



Prime Minister
The Home Secretary
seeks agreement to the attached
announcement this week. Brian

Griffiths recommends you challenge the points
in paras 4 and 6 below.

Do you want to support Brian's points:
- para 4 - codes of practice?
- para 6 - publication?

Prime Minister

Support Brian -
See comments on
next page

BROADCASTING STANDARDS COUNCIL

Following consultation on the relevant part of the
Broadcasting White Paper, this minute makes proposals on
the BSC's future role and statutory powers.

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2. Chapter 7 of the White Paper proposed to put the BSC on a
statutory footing; said that the precise powers would be
considered in the light of the BSC's discussions with relevant
bodies and experience of the Council's working; and indicated
that conclusions on a possible merger with the Broadcasting
Complaints Commission (BCC) would be reached in the light of
experience of the BSC's working and after consulting the BSC
and BCC.

3. The BSC has put in formal comments and I have had
discussions with the Chairman; as well as the benefit of the
views of the BCC, BBC and IBA. The Council is beginning to
settle down. Its draft code on sex and violence has been
generally recognised as a useful and sensible contribution.
In his public consultations Lord Rees-Mogg has found that
present television programmes give rather more rise to concern
about violence than sex. The broadcasters and other
regulatory bodies are understandably concerned about potential
overlap between themselves and the Council. Nevertheless, so
far as the BSC's central tasks are concerned, I think we can
devise a scheme which largely reflects their own proposals.

4. Codes of Practice. The BSC wants the BBC and ITC to be
required by law to accept its code of practice, and in the

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This is not "sufficient weight". If we go this route - we may just as well not have the BSC at all. It will be powerless and the

case of the ITC to make conformity with it a contractual obligation of licensees. To go that far would undermine the regulators' responsibility and in any case their codes range more widely than taste and decency. However, the BSC code must be given sufficient weight and the way to do this is to require in statute that the BBC and ITC have regard to the BSC's code when producing their own codes of practice. The requirement on the BSC to draw up its own code should include provision that it does so in consultation with interested parties. I would want to emphasise to the BSC, BBC and ITC the need to achieve as much consistency as possible.

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5. Handling of complaints. As now, the BSC would both monitor programmes and receive complaints from the public. To investigate complaints properly, the BSC needs power to obtain information from the broadcaster - which it should do via the regulatory authority so as to respect the constitutional arrangements. The information should include such material as the BSC considers necessary for it to assess the validity of the alleged breach or complaint. This will not be welcome to the regulatory authorities, but I think it is essential if the BSC is to have a meaningful role.

6. Publication of findings. The BSC would like its findings to be published in such form, printed or broadcast, as it considers right; with equal prominence to the material complained of; and at the expense of the broadcaster. Effective publicity is clearly important, and I agree with the last two propositions. As regards the first, the TV Times has now been sold off and I think that it is reasonable for the punishment to fit the crime by providing for broadcasting alone.

But broadcasting is reported sometimes prejudicially in The Listener, or less prejudicially in other newspapers. ^{17.} Would it not be better to have an accurate written report of the findings? not

7. Power to preview. The BSC wants a power to require broadcasters to adopt alternative forms of previewing programmes if it believes that the existing arrangements are unsatisfactory. This would substitute the Council's regulatory judgement for that of the principal regulatory body. However, I think the BSC's views should be given due weight and the right approach is to enable it, in its findings on a complaint, to comment publicly on preview arrangements. In practice, we would expect this to have been preceded by discussions with the broadcasters and regulators.

8. Copies of programmes. In order that complaints can be pursued, the BSC wants broadcasters to be required to retain copies of programmes for 60 days. Since I envisage that the BSC should be under an obligation to consider any complaints received within 2 months of a broadcast, subject to discussion with the broadcasters I think the retention requirement on them should be 3 months.

9. Copyright. I agree that the BSC should be able to record, copy and edit programme material and require the broadcasting of material relevant to any of its findings, without copyright restrictions.

10. Videos. The BSC include videos in its code and I would like it to continue to do so. This should remain on a non-statutory basis : it has not caused any difficulties in practice and I do not want to broaden the scope of the Bill beyond broadcasting matters.

11. Research. The BSC would like to serve as a focus for general research on the provision of broadcasting services in the future, including religious, children's and educational

/programmes.

programmes. So far as issues of taste and decency are concerned I am sure that it will have a valuable role to play in this contentious area and I would want it to have a clear research remit. Extension to other areas would turn it into a forum for discussion and commentary on the quality of broadcasting generally, substantially overlap with the role of the ITC and for that matter the BBC, be out of tune with the deregulatory thrust of the White Paper, erode the precise focus of the BSC remit and raise awkward resource issues. I think therefore that the research provision should comprise a power to conduct research into public attitudes towards and the effects of broadcasting insofar as is relevant to the BSC's main remit.

