

K02006

PRIME MINISTER

MINISTERIAL GROUP ON BROADCASTING SERVICES
BROADCASTING REFORMS: THE STRATEGIC FRAMEWORK: MISC 128(88)9

DECISIONS

The main decisions that the Home Secretary wants from this meeting are, confirmation that a White Paper should be published later this year, and that his officials should draft it on the basis of

- i. the establishment of a new Independent Television Authority (ITA), to succeed both the IBA and the Cable Authority;
- ii. a new and lighter regulatory framework for Channel 3, as well as future independent television services;
- iii. Channel 4 to be a non-profit-making body with its existing remit; ?
- iv. an independent Channel 5 to be introduced from the beginning of 1993;
- v. the fourth and fifth DBS channels available to the UK to be allocated by competitive tender as soon as the Government's undertakings to BSB allow.

2. The Home Secretary also notes (paragraph 20 of his paper) the topics on which officials need to do more work, to be reported back to the Group, before the White Paper can be finalised. These are the preparation of more detailed proposals for the powers and responsibilities of the ITA; a technical study of an independent sixth channel; proposals for local MVDS services, and how they should relate to cable; and proposals for the reform of the transmission system. You will doubtless wish the Group to commission all this work, subject to any points made in discussion. The official Group (MISC 129) is meeting next Monday to allocate this work between DTI and the Home Office, and there is no need for MISC 128 to get drawn into the detail of which department should take the lead on which topic.

3. Finally, a note on Peacock Recommendation 15 by the chairman (Mr Wilson) of the Official Group on Telecommunications Policy is also on the agenda as a document that is also relevant (MISC 128(88)10). The note proposes that Peacock Recommendation 15 (which would have enabled BT and Mercury to carry television into the home) should be rejected in the forthcoming White Paper, but that the issue should be re-examined in the light of developments in no later than 5 years time. The note also recommends that the report on the topic that was commissioned from PA Consultants should be published, but that the report by the semi-official Communications Steering Group advocating the idea of "technology neutrality" should only be used to inform Ministerial speeches. You may wish to ask whether the Group can agree to these proposals without detailed discussion. Given the extensive discussion that has taken place between departments at official level, the Group

may well be able to agree to the proposals on that basis, and this would be of some help to officials in drafting the White Paper and drawing up proposals on local television. Approval at the present meeting is not vital, however, and if substantive discussion is required, it will have to wait until a further meeting after the Recess. Mr Wilson will be at the meeting to deal with points on the note, if necessary.

BACKGROUND

4. MISC 128's consideration of television policy has been dominated for most of the year by examination of the scope for new programme services and, most recently, by the proposal to transfer Channel 4 (and perhaps BBC 2) to satellite, which has now been dropped. The Group confirmed at the last meeting that the Government should aim to publish a broadcasting White Paper in October. The Home Secretary is extremely concerned that this timetable should not slip (and indeed I understand that he would like to improve on it). This is not only because he wishes to announce the Government's general policy in time to be able to take account of any responses in the preparation of the legislation that will be needed in the 1989-90 session, but also because the Government's prolonged consideration of broadcasting policy has been very evident to the media and has attracted a good deal of comment. The Home Secretary now feels under very strong pressure to announce the main conclusions as soon as possible.

5. Hitherto, it has been implicit in the Group's thinking that the existing public service broadcasting requirements should continue to apply to the present independent television channel

(Channel 3). That led to much inconclusive discussion on two related points. First, how would public service broadcasting standards be maintained when contracts were auctioned and made subject to takeover? And, second, how would it be possible to manage a transition where existing services were subject to public service broadcasting requirements while new services should probably be regulated much more lightly?

6. The Home Secretary's new proposals seek to cut through this dilemma by arguing that public service broadcasting requirements should cease to apply to Channel 3, and should not be applied to any new independent television services. Instead, a new code of light regulation should be applied, on the lines of the one that has been proposed for the new national commercial radio services. This approach sweeps away many of the problems that previously preoccupied the Group, and it also opens the way to replacing the IBA with a much less obtrusive institution. On the other side of the coin, the Home Secretary recognises that deregulation of Channel 3 will be seen as signalling a decline in commercial programme standards, and he argues that this calls for a very clear guarantee by the Government about the services that will remain subject to public service broadcasting requirements - and in particular the status and remit of Channel 4.

