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COBET



PRIME MINISTER

GREEN PAPER ON RADIO POLICY

At its meeting on 30 October MISC 128 considered my proposals for a Green Paper on Radio policy on the basis of my minute to you of 14 October. At the meeting I was invited to consider further the regime for community radio with colleagues, and to report my conclusions to the Group.

I have now discussed the matter with the Secretary of State for Wales, the Chancellor of the Duchy of Lancaster and with representatives of the Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for the Environment. Our discussion took place on the basis of a paper which amplified the regulatory proposals in the paper attached to my earlier minute. I now attach a revised version of this paper, which reflects the helpful comments made by my colleagues at our recent meeting, and I hope will serve to meet the anxieties that had been expressed.

I hope that, on this basis, we can agree at our forthcoming meeting of MISC 128 to give the proposals in the Green Paper a fair wind. Once this has been done, I believe, as I said in my minute of 14 October, that the next step would be for my officials to clear the text of the Green Paper itself with their counterparts in the Department of Trade and Industry and other Departments with an interest so that a final version can be prepared as quickly as possible.

Copies go to MISC 128, Foreign Secretary, SS. Environment and Sir R. Armstrong.

Doyle Hurd.

27 November 1986

**GREEN PAPER ON RADIO:
REGULATORY FRAMEWORK FOR INDEPENDENT RADIO**

The Green Paper Proposals

1. The outline of the Green Paper envisages that the existing independent local radio stations and new national commercial and local community or special interest services should be subject to the same regulatory regime. They would be licensed and supervised by the Cable Authority, whose statutory role would be enlarged. The independent services at national, local and community level would operate under a "consumer protection" regime embodying statutory controls comparable to those now applied to cable operators under the Cable and Broadcasting Act 1984. These statutory controls would be reflected in licences issued by the Cable Authority.

2. In particular, there would be statutory requirements on the stations, enforceable (see paragraphs 13 and 14 below) by the Authority:

- (i) to ensure that all news given in whatever form in programmes is presented with accuracy and impartiality;
- (ii) to ensure that there are excluded from the programmes all expressions of the views and opinions of the persons providing the service on religious matters or on matters which are of political or industrial controversy or relate to current public policy;
- (iii) to avoid giving undue prominence in programmes to the views and opinions of particular persons or bodies on religious matters or matters of political or industrial controversy or relating to current public policy;

(iv) to ensure that nothing is included in the programmes which offend against good taste or decency or is likely to encourage or invite to crime or to lead to disorder or to be offensive to public feeling'

(v) to comply with a code of practice on advertising (and, possibly, in relation to local and community stations, sponsorship);

(vi) to deliver the kind of services which they had promised when applying to use the frequency.

These requirements are developed in paragraphs 8 - 14 below.

Under new legislation, all radio broadcasts (including those of the BBC) would, in addition, be subject to the Obscene Publications Act.

OWNERSHIP

3. The Authority would be precluded from licensing stations owned or financed by political parties or public authorities, or by a body whose objects are wholly or mainly of a political nature, or which is affiliated to such bodies. The Authority would also have a duty to secure that no licence was given to a voluntary or other organisation which, by reason of its funding or otherwise, appeared to be subject to the control or undue influence of a public authority, a political party or a body whose objects are mainly of a political nature.

4. The Authority would have have a duty - similar to that applying already in the case of cable and independent broadcasts - to prevent ownership or control by non-EC individuals or companies.

5. The difference between this approach and that envisaged for the planned community radio experiment are:

- (i) all the stations will be licensed and regulated by an independent statutory authority, rather than the Secretary of State; and
- (ii) the statutory licence conditions envisaged in the Green Paper are more stringent than those for the planned experiment.

More significantly, whereas the experiment would have involved licensing only 21 stations, there is now the prospect of spectrum to accommodate several hundred independent local stations throughout the UK in the course of the next decade, though the build-up would be gradual and controlled. This prospect of multiplicity of consumer choice has obvious implications for the degree of regulation that might be appropriate.

