for the framework for cable development. For ease of reference they are briefly summarised in the following paragraphs.

Chapter 2 - Cable Technology

- 214 ~~/~~. The Government does not believe that it would be right at this stage in the development of cable to prescribe a particular type of system design: cable providers may therefore use switched star or tree and branch technology. Because of the longer term attraction of the star switched technology it will however be mandatory for all underground ducts for new cable systems to be laid in a star configuration and to be of adequate size to allow for subsequent developments (para ~~16-24~~).
16-25
- 215 ~~/~~. Coaxial cable and optical fibre will be permitted. It is likely to be some years at least before it will be economic to use optical fibre throughout cable systems and the Government does not intend to require the **use of optical fibre in any** part of a cable system at this stage (para ~~17-27~~).
26-28
- 216 ~~/~~. The Government wishes to encourage the development of cable systems which will **permit** the provision both of programme and interactive services. All cable systems will therefore have to be designed to high performance standards. The Government's final decisions on system specifications must await the completion by the Technical Working Group of the preparation of draft British Standards (para ~~18-22~~).
29-33
- 217 ~~/~~. The Government wishes cable investment to be privately financed and market led. Estimates of the likely cost and speed of cabling vary but investment will inevitably be spread over a number of years and the private sector ought to be **able** to finance it from normal sources without any special difficulty. New jobs will be created both short term during the construction phase, and long term. The gross number of jobs created and the possible offsetting reductions elsewhere in the economy are difficult to estimate. Cable should generate new economic activity and enhance productivity (~~30-36~~).
34-38

Chapter 3 - The Cable Authority

- 218 ~~/~~. A new statutory Cable Authority will be established to award cable franchises and to exercise a measure of oversight over the services provided. The franchising process will stand at the heart of the Authority's activity (para ~~37~~).
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247. The Authority will initially have a Chairman and six other Members though the legislation will enable this figure to be varied in the light of experience within certain limits. Members will be appointed by the Home Secretary in close consultation with the Secretary of State for Industry. Appointments will be for renewable periods of five years and will be part time. The Authority will appoint its own staff which, though small, will need to be well qualified. The Authority's main resources are likely to be concentrated in a single location though some regional presence may be necessary. The Authority will not have a fixed statutory lifespan. It will be financed by fees paid by franchise holders (para ~~370~~).

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Chapter 4 - The Franchising and Licensing Process

248. The Cable Authority will have the statutory responsibility of awarding franchises to cable operators for the provision of cable services. The Authority's powers will subsume the existing powers of the Home Secretary under section 29 of the Post Office Act 1969. The cable provider (which may or may not be the same company or consortium as the cable operator) will require a separate telecommunications licence from the Secretary of State for Industry, in consultation where appropriate, with the new Office of Telecommunications. The Government intends to give further thought to the precise demarcation of responsibilities between the various interest bodies in preparing the necessary legislation. The award of a franchise by the Cable Authority will, however, be the key decision. In considering application the Authority will consult OFTEL on the technical and other telecommunications aspects of the system which the cable provider proposes to instal. The presumption will be that once the Cable Authority has awarded a franchise the corresponding application for a telecommunications licence will be successful. Where a cable provider wishes the Telecommunications Code to be applied the Secretary of State will, however, need first to follow the normal statutory consultation procedures (para ~~251~~).

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249. It will be for the Cable Authority to determine the size and shape of franchise areas. The Government envisages however that no system would be larger than about half a million homes and expects the majority to be significantly smaller. The Authority will be required to take account both of market forces and of natural community groupings. In determining the precise limits of a franchise area the Authority will be able at the margin to include areas of less economic appeal to the investor. The Authority will not, however, be required at this stage to seek to extend cabling to whole areas which would be uneconomic (para ~~10-12~~).

