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E(82) 29
11 March 1982

COPY NO 66

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MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

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TELECOMMUNICATIONS POLICY

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Note by the Central Policy Review Staff

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1. The Secretary of State for Industry's Memorandum (E(82)23) seeks policy approval to introduce legislation next session on the following proposals:-

- the conversion of BT into a Companies Act company (BT Ltd) and for the sale of new shares as a step towards privatisation;

- the licensing of local cable systems run by the private sector in partnership with BT carrying both telecommunications and television services.

2. It also discusses proposals which, if approved, would form part of the same legislative package. The most important of these are:-

- removing various regulatory and licensing functions from BT (paragraph 10). The paper mentions the approval of attachments and the licensing of "value-added network services" as examples;

- removing from the Telegraph Acts the requirement for BT to consent to the use of Telegraph Act powers (concerning wayleaves, for example) by others.

3. The CPRS agrees with the aim of privatising BT. But the disciplines of being in the private sector will only be effective if full and fair competition to BT in all its activities is allowed to emerge. At present there

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are two barriers to this. First that BT currently has the power and the legal duty to regulate the activities of its competitors. The presumption must be that it will exercise these powers to its own advantage. The second is that, even if, as the Secretary of State for Industry proposes, regulatory powers are removed from BT, it will remain the dominant occupant of the telecommunications market place for many years to come. There will therefore be scope for BT to abuse this dominant position by a variety of predatory commercial activities designed to stifle the competition. The CPRS believes it important that moves towards privatisation should not get ahead of solving these regulatory problems.

4. Further work will need to be done, but the legislative timetable requires that approval in principle be given now for the Secretary of State's proposals; and that consultative documents be issued shortly on the various aspects of regulation and what new arrangements would be appropriate to the Government's objectives. In view of experience in other countries, there must be a strong presumption in favour of a regulatory authority independant of Government. The aspects to be covered should include the following:-

- the licensing of value-added network services;
- the approval of attachments to the network;
- the conditions of use of Telegraph Act powers over wayleaves by others than BT;
- the freedom to resell capacity on circuits leased from BT;
- the liberalisation of international services, and UK representation on international telecommunications bodies;
- approval and publication of telecommunications tariffs and tariff structu
- the licensing mechanism for new telecommunications systems such as cable and future expansion of Mercury.

5. Detailed licensing decisions on local cable systems can await Ministers' consideration of the proper policy framework for the telecommunications and broadcasting uses of cable systems. At that time, Ministers will need to return

to the questions of whether and how BT should be allowed to participate in cable systems. The CPRS believes it important to encourage competition in this area also.

Recommendations

6. The CPRS recommends that policy approval be given for the Secretary of State for Industry's proposals as summarised in paragraphs 1 and 2 above, and the associated proposals in his paper related to Giro, but with the exception that the approval in principle for legislation on cable systems licensing should not prejudge the way the local systems are to be run (paragraph 5 above). The CPRS also recommends the Committee to agree to the Secretary of State's proposal to issue a consultative document on the regulatory issues set out above, and to consult his colleagues on a draft as soon as is practical. The Secretary of State might then be invited to bring forward more detailed proposals at an appropriate stage both on these regulatory issues and, as the Chief Secretary proposes, on a strategy for privatisation.

Cabinet Office
11 March 1982