

ABC-PA

From: THE PRIVATE SECRETARY

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Prime Minister²

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29 November 1988

Dear Charles

**DRAFT COUNCIL OF EUROPE CONVENTION
ON TRANSFRONTIER TELEVISION**

The Prime Minister will have seen press reports of the outcome of last week's Conference of Council of Europe Broadcasting Ministers, at which Mr Renton represented the UK, and may be interested to have a fuller account of the position now reached on the draft Convention on Transfrontier Television.

It was clear from the outset that there was a strong desire on the part of most Council of Europe states to reach agreement on the outstanding points on the draft Convention, and a recognition that unless the Conference made real progress towards this end it was unrealistic to expect that there would be a Convention in the foreseeable future. We argued strongly that it was necessary to have a broad framework of Europe-wide regulation in place now, before the first of the new satellites was launched, otherwise it would be too late. In the event, most of the time of the Conference was devoted to the Convention and we are, as a result, now within sight of finalising the text.

From the point of view of the UK, the most significant outstanding issue in the Convention was that of advertising breaks. Following bilateral discussions with the Germans we had earlier produced a compromise text which subsequent consultations with our own broadcasters and advertisers suggested would be acceptable domestically. We decided to table this formulation early on with a view to assisting the discussions on the Convention as a whole, but in doing so we indicated that we would withdraw it if other countries could not accept it as it stood or if by the end of the Conference resolution of the other major issues had not been achieved.

At the same time other countries put forward their own major demands. The French argued for a system of numerical quotas for European works and for a text on the subject of the distribution

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hierarchy for films as between cinema and television release. Belgium sought to establish a mechanism whereby transfrontier broadcasters could be expected to contribute to audio visual production in receiving countries. Italy and Luxembourg sought the deletion of an article in the draft text regulating advertising aimed exclusively at a single state. In the light of this discussion it was agreed that the Chairman and Secretariat should come forward with a new text reconciling as far as possible the different points that had been put forward.

On the second day of the Conference, therefore, following informal discussions with a number of delegations, including ourselves, a compromise package was tabled covering all the main articles which gave rise to difficulty. This incorporated our own proposal on advertising breaks and included new wording on the other issues previously discussed. In the discussion that followed this package received general support. Some countries reserved the right to study it in more detail later and perhaps propose drafting amendments before finally endorsing it. We, for example, while welcoming the package, said that the new wording on European programming quotas should make it clear that pay-tv and subscription services were excluded from the scope of the provision. But the Swedish Chairman, Mr Goransson, was able to sum up to the effect that the package formed a valid basis for the conclusion of the outstanding issues on the text, and that the Conference requested the Committee of Ministers to complete the work of finalising the Convention on the basis of these proposals with a view to the Convention being opened for signature early next year.

This is in our view a satisfactory outcome. We have safeguarded our essential interests, particularly on the question of advertising where we now have a much improved provision which, unlike the previous text, will not harm our commercial television channels. The provisions on programme standards, to which we attach particular importance, have not been challenged. And while there is new wording on some other matters we do not believe this will cause us any practical difficulty.

It now remains for the draft Convention to be finalised and opened for signature by the Ministers Deputies of the Council of Europe. They will have the matter on the agenda for their meeting next week. We cannot of course rule out the possibility that some countries may at that meeting seek to reopen specific issues, but the expectation is that any further discussion should now be confined to minor points of drafting. In particular as a result of the Conference the earlier threats by some countries such as France and Luxembourg to block the Convention seem now to have disappeared.

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Agreement on the Council of Europe Convention does not necessarily rule out the possibility of the EC draft Directive on Broadcasting being concluded successfully. Although a number of Member states are likely to suggest that a Convention diminishes the need for a Directive, the Commission can be expected to argue strongly in favour of a Directive as part of the approach to 1992. It is not an argument which carries much weight at present, however, as the current provisions in the Directive impose more restrictions than they reduce.

You may also wish to know that the Commission have suggested that the present text of the Convention is in some respects incompatible with EC law, and that the Directive should precede, not follow, the Convention. Member states of the Council of Europe see little force in these arguments, which they believe the Commission have introduced because of their own failure to make progress. They are satisfied there are no legal impediments to the conclusion of a Convention in advance of a Directive.

The latest position reached on the Directive is that it was discussed briefly at the Internal Market Council on 18 November, but made little progress. A number of Member states, including the UK, have fundamental objections to some of the provisions and there appears to be little prospect of these being resolved in the near future.

I am copying this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Secretary of State for Trade and Industry and the Minister for Arts, and to Sir Robin Butler.

Yours

Catherine

MISS C J BANNISTER