



10 DOWNING STREET

Letter to Fittall is  
not of course to go  
until B G has  
commented on it.

✓  
W.R.

~~DRN~~

Then in fine.

23

PROFESSOR GRIFFITHS

Here is a draft letter attempting to summarise the letters you have received from Michael Darlow. I confess that I find his letter of 7 July difficult to follow: I do not see how the numbers fit together and the time scale for achieving 500 hours is different on the first and second pages of the letter. But that is a small point.

Nevertheless, I think it would be better if Darlow were also to write direct to the Home Office.

JK5

DAVID NORGROVE

20 July 1987

# INDEPENDENT ACCESS STEERING COMMITTEE

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Professor Brian Griffiths  
Head of Policy Unit  
10 Downing Unit  
London SW1

15 July 1987

Dear Professor Griffiths,

## INDEPENDENT TELEVISION PRODUCERS

Further to my letter of 7th July I am writing to give you an update on the progress of negotiations during the last few days between the independent producers and the BBC and ITV. I have to report that things have not gone well, especially in the case of ITV. While there are still a few more days to go before any breakdown could become formal I am anxious that once Parliament rises it may be difficult to institute action to counter what looks increasingly like a policy of deliberate prevarication, coupled with the aim of inhibiting the economic growth of the independent sector, on the part of the ITV companies in particular.

I will not take up your time with a detailed recital of the extremely measured progress, or non-progress, of the talks between ourselves and the BBC and ITV companies in the last four to five months, abetted by the failure of the IBA to hold the ITV companies to the timetable set by the Authority for their conclusion (I would be happy to supply details should you require them). Suffice it to say that I shall today be advising the Committee of the three independent producer associations that they must consider publicly dissociating their organisations from any statements in the next few weeks from the IBA or the BBC, suggesting that the basis for a voluntary agreement between the broadcasters and the independents has been arrived at. I will have to advise them that as things stand the initiative aimed at including increased amounts of independent production in the schedules of the BBC and ITV may have the long term effect not of strengthening the independent sector but of undermining it.

The reasons for this advice are that the BBC and ITV companies are

unwilling to offer guidelines as to the principles that should underlie the business terms applied to individual contracts between independent producers and broadcasters which hold out any prospect of the independent sector being able to develop as a genuine "third competitive force" in the supply of television programmes. They are unwilling to agree even to the minimum guarantees of profit for the independent producer promulgated by Channel 4. Although the independent is called upon under the initiative to supply substitute programming to meet the needs of the broadcaster's schedules in this country the broadcasters are insisting that in return for entering into a contract to supply a programme the independent shall give up all rights to distribute or exploit the completed programme elsewhere in the world. In addition the independent must relinquish all ancillary rights related to the programme, the material or idea upon which it is based, or that is included within it. The broadcasters are thus using their public asset - the right to transmit (and in the case of ITV make a profit from selling advertising) to take over the most valuable asset of the independent - the right to exploit and build a proper asset and capital base from his intellectual and creative property. In this way the independent sector's potential for expansion will be limited solely to servicing the broadcasters. The ITV companies in particular must be anxious to restrict the growth of the independent sector in the time leading up to the point at which there is a real multiplicity of means of transmission; they cannot welcome the creation of a vigorous and financially independent sector able to compete with them on anything like equal terms to supply programmes in a future when their right of access to the transmitters is a much less valuable asset than it is today.

Even if one doubts that such considerations underlie ITV'S strategy in the current negotiations one only has to look at the deals that many ITV companies are entering into with individual independent producers at the present time while there are no guidelines to help independents in the difficult task of negotiating contracts with powerful ITV companies. Many of these deals reduce the role of the independent to that of a packager or freelance. Although these deals are represented by the ITV companies as Independent productions they bear no resemblance to the kind of thing that the Peacock Report envisaged and are no basis for the growth of a healthy and competitive independent sector. Indeed the extension of such practices would be likely to undermine even the degree of independence that the sector has achieved through its often less than adequate dealings with Channel 4.

On top of this the ITV companies are insisting on the right to hold between 20% and 25% of the shares of an independent producer whose productions would count towards the achievement of the targets set for independent production in ITV's schedules.

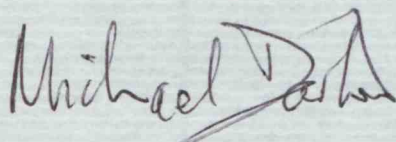
While our negotiations with the BBC have not yet reached quite the degree of disagreement reached with ITV a similar chasm has opened between us over the question of principles to underlie deals that would afford the independent sector any prospect of a healthy or

competitive future. Further, as indicated in the paper on BBC and ITV Outputs which I sent you on 7th July, the money the BBC has earmarked for independent production is so inadequate as to mean that the independent sector is going to be forced to introduce so much co-production money into deals that the ability of the independent to benefit from exploitation of programmes outside Britain must be seriously curtailed. Similarly the hours on offer, 500 each from the BBC and ITV, are so limited as to be of only marginal consequence to the operations of the broadcasters.

At present the IBA plan to put a "policy statement" before a full Authority meeting on 23rd July. If agreed then it will be forwarded to the Home Office as an outline of the way in which they are, or intend, to proceed to implement Government policy on Independent Access. We have to date not seen any draft of this paper and seem unlikely to see one, if at all, before 20th or 21st July. To judge from our last meeting at the IBA on 8th July, which ended close to deadlock, it seems improbable that the IBA's "policy statement" will meet enough of the independent sector's reasonable expectations for us to be able to acquiesce in its content. Possible courses of action open to the independent sector in that event will form the major part of the agenda on which I shall be seeking the advice and instructions of the constituent associations of this Committee later today.

I am sorry to have to report to you in such gloomy terms, but I thought that you would rather be advised in advance about the way in which things appear to be moving. If there is any further information or detail I can give you please do not hesitate to ask.

Yours sincerely,



MICHAEL DARLOW  
Head of Negotiations