12. Funding. The BSC is at present funded from public expenditure, but when statutory would like to be paid for by the broadcasters - as happens with the BCC. I have carefully considered this but on balance do not believe that it should be pursued. The BSC's work would extend beyond the authorised broadcasters to satellites and video; there is advantage in maintaining the BSC's separateness from both broadcasters and regulators; and given the body's history a requirement on broadcasters to pay would be controversial with them and possibly others. Continued direct funding from public expenditure is, I think, right.

13. There are two further proposals which go beyond the present responsibilities of the BSC. The first is a merger with the BCC - a separate body which was established in 1981 to deal with individuals' complaints about unfair treatment and infringements of privacy. It has no policy role and does not draw up codes of practice. The BSC has proposed a merger; it would be simpler from the public point of view to

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create a single focus for drawing up standards and receiving complaints related to broadcasting. But the two organisations serve essentially different constituencies: the BSC ordinary members of the viewing public, the BCC people who have appeared on programmes or whose organisations have been reported on. In any case viewers are encouraged to direct their complaints to the broadcasters in the first instance, and it is they who pass them on if a resolution cannot be achieved. It was also agreed from the outset that the BSC must be kept away from political controversy: and, whatever the internal arrangements, if it forms the major part of a body which embraces privacy and fair treatment it is bound to be drawn into political controversy (the BCC is a self-contained body which deals with complaints but not guidelines or standards). Far from securing economies of scale, we suspect that costs would increase because the BCC is a cheaper organisation. As regards the handling, a merger would create a serious risk of the Chairman and members of the BCC resigning; and I think the Broadcasting Bill will be better received if it maintains a hard-won status quo than if it stirs up this particular area once again. Thus I think we should maintain a BSC which deals with standards and complaints on sex and violence and a separate BCC which deals, on a semi judicial basis, with complaints alone on privacy and fairness.

14. International role. BSC would like a formal monitoring role in respect of foreign programmes. I think this would be a very useful development. Given its basic functions, it would make sense to give it the leading role in monitoring taste and decency in programmes which are broadcast into the UK from abroad. This could be reinforced by including it on the formal membership of the Standing Committee which will be established to administer the European Convention on Transfrontier Television. The results of its monitoring would

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need to be channelled to Government through the ITC and Radio Authority, given their broader supervisory remits which will extend to all aspects of programming.

15. I should be grateful to know by midday on Wednesday 26 July whether you and colleagues are content with these ... proposals; and with the attached draft announcement of the decisions. I apologise for the short notice but it would be desirable to announce before the recess if possible.

16. I am copying this minute to MISC 128 colleagues and to Sir Robin Butler.

Catherine Bannister

Approved by the Home Secretary
and signed in his absence.

21 July 1989

BSC - PROPOSED ANNOUNCEMENT

ARRANGED PQ

To ask the Secretary of State for the Home Department, what proposals he has to set up the Broadcasting Standards Council on a statutory basis, and if he will make a statement.

DRAFT REPLY

In the Broadcasting White Paper, the Government proposed that the BSC should be placed on a statutory footing and said that further consideration would be given to its precise powers and the possibility of a merger with the Broadcasting Complaints Commission.

I have had the benefit of the views of the BSC, the broadcasters and other interested bodies; and the BSC has now been operating on a non-statutory basis for a year and produced a draft code of practice. In the light of this, the Government has reached the following conclusions.

The BSC will, in relation to issues of taste and decency arising from television and radio programmes, have statutory powers to draw up and publish codes of practice, monitor programmes, investigate complaints or other matters arising from programmes and conduct research. It will continue to be funded from public expenditure. In drawing up its codes of practice, the BSC would be required to consult with the broadcasting regulatory bodies - the BBC, ITC and Radio Authority - and the latter would be obliged to take account of the BSC's code in any codes they draw up which cover taste and decency matters. In order to pursue its investigations into alleged breaches of its code the BSC would have the power, through the broadcasting regulatory bodies, to require information and copies of programme material from the broadcasters. Broadcasters would be required to retain material for a reasonable period. The BSC's findings could, to the extent that it considered necessary, include comment on

the regulatory bodies' previewing practice. It would be able to require the broadcasters to give its findings prominence equal to the original material.

The BSC will remain separate from the Broadcasting Complaints Commission with the former concentrating on taste and decency issues and the latter the handling of complaints about fair treatment and privacy. However, in regard to taste and decency, I envisage that the BSC should play a leading role in monitoring broadcasts from overseas, and that it should be represented on the Standing Committee which will administer the European Convention on Transfrontier Television.