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FROM: P J C MAWER
DATE: 16 March 1990

PRIME MINISTER

CROSS-OWNERSHIP RESTRICTIONS ON SATELLITE TELEVISION SERVICES NOT USING UNITED KINGDOM FREQUENCIES

DECISIONS

You are to chair a meeting after the Budget Cabinet on Tuesday to consider whether to modify the provisions in the Broadcasting Bill limiting to 20% the interests of satellite services not using United Kingdom frequencies in UK-based television and radio services.

2. The questions for decision are:

i. Should the existing provision be removed or relaxed as both Mr Ridley and the Chancellor of the Exchequer favour? Mr Waddington is not opposed in principle, but is worried about the Parliamentary consequences.

ii. If so, how should any relaxation be couched? The Chancellor and Mr Ridley have proposed that the rule should be relaxed to allow one Company to control a restricted number of satellite channels in addition to an Independent Television Commission (ITC) licence.

iii. Is existing competition law adequate to ensure that the rules continue to maximise media ownership? At one stage Mr Ridley indicated that they might need strengthening.

iv. What will be the Parliamentary consequence of any change in the Bill and how can this best be handled?

You will wish to ensure that the outcome is in line with the Government's basic objectives in their broadcasting reforms of maximising ownership and therefore the choice available to the viewer and listener.

BACKGROUND

3. Schedule 2 of the Broadcasting Bill provides inter alia that no operator of a non-DBS satellite service receivable in the United Kingdom will be permitted to have more than a 20% interest in a DBS, UHF TV or national radio licence. (This is in addition to a provision barring national newspaper proprietors from holding more than 20% of any DBS, UHF TV or national radio franchise.) These limitations on cross-ownership were agreed in MISC 128 last April and announced by the then Home Secretary in a written answer on 19 May 1989 (copy at Annex A attached). The announcement was generally welcomed at the time as meeting the recommendation by the Home Affairs Select Committee in its report on The Future of Broadcasting that it was imperative that ownership of extra-territorial services based outside, but receivable in, the UK should be taken into account in the provisions regarding ownership of UK-based channels.

The case for change

4. Mr Ridley is concerned that the blanket 20% limit will prevent otherwise welcome commercial activity in the broadcasting sector. In his letter to Mr Waddington of 16 January, he proposed the introduction of a discretionary regime for dealing with cross-ownership questions, designed in particular to meet the problems of W H Smith which has two channels on Astra and a 21% share in the Yorkshire Television franchise. Mr Ridley argued that undue concentration of ownership could be tackled through normal competition and mergers arrangements, with qualifying mergers being considered by the Office of Fair Trading (OFT) and the Monopolies and Mergers Commission (MMC) in the

normal way. Some strengthening of the regime might be necessary, however, to ensure that audience size and the need to ensure the accurate presentation of news and free expression of opinion were taken into account. Because an MMC reference would create an unacceptable delay, the ITC should also be given discretion to consider ownership issues in reaching decisions at the initial licensing stage.

5. In his letter of 25 January, the Chancellor of the Exchequer said that he favoured relaxing the rules at the margin so that a company owning a small percentage of the channels broadcast by any type of satellite (such as W H Smith) could also own terrestrial television channels. He was not in favour, however, of the ITC being given any discretion to deal with difficult cases.

The case against change

6. The Home Secretary is not opposed in principle to some relaxation of the cross-ownership rules, but is worried about the Parliamentary consequences. He has argued (his letter of 25 January to Mr Ridley) that the rules in the Bill have been widely welcomed and opposed only by W H Smith. Any European competitor who controlled satellite channels receivable in the UK would also be caught by the proposed 20% limit and W H Smith could, under the Government's proposals, own a large and a small Channel 3 franchise while retaining substantial non-DBS satellite TV investments provided that these did not amount to control.

7. Mr Waddington's letter of 8 March indicates that he would have least difficulty with a proposal on the lines that 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 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. The Government could consider raising the limit of two satellite channels as the market expanded. All of this would be without prejudice to general competition legislation.

