



QUEEN ANNE'S GATE LONDON SW1H 9AT

14 March 1989

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Dear David,

NON-EC CONTROL OF CABLE AND LOCAL DELIVERY OPERATORS

The White Paper said that we would be considering further the question of whether non-EC companies should be prevented from controlling local delivery operators. Having given further thought to this I am writing now to propose that we should not place this restriction on local delivery operators, and also that the forthcoming legislation should remove the restriction as it applies to cable operators licensed under the Cable and Broadcasting Act 1984.

As you know, we have been heavily lobbied on this issue by the Cable Authority and the cable industry, who have argued that the present law has inhibited investment in cable. The extent of recent North American investment interest in United Kingdom cable does rather suggest that non-EC companies who are determined to invest can find ways of living with the law as it stands, although others may have been deterred by the regulatory complexities. However, those non-EC companies who have shown an interest have had to resort to contrived and convoluted arrangements in order to satisfy the Cable Authority and comply with the letter of the law. It seems to me that if we are content to see substantial non-EC investment in UK cable, then we should frame the law in a way which openly allows it. Alternatively, if there are good arguments against the degree of non-EC influence inherent in the arrangements sanctioned by the Cable Authority then the legislation should make it clear that such arrangements would not be possible in future.

I have come to the conclusion that the consideration which led us to impose the prohibition on non-EC control of cable operators when framing the 1984 Act no longer carries sufficient weight. As cable operators (and, in future, local delivery operators) do not in the main provide television services but simply deliver and retail them, the broadcasting policy arguments for this restriction have considerably less weight than in the case of Channels 3 and 5 and DBS. We have also, as you know, been influenced in our policy on this issue by considerations of national security. While these must be taken seriously, I do not think that they are any longer decisive in this case. I therefore believe that these arguments do not now outweigh the potential benefits of making it easier for non-EC companies to invest in local delivery networks.

The Rt Hon The Lord Young of Graffham

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The considerations are essentially the same for cable operators licensed under the 1984 Act as for local delivery operators licensed under the new regime proposed in the White Paper. I therefore propose that as well as making clear that we do not intend to impose a non-EC control restriction on local delivery operators, we should also indicate that we intend to legislate so as to enable operators licensed under the 1984 Act to be controlled by non-EC companies. Until this legislation is in place any operators licensed under the 1984 Act, including those who obtain licences in the period before the passage of the legislation, will of course have to comply with the present law, which may mean further convoluted company structures for new franchises. But non-EC companies proposing to invest will know that, subject to Parliamentary approval of our proposals, they will subsequently be able to restructure their companies in a more straightforward manner.

Ideally I would have liked to announce these proposals at the same time as the announcement of our firm plans for local services which we have undertaken to make by the end of April. However, I am clear that it would be a mistake to announce the position on non-EC control of cable before we are ready to make public our detailed proposals on restrictions on ownership generally. As you will know, this has proved to be one of the most controversial aspects of the White Paper, and the careful presentation of our subsequent proposals will be crucial. Although the decision on cable would probably attract little attention as part of a wider announcement on ownership restrictions, a separate earlier announcement could cause confusion and stir up controversy. It is particularly important, therefore, that none of this should become public before we are ready to make the wider announcement. I understand that officials are making good progress on working up detailed proposals on ownership restrictions, but it is possible that they will not be in their final form by the end of April. If this proves to be the case, then the announcement on local services at the end of April will have to explain that the position on non-EC control would be dealt with shortly afterwards in the context of a wider announcement on ownership.

I am sending copies of this letter to the Prime Minister, to the Chancellor of the Exchequer and to Sir Robin Butler.

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Lover,
Douglas,