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S.M.



file

bc David Pascale

10 DOWNING STREET

From the Private Secretary

8 May 1984

Dear Hugh,

DBS

The Prime Minister has seen the draft of the statement which the Home Secretary proposes to make for the Second Reading of the Cable and Broadcasting Bill and, subject to one point, is content with it. She wonders whether on page 8 there would be merit in spelling out a little more that alternative forms of satellite broadcasting are not precluded. This could be done by amending the final sentence of the middle paragraph as follows:

"....other cable-borne services, transmission to cable heads using telecoms frequencies, and alternative systems of delivering"

It would, however, be important to ensure that this were not interpreted as Government endorsement of or commitment to such alternative systems. The aim would be to demonstrate that the scope of the monopoly was being kept to the minimum necessary.

I am copying this letter to Callum McCarthy (Department of Trade and Industry), John Gieve (Chief Secretary's Office) and Alex Galloway (Chancellor of the Duchy of Lancaster's Office).

Yours sincerely
Andrew Turnbull

(Andrew Turnbull)

Hugh Taylor, Esq.,
Home Office

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PRIME MINISTER

cc: Mr. Redwood

DBS

Mr. Brittan's statement embodies the various conditions agreed at your meeting. The only outstanding issue is whether it should be more explicit on page 8 about the other forms of satellite broadcasting which would compete with DBS. The aim would be to emphasise that competition is being kept as open as possible. I have marked a possible form of words on the text.

The Home Secretary may not want to go this far as it could be interpreted as a commitment to allow such systems, when there might be other reasons, e.g. allocation of radio frequencies, for turning down a particular proposal.

Subject to resolving this point, agree the statement?

AT
 This has got sorted from the note -
 Done
 out

4 May 1984

From: THE PRIVATE SECRETARY

CCJR



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

4 May 1984

Dear Andrew,

DBS

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..... As requested in your letter of 1 May to Hugh Taylor,
I enclose a draft of that part of the Home Secretary's
opening speech for the Second Reading of the Cable and
Broadcasting Bill on Tuesday next, 8 May, which deals with
DBS including the Joint Project.

On one point raised in your letter, the Home Secretary
is satisfied that it would be neither acceptable nor
practical for contract services in competition with the Joint
Project to be advertised at such a time as to allow actual
broadcasting to begin after three years of the Joint Project
service. The draft attached reflects this conclusion.

Yours ever,
Christine.

MRS C J HEALD

Andrew Turnbull, Esq.

CABLE AND BROADCASTING BILL

HOME SECRETARY'S SECOND READING SPEECH

DRAFT PASSAGE ON DBS

I turn now to the subject of Direct Broadcasting by Satellite: DBS. Hon Members who follow this subject in detail will be aware of a good deal of speculation in recent weeks about a possible new approach which would assure the initial stage of DBS for this country. Part of my task today is to tell the House of that approach and the implications for the Bill. But first, a few words about the DBS provisions in Part II of the Bill, and the general policy background.

As Hon Members will recall, DBS is a means of transmitting television and sound signals from a single transmitter in space, direct into the home, where the signals are received with the aid of a small dish aerial and converter equipment. DBS signals can, and will, also be received at the head-ends of cable systems and distributed like other cable programmes. But cable is not necessary as a means of distribution - in contrast to the programme services which are now beginning to be transmitted by low-powered telecommunications satellite for distribution as part of the package of programme services provided by cable operators.

The United Kingdom, like each other European country, has been allotted by international agreement five DBS channels. The Government's decision, announced in March 1982 by my predecessor, now Lord Whitelaw, was to allow and facilitate this opportunity to be taken, for technological and industrial as well as broadcasting reasons. Hence Lord Whitelaw indicated two years ago that the BBC would be authorised to go ahead with plans for

a 2-channel service, using a satellite system provided by the Unisat consortium. At the same time he looked forward to the participation of the independent sector in DBS, once a legislative and regulatory framework had been created.

That is what Part II of the Bill seeks to provide. It empowers the IBA to provide DBS services. The IBA will be the broadcasting authority and, wherever relevant, their powers and responsibilities under the Broadcasting Act will apply to DBS also. The IBA would provide DBS services, as it does terrestrial services, through contracts with programme companies, chosen through a franchising process. Each DBS franchise would last for 12 years, in recognition of the fact that the successful applicant would bear the full responsibility and liability for satellite provision. Services could be financed by subscription or advertising or both, and, as and when there was a sufficient level of profit, would be subject to levy. In terms of the IBA's finances, independent DBS will have to stand on its own feet. The rentals received from terrestrial television will not be allowed to subsidise the IBA's DBS operation unless exceptionally the Authority applied for my consent and I made a direction to that effect. Any such direction would have to be laid before Parliament.