MAIN ISSUES

The new regime for Independent Television

7. The kernel of the Home Secretary's proposals is the ending of the current requirements that ITV services should be of high quality and should include education and information. On the Home Secretary's model the positive obligations would be limited to regional programming; a quota from independent producers (if necessary); the inclusion of news and current affairs; and diversity in programme services. Requirements about taste and decency and impartiality would also remain. You will wish the Group to consider carefully whether this is an adequate overall specification and, in particular, you may wish to ask the Home Secretary what sort of response he has obtained to the similar proposal for diversity in national commercial radio services, announced on 19 January.

8. You may also wish to probe the future position of ITN. At the meeting on 9 February (MISC 128(88)1:2) you agreed in principle that ITV companies should be given the option, from the new contract period, to untie themselves from ITN, but that this was conditional on assurance that the BBC were not thus enabled to develop a monopoly in the provision of news programmes. In a less regulated environment the independent television companies might wish to economise on news, and have fewer news broadcasts than are currently required by the IBA. ITN seem, in fact, to be in a healthy state as they have contracted for the provision of news services both to Channel 4 and to BSB, but you may nevertheless wish to satisfy yourself that their future would not be threatened

Supplies

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limited power
1. B. A.
7ms per km
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in a less regulated environment. If you wished to protect their position, paragraph 10 of the Home Secretary's paper suggests a possible model for stipulating that certain hours should be set aside for news broadcasts by a non-BBC contractor. This could apply to Channel 3 as well as to Channels 5 and 6.

9. You may also wish to explore with the Home Secretary how the proposed new Independent Television Authority would exercise its light touch in practice. If commercial television is indeed to be significantly deregulated, then it follows that the regulating authority should not seek to impose its will on scheduling as does the IBA. Similarly, networking could be left to be resolved by the players on purely commercial grounds. But will the Group be satisfied (even with the Broadcasting Standards Council in the background) on the control of taste and decency under an authority that takes a much less close interest in programmes than at present? And will wider questions of the public interest be properly respected? You may wish to register that the success of the new authority will be conditional on finding the right chairman.

10. The Home Secretary does not question that all future franchises for independent television (whether on Channel 3, 5 or 6) should be awarded by competitive tender, but he suggests that officials should be asked to consider whether the licences should be for a fixed term, or whether they should be of unlimited duration, subject only to review of performance by the ITA. You may wish to express a view whether the latter possibility should be remitted to officials, since it represents a significant

departure from the 8-year licence period previously agreed by MISC 128, where it has been especially supported by the Chancellor of the Exchequer. The present ITV companies might well complain at the idea that they should not only be forced to tender for the contracts starting in 1993, but that the unsuccessful bidders would then be excluded in perpetuity, and it might be difficult to get the idea of an unlimited contract period through Parliament.

Channels 5 and 6

11. The Group agreed in principle at the last meeting to the establishment of a Channel 5 on UHF, though the timing was not settled. The Home Secretary now proposes that Channel 5 should start at the beginning of 1993, alongside the start of the new contract period for Channel 3, and that work should be put in hand straightaway to plan for a sixth channel (if this is feasible) to be brought on-stream as soon as possible thereafter. These proposals are designed to meet the need for further advertising outlets, and the Group is likely to welcome them on those grounds. You may, however, wish to satisfy yourself that the announcement of the proposed start of Channel 5 in 1993 will not unreasonably prejudice BSB's chances of raising capital next year. You will also recall that there is a sizeable strip along the south coast that will be unable to receive UHF transmissions for either a fifth or sixth channel. This is due to the division of spectrum between the UK and France, and there is nothing that can be done about it. The development of local television services would, however, do something to fill this gap and it might be possible, for example, to require local broadcasters in these areas to carry Channels 5 and 6 as well as their own services.

