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27 MAR 1990

Dear Colleague,

BROADCASTING BILL

Many colleagues have written to me setting out their concerns about whether the Broadcasting Bill does enough to safeguard quality. In the light of the discussion of this issue in Committee, I recently announced a number of changes which we propose to make to the Bill in order to respond to these concerns, and I thought it would be helpful to provide this account of what we now intend.

I should make clear immediately that we have never proposed that licences to operate television services should simply be auctioned to the highest bidder. As the Bill stands, applicants for a Channel 3 or Channel 5 licence would not have their financial bids considered unless they had first crossed a formidable quality threshold which, in the words of George Russell the Chairman-designate of the new Independent Television Commission, is a Becher's Brook. Bidders will have to satisfy the ITC that they will give a sufficient amount of time in their service to news programmes and current affairs programmes of high quality, as well as to other programmes of high quality; in the case of Channel 3, that there will be a sufficient range of regional programmes, including regional news, a suitable proportion of which are made in the licence area; and that their planned programmes are, when taken as a whole, calculated to appeal to a wide variety of tastes and interests. These requirements are essentially the same as those contained in the present legislation, except that for the first time we have embodied the requirements for regional programming in statute.

We have, however, received many representations from groups with interests in particular types of programming, who would like us to include specific guarantees for such programmes in the legislation. I listened carefully to the arguments which were put to me both in Committee and at Second Reading. To meet these points I announced to the Committee on 8 March three ways in which the Bill would be strengthened in relation to quality.

/The first proposal

The first proposal I announced relates to the licence award process. As I have indicated, only applicants who have crossed the formidable, and now enhanced, quality threshold will be eligible to have their financial bids considered. Even so, there is already a provision in the Bill which enables the ITC, in exceptional circumstances, to award the licence to an applicant other than the one offering the highest bid. We had not further defined the concept of exceptional circumstances, since by definition when circumstances are exceptional they are not always easy to specify in advance. But it was clear to us that the exceptional circumstances provision must of course include those circumstances in which the quality of programming offered by one applicant was exceptionally higher than that of the applicant offering the highest cash bid. However, a number of colleagues pointed out that there would be fertile ground for legal argument unless this point were made clear in the Bill. I have therefore agreed to make it explicit in the Bill that exceptional circumstances can, indeed, include those circumstances where the quality of programming offered by one applicant is exceptionally higher than that of the applicant offering the highest cash bid.

Secondly I undertook that we would specify in the Bill that Channel 3 and 5 licensees must include a suitable amount of childrens' programmes and religious programmes in their schedules. It was inconceivable to me that a Channel 3 or 5 licence could be awarded to someone who was not offering childrens' programmes, since the requirement in the Bill to cater for a wide variety of tastes and interests must on any analysis include children, who comprise such a significant proportion of the viewing audience. I felt however that it was worth making this quite clear in the Bill. It was also likely that religious programmes would have been included as part of the diversity requirement. But, by its very nature, religious broadcasting has a special claim for protection, which I thought right to acknowledge on the face of the Bill. This formal requirement for religious programming, taken in conjunction with our decisions to allow religious ownership of local radio stations, and to give the ITC the discretion to allow religious groups to own channels not using UK broadcasting frequencies, such as the Vision Channel, shows our commitment to ensuring that responsible religious broadcasting is allowed to develop and flourish in the 1990s. I attach a note which expands on the implications of the Bill for religious broadcasting.

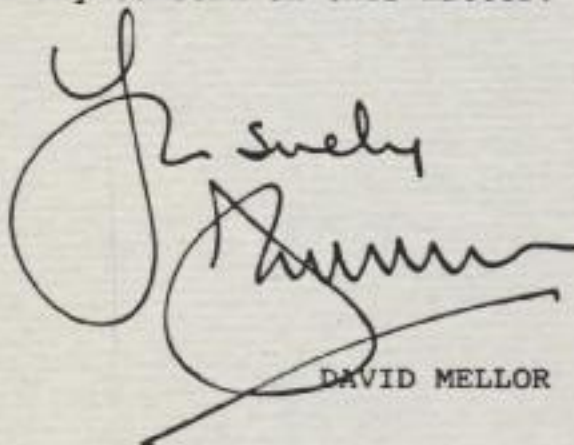
Thirdly, I agreed to strengthen the regional requirements in the Bill by requiring that the regional news that Channel 3 licensees will be required to broadcast be of high quality, in line with the parallel high quality requirements for national

/and international news.

and international news. We attach a lot of importance to preserving the unique regional character of Channel 3, and this amendment will help to reinforce the important regional dimension of the Channel 3 service.

