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PRIME MINISTER

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30 November 1989

BROADCASTING BILL

The Issues

Two issues to be included in the Bill need to be decided immediately - (1) **Channel 4 Trustees** and (2) **Impartiality**. One issue in the Bill, and something which may be included in the Media Enquiry is the (3) **20% Cross-ownership Rule**.

Two issues which need careful watching are (4) **Ownership and Contracts for ITN** and (5) **the Future of Networking**.

Two aspects of the Bill which are almost certain to be challenged are (6) Lord Whitelaw will almost certainly raise the "**Sudden Death**" of existing franchise holders, and (7) other groups will question **Restrictions on religious broadcasting**.

1 Channel 4 Trustees

Those who are opposed to even some of the Channel 4 Trustees being nominated by the Home Secretary are not prepared to challenge the substance of your argument, namely that:

- Channel 4 will not be privatised but given the status of a trust;
- such a privilege requires public accountability;
- this in turn requires that at least some trustees should be appointed by the Home Secretary;

- rather than the ITC which is meant to be a referee of commercial broadcasting and therefore have an arms length relationship with all the key players;
- the Government appoints trustees in many areas, including broadcasting - BBC, Cable Authority, IBA, Broadcasting Standards Council, Radio Authority - and the charge that these appointments are in the pocket of the Government is frankly ludicrous.

The position taken by David Mellor and Lord Whitelaw is not to confront this argument head-on, but simply to say that the Channel 4 lobby and the British television establishment would be upset if the Home Secretary were to make such appointments. Lord Whitelaw appears to feel so strongly about this matter that he would even vote against it.

The alternative proposal which is being put by the Home Secretary, - which the television establishment is very happy with - is for the ITC to appoint trustees subject to the approval of Government. In view of what is effectively blackmail on the part of this lobby, the attempt by the ITC to use its veto on some future occasion will almost certainly result in leaks and threatened resignations by Trustees. I suspect it will be very weak.

### Recommendation

Lord Whitelaw's decision is very important and only you can form an proper judgement.

Even if you are forced to accept the Home Secretary's proposal, the one consolation is that no-one to date has succeeded in denting your argument!



## 2 Impartiality

This is the other item that needs a quick decision. The Broadcasting Act 1981, Section 4(f), states:

"that due impartiality is preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy."

and goes on to say that

"In applying paragraph (f) a series of programmes may be considered as a whole."

This interpretation of impartiality by ITV followed the innovation of Sir Hugh Green at the BBC in the sixties, who felt that viewers might find it more interesting to have only one side of a case presented in any one programme.

The implementation of this idea has been fiercely attacked by Woodrow Wyatt and the Media Monitoring Unit. They say:

- if you write to the IBA about a left-wing programme in series A about topic X you get back a letter excusing it by reference to a right-wing programme in a separate series B about a completely difficult topic Y;
- the "personal view" type programmes are seldom part of a series;
- the concept of impartiality is basically flawed because approximately 55% of people who view a programme in a given series will tend not to view the next programme in that series; to correct for bias, the balancing programme

or correction would have to be broadcast no fewer than 7 times for 90% of the people who saw the first programme to see the correction.

In the light of these substantive points, the Home Secretary proposes two major and two minor amendments to the White Paper:

- (a) The first proposal is that instead of changing the Bill by inserting "not" into the interpretation of paragraph (f) to read:

"In applying paragraph (f) a series of programmes may not be considered as a whole",

he suggests inviting the ITC to draw up a Code of Practice rather than change the clause in the Bill in this way.

#### Recommendation

This is not really as effective as changing the wording of the Bill which must be the preferred option.

If you agree to the Home Secretary's proposal, it may be worthwhile suggesting that he makes it absolutely clear that he expects the ITC code to remedy the deficiencies of existing practice.

- (b) The second proposal is that the same rules on impartiality should be applied to Cable as to terrestrial television, except for the case of channels such as ethnic minority ones.

At present, Cable television is not unregulated; it simply has a lighter regulation than terrestrial television: undue prominence must not be given in the programmes to the views and opinions of particular bodies. As the Home Secretary's letter makes clear,



the reason for the proposal is an attempt to clip the wings of Sky TV. I frankly doubt whether improving terrestrial regulation on Cable will make any difference to Cable. More important is that ethnic minority channels should be exempt. This has very little to justify it.

#### Recommendation

If ethnic minority groups engage in current affairs programmes, then there is absolutely no reason why they should not be subject to impartiality restrictions like anyone else.

The third proposal is that due impartiality should be restricted to matters of current political or industrial controversy - not "matters of purely historical interest". This is very dangerous and allows a potentially enormous loophole - not least in view of the fact that a modern history course in schools might well start in 1900 or 1945 and finish in 1980!

#### Recommendation

It should be rejected.

The fourth suggestion is simply to allow broadcasters to discuss broadcasting, which is perfectly reasonable.

#### Recommendation

It should be accepted.

### 3 20% Cross-Ownership Rule

Under the present terms of the Bill, because Sky TV uses the Astra satellite, News International can own Sky TV; but because BSB uses the official allocation of space to the UK through DBS, it is not possible for a media group to own more than 20% of BSB.

The best solution would be to remove the restriction on the ownership of BSB. I gather Douglas Hurd offered BSB this but they turned it down. The concern of Sky, however, is that BSB are at present lobbying to make sure that satellite television companies such as Sky, operate under exactly the same rules of ownership as themselves. This would mean that News International would be required to divest itself of 80% of its holdings in Sky. It would seem that BSB's objective is to remove Murdoch from running satellite TV rather than create a level playing field.

#### 4 ITN

Apart from the guarantees provided to the supplier of Channel 3 news which are in the Bill, if ITN were to be awarded the franchise, two things are necessary - the transfer of ownership to reduce the share by existing franchise holders to 49% and the nature of the contracts in the new regime.

David Nicholas has incurred the wrath of ITN shareholders by refusing to oppose the Government's proposal to reduce their shareholdings. Restructuring under orderly market conditions needs to be thought through. In addition there is the nature of the future contract which will be critical to the future of ITN.

It might be worth asking the Home Secretary where we are on ITN.

#### 5 Networking

In the past, the five majors supplied most of the network programmes - paid for in part (reluctantly) by the other companies. The five medium size companies increasingly felt discriminated by this system and rebelled - which led to the setting up of a flexipool arrangement, which is a modification of the above.



All except the large companies are nervous about what might happen. They fear that the powerful majors will dominate, so that in terms of network programmes they are being treated similarly to the independents.

Various options are possible but it is very important that the arrangements are subject to competition law.

Again it might be worth asking the Home Secretary where we are.

## 6 "Sudden Death"

Lords Whitelaw and Buxton are particularly concerned about the possibility that existing franchise holders will lose their franchise and that existing shareholders will suffer.

Almost certainly, they will attempt to change the tendering arrangements so that existing franchise holders are given some special privileges equivalent to the "rights of sitting tenants".

Lord Whitelaw has asked to see me about this.

## 7 Religious Broadcasting

Alas, this will not go away.

There are two lobbies:

- (a) main line churches led by the Bishop of St Albans (Chairman, Church of England Committee on Broadcasting) and David Sheppard (Chairman, CRAC) who wish to see the "God-slot" preserved;
- (b) evangelical churches, led by CARE, Evangelical Alliance, National Council for Christian Standards, who are pressing for greater opportunity.

The first is pressing for protection of the current system and the second for liberalisation. I suspect it will become a heated argument fairly soon.

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