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Handwritten signature/initials

11 October 1988

Dear Secretary of State

Handwritten note: will respond if required.

COMMUNITY RADIO

As you know, Robert Atkins wrote to Tim Renton on 27 September to express support for the IBA's proposals for an interim regime for community radio, which he thought would be helpful against pirate radio. This letter sets out how I intend to pursue these proposals.

Background

With the agreement of MISC 128 I announced our plans for the future of radio on 19 January 1988. Following our decision not to proceed with the community radio experiment in 1986, it came as a further disappointment to aspiring new entrant radio broadcasters when it became known earlier this year that legislation for a new radio regime was unlikely to find a place in the legislative programme for 1988/89. I then said that the Government would be prepared to consider any suggestions for developing independent radio in advance of the new legislation.

The IBA's proposal

The IBA have now proposed that they should move quickly to award, through a streamlined competitive process, 20 contracts ("extra contracts") for community radio services in areas already served by ILR contractors. This includes most major conurbations, where unmet demand for community radio is strongest. Most of the new stations would come on air during the first half of next year. Further details of the IBA's proposal are in Annex A.

The proposal turns on the point that the established contractors already meet the positive requirements on the IBA under the Broadcasting Act 1981, including those to provide a service which maintains a wide range in its subject matter and

/gives sufficient

The Rt Hon Lord Young of Graffham

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gives sufficient time to news, so that extra contractors in these areas need not be held to all the positive programming requirements laid down in the Act. They would, however, be subject to the full range of "consumer protection" requirements on taste, decency, impartiality etc.

Reactions

The IBA's proposals have been cautiously welcomed by community radio interests, even if only a small minority of prospective broadcasters would benefit. The reaction of existing ILR contractors has been mixed. Several of the smaller stations would not object. But the biggest stations and, under their influence, the Association of Independent Radio Contractors, have strongly criticised the proposals as threatening them with unfair competition, in that the new stations would be allowed to undertake their own transmissions, and so would not be locked into expensive IBA arrangements, and would be subject to lighter programming requirements. I have some sympathy with their position; but various modifications to the IBA's scheme are possible and should go a long way towards meeting reasonable concerns. These are outlined in Annex B to this letter.

Assessment

The IBA's scheme offers the only realistic prospect of enabling community radio to start in advance of new legislation. The framework provided by the Broadcasting Act 1981 is of course far from ideal; it is more prescriptive and burdensome than that proposed in our radio Green Paper. But it does escape the difficulties over the enforcement of programme standards which led us to cancel the community radio experiment, since responsibility for the supervision of the programme content of the new services would rest clearly with the IBA. The IBA will pay particular attention to services directed to ethnic minority groups which might impinge on the interests of foreign governments.

There are some arguments for holding the line that community radio must wait for the new legislative framework before it can start. The IBA's scheme is limited and will not fully satisfy the extent of demand which now exists. Waiting for a clean start with a level of playing field would inevitably entail less pre-emption of the Radio Authority's frequency planning and licensing strategy. I believe, however, that the balance of advantage lies with our agreeing to an earlier start for community radio along the lines proposed by the IBA, subject to the modifications set out in Annex B. The scheme is consistent with, and can be presented as a step towards, our own proposals. There will be an intense disappointment among community radio aspirants if the

/IBA's proposals

IBA's proposal is rejected. It will be hard to explain why the Government is denying opportunities for new entrants and wider listener choice, at a time when advertising revenue is buoyant, when these are clear aims of Government broadcasting policy. I continue to believe that responsible community radio, adequately supervised, can make an important contribution to our strategy for the inner cities. Robert Atkins' argument that the scheme may reduce the number of pirate broadcasters is also relevant.

There is no suggestion that the IBA's proposal is calculated to reopen our decision that the new radio regime should be supervised by a new Radio Authority. As Annex A makes clear, when our proposed broadcasting legislation takes effect the 20 extra contractors proposed by the IBA will become Radio Authority licensees.

Pirate radio

I had separately concluded that we should include in broadcasting legislation a provision which would debar the Radio Authority from licensing anybody convicted of an offence of unlawful broadcasting committed after 1 January 1989 or employing such an offender. This disqualification would run for 5 years from the offence. There has been a continuing increase in the volume of pirate radio broadcasting and its boldness. Established radio stations have been pressing hard for effective counter-measures.

I propose to announce this disqualification provision as part of our response to the IBA scheme. We know that some of the existing pirate radio operators would be ready to compete for an opportunity to become legal. Although ex-pirates would not be ineligible under the IBA scheme it would be made clear that the IBA would not expect to award any of the proposed "extra contracts" to pirates who had not come off the air.

Financial, manpower and EC implications

There are no EC implications and no financial and manpower implications for central Government.

Next steps

If we give the IBA the go ahead there is every advantage in their proceeding as swiftly as possible. I propose, therefore, to authorise the IBA to begin detailed planning, in consultation with our officials, for a scheme for community radio modified in the ways I have suggested, and to make an announcement in a Written Answer as soon as the Commons are back.

