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From: [Redacted]
Sent: 10 April 2003 15:01
To: [Redacted]
Cc: [Redacted]
Subject: submission on the Communications Bill: Nominated News Provider Provisions of 4 April 2003

[Redacted]

Thank you for your submission on *the Communications Bill: Nominated News Provider Provisions* of 4 April 2003. In response to the ITC recommendations, Dr Howells asks why we cannot counter the problems of adopting a more regulatory approach by adding the possibility of "repealing the nominated news provider system in its entirety". The Minister then goes on to note in response to section 10 of the submission that this second option seems to achieve this in effect but suggests that modification follow a review by OFCOM. Finally in answer to section 11, Dr Howells rejects the ITC suggestion that "you strengthen the quality provisions so as to require a range..." as it would lead us into trouble. I have taken the submission around to SoS's office.

Thanks

[Redacted]
Assistant Private Secretary
Dr Kim Howells Office

[Redacted]

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ITC Note on Nominated News Provider

The debate on NNP clauses during the standing committee reinforced the ITC's view that Bill needs to ensure the ability of Channel 3 to deliver a news service capable of competing effectively with other television news programmes broadcast nationwide.

This is currently enshrined within Clause 276, which provides for the creation of Nominated News Providers, which (under Clause 343) may, not be controlled by Channel 3. The Bill allows for the Secretary of State to overturn the requirement for the NNP system, either because she considers it appropriate to do so, or as a result of Ofcom's three yearly review of media ownership.

The ITC considers that, were Ofcom to make a recommendation to the Secretary of State to repeal the NNP system for Channel 3, the Bill should be amended to enable the principle of effective competition in television news to be maintained. These amendments would be to:

- Clause 261 (Public service remit of Channel 3)
Insert the requirement for Channel 3 to provide a news service capable of competing with other national television news services. [or this could be invoked in Clause 277, see below]
- Clause 275 (News and Current Affairs Programmes on Public Service Television)
Insert in sub clause 1(b) the need for a **suitable range** [of high quality news and current affairs programmes]
- Clause 277 (Power to repeal Channel 3 news provider provisions)
Insert sub clause (5), in the event of an order being made under this clause, Ofcom is given powers to require that the **investment** [as well as time] allocated to Channel 3 news and current affairs programmes constitutes no less than what Ofcom considers to be an appropriate proportion of the investment allocated to all programmes included in the channel.
Insert sub clause (6), in the event of an order being made under this clause, Channel 3 is obliged to offer its news service to Channels 4 and 5 on fair, reasonable and non-discriminatory basis
Insert sub clause (7) that Ofcom will issue guidance on what constitutes high quality and suitable investment.

The ITC considers that, provided these amendments are made, and also that the ability of the Secretary of State to introduce the NNP system for Channel 5 continues to be protected by Clause 278 (3), it would be appropriate for Ofcom to carry out an early review of news provision with a view to repealing Clause 276

wouldn't work

From CRCA
10/4/03

Regulating the Local Content & Character of Local Radio

The Communications Bill sets out to regulate the local content and character of local radio in Clause 307. It does so by requiring OFCOM to ensure that local material is broadcast and that local connections are established and maintained. OFCOM is required to draw up a code giving guidance as to how these objectives are achieved.

CRCA supports regulation to ensure that local listeners receive a relevant local product, and recognises that the government believes this is particularly important in light of proposed ownership deregulation.

However, CRCA was alarmed that Clause 307 was parachuted into the Bill with no industry consultation or pre-legislative scrutiny. CRCA does not support the regulation of 'connections' believing ~~that gives the green light for OFCOM to interfere in the day-to-day running of radio stations.~~ CRCA is also concerned about the proposals for OFCOM to be able to regulate the ~~amount of local advertising~~ carried on local radio.

This paper sets out to propose a compromise position. The proposal achieves Clause 307's central objective of ensuring local material is broadcast, avoids the need for a new layer of regulation (in the form of a code), and removes the areas of conflict. Importantly, it makes the requirements for local material a licence condition, rather than imposing them via a code.

In addition to securing local material, CRCA's proposals deal neatly with the music industry lobby, by extending the scope of 'local material' beyond news, and bringing in information and entertainment. This amendment also better reflects the diversity of local radio stations' output and scope.

At present, Clause 306 amends to Section 106 of the 1990 Broadcasting Act as highlighted overleaf in green. CRCA proposes further amending Section 106 as highlighted overleaf in yellow.

This would remove the need for Clause 307 in its entirety.

Note: at present, this is clearly not a formal amendment to the Bill, simply a means by which the proposal can be easily understood and discussed.

How Section 106 of the 1990 Act would be revised:

[REDACTED]

CRCA proposals

(1) A national or local licence shall include such conditions as appear to OFCOM to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force and that, where the licence is a local licence, an appropriate amount of local material is broadcast.

(2) [REDACTED]

yes, but
not in (c) //

and to the broadcasting of local material

not

(3) A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable.

(4) A national licence shall include conditions enabling OFCOM where it appears to them to be reasonably practicable for the licensee service to be provided for any additional area falling outside the minimum area determined by them in accordance with section 98(2) to require the licence holder to provide the licensed service for any such additional area.

(5) Subject to subsection (4), OFCOM may, if they think fit authorise the holder of a local licence, by means of a variation of his licence to that effect, to provide the licensed service for any additional area or locality adjoining the area or locality for which that service has previously been licensed to be provided.

(6) OFCOM shall only exercise the power conferred on them by subsection (5) if it appears to them

(a) that to do so would not result in a significant increase of the area or locality for which the service in question is licensed to be provided; or

[REDACTED]

(7) As soon as practicable after OFCOM have exercised that power in relation to any service, they shall publish, in such manner as they consider appropriate, a notice—

- (a) stating that they have exercised that power in relation to that service; and
- (b) giving details of the additional area or locality for which that service is licensed to be provided.

[REDACTED]

in particular

"local material" means material (including news, information and/or entertainment) which is of particular interest –

- a) to persons living or working in the area or locality for which the service is provided;
- b) to persons living or working within a part of that area or locality; or
- c) to particular communities living or working within that area or locality.

(9) References in this section to persons living or working in an area or locality include references to persons undergoing education or training in that area or locality.