

From: THE PRIVATE SECRETARY

Prime Minister

CATU



HOME OFFICE
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4 May 1990

The attached note from
Brian G. advises that you continue to
object to the Home Office proposals on
networking - which would favour the
large over small companies for the Channel 3 network. Home Office
are pressing for an agreement as the Broadcasting Bill goes into
Report Stage. Do you want:

Dear Barry,

BROADCASTING BILL: NETWORKING

Thank you for your letter of 26 April recording the Prime
Minister's views on the Home Secretary's proposals contained
in my letter of 18 April. The Home Secretary has also seen
Mr Rifkind's letter of 26 April.

The Home Secretary is grateful for the Prime Minister's
acknowledgement that the Bill may need to make some provision
for networking. He notes that the Prime Minister is not
attracted to the approach he has proposed, but would prefer to
see a scheme involving approval by the Office of Fair Trading
(OFT). He sees no difficulty about including in the Bill a
power for the OFT to approve networking arrangements, and
indeed his own proposal involved the OFT assuming this role.
However, while the OFT would be well placed to determine
whether a particular network arrangement was fair, the Home
Secretary does not consider that they would have sufficient
knowledge or experience of broadcasting themselves to specify
a network arrangement in advance which could subsequently be
imposed in the absence of agreement among the licensees to
some other arrangement.

The Home Secretary therefore remains concerned that, if
the matter is left on the basis of the OFT simply approving
network arrangements devised by the licensees, with no power
to impose an arrangement in the absence of agreement amongst
the licensees, neither of the considerations which underlay
his original proposal will have been addressed. At the
application stage neither the applicants nor the ITC could
have any idea what, if any, network arrangements might emerge.
It would therefore be very difficult for the ITC to judge
whether applicants' proposals, which would be bound to assume
the existence of some sort of network, were capable of being

to operate. The
/realised. Home Office
proposed is on
the side of the
big better than
not

Barry H Potter, Esq
Private Secretary
10 Downing Street
LONDON, SW1

Mr Mellor (Brian G.) for a short further discussion?
BHP
8/5

come
(1). I am
sure
Brian
is right
about
this.
we must
make it
clear for
the small
companies

realised. Moreover, in the time available to the licensees after their appointment it might not be possible for them to agree, and have approved, network arrangements which would enable a fully functional network based programme service to begin on 1 January 1993.

One possibility would be for the legislation to specify that licensees must participate in programme sharing arrangements, on a basis to be approved by the OFT. This would not however be of any assistance to the ITC in the context of their assessment of bids; and without a further power for the ITC to determine the basic requirements for the network, including in particular the number of hours of networked programmes, it could not guarantee to bring about the form of networking which was needed particularly by the smaller regional licensees who on any assessment are bound to be heavily dependent on the existence of a network to supply the majority of their programming.

The Home Secretary therefore continues to believe that the proposal set out in my letter of 18 April offers the best means of resolving the problems with which he is concerned. That proposal gives the ITC a limited role in specifying the form of networking that would apply, in the absence of agreement to the contrary by the licensees. But under this scheme the ITC's discretion would be very tightly constrained. The arrangement to be specified by the ITC would require the advance approval of the OFT. It would remain in force for a maximum of two years. And it could be replaced at any time before this by agreement among the licensees: indeed, it need never come into operation at all if agreement to an alternative scheme could be reached by licensees before the start of broadcasting.

The Home Secretary hopes that, against this background, the Prime Minister will be prepared to look again at his earlier proposal, which he believes to be essential if the successful start of Channel 3 is not to be prejudiced. The Government will inevitably be pressed hard on this issue during the Report Stage of the Bill next week, and it is important that the matter should have been resolved before then. I should be grateful therefore for a reply before midday on 8 May at the latest.

I am copying this letter to the Private Secretaries to members of MISC 128, to Jim Gallagher (Scottish Office), Stephen Leach (NIO) and Sonia Phippard (Cabinet Office).

Yours ever,

Paul Storr

P R C STORR

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