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From the Private Secretary

27 February 1989

Dear Neil,

SATELLITE TELEVISION

Thank you for your letter of 20 February concerning Sky Television's complaints that they are unable to operate on a "level playing field". Thank you also to Catherine Bannister for her letter of 22 February and Steve Catling for his of 16 February.

The Prime Minister has seen all these letters and is grateful for the material in them. She has noted that various further discussions are now in hand, and she would be grateful for a further report on the position reached in two weeks' time.

I am copying this letter to Catherine Bannister (Home Office) and Steve Catling (Lord President's Office).

*Yours,
Paul*

(PAUL GRAY)

Neil Thornton, Esq.,
Department of Trade and Industry.

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The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

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Date 20 February 1989

Dear Paul,

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Thank you for your letter of 15 February about Sky Television's complaints that they are unable to operate on a "level playing field".

I should first point out that there are two ways organisations can aspire to being satellite television providers. One is by applying in an open competition to use those frequencies allocated to the UK for Direct Broadcasting by Satellite (DBS) and operating as an authorised broadcaster under the auspices of the IBA. This is the route chosen by BSB. The alternative route, taken by Sky, is to provide a service using a foreign satellite operating on frequencies allocated to another country and thus largely avoiding the UK broadcasting regulatory regime. The route chosen by BSB gives it certain advantages but with them come real obligations such as regulation, especially of content and technical standards, and liability to levys, none of which apply to Sky. Sky's complaints should be seen in this context.

That said, it is no part of our purpose to put gratuitous difficulties in Sky's way. Our aim is to help Sky find a way through their problems, within the realms of what is possible. My Secretary of State met Andrew Neil last month to discuss this and, last Tuesday there were further discussions at official level which are now being taken forward in detail.



the department for Enterprise

Whilst Sky Television have clearly been under a great deal of pressure to achieve the early launch of their television services and have clearly achieved a great deal in a very short period, it does seem a pity that they should only last Tuesday have taken up my Secretary of State's suggestion to speak to DTI officials about the whole range of their problems, despite some prompting on our part. The Tuesday meeting was a useful one and, while we may not be able to meet all Sky's wishes, now that we have been informed about them we should be able to help provide a solution to a significant number of their problems.

The paper at Annex A gives the position on the specific points made in your letter.

I am sending copies of this letter to Philip Mawer (Home Office) and to Stephen Catling (Lord President's Office).

Yours ever,

N R THORNTON
Private Secretary

ANNEX A

(i) ALLOCATION OF FREQUENCIES

Sky require not only microwave links in two or more frequency bands to accommodate varying circumstances and lengths of link, but the full range of communications needed to make programmes. These include radio microphones, exclusive channels for communication between a director and his camera crew or for on-air instructions to a presenter or interviewer, telemetry channels for camera control, and engineering communications. A common feature of all these requirements is that either because the need is for voice or video communication of programme quality or for the channel to be exclusive to avoid break through from other users, they are very greedy of spectrum compared with normal business use. A certain amount of spectrum has been made available to the established broadcasters who have set up complex sharing arrangements to maximise its use. Even though long foreseen, we are stretched to find even a modest dowry of such spectrum for BSB, as a regulated broadcaster, to bring to these sharing arrangements.

In due course we shall also have to accommodate the reasonable needs of the franchisees of the two remaining DBS channels, TV5 and the tier of commercial radio. We have therefore to look at Sky's requirements against this background. Further, we have also to service the needs of the expanding independent programme sector. Other Astra channels may also shortly come with similar requests.

Having said that we stand ready to see how we can satisfy Sky's needs. Because of the speed with which the Astra operation has been set up, Sky do not themselves appear to have yet formulated with precision the range of facilities they will require. But a detailed working session with them has been scheduled for next week after which we should be able to decide fairly quickly how best to meet their needs within the substantial constraints on spectrum availability. We have in fact already negotiated the "loan" of a limited amount of spectrum from the broadcasters with which to meet at least some of Sky's most urgent short term requirements.

(ii) FIXED LINKS

Under the telecoms duopoly policy, to which the Government is committed, fixed links (by microwave or any other means) can only be provided by BT or Mercury. They do, however, have to be provided on fair terms, and this is a matter on which Oftel can advise. At his meeting with Andrew Neil last month, my Secretary of State recommended that he should speak to the chairmen of BT and Mercury and, if he was dissatisfied with what was offered, that he should approach Oftel. This Sky has not yet done.

(iii) SATELLITE UPLINKS

It is quite true that Sky News is unable to operate its own "uplinking" to transmit live pictures from an outside location. Under the telecoms duopoly regime, uplinks to satellites can only be run by BT, Mercury and now Kingston Communications (Hull) and the six "specialised satellite service operators" whom DTI announced last autumn it would license to provide services within the UK. News International were one of 27 to apply for such a licence, incidentally, but were unsuccessful. The The Director General of Telecommunications was not persuaded that their application was as good as those from the six winners but Sky have the consolation that they can now do business with those winners as well as Mercury and BT. At a meeting with DTI officials on Tuesday, it was apparent that Sky had not explored in as creative a way as it might, all possibilities for using one of the new licensees and has believed there were difficulties which are not, in practice likely to arise. Once DTI officials were told Sky's problem in detail, they were able to offer suggestions as to how this problem, at least, might be solved. Sky has also been advised very strongly to discuss its requirements with Oftel since that too could help point up possibilities which the company have yet really to explore.

(iv) LICENSING

If one or more households share an aerial to receive television programmes they are technically running a telecommunications system and, as such require a Telecommunications Act licence (from DTI) and, in some cases,

a Cable and Broadcasting Act licence, primarily to regulate programme content (from the Cable Authority).

For the DTI's part, we run a liberal regime for such systems. Once a system has the necessary Cable and Broadcasting Act licence it will either be automatically covered by an existing Telecommunications Class licence (which the operator of the system does not need to apply for) or, in the case of a system covering more than one building, by a readily available standard licence.

Sky's concern relates to the licences issued by the Cable Authority who are, I understand, reviewing their policy in this area. I know that the Home Office are replying in more detail on this point.

(v) **PLANNING PERMISSION**

Again, Sky are correct. Subject to certain conditions, any one satellite dish of up to 90 cm can be installed on a house without planning permission. As an environmental safeguard however, permission is required for a second dish. The requirement was drawn up at a time when the need for more than one dish was considered unlikely. It is now clear that viewers wanting both Astra and BSB services will almost all need two dishes.

Since Sky have launched their programmes before BSB, this requirement seems more likely to impact upon BSB. The requirement forms part of the Town and Country Planning General Development Order and officials from DTI, the Home Office and the Department of the Environment are exploring ways in which it might be eased.

(vi) **"MUST CARRY"**

Arrangements for "must carry" are for the Home Office who, I understand, will cover this in their reply.

(vii) **MOVIE SOUND FEED**

Likewise, Sky News' problems over the sound feed from the House of Commons are a matter for the Lord President's Office.

BROADCASTING: direct broadcasting

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