



10 DOWNING STREET
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From the Private Secretary

12 December 1989

Dear Colin,

BROADCASTING BILL: IMPARTIALITY AND BALANCE

Thank you for your letter of 7 December which the Prime Minister has seen. In the light of the fact that the Bill has now been published incorporating drafting which reflected the proposals in your earlier letter, the Prime Minister is reluctantly content to accept that these proposals should stand.

I am copying this letter to the Private Secretaries to the members of MISC 128, Robert Canniff (Chancellor of the Duchy of Lancaster's Office) and Sonia Phippard (Cabinet Office).

*Yours,
Paul*

PAUL GRAY

Colin Walters, Esq.,
Home Office.

*TLG
PMM
cc: Policy Unit*

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Home Office
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7 December 1989

Dee Paul

BROADCASTING BILL: IMPARTIALITY AND BALANCE

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Thank you for your letter of 1 December recording the Prime Minister's comments on the Home Secretary's proposals regarding the requirements for impartiality and balance to be included in the Broadcasting Bill.

The Home Secretary is grateful for the Prime Minister's agreement that the ITC should be obliged to draw up a code on impartiality; and that the existing proviso allowing broadcasters to express opinions in their services on matters concerning broadcasting should be continued.

On the question of political and industrial controversy, your letter says that the Prime Minister does not believe that the restriction should be limited to matters of current controversy, as the Home Secretary proposes, but should apply also to matters with a historical aspect. There may perhaps be some misunderstanding here of the practical effect of the Home Secretary's proposal. The intention is to catch all matters of current controversy whether or not they relate to current events. Matters with a historical aspect would therefore be covered if they remained, or had now become, matters of current controversy. All that would be excluded would be old controversies which were no longer matters of current interest or concern. It does not seem necessary to the Home Secretary to cast the new provision as wide as this.

The other point to which the Prime Minister has drawn attention concerns the application of the lighter "undue prominence" test in place of the "due impartiality" requirement in relation to local services. The Prime Minister suggests that all local cable services, whether carrying national or local channels, should continue to be subject to the test of "undue prominence". The problem here is that under the new regime introduced by the Bill local delivery operators as such will no longer be responsible themselves for the content of the services they carry. Instead the ITC will licence programme services individually in order to apply content regulation, and local delivery operators will be obliged only to carry services that are so licensed. If a local delivery operator wishes to generate one or more channels of his own locally produced programming he will have to obtain a licence from the ITC in respect of each such programme service. It will therefore no longer in general be possible to regulate services carried on cable as a distinct category; and a rule which applied the undue prominence test to any service which happened to be carried on cable would have the undesired effect of catching every available television channel, regardless of its nature or coverage.



The Home Secretary takes the view that one must distinguish between on the one hand the major national and international terrestrial and satellite services, including Channels 3 - 5, DBS and non-DBS services like Sky, all of which are competing for mass audiences and should be subject to the same basic consumer protection requirements including the due impartiality rule; and on the other services which are aimed primarily at specific local areas or communities and could be regulated adequate by means of the looser undue prominence test.

In view of the tight timetable for publication of the Bill, the Home Secretary has not sought to change the existing drafting which reflects the proposals in my earlier letter. He hopes that, in the light of the explanations I have given, the Prime Minister will be content not to press the points on current controversy and undue prominence for local services.

I am copying this letter to the Private Secretaries to members of MISC 128 and the Chancellor of the Duchy of Lancaster, and to Trevor Woolley (Cabinet Office).

Yours ever

C J WALTERS

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