/The broadcasting

The broadcasting White Paper might include a brief reference to the scheme, on the lines of the following sentence in paragraph 7 of Chapter VIII: "In the meantime the Government has endorsed, as a step towards the new radio arrangements, proposals by the IBA for additional stations able to undertake their own transmissions".

I should be grateful to know, by 25 October if possible, whether you and other colleagues are content that I should approve the IBA scheme, as modified in the ways I have suggested, and make an announcement accordingly.

I am copying this letter to the members of MISC 128, the Foreign and Commonwealth Secretary and Sir Robin Butler.

Yours sincerely

Catherine Bannock

(Approved by the Home Secretary and signed in his absence)

ANNEX A

THE IBA'S PROPOSAL: FURTHER DETAILS

1. The broad distribution of the 20 extra contracts envisaged by the IBA is five stations catering primarily for ethnic minority interests, five for "communities of interest" (such as jazz fans) and 10 smaller neighbourhood stations covering small towns or small parts of large cities. The IBA would propose to award about 5 contracts in all in the London area. The IBA would want to be satisfied that applicants were financially viable and would extend listener choice. The IBA would not expect to award "extra contracts" to further pop-based stations on the lines of ILR.

 2. The IBA have suggested that the "extra contracts" might run until the end of 1994: provision would need to be made in legislation for them to be exchanged for Radio Authority licences when the IBA's radio regime comes to an end.

 3. The IBA proposal envisages that the "extra contractors" would be free to own and operate their own transmitters, although responsibility for transmission, and for observing proper technical standards, would rest with the IBA until new legislation is in force. The proposed extra contractors would have to be able to meet their own transmission costs. The IBA would charge them fees to cover regulatory costs.
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ANNEX B

THE IBA'S PROPOSAL: MODIFICATIONS

I envisage that the IBA's scheme should be amplified or modified in the following ways in order to meet AIRC points about unfair competition or to satisfy Government radio policy objectives

(i) Existing ILR contractors would not be disqualified from applying for the "extra contracts". In advertising the "extra contracts", the IBA would make clear its willingness to consider applications in which an existing ILR contractor proposed to subcontract out programmes to new entrant groups. On this model the management expertise and facilities of the existing contractor would be available to new services on a commercial basis, and in these circumstances the existing contractor would remain answerable to the IBA for such matters as the programme content of the service. This "managing agent/subcontractor" model would be very welcome to the AIRC and to some community radio groups. But other such groups will regard it as essential that they should be able to compete to become contractors in their own right. For this reason I am clear that, to be acceptable, any scheme must also provide for self-standing "extra contracts" of the sort envisaged by the IBA, but I propose to encourage the IBA to approve new services on the "managing agent/subcontractor" model in a significant minority - say 5 or 6 out of 20 - of cases. The IBA should also be ready to steer the best applicant in this direction in other cases where this seemed sensible, eg in the case of very small stations which might not otherwise be viable.

(ii) The IBA should be prepared, for the remainder of the present regime, to relax the programming obligations on the existing ILR stations to the extent that new stations within their franchises contributed towards meeting these.

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(iii) The IBA should devise a formula for charging fees to the "extra contractors" commensurate with their coverage and likely popularity (while also taking account of the costs to the IBA of administering the scheme) in such a way that this would correspondingly reduce the rental of the incumbent ILR station without reducing the overall rental from the ILR franchise. The AIRC would regard this, and the modification proposed at (ii) above, as doing much to meet their argument that the extra contractors afforded unfair competition to existing ILR stations, and as safeguarding the transitional arrangements for the new legislative regime which the Home Office and the IBA have been negotiating with them.

(iv) The IBA should exercise close supervision of the programme content of the new stations, especially in such sensitive areas as taste, decency and impartiality. This should not be confined to ex post facto regulation, but, where necessary, should include monitoring and prior approval requirements. The IBA should not hesitate to withdraw a contract where necessary.

(v) MISC 128 has agreed that under the proposed new regime stations should not be able to receive local authority funding towards running costs (although this prohibition will not apply in the case of defined categories of socially useful radio-based projects). There is no present prohibition on such funding under the 1981 Act, so the IBA could not unilaterally make it a contract condition under the proposed scheme. But I propose that the IBA should be encouraged to do all they legitimately can not to select stations dependent on local authority funding, bearing in mind that this will not be allowed when the stations go over to the new regime.

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(vi) Subject to more detailed consideration by officials, I envisage that most if not all of the frequencies made available for the scheme will be AM rather than FM assignments. This will disappoint some community radio aspirants. But small or speech-based stations have a weaker claim than others to the better technical characteristics of FM (such as stereo capability), and the Radio Authority's frequency planning position would be better preserved if the scheme relied mainly on AM frequencies.

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