



10 DOWNING STREET

Prime Minister

A full brief, but a
summary is on page 9.

Mr Baker would like 5
mins when you brief

Lord Orr Ewing comes in
to explain the background

AT

19/12



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*From the Minister of State
for Industry and Information Technology*

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PRIME MINISTER'S MEETING WITH LORD ORR-EWING

I attach a full brief for the Prime Minister for the meeting with Lord Orr-Ewing on 20 December at 4.30.

The essential problem which Lord Orr-Ewing is likely to raise is what he and the company with which he is associated, AirCall, see as undue discrimination against AirCall both in licensing of services and allocation of radio spectrum.

Ministers in this Department have seen Lord Orr-Ewing and AirCall on a number of occasions to hear their concerns, and have done all they can to help. In the end, however, AirCall are looking for the ability to provide a third national radiotelephone network. This inevitably brings them into collision with policy decisions made by Ministers last year that there would be no more than two competing networks, both using the new cellular radio technology.

Mr Baker will be attending the meeting with Lord Orr-Ewing.

N M McMILLAN
PRIVATE SECRETARY

M24/M24AAH



PRIME MINISTER'S MEETING WITH LORD ORR-EWING

COMPETITION IN TELECOMMUNICATIONS

Introduction

1 Lord Orr-Ewing has had a distinguished career as an electronics engineer - he designed one of the early television receivers - and is held in high regard in the electronics and telecommunication industries. A curriculum vitae is attached.

2 Lord Orr-Ewing's interest in competition in telecommunications arises because he acted as Chairman of one of the five private sector companies which entered the 1982 competition for the private sector's half of the frequencies available for cellular radio. His consortium was organised by Air Call plc, the private radio telecoms company, included Cable and Wireless and used technical advice from AT and T, who have pioneered cellular radio in America. Despite these advantages, the Air Call consortium lacked management and financial resources and did not have coherent plans to expand outside London. It therefore came third in the competition. The winner by a clear margin was Racal-Millicom Ltd, which put forward proposals for a genuinely nationwide network involving substantially greater investment than Air Call or the runner up, Ferranti, envisaged. The evidence is that Racal will provide significant competition for BT when their service opens in



1985. Racal also plan eventually to manufacture mobile and hand portable apparatus in this country with benefits for employment and the balance of payments. The second national cellular network will be run by BT in partnership with the private sector firm Securicor, which is at present the largest radio telephone network provider.

3 Air Call have never accepted the results of the competition, although it was conducted by independent consultants whose conclusions were checked by an independent panel, all of whom advised that Racal were the clear winner. Since the result of the competition was announced Air Call have persistently lobbied the Radio Regulatory Department and Ministers in both the Home Office and the DTI to obtain radio frequencies to run a radio telephone operation in competition with BT's existing VHF service and with the cellular radio networks when the latter come into operation in 1985. Air Call claim that radio frequencies are deliberately being left fallow and that officials in the DTI are conspiring to drive small businesses out of the telecommunications market. Lord Orr-Ewing has accepted Air Call's arguments and has become an active lobbyist on their behalf. Of more particular concern, he appears to have interpreted remarks made by Mr Baker when informing him of the result of the cellular competition as meaning that, although Air Call had come third in the competition, they would nevertheless be allocated almost the same radio frequencies as if they had won.

Brief

4 In his letter of 5 December Lord Orr Ewing characterised telecommunications policy as being more



restricted than originally envisaged since for a number of years there will be 2 large duopolies:

- (i) telephone networks: BT and Mercury
- (ii) radio services: BT/Securicor and Racal.

Telephone Networks

5 The Government is committed to the policy, first stated publicly when the Mercury Licence was issued in February 1982, that only BT and Mercury will be licensed to run national and international telecommunications systems involving fixed links. This policy was reaffirmed on 17 November when Mr Baker announced that the policy will not be reviewed until November 1990.