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- 222 10. Companies wishing to obtain licences as cable providers or franchises as cable operators must be under UK/EC control. Central and local government and religious and political groups will be excluded from any stake in the ownership of companies holding franchises or licences. There will be no specific statutory restriction on the participation of existing telecommunications, broadcasting or newspaper interests. The Cable Authority will, however, have a duty to use its franchising powers in a manner which will prevent concentrations of power in particular areas which would be contrary to the public interest (para ~~33-16~~).
61-64
- 223 11. The Authority will need to judge franchise applications by a number of criteria (listed in para 17). In all cases there must be the opportunity for competing bids to be submitted. The detailed procedures to be followed will be for the Authority to determine but it will have a duty to consider local views and consult the relevant local authorities. The Authority's decision will be final (para ~~33-17~~).
65-69
- 224 12. The Secretary of State for Industry will have power to apply the new Telecommunications Code to cable providers. There will be safeguards to prevent undue disruption to the road system. Subject to appropriate environmental safeguards the installation and maintenance of cable systems will be deemed 'permitted development' and will not therefore require planning permission (para ~~22~~).
70
- 225 13. Cable franchises will run for 12 years in the first instance and 8 years thereafter. Initial cable licences will be granted for 20 years for switched star systems and 12 years for tree and branch systems, extendable to 20 if switches are subsequently installed. In setting the starting date for a franchise the Cable Authority will take into account the necessary installation period. A company with both a licence and franchise for an area will be obliged to sell or lease its system to another operator should it lose its franchise. The Cable Authority will be required to readvertise franchises at the end of each period (para ~~23-6~~).
71-74
- 226 14. The Cable Authority's ultimate sanction will be the non renewal or premature withdrawal of an operator's franchise. Short of that it will have the power to direct that certain programmes or channels should not appear on cable and, after issuing a warning, to subject an operator for a period to a tighter degree of supervision than normal (para ~~23-11~~).
75-79

225. Existing cable operators will be able to compete for new cable franchises on the same footing as other applicants. The Government accepts that some new services should be allowed on existing systems for an interim period (see chapter 8). Small master antenna systems providing relay facilities will be allowed to continue in operation (para ~~85-4~~).

80-81

Chapter 5 - Broadcasting Policy and Cable

228 26. The Government endorses the objective of the BBC and IBA to maintain the range and quality ^{of} the broadcasting services now available to all. At the same time the Government accepts that the freedom which it believes is right to permit for cable development will have implications for the economics of broadcasting. The broadcasters will themselves be free to play a role in cable and they start from a position of strength. In the longer term the growth of cable could necessitate considerable change in existing broadcasting arrangements but cable has first to establish itself and the Government has no plans to modify the existing duties and obligations of the broadcasters (para ~~28~~).

83-90

229 27. A wider range of advertising will be possible on cable than on independent broadcasting. With appropriate safeguards some sponsorship will also be permitted. Cable advertising which is analogous to ITV and ILR advertising will be restricted to the amounts allowed under IBA rules. Classified advertising and channels wholly or mainly devoted to advertising will be excluded from this limitation. The Cable Authority will be responsible for drawing up a Code of Practice for cable advertising. It will share a joint statutory advisory committee with the IBA and the two Authorities will be required to ensure that they adopt a common core of rules. Joint copy clearance procedures will be set up and central prevetting of scripts will be required for advertisements intended for distribution on a number of cable systems. Local advertisements will be cleared locally. The Cable Authority will need to establish a working relationship with the Advertising Standards Authority in dealing with those categories of cable advertising analogous to print advertising (para ~~9-21~~).

91-103

230 28. Cable operators will not be permitted to obtain exclusive rights to certain major national sporting and other events. The Government would hope that the precise list can be agreed between the broadcasters, the Cable Authority and the cable operators. The Home Secretary will have a reserve power to determine the list in default of agreement (para ~~22-27~~).

104-109

231 29. Pay per view will be permitted on cable except that operators will not be allowed to offer a programme on that basis if as a result one of the existing public service channels is deprived of an event which it has customarily covered. The Cable Authority will draw up detailed rules. Pay per view will also be

available for DBS channels (para 110-116).