8. The Home Secretary believes, however, that an amendment even in this modified form would run into substantial Parliamentary opposition, including from Conservative backbenchers. A change would also be seized on by the Opposition as dilution of the Government's proposals on cross-media ownership, and could be expected to run into trouble in the Lords. In the Home Secretary's view these handling considerations outweigh the policy case for change and he would prefer to maintain the proposed 20% limit undiluted.

MAIN ISSUES

Relaxing the cross-ownership rules

9. You will wish to establish whether the meeting agrees that the present rule in Schedule 2 should be relaxed in order to avoid unnecessary regulation and to free up the market. Can this be done while avoiding unacceptable concentration of media ownership? Would such a change unduly jeopardise the Parliamentary handling of the Broadcasting Bill?

The form of relaxation

10. If the meeting agrees that the rule should be relaxed, is it content for the change to take the form of the proposal in the Home Secretary's letter of 8 March (which builds on the suggestion made by the Chancellor in his letter of 25 January which was subsequently picked up by Mr Ridley in his letter of 7

February). This would meet W H Smith's problem, but is there a case for going further?

Safeguards

11. Would any relaxation on these lines require compensating strengthening of the merger regime as applied to broadcasting services? Mr Ridley suggested that some strengthening was required in his letter of 16 January, but that may not be necessary given the more limited form of the relaxation envisaged in the later correspondence. It would seem preferable to avoid an ownership regime for broadcasting which gives undue discretion to the ITC, and which creates the possibility of conflict between the ITC on the one hand and the OFT and MMC on the other.

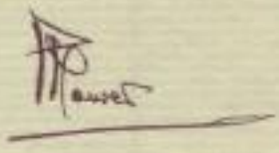
Parliamentary handling

12. Assuming the meeting agrees that some relaxation in the cross-ownership rules is desirable, you will wish to consider the form and timing of any change in the provisions of the Bill. In the debate in Standing Committee on Simon Coombs' amendment to remove altogether the 20% limit on non-DBS satellite interests in UK-based services, Mr Mellor undertook to consider without commitment whether there was any scope for fine-tuning the provisions in the Bill. It would seem sensible for any change to be made by means of a Government amendment on Report, which could be represented as a response to the debate in Committee.

HANDLING

13. You may wish to open the meeting by inviting MR RIDLEY to make the case for a change in the present ownership restrictions in the Bill, and then invite the HOME SECRETARY to respond. The meeting could then work through the main issues in the order set out in this brief. THE CHIEF SECRETARY will no doubt wish to

support Mr Ridley's case for some change in the Bill. THE CHIEF WHIP will be concerned about the implications for the Bill's Parliamentary handling, including in the House of Lords.



P J C MAWER

ANNEX A.

granted (i) asylum and (ii) exceptional leave to remain in the United Kingdom, in each of the years 1985, 1986, 1987 and 1988.

Mr. Renton: The information requested is not readily available and could be obtained only at disproportionate cost.

Mr. Darling: To ask the Secretary of State for the Home Department how many people were refused entry to the United Kingdom at ports of entry; and how many of those refused entry subsequently applied for asylum in the United Kingdom, in the years 1985, 1986, 1987 and 1988.

Mr. Renton: The total number of passengers refused leave to enter and removed from the United Kingdom in 1985, 1986 and 1987 is published in table 4.2 of the Home Office publication "Immigration Nationality and Passports, October 1988", a copy of which is in the Library. The total in 1988 was 20,871. Information on the numbers of these passengers who subsequently applied for refugee status in the United Kingdom is not readily available and could be obtained only at disproportionate cost.

Mr. Darling: To ask the Secretary of State for the Home Department what was the average Home Office decision time for asylum applications made at ports of entry in 1985, 1986, 1987 and 1988 and at the current time.

Mr. Renton: The available information is given in the table. Information for 1988 is not yet available.

Estimated average length of time[1] taken to reach a decision on an application[2] made at a port, for refugee status in the United Kingdom, for cases decided during the year.

	Average time in months
1985	[3]8
1986	16
1987	11

[1] Excluding the time accounted for by an appeal where practicable, although this cannot be done in all cases.
[2] Excluding dependants.
[3] The 1985 figure may be an underestimate.

