



the department for Enterprise

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

Rt Hon David Waddington QC MP
Secretary of State for the Home
Department
Queen Anne's Gate
LONDON
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET
Enquiries
01-215 5000

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line
Out ref
Your ref
Date

215 5623
PE4ARM

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*NRBm will
Have office respond
to my letter 13/4.*

Dear David

*Rec 6
11/4*

BROADCASTING BILL : TRANSITIONAL NETWORKING ARRANGEMENTS

Thank you for copying to me your minute of ^{11/4} 30 March to the Prime Minister about networking for Channel 3.

It seems clear that a Channel 3 system of regional licensees together providing national coverage is not commercially viable without some networking arrangements. The terms of such arrangements should be a matter of commercial negotiation between the Channel 3 licensees but I agree that it would help both the tendering process and the subsequent transition from ITV to Channel 3 to have some minimum assurances about the network. I therefore support your proposal that the ITC should have the power to establish a network subject to the following reservations.

First, it will be important to ensure that any networking agreement between the Channel 3 licensees should be such that it would not contravene restrictive trade practices (RTP) legislation. An agreement made under the ITC's power to settle disagreements could potentially be excluded from the scope of the legislation while the statutory approval was in force. Whether excluded in this way or not, I hope you will agree that it should in any case be consistent with our restrictive trade practices policy. This could most simply be achieved by requiring the ITC to obtain clearance from the Director General of Fair Trading to that effect before it approved or settled any agreement.

Secondly, I am uneasy about the power you propose to give to the ITC to specify the proportion of each licensee's total revenue he would be expected to contribute to the network in advance of the tendering procedure. The expectation must be that the ITC would base these figures on current practice, thus effectively maintaining the present networking arrangements and giving the new



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licensees no scope to make their own arrangements. So long as the ITC has the ultimate power to ensure a network exists, I do not think the power to shape the network in advance is necessary, nor indeed desirable.

Finally, whilst I see the ITC's power to "approve" networking arrangements as a useful means of ensuring that their effect is examined from an RTP angle, provided that the licensees have agreed a networking arrangement between themselves I do not envisage the IT having any further role to play. In particular I would not like the ITC to have the power to veto an arrangement that had been agreed by all the licensees and had been approved by the DGFT for RTP purposes.

I am copying the letter to the Prime Minister, other members of MISC 128, Malcolm Rifkind, Peter Brooke and to Sir Robin Butler.

John
Butler



BROADCASTING: POLICE PTI