232. The Cable Authority will, in considering franchise applications, give particular weight to companies' plans for using and generating programme material of British and European Community origin. It will be required to satisfy itself that a proper proportion of such material is shown on each channel having regard to the channel's intended character and taking account as relevant of BBC/IBA practice. The Government accepts that operators **may** need to use a significant amount of overseas material, particularly from the USA, in the early years; **but** the Cable Authority will have a duty to work towards a progressive increase in the proportion of British programming. The Authority will report progress periodically to the Government (para 117-123).

Chapter 6 - Programme Services and Content, and the Role of the Cable Authority

233. Cable operators will be required to relay the four existing BBC and IBA television channels appropriate for their area. They will also be required to relay BBC and IBA radio services. All systems will have to include provision for the five DBS channels allocated to this country by international agreement. The precise application of the must carry obligation for DBS services will depend on the nature of the channel: operators will be required to provide any advertising or licence fee financed services as part of the basic package of programme services; they will, on the basis of appropriate financial arrangements agreed with the broadcasters, be required to offer any subscription financed DBS channels to those of their customers who wish to pay for it. There will be no statutory obligation for cable operators to make any other particular programme services available to their customers; in the franchising process the Cable Authority will take account of the range and diversity of the services proposed (para 124-131).

234. The general and positive programme quality obligations which apply to public service broadcasting will not be appropriate for cable. The Government proposes, however, that all cable channels should be subject to the same good taste and decency rules as existing broadcasting. The Government does not believe that so called 'adult channels' should be available on cable systems. It will be for the Cable Authority to interpret and apply the taste and decency requirement. The legislation will not provide for the classifications of the British Board of Film Censors to have any formal bearing on the Authority's decisions. The Obscene Publications Act will be amended to make it clear that cable channels will be subject to its provisions (para 132-138).

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23. The Government proposes that the Authority should be required: to exclude any bias across the generality of services on a particular system; to ensure that news coverage is accurate and impartial; to see that there is impartiality of access to any community access channel; ^{and} to exclude particular religious or political groups from the control of individual channels. Subject to ^{requirements} these ~~the~~ Government believes that cable should enable greater freedom for the expression of political and religious viewpoints than has been possible on public service broadcasting (para ~~16-18~~).

139-141

24. The Cable Authority will need to adopt various methods of supervision according to the particular nature of each of the programme content obligations. The Government believes that the Authority will be able to maintain a light touch and does not envisage that prior submission of programme schedules will be necessary. In general the Authority will operate on the basis of its own selective sampling and retrospectively in response to complaints. It will, however, have the power to take action before a programme is shown if it comes to its attention that something unsuitable is to be screened. Informal consultation between the Authority and cable operators is likely to develop. The Authority will also need to develop a relationship with programme providers who distribute material to a number of cable operators. The Authority will be able to monitor such material centrally (para ~~19-21~~).

142-143/150

25. Cable operators will be allowed to relay foreign broadcasting services though reception cannot be guaranteed protection from radio interference from domestic services. The Cable Authority will have a duty to draw up rules dealing specifically with the relay of non-British channels. The cable operator will generally be expected to distribute only those channels which broadly comply with the normal rules for cable services (para ~~22-24~~).

151-154

26. With the consent of the broadcasting company or organisation concerned cable operators will be able to relay UK broadcast services from outside their own areas (para ~~25-27~~).

155-156

27. Cable operators will be authorised to receive and distribute programme services transmitted by low powered telecommunications satellites provided the originators of the service give their consent and provided operators follow such procedures as are necessary to ensure that their earth stations do not come to represent a constraint on the development of the terrestrial telecommunications network. Operators will not be guaranteed protection from radio interference. The normal programme content rules will apply to services distributed by satellite. In the interests of good neighbourliness the Government is prepared to use its

own powers to ensure that no television service or part of a service is transmitted to a satellite from this country if the Cable Authority judges that it would be contrary to the programme and advertising content rules for cable systems in this country (Para ~~34-39~~).