The Regulatory Framework in Practice

(i) General

6. Stations will own their own transmitters (or rent facilities from the BBC) and will be responsible for their own broadcasts. This compares with the present arrangements under which the BBC and IBA, as broadcasting authorities, actually transmit the programmes and are ultimately responsible in law for what is broadcast. This new approach is an essential part of the lighter regulatory regime envisaged for new and existing independent radio services. To do otherwise would imply the Cable Authority owning a network of transmitters and the payment of rentals by stations to the Authority. This would in turn be likely to create difficulties in relation to reception standards as between large (and profitable) national stations and small, voluntary community stations. It would also have implications for technical standards generally, in relation to studio facilities etc. Under the Green Paper proposals, the only significant technical requirement imposed under the

licence would be one preventing interference with other users of the radio spectrum (e.g. a specified frequency, power levels, etc.). If stations failed to satisfy the reception wishes of their intended audience, they would do so at their own commercial risk.

(ii) Licensing

7. The corollary of the above approach is that the Cable Authority would have power to revoke licenses following a breach of licence conditions. Its enforcement powers are discussed more fully in paragraph 13 below.

(iii) Accuracy and Due Impartiality in News Broadcasts and Views on Controversial Matters (Paragraphs 2(i) and (ii) above)

8. These provisions are identical to those applicable to cable operators under the 1984 Act, and similar to those for independent local radio under the Broadcasting Act 1981. The requirement on news arguably creates an incongruous expectation of small neighbourhood community stations. But it would be open to any station to decide not to transmit news reports as such. The requirement on controversial matters will effectively prevent stations from expressing their own point of view. Their freedom to do so (subject to reflecting the diversity of views held by the audience served) was seen by some people as an important feature of the concept of community radio. The provision would prevent stations from providing a focus for opposition to foreign governments, but would not prevent them from providing an outlet for the expression of minority views. The extent of such broadcasts would, however, be limited (see below).

(iv) Undue Prominence (paragraph 2(iii))

9. This would prevent stations from broadcasting a stream of propaganda for minority or sectional groups. It would be open to a station to provide airtime for local groups with definite points of view such as ratepayers groups or black activist groups or (subject to the requirements on taste and decency) gay rights groups but not, taking the station's output as a whole, to let such views predominate. Another element in the undue prominence test would be the extent to which other views were also allowed,

(v) Taste and Decency etc (paragraph 2(iv))

10. Identical to provisions now applicable to cable operators and independent local stations. As noted above, under new legislation radio broadcasts would in addition be subject to the Obscene Publications Act.

(vi) Advertising (paragraph 2(v))

11. The Authority would be required to draw up a code regulating advertising on the same general lines as that now operated by the IBA. There would in any event be a ban on political advertising, on the lines of paragraph 9 of the IBA Code and section 12(2) of the Cable and Broadcasting Act 1984.

12. There would be a provision enabling the Government to direct the Cable Authority to ensure that licensed stations carried public service announcements. There is an analogous provision, in section 29 of the Broadcasting Act 1981, applying to independent broadcasting.

(vii) Enforcement

13. The system of enforcement would be comparable to that now operated for local radio by the IBA. The Cable Authority might undertake very selective monitoring of output. The main trigger for enforcement action would be listeners' complaints. The Authority would include in its licences conditions requiring stations to keep tape recordings (with a

view to investigation of alleged breaches of licence conditions on programme content) or to provide reports on complaints. It would also be possible to extend the role of the Broadcasting Complaints Commission to local radio but an effective sanction of licence revocation will exist in a way it does not at present in relation to the BBC and IBA and the extension would be likely greatly to add to the Commission's workload and cost.

14. Indeed, in order to enable the Authority to exercise supervision in an effective and credible manner it will need to have available a range of sanctions. While ultimately it should be able, for serious or persistent abuse, to withdraw a licence, it will also need power to issue informal and formal warnings; to insist that transcriptions of its recorded output be submitted for a period on a routine basis; to suspend the licence or to shorten the period for which the licence runs.

Broadcasting: Legislation PT2