



QUEEN ANNE'S GATE LONDON SW1H 9AT

28 February 1990

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BROADCASTING BILL

FILE WITH RG

Thank you for your letter of 7 February about David Mellor's "Times" letter on the award of licences for Channels 3 and 5.

You are right to point out that the way in which the Bill is drafted does mean that the size of the bid comes into the ITC's evaluation of the applicant at the quality threshold stage. This is because it will be necessary for the ITC to take account not just of promises on programme content, but of the likelihood that those promises could in practice be delivered. This will depend on the company's net resources, taking into account the amount that it is bidding to acquire the licence.

It is true that there is a theoretical risk that the ITC could be influenced by knowledge of the size of individual bids in deciding whether an applicant has passed the quality threshold. In practice, however, I doubt if this should give us any serious cause for concern. Whatever level the ITC adopt for the quality hurdle will have to be applied equally to all applicants. Were they to act unreasonably in judging whether a particular applicant had passed the quality hurdle, their decision would be open to judicial review.

Nobody in Committee has challenged these arrangements. Indeed, a great deal of concern has been expressed that we should not risk repeating the Australian experience, where television franchises changed hands at excessively high prices which could only be recouped by a dramatic cutback in programme expenditure, with a corresponding falling off in quality. David's "Times" letter has done much to calm such fears. Against this background, I think we should be most unwise to reopen the issue.

I am copying this letter to the Prime Minister, other members of MISC 128 and Sir Robin Butler.

John Goss

The Rt Hon Nicholas Ridley, MP.
Secretary of State for Trade & Industry
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