The Government remains committed to the framework I have described, of permitting competing BBC and independent sector DBS services, for the longer term. We have, however, accepted the case that has been put forward that something different is needed for the initial stage of facilitating DBS. First, DBS is a high risk, high cost venture which would initially be a heavy burden for any single operator. Second, its viability will depend on the rate of build-up of its audience, who will have to incur appreciable expense to equip themselves to receive a service. Financial projections suggest that a service is not going to break even until it can

attract some two million subscribers, and that is going to take some years. There are real doubts whether there is room, from the outset, for two services competing for an audience. These uncertainties led the BBC to explore the opportunities for partnership with others, latterly and in particular with the IBA and ITCA, the association of ITV companies. While the Government was not the prime mover in these talks, we have stayed in close touch with them since we want to see an opportunity provided for a British DBS service to be established on a firm footing. We have seen our task as not to coerce anyone into a particular framework for DBS, but to listen to the arguments and be ready to play our part in creating the conditions in which a venture worthy of support can go forward.

Having reviewed the case put forward, the Government has concluded that the best hope of securing a good quality British DBS service in the late 1980s lies in a Joint Project which would bring together the talents and experience of those of the existing broadcasters who wish to participate, together with a significant proportion of outsiders. This will mean some additional legislative provision to create the necessary framework, and I shall be bringing forward in Committee detailed proposals for this purpose. Meanwhile the House, and those outside with an interest in the project, will wish me to indicate today its main features.

What is proposed is that the joint DBS Project will be provided by a joint company or consortium whose participation will be divided between the BBC and the independent sector. The BBC will have a half share of the project. The independent sector will be in two parts. One part - which I would expect to be at least a quarter of the total project - would consist of those ITV companies which wish to take part. I stress that there is to be absolutely no pressure or coercion. The companies must decide for themselves because it is their shareholders' money which will be at risk. The other part of the independent sector would consist of other companies or organisations that expressed a wish to take part on the terms stated and were judged suitable to do so. They might make up 20-25% of the total - but the proportions need to be kept flexible until we see the strength of those who wish to participate. It is in my view essential that an opportunity for participation in this important new broadcasting development should be given to those who do not currently hold ITV franchises. I shall need to be satisfied at the end of the process of selection and negotiation that a suitable consortium has been put together. I shall therefore be inviting the House to confer on me as Home Secretary a power under the Bill to set the seal on the consortium by formally designating it.

This does not mean that I see myself, or my Department, playing a substantial role in the selection of the new element in the consortium which is neither BBC nor franchise-holder. Some mechanism, however, will be needed to invite would-be participants to come forward, to sift them and judge the strength of their claim to participate. Here I propose to seek the help and advice of the IBA, whose experience and background make it an obviously appropriate body for the purpose. The Authority will shortly be inviting interested organisations to get in

touch with it for this purpose. I do, however, stress that this is in no sense a normal franchising operation. What I shall be asking the IBA to do is to offer me their comments on the suitability and financial soundness of private sector participants, and the share of the project which they might appropriately bear.

Nor will potential participants be looking to the IBA for firm financial information about the project upon which to base their judgment whether to participate. That information can only come from the other members of the consortium - with whom, at a second stage, third element participants will have to negotiate.

At this stage, before any approaches are made, it would be a mistake to be too precise about the kind of contribution that independent participants might bring; I would not want to rule anything out in advance. But I hope that some at least would not merely be seeking an investment opportunity but would also have the ability to make some positive contribution in a field such as programme provision, financial management, manufacture or rental of equipment.

Before I move on from independent participation in the project, I should say that I am well aware of the keen interest in the proposals being shown by some of the independent production companies, whose growth has been much stimulated by the outlet for their product provided in the statutory framework for Channel Four. They now seek further outlets. For some of them, possibly in consortium, there may be the option of participation as part of the independent element in the Joint Project. But I recognise that the scale of investment required may make this difficult. They have suggested, as another possibility, an assured place in programme provision for the Joint Project. That is a suggestion with which I have a great deal of sympathy. I do not at this stage have a specific proposal, but I shall be considering how best effect might be given to it, and I invite others who are, or will be, concerned with the Joint Project to do likewise.

I now turn to some other aspects of the Joint Project. Like the BBC project from which, in a sense, it springs, it would use the Unisat satellite system. Some fresh negotiation between the consortium when formed and Unisat will be necessary, for various reasons. For example, it is envisaged that the Joint Project will provide three channels - one films channel and two of mixed programming. That means a change from the proposition being negotiated between the BBC and Unisat.

I envisage that the Joint Project should have a maximum life of ten years from the date of launch; provisions to be added to the Bill will so provide. Ten years is chosen so as to provide an adequate period over which the project can build up an audience, recoup its initial outlay and move towards profit - I have particularly in mind here the needs of the independent element. Whether the project will in fact last ten years must depend upon the arrangements regarding satellite provision which the consortium will make with Unisat.

