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8 March 1990

Dear Nick

CROSS-OWNERSHIP RESTRICTIONS ON SATELLITE
TV SERVICES NOT USING UK FREQUENCIES

Thank you for your further letter of 7 February on this topic. I have also seen John Major's letter of 25 January, and the letter of 12 February from Mr Gray at No 10.

Discussion in the Standing Committee has in general confirmed my judgment that much of the political pressure - including from our own supporters - would be for us to add to rather than subtract from the ownership rules proposed in Douglas Hurd's announcement of 19 May 1989. Much of the discussion of Schedule 2 was taken up by a bid to limit newspaper interests in satellite services such as Sky. David Mellor successfully resisted this, and also an Opposition proposal to tighten all the 20% limits on cross-holdings in Schedule 2 to 10%.

On the point raised in your letters, Simon Coombs moved an amendment sponsored by WH Smith TV to remove altogether the 20% limit on non-DBS satellite interests in Channel 3, Channel 5, national commercial radio and DBS. This was opposed as going too far by John Greenway, and received no support from other members of the Committee on either side. David Mellor made the point, in replying, that paragraph 43 of the Home Affairs Committee's report of June 1988 had argued that it was "imperative" that the ITC should be able to take account of satellite ownership in relation to the ownership of UK-based channels. We are, indeed, committed by paragraph 6.53 of the White Paper to meeting this recommendation. David did, however, undertake to consider without commitment whether there was any scope for fine-tuning. On this basis the amendment was withdrawn.

The one player which has opposed the 20% rule in paragraph 5(2) of Part III of Schedule 2 is WH Smith TV. For the reasons given in my letter of 25 January I do not find their case for some relaxation overwhelmingly strong. As you acknowledge, any European competitor who also controlled satellite channels intended for reception in the UK would similarly be caught by the proposed 20% limit. I do take the point that in some cases potential European competitors may not at present face comparable restrictions through domestic

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legislation in their home markets. But I note that countries such as Italy are seeking to tighten up their own cross-media ownership rules. And I do not think it follows that it would be either desirable or politically sustainable if the Bill provided no means of preventing one person from owning, for instance, both Channel 5 and all the channels on Astra. Simon Coombs' amendment would have had this effect.

Of the various options for more limited relaxation of the rule which have been canvassed, the one with which I would have the least difficulty in principle is that proposed by John Major and by you in the first paragraph of page 2 of your letter of 7 February. On this basis a person might be free to own, for instance, both the Channel 5 franchise, or two Channel 3 franchises (if not contiguous or both large) and up to, say, two non-DBS satellite services. Ownership of more than two such satellite services would have the effect of applying the 20% limit currently in the Bill to any interests in Channel 3, Channel 5, national radio or DBS. Both the limit of two satellite services and the 20% limit would be capable of variation in subordinate legislation. We could in particular consider raising the limit of two satellite channels as the market expanded. All of this would be without prejudice to general competition legislation.

An amendment along these lines would, I acknowledge, go a long way towards meeting WH Smith's case. But we have to weigh this against the Parliamentary handling aspects. The present provision in paragraph 5(2) can hardly be said to be devastating to WH Smith's interests: it would simply require them to reduce their stake in a Channel 3 franchise from 21% (their present stake in Yorkshire) to 20%. Against this, a number of Conservative members of the Committee who did not speak have indicated that they think the 20% rule is right as it stands. Paragraph 5(2) has been widely welcomed as the Government's response to the Home Affairs Committee's recommendation. Any change would inevitably be seized on by the Opposition as dilution of the Government's proposals on cross-media ownership. It could also provoke disquiet among our own supporters, including those who served on the Home Affairs Committee's inquiry into the future of broadcasting. Any such change would also run into trouble in the Lords.

These handling considerations weigh with me more strongly than the point of policy at issue, on which I have no strong views. My preference, therefore, would be to maintain the proposed 20% limit undiluted: David Mellor could then see Simon Coombs to explain our position. I should be very ready to discuss these matters further at a meeting, as suggested by the Prime Minister.

I am copying this letter to the recipients of yours.