Mr. Darling: To ask the Secretary of State for the Home Department what discussions he has had with other EC Governments regarding harmonisation of asylum procedures in preparation for the implementation of the Single European Act in 1992; and if he will make a statement.

Mr. Renton: Asylum procedures have been discussed in regular meetings of Ministers responsible for immigration, held on six occasions since December 1986. For details of the two most recent meetings, I refer the hon. Member to the replies my right hon. Friend gave to my hon. Friends the Members for Romsey and Waterside (Mr. Colvin) on 14 December 1988 at columns *576-7* and for Portsmouth, South (Mr. Martin) on 17 May 1989 at column *208*.

My right hon. Friend and I have also discussed asylum matters in various bilaterial contacts with Ministers from other member states.

Broadcasting (Ownership)

Mr. Robert G. Hughes: To ask the Secretary of State for the Home Department if he will make a statement about the proposals in the White Paper on broadcasting ownership.

Mr. Hurd: The White Paper made clear our determination that ownership in the independent broadcasting sector should remain widely spread, and that unhealthy concentrations of ownership and excessive cross-media ownership should be prevented. We are grateful to those who responded to the invitation to comment on the scope and formulation of the rules needed to achieve this objective.

The White Paper envisaged (paragraph 6.51) that the same group would be permitted to hold two, but not more than two, regional Channel 3 licences. Many of those commenting thought it would be undesirable if the same group could control two large or contiguous Channel 3 regions. It has also been argued that some flexibility is needed to take account of the ways in which independent terrestrial television might develop.

In the light of these responses we propose to strengthen the rules envisaged in the White Paper in the following way. Power would be taken to prescribe in subordinate legislation limits on the number of Independent Television Commission or Radio Authority licences within each main licence category which any one body or group would be permitted to hold or control. In the case of regional Channel 3 licences the initial limit would be set at two, as envisaged in the White Paper. But these limits would be capable of further restriction by reference to audience share and contiguity of licence area. The Government does not envisage that the same group should be allowed to own two large franchises or two franchises for contiguous areas.

Paragraph 6.53 of the White Paper proposed clear reciprocal limits on broadcasting and newspaper cross-holdings. Taking account of comments on the White Paper, we propose that no proprietor of a national newspaper should be allowed to have an interest exceeding 20 per cent. in any DBS, UHF TV (including regional Channel 3) or national radio franchise. We also see a strong case for debarring national newspaper proprietors from having a significant financial interest in more than one such franchise. These limits also apply reciprocally to the holders of such franchises investing in groups controlling national newspapers. No regional or local newspaper would be allowed to have more than a 20 per cent. interest in any regional or local Independent Television Commission or Radio Authority licensee with whose area it substantially overlapped, and vice versa.

Paragraph 6.53 of the White Paper proposed, folowing a recommendation by the Home Affairs Committee, that ownership of satellite channels not using United Kingdom broadcasting frequencies but receivable in the United Kingdom (whether based here or abroad) should be capable of being taken into account by the Independent Television Commission and the Radio Authority in operating their controls. We propose that no operator of such a service should be permitted to have more than a 20 per cent. interest in a DBS, UHF TV (including regional Channel 3) or national radio licensee, and that cross-interests exceeding 20 per cent. between DBS, UHF TV and national radio licensees should not be permitted. Similarly, cross-interests exceeding 20 per cent. would not be permitted between regional Channel 3, local delivery operator and local radio licensees whose areas substantially overlapped. These limits would be expressed in subordinate legislation and would be capable of variation. We envisage that legislation would also leave open the possibility of limiting other forms of cross-holding.

In line with paragraph 6.49 of the White Paper, local authorities and bodies whose objectives are wholly or mainly of a political or religious nature (and also bodies which are affiliated to or controlled by such bodies) would be disqualified from holding any ITC licence. Local authorities and political bodies would similarly be disqualified from holding any Radio Authority licence: as envisaged in paragraph 7.10 of the radio Green Paper, religious bodies would be allowed to have a financial interest in radio stations provided this did not lead to bias or editorialising on religious or controversial matters.