✓ On other financial matters, I wish to make it clear that no public money whatsoever is being invested in or pledged for the project; nor will it be in the future. The Government is in no sense underwriting any part of the costs. The BBC's share of the cost will not come from the licence fee but from borrowing on the money market, under the extended borrowing powers granted to the Corporation by an amendment of its Royal Charter last year. If the worst came to the worst and the project collapsed, it might be necessary for the Corporation to draw upon licence fee revenue, with my consent, to settle its debts; but the BBC understands that such a use of licence fee funds would not be recouped through a subsequently enhanced fee. Expenditure of the ITV companies participating in the consortium, just as under Part II of the Bill, would not be an offset against the levy payable upon the profits of their terrestrial broadcasting operation.

Turning to the actual programme provision, the House will appreciate that, since neither the BBC nor the IBA as such will be responsible for providing the service, if it is to fit into our pattern of broadcasting arrangement some responsible joint body will have to be brought into being. This will require another addition to the Bill. But I do not intend that the creation of this joint body, to bear responsibility for the transmission of the programmes and for their standards and content, should involve a large new bureaucracy. I envisage that its members will be drawn equally from the BBC's Board of Governors and the members of the IBA. It must have a separate statutory existence, since its responsibilities are not precisely the same as those of either of the existing broadcasting authorities; but nevertheless, I believe that the Board's activities can be viewed as a logical extension of those of both the BBC and the IBA. The standards which the service will be required to meet will be those which would apply to a service under Part II of the Bill.

As I have said, the project involves high risk, and a very substantial investment. The financial projections which the existing participants have carried out show that the venture will have to work hard in its early years to gain audiences and revenue. Substantial losses will have to be borne. Even on favourable assumptions, the project will be making losses, year on year, in the fourth and fifth years of its operation, and will do little more than break even after seven years. Two particular consequences flow from this.

First, while I am anxious that a competitive regime should not be postponed for any longer than is strictly necessary, our objective of establishing a British DBS service on a firm footing could be jeopardised if competition for audiences and revenue had the effect of fragmenting them before they were surely established. Some protection of the project in its early years is therefore justified. In the Government's view, it would be right to postpone bringing Part II of the present Bill into force until three years have elapsed after the launch of the Joint Project's services. At that point the IBA would invite applications under Part II and, provided suitable applicants were forthcoming, would issue contracts; so that during the second part of the life of the Joint Project there could be competition from other DBS channels - in addition, of course, to competition from other cable-borne services and alternative systems of delivery such as video-cassette recorders.

transmission to cable heads
using telecoms frequencies

Second, the ITV companies, who have throughout made clear their wish to be associated with DBS, have stressed that they suffer the particular disability of facing the risk of losing overnight their reason for existence, and hence their ability to raise and service capital, not through any commercial failure but through the operation of the franchising system - the present franchises terminate in 1989. Without some relief

from this uncertainty, they have argued, they would not have sufficient financial confidence to engage in a DBS venture beginning in 1987. I have considered this point carefully, and have concluded that I would be justified in making some - but the minimum - departure from the normal arrangements for franchise renewal. I therefore propose to add to the Bill a provision having the effect that for 1989, but on that occasion only, the IBA will not be under an obligation to readvertise ITV contracts, but it will retain a complete discretion as to whether to do so or not. This will preserve the general franchising structure, to which we remain committed, and leave the IBA with full powers to do what is necessary to ensure a satisfactory standard of performance. I stress that it does not give any ITV company any guarantee whatsoever that its franchise will be renewed in 1989; it leaves the IBA free to renew without readvertisement if it considers that the company's level of performance is satisfactory. Alternatively the IBA may readvertise if it chooses.

To sum up this account of my proposals regarding the DBS Joint Project, I believe that the consortium approach offers the most realistic chance of getting a British DBS into action within the next three or four years. If those who are negotiating have come to this same conclusion and wish to take this chance, then I believe that we should not deny them the framework to make it possible. There will be the opportunity of a stake in the first DBS service both for the BBC and for those who might have sought to participate in an independent DBS franchise. It has a limited life; and the competitive regime, which remains our ideal, will not be long delayed. The choice of independent participants will begin very shortly. Work is already in hand on drafting the additions to the Bill which I have listed as being necessary - to provide for the formal designation of the consortium; for the jointing broadcasting body, and its length of life; and for the changed arrangement regarding the

the readvertisement of ITV franchises. By making these provisions we do not, of course, guarantee that a Joint Project will come into being. That will be for the potential participants to determine. What we do is simply to play our part, as Government and Parliament, by creating the framework and opportunity. But it is, of course, our hope that, having done this, the participants will consider that it is an opportunity which should now be taken.

4 MAY 1964

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COSTA RICA