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Reference No: E056

PRIME MINISTER

Direct Broadcasting by Satellite

You are holding a meeting of Ministers on Tuesday 1 May to discuss the proposals in the joint memorandum by the Home Secretary and the Secretary of State for Trade and Industry attached to the Home Secretary's minute of 30 March.^A Doctor Nicholson has submitted a brief on the technical considerations.^B This is a handling brief. A Policy Unit note is also attached.^C

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BACKGROUND

2. In March 1982 the Government announced that it would make a start with direct broadcasting by satellite (DBS). The BBC would provide a two-channel service through a satellite system produced by Unisat, a consortium of British Aerospace, GEC-Marconi and British Telecom. Subsequently it was agreed that the IBA should also provide DBS in competition with the BBC; provisions to this end are included in Part II of the Cable and Broadcasting Bill.
3. Various difficulties then arose. Ministers asked Mr Jeffrey Stirling to use his good offices to explore with all parties concerned whether there were ways of keeping the project going. It was regarded as desirable to do so both for industrial reasons and in order to develop a new means of broadcasting.

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4. The resulting proposals are summarised in the joint memorandum. The aspects of particular concern to the Government (paragraphs 4 and 5 of the memorandum) are as follows.

(i) The initial provision of DBS would be through a joint venture between the BBC and Independent Television interests, using the Unisat satellite. There would for some years be no competition between DBS services in the United Kingdom.

(ii) The present 'terrestrial' contracts of the ITV companies run from the beginning of 1982 to the end of 1989. The IBA is required by statute to readvertise the contracts when they come up for renewal. The companies argue that if they are exposed to the risk of not having their contracts renewed after 1989 they will not be able to justify the investment required for participation in DBS. To meet this point, the two Ministers propose that the readvertising of contracts, for 1989 only, should be made discretionary rather than mandatory.

The Government's decisions would be announced during Second Reading of the Cable Bill, which is expected to take place during the week beginning 7 May.

5. The two Ministers recognise that even if the proposed changes were made there is no guarantee that the DBS project would go ahead. But they argue that the Government will be seen to have done all that can reasonably be expected of it to encourage the project.

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6. Since 30 March there has been extensive Ministerial correspondence. In particular, the Chancellor of the Duchy of Lancaster ^(D) has argued that the proposal at (ii) above should be dropped; and that the period under (i) during which there would be no competition, should be shortened. Your Private Secretary's letter of 13 April records that you agree very strongly with these views. The Chief Secretary, Treasury has expressed concern that if the Government appears to be the demandeur, that will encourage participants in the project to seek to transfer part of the financial risks to it.

MAIN ISSUES

7. The two specific issues before the meeting are as follows.

(i) Should the Government accept that there will be no competition in DBS for several years?

If there is to be a period in which there is no competition, how long should it be?

(ii) Should the requirement on the IBA to re-advertise contracts be changed (for 1989 only) to a discretion?

8. However, underlying these specific issues are more general questions: what are the Government's objectives in the field of DBS; and what is the appropriate degree of its commitment to the particular project under discussion? There are technical and industrial arguments for encouraging the development of DBS; and it may also be desirable in terms of broadcasting policy. But are these arguments so strong that the Government should adopt a policy of not merely encouraging, within suitable limits, a project whose justification is primarily commercial and a matter for the

market, but also of regarding the development of DBS as an objective of Government policy in its own right? To what extent should it change its general policies, particularly on broadcasting and competition, in order to promote the present venture, rather than waiting until the market has developed sufficiently to support a DBS project which does not require so much modification of those policies?

Postponement of competition

9. It is not entirely clear how long the proposed period of protection from competition would last. Paragraphs 2 and 11 of Annex C to the joint memorandum imply that the broadcasters want it to run for seven years from the start of DBS programmes (and perhaps even longer - paragraph 2 talks of the possibility of extension by Order); paragraph 11 suggests that the period should be a minimum of five years rather than seven, but with the possibility of extension.

10. The meeting will therefore need to consider two questions.

(i) How long should the basic period be? This is necessarily a matter of judgement; but, if Ministers think that it is worth trying to keep the project alive at all, there is little point in offering a period which the broadcasters will regard as clearly inadequate.

(ii) Should there be provision for extension of the period? The purpose of such a provision would presumably be to allow the participants a further period of monopoly if they had not yet secured what they regarded as adequate profits. Ministers

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may take the view that this is the sort of risk that participants in the project should be prepared to accept.

Contracts after 1989

11. Under the proposals in the joint memorandum the IBA would technically have the right (but not the duty) to readvertise the contract of any participant in the project whose performance was unsatisfactory. Nevertheless, as the Chancellor of the Duchy of Lancaster has pointed out, it seems clear that in practice participants would enjoy a substantial degree of assurance that their contracts would be renewed in 1989. Indeed, it is the essential purpose of the proposal to give that assurance.

12. The proposal entails both a significant limitation of competition and a big change in broadcasting policy. It was decided only four years ago that ITV franchises should last for a fixed term and be subject to compulsory readvertising. Ministers will need to consider whether the industrial advantages and the desirability of fostering a new, though perhaps rather peripheral, type of broadcasting justify the change.

Degree of Government involvement

13. It seems clear that if Ministers wish to keep the DBS-by-Unisat project alive some concessions will have to be offered. But, as the Chief Secretary, Treasury has pointed out, offering concessions necessarily involves the Government and may make it difficult for the Government to disclaim all responsibility if the project should eventually fail. The minute of 12 April from the Secretary of State for Trade and Industry says that the satellite manufacturers are likely to ask for some form of Government guarantee for


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early development costs. Ministers may wish to consider how serious the risks are of further Government involvement and whether anything should be done to reduce them.

HANDLING

14. You will wish to invite the Home Secretary and the Secretary of State for Trade and Industry to open the discussion. The Chancellor of the Duchy of Lancaster and the Chief Secretary, Treasury might then be asked to develop the points that they have made in the previous correspondence.

CONCLUSIONS

15. You will wish the meeting to reach conclusions on the following.

(i) Whether DBS should initially be provided by a joint venture as proposed in the memorandum by the Home Secretary and the Secretary of State for Trade and Industry; and, if so

- how long the period of restriction on competition which such a joint venture will entail should last;
- whether it should be fixed, or extendable by Order.

(ii) Whether the readvertising in 1989 of the contracts of independent television companies participating in the joint venture should be made discretionary.

(iii) Whether any steps should be taken to minimise the risk of financial involvement on the part of Government in the project.



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The Government's decisions will presumably be announced during Second Reading of the Cable Bill.

M.S.B.

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Cabinet Office
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