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QUEEN ANNE'S GATE LONDON SW1H 9AT

B // NBSM & tel. team report.
Recd 7/12
6 December 1988

Dear Nigel,

ITV AND DBS LEVIES

Thank you for your letter of 16 November. I am grateful to you for agreeing to an ITV levy for the contract extension period 1990-92 based on a mixture of revenue and profit. Our officials are already in touch about the detailed figures and I shall make an announcement as soon as this work has been completed.

I should also be grateful if you were able to look at a possible compromise on the question of the levy on DBS services. It is, as you say, true that BSB will be in the same position as Channel 3 and 5 licensees in being subject to levy while competing with services such as those carried on Astra which will be outside the levy net. But BSB are in a special position: they will be competing head-on with services carried on Astra in the satellite dish market whereas the other ITC licensees will not. Furthermore, that competition will be one-sided as it is. BSB (and any other UK DBS operators) are financed wholly by the private sector. In contrast the Astra company's operations are being guaranteed by the Luxembourg government to the tune of £75m; without this guarantee I understand that the company would have found it very difficult to secure loans to finance increased project costs.

Once BSB reach cumulative breakeven the size of the initial investment and the time needed to recoup it will, as you say, be historical facts. They are of course crucial to entrepreneurs who are considering now whether to invest in BSB. It is not, I think, unreasonable for them to be reluctant to see levy liability left wholly open-ended when deciding whether BSB offers a satisfactory return on their capital. After all, the Channel 3 and 5 licensees will know what rate of levy we have in mind when deciding whether or how much to bid as competitive tenders. BSB investors will not have this degree of security.

/I would therefore

The Rt Hon Nigel Lawson, MP
Chancellor of the Exchequer
HM Treasury

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I would therefore like to be able to offer BSB guidance which goes rather further than envisaged in your letter of 16 November. However, I fully take your point about competition, and have ... suggested, in the enclosed draft reply to BSB, a revised statement of our position which draws this out. I hope you will feel able to agree that the revised draft meets your point.

I am copying this letter to the Prime Minister, other members of MISC 128 and Sir Robin Butler.

Yours,

Douglas

Anthony Simmonds Gooding Esq
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Broadcasting Ltd
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cc Mr Whitney, IBA

for signature by: S of S

LEVY

Thank you for your letter of 17 October.

I fully understand your wish to have publicly usable guidance about the Government's future intentions with regard to the levy, bearing in mind your need to attract additional investment.

The liability of operators of commercial television services to levy reflects their use of a public resource in the form of internationally assigned and protected frequencies. I therefore see no grounds for amending the present law so as to exempt BSB (or any other DBS contractor) from such liability.

However, I have already made clear, as you know, that if DBS services were to be subject to a levy based on revenue rather than profits they would continue to be zero-rated during the period to the end of 1992. In the light of the points made in your letter I am able to set out the approach we would propose to adopt in the following period. We would not contemplate anything other than a zero rate for so long as BSB was not in cumulative profit. The possibility of payment of levy would not of course arise under the present law unless this were the case. Once BSB had achieved

cumulative profit, consideration would need to be given in the circumstances at the time by the Government of the day to the case for moving beyond a zero rate. We for our part would want to take account of all relevant factors; including the existence or otherwise of any form of financial support provided by other governments to satellite or programme services competing with BSB in the market. We would in other words, want to be satisfied that it would be reasonable to depart from a zero rate before doing so, having regard to the interests of fair competition at the relevant time.

I am copying this letter to the Director General of the IBA.

<jg>Sub/CB/Levy/DBS/ENC2