We propose that no ITC or Radio Authority licence may be held or controlled by a non-EC company or individual not ordinarily resident in the EC, with the exception of local delivery licences and any operators licensed under the Cable and Broadcasting Act 1984. In the case of these exceptions, concerns about editorial and cultural influence, which are less applicable to local service delivery, are outweighed by the advantages for investment which the possibility of non-EC control would bring about.

While the Government does not envisage that the ITC or Radio Authority would have a wide discretion in dealing with ownership questions, it does propose that they should be given the enforcement powers needed to police the rules effectively. These would include the ability to include licence conditions requiring licensees to give advance notice of, and seek prior consent for, changes in shareholdings. The ITC and Radio Authority would also be able, for the purposes of enforcing the ownership rules, to require changes in a company or group as a condition of its being awarded, or retaining, a licence, and to withdraw licences if declarations to them proved false.

Transitional account will be taken, in framing the rules, of the position of shareholders in franchises awarded under existing legislation.

Magistrates Clerks

Mr. John Morris: To ask the Secretary of State for the Home Department how many magistrates courts' days have been lost or shortened because of the inadequacy in numbers of available clerks.

Mr. John Patten: This information, not available at present, is now being obtained from magistrates courts committees on a quarterly basis. I shall write to the right hon. Member as soon as the first set of returns has been collated.

Drugs

Mr. Vaz: To ask the Secretary of State for the Home Department what is the total value of goods seized under the Drug Trafficking Offences Act 1986.

Mr. John Patten: The best available information relates to confiscation orders. For the value of such orders to date, I would refer the hon. Member to the reply my right hon. Friend gave to a question from my hon. Friend the Member for Lewes (Mr. Rathbone) on 11 May at column *986*.

Mr. Butler: To ask the Secretary of State for the Home Department what information his Department has with regard to the proportion of burglaries committed by drug addicts *(a)* in the Wirral, *(b)* in Merseyside and *(c)* nationally.

Mr. Douglas Hogg: The information requested is not available nationally. However, a Home Office research study "opioid use and burglary", published in 1986 estimated that in 1983, 1 per cent. of adult males convicted of burglary in a dwelling at Liverpool magistrates court, and 15 per cent. convicted at Wirral magistrates court were drug addicts notified to the Home Office. Other research has suggested that in 1985 at least half of the adult males convicted of burglary in the Wirral may have been drug misusers.

Lone Occupants (Names and Addresses)

Mr. Nicholas Baker: To ask the Secretary of State for the Home Department if he will take steps to limit publication of names and addresses of lone occupants of houses.

Mr. Douglas Hogg: We have no plans to do so. The only published official source in England and Wales from which such information might be inferred, so far as I am aware, is the electoral register. It is not, however, a comprehensive guide as to who lives at a particular address or whether a person on it is a lone occupant. We have no evidence of widespread misuse of the register for criminal or other illegitimate purposes. If my hon. Friend is aware of a particular problem, perhaps he would write to me about it.

Segregated Prisoners

Mr. Irving: To ask the Secretary of State for the Home Department how many *(a)* male and *(b)* female prisoners on the most recent convenient date were segregated under rule 43 of the prison rules (i) for their own protection and (ii) for reasons of good order and discipline.

Mr. Douglas Hogg: The numbers of prisoners (sentenced and unsentenced) so segregated on 31 March 1989 was as follows:

	Own protection	*Good order or discipline*
Male	2,193	227
Female	21	8

Immigration

Mr. Darling: To ask the Secretary of State for the Home Department, pursuant to the answer of 20 December 1988, *Official Report*, column *178*, what representation he has received about the legal validity of the powers used by immigration officers to sign notices of intention to deport under the Immigration Act 1971; what response he has made; if he will review these powers; and if he will make a statement.

Mr. Renton *[holding answer 17 May 1989]:* This issue has been raised in a number of appeals before the independent appellate authorities. The immigration appeal tribunal has now endorsed the view that the service of notices of intention to deport authorised by members of the immigration service not below the rank of inspector is valid.

We have also received two other letters about the delegation of the powers of the Secretary of State. A reply was sent to the first letter in November 1988 in similar