



Prime Minister

QUEEN ANNE'S GATE LONDON SW1H 9AT

The Home Secretary decides against taking powers to regulate broadcasting hours, or to require the inclusion or exclusion of broadcast material, in relation to cable programme services.

November 1983

Call to the Judiciary to uphold the Law on M.J.

2 Michael

CABLE BILL: THE QUESTION OF RESERVE MINISTERIAL POWERS

Done 4/11

File with 103

I am writing to let you and other colleagues with an interest know of my conclusions on a matter which I have had to consider in the course of the preparation of the Cable and Broadcasting Bill, which is due to go to Legislation Committee on 30 November. The question has been whether we should include in the Bill reserve Ministerial powers over cable programme services analogous to the three powers which exist in relation to the BBC and the IBA: namely to regulate the hours of broadcasting, to require the inclusion of material in broadcasts and to require the exclusion of material from broadcasts. I have considered only peacetime circumstances, because war emergency legislation would contain provisions to take account of the special considerations which would arise in wartime, or when war seemed imminent.

My conclusion is that we should not seek to take powers of this kind in respect of cable programme services. The sort of regulatory framework which we are proposing for cable does not lend itself readily to reserve Ministerial powers of this kind and, more importantly, there would be an obvious conflict with our declared wish for cable not to be seen as simply an extension of public service broadcasting. A further consideration is that each of these powers dates from the earliest days of broadcasting when attitudes were very different from today. Although they have been carried over into the present constitutional documents governing the BBC and the IBA it is in fact questionable whether, if Parliament were now asked to express a view on the need for them, it would consider them justified. However that may be, it is certainly true that Parliament could be expected to look very carefully at any proposals to extend the powers to a new area of the media.

Turning to the powers individually, I think that the only foreseeable application in present-day circumstances of the power to regulate transmission hours, whether for broadcasting or cable, would be to control consumption of electricity during a national energy crisis (the powers over the BBC and the IBA were used for this purpose during the coal miners' strike in 1973-74). The Energy Act 1976, however, contains adequate powers for this purpose, and I see no need to write a separate power into the Cable and Broadcasting Bill.

The power to require the inclusion of material in BBC and IBA broadcasts arises primarily from the public service nature of broadcasting and the desirability of enabling the Government to convey information to the public. Although the power has not formally been invoked, at least for very many years, it forms the backcloth against which informal arrangements are reached with the broadcasters

The Rt Hon Michael Heseltine, MP

CONFIDENTIAL

on Ministerial announcements (eg the Chancellor's budget-night broadcast). Cable operators will be required to relay BBC and IBA programmes and cable subscribers will therefore be able to receive Government announcements broadcast by the BBC and the IBA in the same way as homes dependent on 'off air' reception. I can see no need in peacetime for all cable channels simultaneously to carry a Government announcement.

The question of taking a power to require the exclusion of material has prompted me to give very careful consideration to the security issues involved. My conclusion is that there would be considerable difficulty in persuading Parliament that the Government should have a reserve power of censorship over cable, and little if any advantage in making the attempt. It is in fact very doubtful whether the analogous power to require the BBC or IBA not to broadcast a particular programme would ever now be used in peacetime. Moreover, it is generally accepted that in many respects cable is more analogous to the printed press than to public service broadcasting. In the absence of direct Government powers over the printed press, even in the security and intelligence fields, to take such powers over cable would be controversial and very hard indeed to justify during the Bill's passage. We should inevitably be pressed to give examples of circumstances in which we might be prepared to use the power and I see great problems in trying to argue that something which might be published quite lawfully in the daily or weekly press might possibly be banned from cable television.

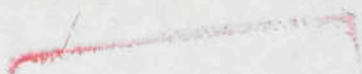
I am sending copies of this letter to the Prime Minister, the Lord President of the Council, the Chancellor of the Exchequer, the Secretaries of State for Foreign and Commonwealth Affairs, Northern Ireland, Energy and Trade and Industry, and to Sir Robert Armstrong.

Law,
L

CONFIDENTIAL

BROADCASTING: Biner

Pr 4



4 NOV 1983



CONFIDENTIAL

cc-NO



Foreign and Commonwealth Office

London SW1A 2AH

1 December 1983

abpm
JMS
2/12

Dear Hugh,

Cable Bill

Sir Geoffrey Howe agrees with the action proposed in the Home Secretary's letter of 4 November to the Secretary of State for Defence. Indeed if the Government were to suggest taking a reserve power of censorship over Cable it would not in our view sit well with the line we take in UNESCO and similar bodies over freedom of speech.

I am copying this letter to the Private Secretaries to those who received the Home Secretary's letter.