157-162

240 28. Questions of copyright are being considered in the Government's general review of copyright law. Whether it will prove possible in the cable legislation to deal with any particular copyright points related to cable remains to be seen (Para ~~40~~).

163

241 29. The availability of new feature films for cable showing will be for the industry to determine. Other film issues relevant to cable such as the Eady levy are being considered by the Department of Trade in its current review of its relations with the film industry due to be completed in the summer (para ~~41-42~~).

164-165

242 30. There are a number of other detailed matters, including the privacy implications of cable to which the Government intends to give further thought in preparing the cable legislation (Para ~~43-44~~).

166-167

Chapter 7 - Telecommunications

243 31. Cable's relationship to the national telecommunications structure has to be considered against the background of the Government's wish to increase competition in the provision of telecommunications services and apparatus so that industry and the consumer can benefit from resulting improvements in efficiency (Para ~~45-47~~).

168-178

244 32. The existing national telecommunications operators, BT and Mercury, will not be given the exclusive right to run cable systems nor will their participation in every cable consortium be mandatory. They will however be free to compete with other potential cable providers. In addition:

- (a) BT and Mercury will retain the exclusive right both to link local cable systems and to provide voice telephony services on local systems.
- (b) Because of the importance for the revenue of BT and Mercury of providing high density data services in the principal UK business locations there will be restrictions in some areas on the provision of data services by cable operators: in the City of London, the Boroughs of Westminster and Camden in

Central London and the business centres of Manchester and Birmingham cable operators will, for the initial franchise period, be allowed to provide data services only in collaboration with BT or Mercury.

(c) Subject to these restrictions cable operators will be free to provide telecommunications services to their subscribers, whether of a switched or non-switched variety (Para 179-188).

Chapter 8 - The Way Forward

245. The Government proposes to introduce legislation at the earliest practicable opportunity to establish a Cable Authority with the necessary statutory powers. It would be possible for the Authority to be appointed in the spring or summer of next year if there were legislation in the next Session of Parliament (Para 189-192).

246. The general development of the Government's cable policy must await the enactment of legislation. But the importance of maintaining momentum justifies some limited pre-legislative steps:

- (a) The Government is prepared to authorise a limited number of new cable systems - perhaps ten or twelve - as pilot projects in areas proposed by applicants. Proposals will be expected to offer a positive contribution to the application of advanced technology as well as providing a comprehensive range of programme services and the capability for interactive services.
- (b) Licences will be for 12 years with the telecommunication licence extendable to 20 years where switches are installed. Cable areas will normally be expected to cover identifiable and self-contained communities of not more than 100,000 homes. The initiative for cabling will come from the applicant and there will be no process of local consultation.

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- (c) Programme requirements will in general be those to be embodied in the statutory framework but some modification will be necessary in the absence of a Cable Authority. Licensees will be directly accountable to the Home Secretary for any programme services provided before the cable legislation is enacted. This is not in the Government's view an ideal arrangement but it is acceptable on a short term basis. After Second Reading of the Bill the Authority will be established on a shadow basis and will be able to give the Home Secretary advice until it assumes statutory responsibility for cable services after Royal Assent.

Detailed guidance notes for potential applicants for licences are being issued (Para ~~5-43~~).

143-201

- 267 35. Existing relay companies will be authorised to offer additional services over their existing systems. Where because of limited capacity this involves removing one or more of the normal must carry channels the operator will be required to make satisfactory alternatives mean of reception available at no extra cost to the viewer. Licences will run in the first instance until 31 July 1986 but will be extendable thereafter at the discretion of the Cable Authority up to a normal maximum of 5 years though further extensions will be possible in **special** circumstances. The programme service rules will be the same as those for the new systems (Para ~~1-4~~).

