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10 DOWNING STREET  
LONDON SW1A 2AA-

*From the Private Secretary*

24 October 1986

*Dear Mr Burton,*

I am writing on behalf of the Prime Minister to acknowledge and thank you for your letter of 23 October, together with a copy of the Cable Authority's comments on the Peacock Committee report.

*Yours sincerely,*

*David Norgrove*

(DAVID NORGROVE)

R. H. Burton, Esq.

*DB*

# Cable Authority

PPS  
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Gillingham House, 38-44 Gillingham Street, London SW1V 1HU.

Telephone: 01-821 6161

*From the Chairman*

The Rt Hon Margaret Thatcher MP  
10 Downing Street  
LONDON SW1

23 October 1986

R24/10  
Ack & thanks please  
JBF  
SLW  
2410

*Dear Prime Minister,* at least PPS.

It is now nearly a year since you were good enough to spare the time to see me and in that period Cable has developed encouragingly.

The Peacock Committee has also produced its report and, knowing of your continuing interest in its Recommendations, I felt it right to send you a copy of this Authority's comments on them.

*Yours sincerely*  
*Richard Burton*

R H BURTON

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THE PEACOCK REPORT: COMMENTS BY THE CABLE AUTHORITY

The Cable Authority has the following comments on the recommendations made in the Report of the Committee on Financing the BBC.

Recommendation 1 : All new television sets sold or rented in the UK market should be required from the earliest convenient date, and in any case not later than 1 January 1988, to have a peritelevision socket and associated equipment which will interface with a decoder to deal with encrypted signals.

Cable systems, particularly those based on switch technology, can readily provide a means of delivering those channels to which a subscriber is entitled and withholding others. Nevertheless, there are advantages for television sets, even when connected to cable systems, to have peritelevision sockets and the recommendation has the Authority's support.

Recommendation 2 : BBC television should not be obliged to finance its operations by advertising while the present organisation and regulation of broadcasting remain.

The Cable Authority pointed out to the Peacock Committee that for the BBC to seek advertising revenue (and even more importantly support from sponsorship) in respect of its television services would damage the prospects of new television channels established to serve the emerging cable market. The Authority therefore welcomes the Committee's conclusion and supports its recommendation.

Recommendation 3 : The licence fee should be indexed on an annual basis to the general rate of inflation.

The Authority suggested to the Peacock Committee that a continually rising licence fee would increase public perceptions that there was a monthly sum which they had to pay in order to receive broadcast television, against which the rather larger monthly sum required for cable television might be seen as more than could be afforded. The Committee's recommendation that the fee should be indexed, even to the inflation rate only, appears to be an undesirable maximum and worst-case basis from the point of view of cable.

Recommendation 4 : To permit the BBC to be the managing agent in the collection of the licence fee, the Post Office should be released from its responsibility as agent to the Home Office for collection and enforcement procedures associated with the licence fee. The BBC should become responsible for inviting proposals for collection and enforcement procedures and for identifying the most efficient and economic collection and enforcement system.

The Authority suggests that cable operators might also be considered as agents for the collection of the licence fee along with the subscriptions of their customers.

Recommendation 5 : On the understanding that the proceeds would be used to reduce the cost of the television licence and not to increase the total sum available for broadcasting, a separate licence fee of not less than £10 should be charged for car radios.

The Authority makes no comment on this recommendation.

Recommendation 6 : Pensioners drawing supplementary pension in households wholly dependent on a pension should be exempt from the licence fee.

The Authority makes no comment on this recommendation.

Recommendation 7 : The BBC should have the option to privatise Radios 1, 2 and local radio in whole or in part. IBA regulation of radio should be replaced by a looser regime.

Recommendation 7a : Radio 1 and Radio 2 should be privatised and financed by advertising. Subject to the Government's existing commitments to community radio, any further radio frequencies becoming available should be auctioned to the highest bidder. IBA regulation of radio should be replaced by a looser regime.

The Cable Authority hopes to see new sound-only services developing on cable, in addition to television channels, though this has not happened so far. Even if such services develop, television rather than radio seems likely to remain the basis on which subscribers connect to cable systems. Additional advertising-supported off-air radio channels may therefore not be as potentially damaging to cable development as increased opportunities for advertising on broadcast television would be. As to the regulation of ILR, there are already a number of instances where local radio stations and cable stations work together in programming - particularly local news coverage - and sale of advertising time. A partnership of this kind seems likely to be to their mutual advantage and more such partnerships are to be expected. In these circumstances, the Authority sees no

reason why cable development should be in any way damaged by the liberalisation of the ILR regime and indeed much sense in the two regimes being more closely aligned.

