From: THE PRIVATE SECRETARY

Prime Minister

Are you content with the Home Secretary's comments?

HOME OFFICE
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If the broadcasting authorities are only to "have regard" to the BSC, look there was no point in setting up the BSC. Having regard to means able to ignore for flimsy reasons (note the use of the phrase in the 1944 Education Act)? The broadcasting authorities don't like the BSC. We must have a phrase stronger than "have regard". Must "take action to implement"?

Dear Paul

BROADCASTING STANDARDS COUNCIL

You wrote to me on 26 July with the Prime Minister's comments on the Home Secretary's proposals in his minute of 21 July.

So far as publication of the BSC's findings are concerned, the Home Secretary accepts that there is insufficient reason arbitrarily to prevent the BSC from having its findings published in printed form. We need to bear in mind that one of the two major publications owned by broadcasters - the TV Times - has now been sold and that the listings monopoly is likely to be abolished by the Broadcasting Bill, and the provision must not place unreasonable obligations on publishers who are independent of the broadcasters. Adoption of the Broadcasting Complaints Commission provision would secure the desired effect: they can require a broadcaster to publish a finding in any manner directed. In the new environment that would, where the BSC considered it necessary, lead to the broadcaster having to purchase space in independently-owned listings publications or in extremis, as could in theory happen at present with the BCC, in more general publications.

However, the Home Secretary sees considerably difficulty in the proposal that the BBC and the ITC should be required to accept, as distinct from having regard to, the BSC code. On a practical level, the BSC code will concentrate on sex and violence, whilst the ITC's will address programming generally; and the ITC's will be directed at particular organisations while the BSC's will cater for broadcasting generally, together with videos. More fundamentally, the Broadcasting Bill will entrust the ITC, and Radio Authority, with the key role of supervising and policing the future commercial broadcasting system. As such, each will have wide-ranging responsibilities covering the monitoring of programmes and the application of sanctions for breach of licence conditions. To make the regulatory bodies subject on issues of policy to another non-Government body would weaken their status, reduce the impact of the standards which they and the BSC alike were trying to enforce and increase rather than reduce the prospect of public disagreement.

The Home Secretary adds that, in any case, the role of the BSC will not stand or fall by the status of its code alone. The proposals of 21 July envisage a number of other important functions, including the monitoring of programmes both domestically and internationally, representation on the Council of Europe Committee, investigation of complaints or other matters

arising from programmes, the publication of findings and the conduct of research.

However, it is clearly important to do everything we can to promote convergence of standards between the bodies concerned. In practice this has been going quite well since the BSC started work. The Home Secretary feels that this will be achieved in practice if the broadcasting regulators are required to have "particular regard" to the BSC's code; and if, as he envisages, there is a prior requirement on the BSC to consult them in drawing up its code.

The Home Secretary recognises that, in respect of the code, the BSC's powers will thus appear to be less complete than theoretically they might be; but he regards this as an unavoidable consequence of setting them up in parallel with the broadcasting regulatory bodies which, as we have always made clear, have, and must be seen to have, the primary role in policing the industry.

Copies of this letter go to the Private Secretaries to MISC 128 members and to Sir Robin Butler.

Yours

Catherine

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