

Does x. (over) mean that you are proposing to put up further advice? - Yes.

File - Joint Ctee

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From:

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12 April 2002

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COMMUNICATIONS BILL : LETTER TO LP COMMITTEE TO ANNOUNCE THE PUBLICATION OF MEDIA OWNERSHIP CLAUSES

Issue

1 Informing LP Committee of the imminent publication of draft clauses on media ownership.

Recommendation

2 A draft letter to Robin Cook, copied to members of LP is attached.

Timing

3 Urgent. The clauses are to be published on Friday 31 May. The letter should go out on Thursday at the latest.

Background

4 When LP Committee discussed the Communications Bill on 1 May, you explained that draft clauses on media ownership would be published soon after the draft Communications Bill itself, although policy on media ownership would be set out fully in the policy narrative published alongside the draft Bill. Barring last minute delays, the clauses should be published and sent to the Joint Committee this Friday, 31 May. A copy of the clauses as they currently stand is attached, for your information. This draft is not final, but we expect to have to make only small changes

before publication. It gives effect to policy proposals we have already agreed and published, with two minor exceptions:

Review of ownership rules

5 As agreed, OFCOM will be required to review all rules at least every three years, but the power to make amendments will not be specifically linked to the outcome of this review. Instead, to increase the flexibility of the system, retain ultimate power in Ministers' hands and alleviate the pressure of direct lobbying on the regulator, the clauses give the Secretary of State power to may make changes at any time, as long as OFCOM are consulted. In practice, we would expect any amendments to be linked to the outcome of an OFCOM review, except in exceptional circumstances, and we might say so.

Rules on ownership by telecoms operators

6 We have been made aware of an order made under the existing Act that prevents telecoms operators with a turnover of more than £2 billion from owning a Channel 3, Channel 5 or national radio licence (catching at least 4 operators - BT, Cable and Wireless, Orange and Vodafone). This rule was not referred to in the White Paper, or in any subsequent policy document. It appears the order cannot be retained in its current form, however - it is inconsistent with the approach the Bill takes to networks and services. DTI officials suggest its repeal, and consider competition law to be an effective safeguard in this area.

7 The attached draft clauses have the effect of repealing the order by removing the powers it was made under. Rather than make a snap decision on whether this is the correct approach or whether you want to insert a reformed power in its place, we suggest you inform the joint committee that Ministers are still considering what to do about the rule, but are content to consult for the time being on the basis of its removal, and will inform the committee of a firm position as soon as one is reached. The draft letter to LP committee explains this position.

Process

8 Our intention is to issue a low key press release indicating that the clauses are now available. Draft clauses will be sent to the Pre-Legislative Scrutiny Committee and all those who received copies of the draft Bill consultation package as well as being made available on the website. The proposed changes to the BBC Agreement will be published and distributed at the same time.

9 The PLS Committee have already asked for an extension in order to have more opportunity to scrutinise the media ownership clauses. It is important that the draft clauses get to them by the end of May in order to hold them to the 7 August reporting deadline.

10 LP Secretariat have confirmed that no further LP clearance is required for publication of late clauses, though you do have to write to LP to inform them that publication is going ahead.



| X

The Rt Hon Robin Cook MP
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of the House of Commons
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COMMUNICATIONS BILL : PUBLICATION OF ADDITIONAL CLAUSES

When LP Committee last discussed the draft Communications Bill we explained that it would not be possible to publish actual draft clauses on media ownership at the same time as publication of the bulk of the text of the draft Communications Bill. We hoped, however, to make those draft clauses publicly available as soon as possible thereafter.

We are now writing to let you know that we are now ready to publish draft clauses on media ownership and we intend to publish them on Friday 31 May. This is important as it keeps the Pre-Legislative Scrutiny Committee on track for a timely report in early August.

The draft clauses are not entirely complete as we have recently been made aware of an order made under the existing Act that prevents telecoms operators with a turnover of more than £2 billion from owning a Channel 3, Channel 5 or national radio licence (catching at least 4 operators - BT, Cable and Wireless, Orange and Vodafone) which cannot be retained in its current form, as it is inconsistent with the approach the Bill takes to networks and services. We are still considering what to do about this rule, but plan to consult for the time being on the basis of its removal, and will inform the committee of a firm position as soon as one is reached and will inform the Joint Committee of the issue.

We will also publish the proposed changes to the BBC Agreement at the same time as the draft media ownership clauses. This leaves on provisions on must carry/must offer and newspaper mergers that still have to be published before the Summer. We are working hard to ensure that those provisions can be made available to the PLS Committee as soon as possible.

We are copying this letter to members of LP Committee.

Tessa Jowell

Patricia Hewitt