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The Rt. Hon. Peter Lilley MP
Secretary of State for Trade and Industry

Rt Hon. David Waddington QC MP
Secretary of State for the
Home Department
Queen Anne's Gate
LONDON
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Enquiries
071-215 5000

Telex 8811074/5 DTHQ G
Fax 071-222 2629

Direct line 071-215 5623

Our ref PE1ASR

Your ref

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Dear David,

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IBA TRANSMISSION PRIVATISATION: ECONOMIC REGULATION

Thank you for your letter of 1 August about the economic regulation of the privatised IBA transmission network, and the attached paper.

I welcome the paper's overall conclusion that price regulation should only be used when more market - oriented measures do not exist. This is clearly desirable and should, I hope, lead to a gradually lighter regime as genuine competition enters into the market. I accept, however, that for the time being it is necessary to impose price regulation on site and mast rental and operation and maintenance charges for Channels 3, 4 and S4C.

Such regulation may also be necessary for site and mast rental for Channel 5. Since the decision not to allow the BBC to compete to provide Channel 5 sites in cases where there is a genuine choice, the Channel 5 licensee is likely to find no choice in its selection of sites. It may be possible to rely on the "non-discrimination" clause in the licence but to be effective, that will require OFTEL to have (or calculate) an accurate figure for a similar service to Channels 3 or 4. The peculiar characteristics of Channel 5, such as its use only of a small number of major transmitters and the likelihood that several existing masts will need to be strengthened to accommodate the new aerials, may make such comparisons difficult. I understand that our officials will consider this when they receive more detailed information on costs from the IBA. Whilst it might also be possible to make use of the BBC/IBA site sharing agreement, that will need to be used with great caution since it



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is in the interests of both the BBC and the IBA to increase the rental charges they levy on one another, as they broadly balance, and the higher they are the more either broadcaster can charge other users of their masts.

The paper refers to the cross-subsidy arrangements for Channel 3 licensees to pay for their transmission services on the basis of revenues rather than costs. Whilst I accept this is a necessary interim measure, it is essentially uncompetitive and I would be unhappy to see it enforced through the Telecommunications Act licence as may be inferred from your letter. It would also be helpful for future consideration of the cross-subsidy and in assessing the barriers to entry of new competitors for it to be administered transparently so that the size of the cross-subsidies was made clear. May I suggest that our officials, along with those from OFTEL, consider how this might be done.

Apart from these particular points I am content to endorse the approach you have outlined. I look forward to considering your more detailed proposals for price regulation in due course.

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

Yours ever

Peter



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