Channel 4

12. Although the Group have agreed that Channel 4's existing remit should be retained, decisions were postponed about future financial arrangements. Some members of the Group thought that privatising Channel 4 would drive it down-market though the Chancellor of the Exchequer, in particular, doubted that argument. The Home Secretary canvassed various models for supporting Channel 4 but these were deliberately put on one side until the position on additional services became clearer.

13. The Home Secretary now argues, in effect, that making only limited changes to the financial arrangements for Channel 4 is a quid pro quo for the sweeping deregulation that he proposes for present and future independent television services, and that privatising Channel 4 would prejudice the acceptance of his whole structure. If the Group accept that argument, you may nevertheless wish to probe that they are content with the Home Secretary's proposal that Channel 4 advertising should be sold by a new specialist company (instead of by the ITV companies themselves) and that Channel 4's income should be set by a formula related to net advertising revenue on commercial television.

Additional DBS Channels

14. At the meeting on 21 April (MISC 128(88) 2nd Meeting) the Group agreed that the Government should bid for an additional allocation of DBS frequencies. The Trade and Industry Secretary subsequently secured agreement in correspondence that action on this should be held over pending an international technical meeting being held this Autumn.

15. More immediately, the Home Secretary proposes that the remaining two DBS channels currently allocated to the UK should be awarded by competitive tender as soon as the Government's undertaking to BSB allows. As with the introduction of Channel 5, your main concern here will be to balance the requirement for new services against the need to provide a reasonably favourable environment for BSB.

Financing of new services

16. The Home Secretary proposes that new services should be free to decide their own mix of financing by way of advertising and subscription, and he undertakes to report back on his discussions with the BBC about their use of subscription (which might pave the way for the running down of the licence fee in the long term).

His proposal that the Government might take direct control of the limits of advertising minutage is far more controversial. While increasing minutage - that is, the amount of advertising that is allowed each hour - might indeed be the simplest way of expanding the overall amount of advertising time, if the Government took direct control it might well run the risk of being seen as directly responsible for the whole character of the new deregulated television. You may wish to probe this carefully with the other members of the Group.

Local services

17. The possibility of local services on MVDS was one of the main points to emerge from the study of additional services, along with the scope for Channels 5 and 6, but at the last meeting it was agreed to restrict MVDS to a limited role in support of cable.

That decision has now been unblocked, and the Home Secretary is taking the general line (paragraphs 14 and 15 of his paper) that the Government should create opportunities for the new MVDS technology, rather than obstruct them.

18. In working up proposals for local services, the idea of "technology neutrality" advocated by the Official Group on Telecommunications Policy will be relevant. What this implies is that, as a general principle, the provision of services should not be regulated by reference to the technology in question, but that the providers of services should be enabled to use whatever technology, or mix of technologies, is most efficient for the purpose. This principle seems absolutely right, at least so far as local services are concerned, and the Group will almost certainly support it. Nevertheless, you may wish to reserve judgement on, for example, the protection of existing cable interests until you see the worked-up proposals.

19. You may also wish to explore two preliminary questions, even before further work on local services is remitted to officials. First, could the cumulative effect of Channel 5 (and possibly Channel 6) and MVDS be more than BSB can be expected to withstand? Second, will the proliferation of receiving dishes be acceptable on environmental grounds? The Group were very worried about the latter point at their last meeting.

HANDLING

20. After the Home Secretary has introduced his paper you may wish to ask the TRADE AND INDUSTRY SECRETARY (with whom the Home Secretary has had quite full discussions) to comment on the overall shape of the Home Secretary's new proposals. The Trade and Industry Secretary has a particular interest in the impact of the proposals on advertising outlets, in the technical proposals for Channels 5 and 6, and in the role of MVDS in local television.

21. You may then wish to invite the CHANCELLOR OF THE EXCHEQUER to comment on the general shape of the Home Secretary's new proposals, and the Group might then work through the main issues summarised above.

A. J. L.

A J LANGDON

27 July 1988