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Prime Minister

BROADCASTING BILL: IMPARTIALITY

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Following our meeting on 28 June I have given further thought to the impartiality provisions in the Broadcasting Bill.

2. First of all, I think it would be helpful if I spelled out how we might strengthen the existing provisions on impartiality in clause 6 of the Bill. We accept that there is a need for the ITC's code on impartiality to be more prescriptive, and feel it would be appropriate for the Bill to be amended so as to require the code to cover:

- (a) ways in which impartiality is to be achieved in specific contexts, having regard to the subject matter, the nature of the programme, and the circumstances in which broadcasting takes place;
- (b) the timescales within which requirements for balance must be met;
- (c) the circumstances in which licensees should be obliged to announce, at the time of the first programme in a series, the planned dates and times of the broadcasting of subsequent balancing programmes; and
- (d) where identification of balancing programmes is impracticable, what alternative strategies for securing achievement of balance would be acceptable.

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3. I also think that the reference to "current" political and industrial controversy should be dropped and that it should be made clear that the provisions on impartiality apply to "personal view" programmes exactly as they apply to other types of programme.

4. We shall have to consider with the business managers how these matters should be dealt with in the context of the Lords' proceedings on the Bill. John Belstead's preliminary view is that we should be unwise to grasp this nettle before the summer recess. My view is that we should canvass our suggestions when clause 6 is reached in Lords Committee and, if they are well received, table them at Report Stage in the autumn. This would enable us to be sure of winning the trick before playing our cards.

5. The changes I have suggested would ensure a level of detail in the code's provisions which the ITC licensees would find difficult to circumvent. But this leaves the question of what should happen to the BBC. I think we would be in serious difficulty if we were to bring the BBC within clause 6. Some would see it as direct Government interference in the activities of the BBC, and a serious erosion of the special constitutional position which the BBC occupies through its Charter, Licence and Agreement. Given that the Charter will be reviewed in the normal course of events in the run-up to its expiry at the end of 1996, we would find it hard to explain why we have chosen now to apply this particular set of provisions through legislation.

6. I think we would also be in difficulty if we were to extend the Broadcasting Standards Council's (BSC) remit to give it a regulatory role in respect of the BBC (and in practice the ITC too) on the subject of impartiality. The BBC's Board of Governors, who are appointed to protect the public interest, would be left in an impossible position if the BSC were to usurp their regulatory responsibility in so important and central an area; and again it would clearly cut across the constitutional position provided for in the Royal Charter, and Licence and Agreement.

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6. Even if there were not these larger considerations, I do not think it would be right to request the BSC to deal with complaints on impartiality. In the case of taste and decency, the BSC will provide the broadcasters with advice and publish its findings on those programmes which are clearly unacceptable in terms of violence, sex and decency. It would be a much more difficult proposition for the Council to adjudicate on the sensitive and more subjective area of impartiality, where it is often difficult to decide the precise boundaries between what is and what is not acceptable.

7. I also understand from earlier contact with William Rees-Mogg that he would not welcome such an extension to the BSC's remit. It would divert the Council from its main work, and taking on so controversial a task could undermine its credibility with the broadcasters and the public, on which it has worked hard. We might end up by seriously reducing the effectiveness of the BSC in its primary role of setting standards for taste and decency.

8. So far as the Broadcasting Bill is concerned, I am quite sure that trying either to bring the BBC within the ambit of clause 6 or extending the role of the BSC to cover the BBC would unite a range of interests against the Government, would provoke great controversy when most of the controversy over the Bill has been defused, and would be an immensely dangerous tactic when the Government is still vulnerable in the Lords.

9. I am not suggesting for one moment that there is not room for improvement on the part of the BBC, and I made this plain to the Governors at a recent conference of the Governors and Board of Management. When, therefore, during the Committee Stage, Robin Ferrers sets out the changes I have outlined for independent broadcasting, I propose he should go on to say that the Government expects the BBC to bring its code into line with them. If there is time, I would propose to call in the Chairman of the BBC before the

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debate to put this point to him in the hope of an early undertaking which could be announced either in Committee or at some later stage of the Bill. I am conscious that Duke Hussey is aware of some failure in this area, and am fairly optimistic that he could be persuaded to do this.

10. I have, as you suggested, spoken to Woodrow Wyatt and explained to him the sort of amendments to clause 6 which might be thought appropriate. He indicated that he would be broadly content with them, and although he wanted the BBC to come within the remit of the BSC, he was not asking for the BSC to have a regulatory role. I did not broach with him the suggestion I am now making that the BBC should be asked to give an undertaking, but I have a feeling that he would be satisfied with such an outcome.

11. If you are content with these proposals, Robin Ferrers will be able to let the House know what is in our minds when clause 6 is reached, possibly on 11 July.

12. I am copying this minute to Kenneth Baker.

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