



Prime Minister

SUBSCRIPTION

When the Ministerial Group on Broadcasting Services discussed subscription and the use of the night hours on 17 December (MISC 128(87)5th Meeting) I was invited to open discussions with the BBC and the IBA. The purpose of this minute is to report back on these discussions; and to propose the line which we should adopt on these issues in the White Paper.

BBC

The Group proposed that the BBC should be empowered to encrypt its transmissions and to charge subscriptions; that the level of the licence fee from 1991 onwards should reflect the income which the BBC could reasonably be expected to raise from subscription; and that the BBC should relinquish the night hours of one of its channels.

I outlined these proposals to the Chairman of the BBC, making clear in particular the implications for the level of the licence fee. He was enthusiastic about the prospects for raising subscription revenue from downloaded services in the night hours (though, unsurprisingly, he would have preferred to see this as a source of additional income, rather than a way of replacing the licence fee at the margin).

/I gave the BBC

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I gave the BBC approval in January to run a medical downloading service on the BBC 2 night hours in collaboration with British Direct Television, on an experimental basis for two years. This service is planned to start in October. They have also been drawing up plans to provide similar services for other professional and business groups (eg dentists, farmers and architects), again in collaboration with commercial partners. If given permission, they would also like to explore the market for other specialised services, such as educational services and services for particular interests and hobbies. They also see a broader market for niche entertainment services on the BBC 1 night hours exploiting their own programme archive (as they do now to some extent through video sales). The BBC believe that they could fill the night hours of both channels with revenue-raising services if given permission to do so. They have also argued for the retention of both sets of night hours on the separate grounds that this would give them scheduling flexibility to cover major events (eg General Elections, the Olympic Games).

It is good that the BBC have responded positively to the challenge of subscription. I am clear that we should authorise them to press ahead with developing new downloaded subscription services. The issue to be decided is whether they should be able to use the night hours of both channels for this purpose. If the night hours of one channel were allocated to another operator there are two ways in which the service could be regulated to ensure that the content was acceptable:

- (a) it could be regulated by the BBC itself, exercising arms-length editorial control (rather like their relationship with the Open University). This would require the co-operation of the BBC, but could be implemented in advance of legislation;

/(b)

(b) it could be regulated by the new Independent Television Authority. This would ensure genuine independence from the BBC, but would of course require legislation.

Neither of these options is very attractive.

There is a choice to be made here between two policy objectives, both of which are in themselves desirable: maximising the BBC's opportunities to raise subscription revenue, thus enabling the licence fee to be held down; and providing opportunities for new entrants to the broadcasting market. I believe that the former should take precedence in this case, and that we should accordingly allow the BBC to retain the night hours of both channels, on condition that they used them both for subscription services. Even without the night hours of one of the BBC channels our proposals will provide a number of opportunities for new entrants: the Channel 3 night hours, Channel 5 (which may itself be divided into temporal slices), additional DBS channels, and possibly Channel 6 and MVDS. We need, in my judgment, to signal clearly our long term objective of replacing the licence fee by enabling the BBC to make a significant early start with subscription. Their proposals for downloaded services will do that, without exposing the licence fee payer to any commercial risk (which will be carried on the BBC's commercial partners), and without damaging new subscription services, such as that to be provided by BSB, by competing with them head-to-head with the same type of programming.

Independent Television

The Group proposed that the IBA should be given power to encrypt its transmissions to enable ITV (now Channel 3) and

/Channel 4 to

Channel 4 to charge subscriptions. It also proposed that there should be a separate licence (or licences) for the Channel 3 night hours from January 1993 onwards; and I was invited to explore with the IBA the possibility of a separate night hours contract in the 1990-1992 contract round.

The IBA has expressed concern about the implications of subscription for the principle of 'free' universality entrenched in its public service obligations. But it was always clear that enabling subscription on existing services might lead to some viewers not receiving services which they now perceive to be free, and so I do not regard this as a new point which should cause us to change our view.

Similarly, I remain of the view that there should be a separate night hours licence on Channel 3. It is clear, however, that dividing the clock between the different licence periods will be difficult and controversial. In my view it would be a mistake for the line to be rigidly drawn in legislation, or for Government to become too closely involved in the decision. I therefore propose that the legislation should lay down the general principle that there should be a separate night hours licence, leaving the ITA to define the exact boundaries (just as it will have responsibility for dividing the map into different Channel 3 regions).

As the law stands, it is for the IBA to decide the contract structure in the period 1990-1992. The IBA have taken the view that night-time broadcasting is still in an experimental phase, and that they would like to see a proper experiment conducted by the existing contractors in the 1990-1992 period. Accordingly the contracts which have been offered to the ITV companies for that period, and which are to be signed shortly, envisage them providing a night hours service themselves.

/Conclusion

Conclusion

To sum up, I recommend that:

- (a) we should authorise the BBC as soon as possible to run downloaded subscription services on the lines they have indicated;
- (b) they should be allowed to retain the use of the night hours of both channels on condition that they used them both as fully as possible for subscription services;
- (c) in conveying this decision, I should underline that the level of the licence fee from April 1991 onwards will take account of the amount of revenue which they can reasonably be expected to earn from subscription; and
- (d) there should be a separate licence for the Channel 3 night hours, the exact limits for which would be determined by the ITA.

I am copying this minute to the members of MISC 128 and to Sir Robin Butler.

Al Sanderson
(approved by the Home Secretary & signed in his absence.)

19 August 1988