

26 February 1990

BROADCASTING BILL

The minute from the Home Secretary proposes four amendments to the Broadcasting Bill, all concerned with enhancing "quality" under a deregulated commercial television sector:

- (i) as part of the auction process, the ITC would be given discretion to award a licence to a lower bid in "exceptional circumstances": it is now proposed this is defined as "exceptional quality difference."
- (ii) C3 licences must include a suitable amount of children's programmes and religious programmes.
- (iii) the existing requirement that C3 companies broadcast a suitable proportion of programmes of high quality should be extended to mean a suitable proportion of programmes of high quality in each category of programming.
- (iv) the requirement that C3 companies undertake regional programming should be strengthened by requiring that regional news coverage must be of high quality.

(i) "Exceptional Quality" at the Auction

Ever since the idea of an auction was put forward it has been resisted fiercely by the ITV companies. In fact since joining the Policy Unit in 1985, I have never known such a sustained and aggressive campaign as that conducted by the companies against this proposal. More recently the campaign has also become bitter, leading to the boardroom split at ITN and the vicious campaign against Murdoch by BSB.



In terms of the proposed arrangement for the auction, all of the ITV companies would like to see the ITC given discretion not to have to allocate the franchise to the highest bidder - even though all bidders by this stage will have passed the quality hurdle. David Mellor has now accepted their criticisms and proposes that the ITC should be allowed to allocate a franchise to a lower bid, providing their proposed quality of programmes is exceptionally better.

This proposal, has two weaknesses:

- (a) it makes a nonsense of the quality hurdle: if the quality hurdle is to be (as Douglas Hurd stated) a Beechers Brook, then we should have faith in our ability to define quality: otherwise the whole concept of a quality hurdle makes no sense: having defined quality we must then allow the market to decide who can run the business most efficiently.
- (b) this kind of proposal was debated in MISC 128, and rejected: the reason MISC 128 granted the ITC the right to override in "exceptional circumstances" was to ensure that if they discovered that the money put up came from certain undesirable sources then that bid could be ruled out.

Although the ITV companies are raising the issue of 'quality' it is also a very convenient cloak for their own self-interest. Obtaining the franchise next time around will bring considerable financial rewards - as well as the prospect of permanence. The ITV companies know how to win a beauty contest using quality - this after all is how they obtained their present licences. I believe therefore that the companies are using the issue of quality as a way of keeping out potential new entrants into C3.

Certainly David Mellor's proposal will make it easier for existing companies to keep their licences and harder for outsiders to win the franchises.



(ii) -(iv) Minor Amendments

Each of these amendments places greater burdens on the companies, and two of them also requires an explicit and higher standard of quality. These will mean extra work for the ITC which will become an inspectorate as well as an arbiter of "high quality". Very similar in other words to the role of the IBA at present. Indeed the way the Bill is changing, the new ITC is beginning to look remarkably like the existing IBA. Even if these amendments were not to be accepted, the ITC would:

- allocate franchises at the auction for C3, after taking account of price and quality together;
- define the quality hurdle;
- define and implement the proportion of high quality news, high quality current affairs, and "suitable proportion" of high quality across the range of programmes and time devoted to schools broadcasting, for C3;
- decide on whether the remit for regional programming has been met;
- quite apart from regulating C4, C5, cable and satellite TV!

With these amendments they will also decide:

- the proportion of time given to children's and religious broadcasting;
- the content of "high quality" regional news;
- the proportion of programmes in each category which must be of high quality.



We already have three television channels in the UK given over to public service ("high quality") broadcasting. Looked at from the point of view of television in the UK taken as a whole there is no real case for any of these amendments. The real argument for the deregulation of C3 is that it will broaden the range of choice for viewers. All of the changes will make it more like the present.

David Mellor's case rests on the claim that it will be easier to take this Bill through if these concessions are made. That may be true - it is for others who are closer to the legislative process to judge. All I would say is that these arguments have been made before and I suspect we should only have difficulty if we did not change in one area, namely religious broadcasting.

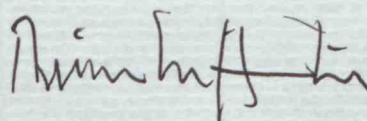
### Recommendations

1. All of the proposed changes are a backward step: they are simply concessions to the ITV companies or else they strengthen the ITC bureaucracy.

2. It is for you personally to judge whether the politics of the issue overrides the conclusions reached by MISC 128.

3. If concessions have to be made, then you would give least away if they were made in the following order.

- religious broadcasting
- children's broadcasting
- high quality regional news
- high quality across all programmes
- "exceptional quality" to define exceptional circumstances at the auction.



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