6 The Prime Minister [redacted] took the decision that there should be only two national fixed link networks for the next seven years. The published reasons for the duopoly are:

- (a) telecoms networks everywhere except in America are a single monopoly and, since the licensing of a competitor is a revolutionary step whose implications are unknown, the Government has decided to proceed by licensing only a single second national network;
- (b) the BT monopoly is believed to permit the cross-subsidisation of social services like public call boxes, 999 services and services in



remote rural areas out of profits on international, trunk and business services, so unrestricted competition which would focus on business customers could cut off the source of the subsidies;

- (c) the BT system cost £ billions to install and was designed as a monopoly. The network cannot be reengineered overnight to meet proliferating competition;
- (d) a competitive free-for-all in a market with an established monopolist like BT will almost certainly result in a series of undercapitalised minnows and no real impact on BT's monopoly (as may be happening with the National Bus company);
- (e) effective competition requires BT's competitor to spend hundreds of millions of pounds over a long period of years without any return and to do so in face of opposition from an established monopolist. The City will not put up the funds unless there is stability over the period of negative cash flow;
- (f) environmentally there are strong objections to proliferating overhead wires and extra street works which are necessary to install competing networks;
- (g) nature has not provided sufficient radio frequencies to support a large number of



competing carriers and even the licensing of Mercury has created serious frequency allocation problems.

7 These considerations make it necessary to regulate competition in telecommunications. The Government considers that the best way of giving customers an effective choice is to license only one major competitor for BT which has the financial, management and technical resources to challenge BT in the market place. The position will be reviewed in 1990 when Mercury is properly established and BT has adjusted to competition.

8 The Government is, however, licensing competition for BT in three specialist markets:

- (a) there is the most liberal regime for Value Added Network Services in the world and small firms are in an excellent position to compete with BT. (Air Call have argued that licensing is unnecessary and that the Government's policy conflicts with a recent European Commission decision. Their arguments ignore the need for licensing to secure the provision of public call boxes, to protect the national network from damage etc and their interpretation of the EC Decision is wrong.)



- (b) the two cellular radio networks will each be capable of serving several hundred thousand customers who will thus have an alternative choice to BT; and
- (c) local broadband cable systems will provide competition for BT and Mercury at the local level.

Radio Networks

9 Lord Orr-Ewing claims that the Government and civil servants have deliberately limited and suppressed all the companies, mainly small, which for many years have been providing radio services. He says that a multiplicity of service companies are needed and that the Government has deliberately withheld radio channels from small companies. Lord Orr-Ewing claims specifically that Mr Baker promised that extra channels would be made available to permit the private sector mobile telephone companies to compete.

10 Essentially Lord Orr-Ewing wants extra frequencies to be given to Air Call; it has only 17 channels whereas the existing BT VHF non-cellular mobile telephone service has 110 channels. It is not possible to grant Air Call the frequencies they would like because the spectrum simply is not available and, if it were, it could not be given to Air Call without considering the other claims for it eg those from Ferranti. Also Racal is investing many millions of pounds in its network on the basis of assurances about the allocation of radio frequencies. The Government has made



major strides towards liberalising radio telephones by allocating frequencies for the two cellular radio networks. This represents a huge expansion in the number of channels available but it was decided after long and careful thought that considerations of spectrum efficiency and the nature of cellular radio operations made it necessary to divide the frequencies between only two national operators. If the frequencies had been divided three or four ways, there would have been significant reductions in the number of customers that the frequencies could support. The decision to licence only two operators was widely publicised and Air Call participated in the cellular competition on that basis. It is inconceivable that, if Air Call had won, they would have wanted a third national network to be licensed as they now propose. In practice, having lost the competition, they want a replay with different rules.