I know colleagues will also have received a lot of correspondence about teletext and I have recently announced a further change to deal with this matter. In drafting the Bill, we were anxious to remove the constraints imposed by the existing law on developing the full potential of the data-carrying capacity of broadcast signals. We therefore proposed that this spare capacity should be licensed separately by the ITC on the basis of competitive tender. Since we published these proposals, concern has been expressed that the result might be the disappearance of a commercial teletext service from our screens. Following the debate on this matter in Committee, we decided that it would be right to make continuing provision for commercial teletext. This need not involve earmarking all the spare data carrying capacity of the Channel 3 and 4 signals, some of which can still be made available for other uses. But I propose that the ITC should be under a duty to advertise a teletext service using such part of this spare capacity as they, with the agreement of the Secretary of State, think appropriate. This proposal does I believe represent a constructive response to the concerns expressed about this matter and will ensure the continuation of an ORACLE-type service.

These amendments which I propose to make to the Bill at Report Stage demonstrate our continuing commitment to the high quality of British broadcasting. The Bill as a whole seeks to provide an enabling framework for a new and more competitive broadcasting regime. I see no reason at all why this need entail any risk to quality - rather the reverse. I hope that the changes I have announced will reassure those who have expressed any concern on this matter.

The image shows a handwritten signature in dark ink. The signature is written in a cursive style and appears to read 'David Mellor'. Below the signature, the name 'DAVID MELLOR' is printed in a simple, sans-serif font. A long, thin horizontal line is drawn across the bottom of the signature area, extending from the left side of the page towards the right.

DAVID MELLOR

BROADCASTING BILL: RELIGIOUS BROADCASTING

Religious programming

1. There is no suggestion that TV and radio stations should not be allowed to broadcast religious programmes. The BBC are clear that they will continue to provide religious programmes on both TV and radio. There is no statutory requirement at present for religious programmes to be shown on ITV. However, following the debate in the Committee on religious broadcasting, I agreed to consider whether there was a need to include in the statutory requirements for Channel 3 licences a specific reference to religious programmes. We have now concluded that such a requirement is needed. It will form part of the positive programme requirements in Clause 16 of the Bill. We have also decided that it would be better to follow the long regulatory tradition in British broadcasting in applying the concept of "religious" broadcasting in a way which reflects the range of religious views in the UK while giving proper weight to the traditions of Christian belief in our society rather than in a specific reference to Christian broadcasting.

2. Furthermore, as more outlets become available, for instance through cable, microwave and satellite, the number of religious programmes overall should increase.

Consumer protection safeguards

3. The "no editorialising requirement" prohibits the showing of programmes which are straightforward expressions of the views and opinions on religious matters of the people providing the service. Although this is a matter for the regulators it will not prevent the showing of religious programmes whose content happens to coincide with the religious beliefs of the programme maker or the owner of the service. For example, the requirement will certainly not preclude a radio station owned by a C of E group from relaying a C of E service.

4. Similarly the "no undue prominence" provision for radio and local licensable programme services is a safeguard against abuse, which falls far short of a due impartiality requirement: it will not hamper the expansion of the kind of responsible religious broadcasting which most people will want to see.

Sponsorship and advertising

5. Religious organisations will be allowed to sponsor programmes and to advertise on both television and radio, provided they comply with the codes on advertising and sponsorship which are to be drawn up by the Independent Television Commission and the Radio Authority.

Ownership

6. The Bill makes a major concession to religious broadcasters by permitting them to own independent radio stations provided they stay within the rules on programme content. This is a radical departure from the past. We think it is justifiable because of the prospect that there will be 200-300 more radio stations by the end of the 90s which, because of the licensing criteria, will provide a great diversity of programming.

7. Television is a more powerful and potentially exploitative medium than radio. Although new channels will proliferate, this will not be on the same scale as radio, and services such as Channel 3 and Channel 5 will remain very powerful and influential for years to come. I do not believe it would be right to leave open even the theoretical possibility that such channels could fall into the hands of religious extremists or fanatics. There was no support in the Standing Committee for the proposition that religious groups should be able to own Channel 3 or 5 franchises.

8. However, following the strength of feeling expressed in Committee I am intending to bring forward a Government amendment which would give the ITC an exceptional discretion to disapply the prohibition of religious ownership of TV channels where satisfied that the Channel's programming or programme plans were unexceptionable. This discretion would not apply in the case of Channel 3 and Channel 5 or local delivery systems but would apply not just for local cable channels such as the Vision Channel but for all TV channels not using broadcasting frequencies. The automatic bar in the Bill on religious groups from entering the expanding satellite television market would thus be lifted.