Yours sincerely,
Peter Ricketts

(P F Ricketts)
Private Secretary

H H Taylor Esq
PS/Home Secretary

CONFIDENTIAL

010

CC/NO.



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

29th November 1983

D
29/11
Dear Saunders,

CABLE AND BROADCASTING BILL

The Legislation Committee will be invited at their meeting tomorrow morning, 30 November, to agree to the immediate introduction of this Bill in the House of Lords with a view to obtaining Second Reading before Christmas.

Subject to that agreement I should be grateful if you would arrange for the Bill to be handed in for introduction by Lord Elton after Questions tomorrow and publication at 10 am on 1 December.

I am sending copies of this letter to Willie Rickett (No 10) Richard Watson (Cabinet Office) David Heyhoe (Lord Privy Seal's Office) Murdo Maclean (Chief Whip's Office, Commons) David Beamish (Chief Whip's Office, Lords) and Brian Shillito.

Yours sincerely,

T. C. Morris
T. C. MORRIS
Parliamentary Clerk

Broadca Sky: Duint Pt. 4

29 NOV 1983



CONFIDENTIAL



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

28 November 1983

Dear Leon

*nbpm
DMS
28/11*

CABLE BILL: INCITEMENT OFFENCE AND RESERVE MINISTERIAL POWERS

Thank you for your letter of 11 November proposing to include in the Cable Bill a free standing offence of incitement to racial hatred. I agree that it is right to take the opportunity to deal with this in the Cable Bill. It may be difficult to justify not extending it to BBC and IBA programmes, but no doubt you will be ready to explain that by reference to the public order review.

I see that Michael Heseltine, Jim Prior and Norman Tebbit have now commented on the conclusion in your letter of 4 November that it would be inappropriate to establish reserve Ministerial powers of control over the duration and content of cable programmes. So far as the content of the Bill is concerned, there is clearly general agreement with your view, but I think it would be helpful if you could try to resolve the outstanding points Michael and Jim raise before the Bill comes to Legislation Committee later this week.

I am copying this letter to the Prime Minister, other members of H Committee, the Secretary of State for Foreign and Commonwealth Affairs, the Chancellor of the Exchequer, the Secretaries of State for Energy, Defence and Trade and Industry and to Sir Robert Armstrong.

The Rt Hon Leon Brittan QC MP
Secretary of State for the Home Department

CONFIDENTIAL

Broadcasting: Direct Broadcasting K46

28 NOV 1994



From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

29 November 1983

Dear Richard,

CABLE AND BROADCASTING BILL

nb pm
DMS
29/11

The Home Secretary has asked me to write to record that he is entirely content with your Secretary of State's suggestion concerning the extension of the 'D' Notice guidance system to cable companies. I understand that an official from the Broadcasting Department here has been in touch with the Secretary of the 'D' Notice committee about the implementation of this.

Copies go to the Private Secretaries to the recipients of the Home Secretary's letter of 4 November, and the Lord Privy Seal.

Yours truly

Michael

M J GILLESPIE

R C Mottram, Esq

BROADCASTING : Cable

PK4



29 NOV 1983



MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

MO 21/1

18th November 1983

*DWS
23/11*

Thank you for your letter of 4th November about the Cable and Broadcasting Bill, and your conclusions on the question of reserve Ministerial powers.

I note your assessment that we should not seek to include provision for such powers in the Bill; and I am content that we should proceed in the way you propose. I would however make one point about 'D' Notices. I assume that cable programmes will fall into the same category of publication as those of the BBC and IBA, and I would therefore expect that cable companies, when established and operating, will receive and be expected to conform to 'D' Notice guidance on the same basis as other broadcasting organisations.

I am sending copies of this letter to the copy-addressees of yours of 4th November.

Michael Heseltine

The Rt Hon Leon Brittan MP

Broadcasting,
Direct, P-4

R1 NOV 1983

11 12 1 2 3
4 5 6 7 8 9

BROADCASTING: Direct Pt 4



JF4814

Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET

TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

15 November 1983

The Rt Hon Leon Brittan MP
Home Secretary
50 Queen Anne's Gate
LONDON
SW1H 9AT

*Dubs
16/11*

D. Leon.

CABLE BILL : THE QUESTION OF RESERVE MINISTERIAL POWERS

You copied to me your letter of 4 November to Michael Heseltine concerning the inclusion in the Cable and Broadcasting Bill of reserve Ministerial powers over cable programme services. I agree with your conclusion that we should not seek to take powers of this kind.

2 I am sending copies of this letter to the Prime Minister, the Lord President of the Council, the Chancellor of the Exchequer, the Secretaries of State for Defence, Foreign and Commonwealth Affairs, Northern Ireland, and Energy and to Sir Robert Armstrong.

Norman

NORMAN TEBBIT

Broadway: Sweet Pt 4