11 The Department has, however, paid serious attention to Air Call's claims that radio frequencies are being left fallow. A special review Committee was appointed under the chairmanship of Professor Merriman, which reported that no significant frequencies were unused. Merriman pointed out that the only potential source of significant amounts of spectrum was in the bands now used by 405 line television. The Government has accepted that 405 line television transmission should cease on 1 January 1985 and the frequencies reallocated. A consultative paper will be published early in 1984 which will outline how the frequencies might be reallocated. Following this consultative exercise, the number of frequencies available for land mobile radio will roughly double and this will permit many new services to be introduced with access to



large numbers of channels and free of current restrictions. Some of the extra channels might be allocated to firms like Air Call but the process of allocation will need to be fair and take account of demands by other operators who have claims as good as Air Call's.

12 The 405 line TV frequencies will not be available until the beginning of 1985. In the interim the Department has been attempting to secure additional channels for companies like Air Call. Air Call was one of three companies each of which was assigned a national radio paging channel early this year. Also 52UHF channels were released for use in London only. A further 10 channels in the Private Maritime Band are to be released on 1 January 1984, which will be available throughout the UK. In London an additional 9 channels will be available immediately and the Department is considering how to release further channels from the Private Maritime band. This more than fulfils the pledge Mr Baker made to Lord Orr-Ewing. No undertaking was given that Air Call would be given 150 additional frequencies.

13 The Department has taken special steps to safeguard the interests of small operators like Air Call when the new cellular networks come into operation. We were worried that when the two cellular networks come into operation they could become monopolies which would not allow small firms to provide services in competition. We have therefore required Racal and BT/Securicor to set up separate companies to run their networks. The operating companies will be required to allow other operators like Air Call to provide services over their two cellular networks and to sell radio telephones in



competition with the Racal and BT/Securicor subsidiaries. These arrangements, which will be backed up by the new enforcement powers of the Director General of Telecommunications and OFTEL, will ensure that small firms can provide innovative services and apparatus without bearing the expense of setting up the cellular networks themselves.

Summary

14 The Government has:

- decided after careful study to set up only two fixed link national telecommunication networks;
- concluded that the best course is to license only two national cellular radio systems;
- allocated additional frequencies to Air Call and its competitors in the year since the result of the cellular competition was announced;
- taken steps through the Merrimon review and the termination of 405 line television to find extra frequencies for private mobile radio;
- imposed rules on the cellular operators to give a fair chance to small service-providing firms.

ORR-EWING, family name of Baron Orr-Ewing.

ORR-EWING, Baron *cr* 1971 (Life Peer), of Little Berkhamsted; (Charles) Ian Orr-Ewing, OBE 1945; 1st Bt *cr* 1963; Consultant and Director various companies; Chairman, Metrication Board, 1972-77 (Deputy Chairman, 1971-72); *b* 10 Feb. 1912; *s* of Archibald Ian Orr Ewing and Gertrude (*née* Runge); *m* 1939, Joan McMinnies; four *s*. *Educ.* Harrow; Trinity Coll., Oxford. MA (Physics). Graduate apprentice, EMI, Hayes, 1934-37; BBC Television Service, 1938-39, 1946-49. Served RAFVR, 1939-46, N Africa, Italy, France and Germany. Wing Comdr, 1941; Chief Radar Officer, Air Staff, SHAEF, 1945 (despatches twice); BBC Television Outside Broadcasts Manager, 1946-48. Adopted prospective Conservative Candidate N Hendon, 1946; MP (C) North Hendon, 1950-70; Joint Secretary, Parliamentary Scientific Cttee, 1950; Vice-Chm., Civil Air Cttee, 1955-57; Vice-Pres., Parliamentary and Scientific Cttee, 1965-68; Vice-Chm., 1922 Cttee, 1966-70 (Secretary, 1957); Vice-Chairman, Defence Cttee, 1966-70. Parliamentary Private Secretary to Sir Walter Monckton, Minister of Labour and National Service, Nov. 1951-May 1955. Parliamentary Under-Secretary of State, for Air, Air Ministry, 1957-59; Parliamentary and Financial Secretary to Admiralty, 1959; Civil Lord of the Admiralty, 1959-63. Mem., Royal Commn on Standards of Conduct in Public Life, 1975-76. Pres. and Chm. of Council, Electronic Engineering Assoc., 1969-70. Pres., Nat. Ski Fedn of GB, 1972-76. F.I.E.E. *Recreations*: tennis, light-hearted cricket and ski-ing. *Heir* (to baronetcy only): *s* (Alistair) Simon Orr-Ewing [*b* 10 June 1940; *m* 1968, Victoria, *er d* of Keith Cameron, Fifield House, Milton-under-Wychwood, Oxon; two *s* one *d*]. *Address*: The Old Manor, Little Berkhamsted, near Hertford, Herts. *Clubs*: Boodle's, MCC; Vincents' (Oxford).