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ANNEX A: THE TERMS OF REFERENCE OF THE EDEN TECHNICAL
WORKING GROUP

"To consider the specifications necessary for the design and operation of wideband cable systems, in particular as respects the needs:-

- (a) for cable systems
 - (i) to be compatible with appropriate technical and service features of the networks operated by BT and Mercury;
 - (ii) to have the capacity to provide interactive services;
 - (iii) to comply with the requirements for the prevention of electro-magnetic interference laid down by the UK, the EC and the international specifications of CISPR; and
 - (iv) to have some reserve capacity for which standards will be specified in the future (the level of spurious signals for other services that may appear should be specified);

and (b) for existing TV receivers used for UHF reception to be capable of being linked to the system (the properties of receivers with other interface ports and of receivers equipped to take adaptors for the reception of transmissions from satellites of direct broadcasting will also need to be taken into account).

2. In considering these specifications the Working Group should take into account all the various types of services, including switched interactive services, that it can envisage as being provided in due course by wideband cable systems, with the exception of voice telephony, and where appropriate British Standards do not exist it is asked to draft them. These standards should encompass the principal alternative configurations and technologies and the Working Group may therefore find it necessary to produce alternative standards for particular services.

3. The principal services that the Department can anticipate as being among the potential capability of wideband cable systems are:-

- (a) downstream video channels, where the Department wishes the Working Group to look towards about 30 channels each with its associated sound and teletext data signals; (a proportion of these should be capable of handling the features included in the standards for direct broadcasting by satellite, where appropriate with any necessary transcoding);

- (b) audio channels;
- (c) at least one return video channel, with an associated sound capability, which may be used for a range of services;
- (d) two-way data channels, some of which should have a signalling rate of 80 k bits/sec.

In the case of (c) and (d) above the Department would wish the Working Group to produce standards that allow for a number of subscribers to have simultaneous access to those two-way services including viewphone.

4. The Working Group is asked to produce drafts of the appropriate standards on or about 1st March 1983 in such a form, using the guidance of BS 0:1981 wherever possible, that the British Standards Institution may issue them for public consultation. An interim progress report should be submitted by 1st October 1982."

Department of Industry
28th September 1982

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ANNEX B: THE WORK OF THE EDEN TECHNICAL WORKING GROUP

The Eden Technical Working Group has divided its work into five main sub-groups, concentrating on the following areas:

- (1) Specification of the performance requirements (including safety) and methods of measurement for wideband cable systems, and the production of draft standards based on input from all the sub-groups;
- (2) study of the range of two-way data services which may be operated on wideband cable systems, the factors which need to be considered for standardisation, including numbering and charging systems and work in international standards fora;
- (3) study of the standards for interfacing of cable systems at the head end with the trunk networks which BT and Mercury are expected to provide, with the local sources of input, and, at the subscriber end, with the different types of equipment that may be connected; identification of all relevant UK and international standards, recommendations and specifications;
- (4) implications of the adoption of the C-MAC signal for direct broadcasting by satellite as regards its adaption to cable systems, and the need to produce or modify standards accordingly; and
- (5) consideration of the suitability of optical fibre systems for carrying the above services on cable systems, and the need to produce or modify standards accordingly.

The Eden Technical Working Group has sent draft standards to the British Standards Institution for the application of PAL System I video and associated sound signals on coaxial cable systems providing the following services:

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- (a) multi-channel downstream television with associated sound signals and teletext;
- (b) multi-channel downstream fm stereo sound radio;
- (c) upstream television signals.

These draft standards will shortly be available for public comment through the procedures operated by the British Standards Institution. Details, including the period for comment, will be announced in BSI News obtainable from the British Standards Institution, 2 Park Street, London W1A 2BS.

Further draft standards for wideband cable systems, covering two-way data services and direct broadcasting by satellite, will be prepared and submitted to BSI.

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