NOTES FOR DISCUSSION WITH PRIME MINISTER

1. Grateful to you for seeing us.
BT Bill comes to the House of Lords immediately after the recess. We hope the Government will initiate some changes and give some assurances.
2. The effect of setting up a duopoly with BT having 97% and Mercury 3%, and a second duopoly of BT/Securicor (BT in control) and Racal, is highly restrictive, particularly since the statement that this will last until 1990.
3. A consortium of 5 companies, led by a U.K. merchant bank, wanted to spend up to £500 million to start a rival radio ~~networking~~ using the latest technology. They have been choked off and are going elsewhere (probably U.S.A.).
4. We cannot believe that it was the Government's intention to hobble and neglect the 47 radio telephone and message handling companies, which have provided services for 25 years. Air Call, now the biggest and started in 1958, was the first pioneer. These 47 companies employ over 4,000 people. Three of the companies have national coverage. They cover 20,000 clients and this number is growing by 30% per annum. BT by comparison has 8,000 clients, and Racal nil.
5. Despite privatisation plans and policy, these 47 companies and about 1,000 service companies are ^{still} all licensed by BT, which is their main competitor and exercises predatory practices. They all operate on VHF frequencies. BT has 112 channels and Air Call, the largest, has only 17. It is not right to say that no frequencies are available. VHF frequencies are available now, and there are chunks of the spectrum which will become available 1st January 1985 (when Bands 1 and 3 are cleared), which should be allocated now to companies ~~supplying~~, since they have to plan, select sites and go out to tender for equipment.

Though the future may rest with cellular systems (900 MHz) and digitalisation, it was never Government plans to deny these 47 companies their right to exist and serve the public in all parts of the U.K.

6. If it is argued that yet another Committee should be set up to consider frequencies, these are the same arguments which prevented the expansion of ITV and independent local radio. The World Administrative Radio Conference sat from 1976 to 1979 and reserved ~~bands~~ ^{bands} for mobile radio; a Home Office committee sat in 1982 and Merriman in 1983. These were followed by the Beasley Committee. Another committee would be a further way of wasting time and starving the pioneers.
7. A 1,000 or so service companies (sometimes called Value Added Service Companies) undertake telephone answering, message handling, secretarial and finding services, telex bureaux (Poste Restante), telex forwarding and handling services, and data transmission services. For some strange reason the DTI have shut their eyes to the existence of all these services.

BT have declared that certain of these activities infringe their exclusive privilege and monopoly.

It is obviously ridiculous that these services should be licensed by their main competitor. This must be done by DTI.

8. Beasley, Littlechild and the EEC all stated that resale should be permitted. Beasley's first recommendation said:

"...that in the home market there should be no restriction on the freedom to offer services to third parties over BT's network"

The EEC Commission (21/12/1982) said (para. 44):

"For the reasons set out above the restrictions on the use of telex and telephone facilities and services by BT constitute infringements of Article 86 of the EEC Treaty. BT should therefore be required to terminate any of the restrictions that are still in operation."

It seems pointless for the Government to set up commissions and then reject their findings.

9. There are many examples of predatory practices where BT charge twice as much for installing their own analogue equipment as they do for installing competitive equipment. I have evidence their maintenance charges are £270 a quarter on the typical BT installation and £540 for a private installation of the same size. There are many further and more glaring examples, and we feel that neither Oftel, the Office of Fair Trading or the Monopolies Commission will be able to act with sufficient speed and vigour to prevent these malpractices.

LIBERALISATION OF TELECOMMUNICATIONS

As the principal representative body of business users of telecommunications, the Telecommunications Managers Association (TMA), has supported the processes which were intended to bring about liberalisation of telecommunications in the UK. Although TMA advocated a very different route to liberalisation, it has in fairness been difficult for it to challenge the route chosen by Government until the finer details had been published and the effects observed. It is now clear that the Government's stated intentions are being frustrated. Remedial action is urgent if the promised benefits of liberalisation, competition and user choice are to be salvaged.

Developments over the last few months, including the Minister's statement on 17th November, 1983, have shown that progress towards liberalisation has been thwarted. TMA thinks this is because BT has accepted the challenge to become entrepreneurial; it has used its right to be consulted under the 1981 Telecom Act, its long standing advisory relationship with DTI officials and its superior technical resources in order to dominate the thinking in the Department. This thinking now appears to focus more on the protection of the revenues BT will get from its near monopoly of the market than on promoting the interests of the infant competition. It is probable that the UK competition will be stifled before the new Act can be effective.

TMA is convinced that the Office of Telecommunications (OFTEL), as proposed, will be unable to avoid being similarly dominated by BT.

The business users want to highlight the threat of failure of the Government's liberalisation programme and to indicate how the continuance of the monopoly, even under the guise of a p.l.c, can still be avoided.

Areas in which BT's dominance can be shown to have balked competition are appended.

TMA thinks the means of salvaging competition and choice is first by making OFTEL more powerful. This can be achieved by staffing OFTEL with persons of the calibre and experience to confront and control BT and prevent its predatory activities for long enough to let the new competitive market forces become effective: OFTEL could be further strengthened by adjusting its terms of reference to include all forms of telecommunications, including allocation of frequencies, cable TV and the international representation of the UK's interests.

The second can be achieved now by issuing a policy statement directing that standards must relate only to safety and to non-interference with the network.

In the meantime, the Department urgently needs experienced technical help in its task of defining and implementing Government policy and controlling BT. The TMA urges the appointment or secondment of staff, independent of BT and of industry, to give unfettered comment and advice on the supply, service, engineering and user aspects of telecommunications.

Business users are increasingly conscious of the benefits to be obtained from a liberal regime. TMA is ready to develop the points made above and to contribute in any way it can to further the attainment of competition and choice.

Telecommunications Managers Association

16th December, 1983

Institute of Administrative Management.

AREAS IN WHICH BT'S DOMINANCE HAS BAULKED LIBERALISATION

- a. insisting on over-specification and unreasonable self-protection in the formulation of the BSI standards. This imposes significant delay on their promulgation and, hence, on the acceptance of new apparatus. This delay is crippling to new entrepreneurial manufacturers.
- b. refusing to countenance the inclusion of voice services (especially radio linked) in the VANS General Licence, followed by unreasonable resistance to applications from prospective licensees to operate under it.
- c. forcing the postponement for 7 years of re-sale of leased private circuits and opposing the implementation of shared use of them, directly contrary to the recommendations of Professors Beesley and Littlechild and to the ruling of the EEC Commission.
- d. using their ownership of and their right to maintain the existing telephone wiring in office buildings and their right to inspect and approve privately installed wiring as the means of discouraging alternative private wiring and private supply of the associated PABXs.
- e. manipulating current tariff arrangements to inhibit post-liberalisation competition.
- f. using its vast purchasing power to discourage its established large UK suppliers from selling to the private sector and thus from developing exports.