**Recommendation 8 :** The BBC and ITV should be required over a ten year period to increase to not less than 40% the proportion of programmes supplied by independent producers.

The Authority points out that the advent of cable has already provided a further spur to independent production of an extremely cost-effective kind, through the programming made for the Arts Channel, Screen Sport, Sky Channel, the Children's Channel, Music Box, Premiere and a number of local cable operators.

**Recommendation 9 :** The non-occupied night-time hours (1 am to 6 am) of the BBC and ITV television wavelengths should be sold for broadcasting purposes.

While recognising the arguments for making full use of scarce frequencies, the Authority is also bound to consider the impact on cable. The Government encouraged cable expansion as an entertainment-led medium in which entrepreneurs could establish a business by providing television services of a kind not already available. One thing that cable operators can do to attract customers is to provide a service at times when no broadcast television is available. Certain cable channels show programmes throughout the night. The use of broadcast frequencies during night hours for new services could undermine part of the attraction of a cable service and slow the development of cable systems, especially if those services are allowed the same commercial freedom granted to cable, without public service obligations.

**Recommendation 10 :** Franchise contracts for ITV contractors should be put to competitive tender. Should the IBA decide to award a franchise to a contractor other than the one making the highest bid it should be required to make a full, public and detailed statement of its reasons.

The objections to this recommendation are that a judgement of quality of service proposed to be provided scarcely sits well with the acceptance of the highest bid. The highest bidder may well be able to afford a higher payment only by reducing commitments to worthy but unprofitable activities and by squeezing margins to the

point where his financial stability - and survival - could be threatened by minor variations from projected assumptions. These objections would apply as much to the award of cable franchises.

**Recommendation 11 :** Franchises should be awarded on a rolling review basis. There would be a formal annual review of the contractor's performance by the Authority.

Again, the Authority considers it appropriate to look at this recommendation as applying in addition to cable franchises. Since the recommendation assumes that franchise periods would remain finite as at present, it represents a tightening up of the present position, putting franchisees under continuous pressure to justify their tenure. The present assumption is that the Authority's licensee will hold the franchise unless serious breach of the conditions of his licence is held to justify its revocation. The Authority believes that the insecurity which the recommended change would introduce would be damaging to the preparedness of investors to finance cable operations.

**Recommendation 12 :** Consideration should be given to extending the franchise periods, perhaps to 10 years.

The Authority makes no comment on this recommendation, save to point out that initial cable franchises are already for 15 years in recognition of the considerable capital investment which the installation of a cable system requires.

**Recommendation 13 :** DBS franchises should be put to competitive tender.

The objections to recommendation 10 also apply to this recommendation. The Authority observes that whether or not it is implemented, many of the changing features of DBS raise anew the question whether DBS channels should appropriately be given the status of must-carry services on UK cable systems.

**Recommendation 14 :** Channel 4 should be given the option of selling its own advertising time and would then no longer be funded by a subscription from ITV companies.

The Authority has no comment on this recommendation.

Recommendation 15 : National telecommunication systems (e.g. British Telecom, Mercury and any subsequent entrants) should be permitted to act as common carriers with a view to the provision of a full range of services, including delivery of television programmes.

The Authority shares the Peacock Committee's view of the desirability and importance of encouraging the speedy installation of broadband cable systems. However, the Authority does not agree with the Committee's analysis of the need to change the present approach or of the benefits which would flow from the changes which are proposed. The Committee's Report offers no convincing evidence, nor is the Authority aware of any, to support the assertion that the development of cable systems has so far been retarded by regulatory restrictions placed on BT by the Government. Moreover, BT have made plain that they would not be interested in proceeding on the basis of the recommendation and their attitude as a commercial enterprise appears to negate the proposal, regardless of whether it would otherwise have been beneficial to the overall development of cable.

Even if the Committee's recommendation was split so that BT was given wider powers to provide local networks without the balancing restriction on their ability to provide services, the Authority sees little reason to suppose that, especially in the short term (within five years), cable would develop faster. Moreover, to give the previous monopoly provider of telecommunications greater scope to exploit its position may weaken the competitive edge which cable operators as public telecommunications operators will seek to utilise, and may therefore lessen the attractiveness of broadband cable to new entrants to the industry.

In general, the commercial freedom given to cable operators to exploit markets in both the television and telecommunications fields makes the regulatory environment a favourable one for the development of new broadband networks. The Authority believes this to be the case notwithstanding the cautious attitude so far taken by investors, and expects cable to develop within this framework with increasing confidence. Nevertheless, the Authority agrees with the Committee that there are strong grounds of public interest for stimulating the faster development of cable. To this end, the Authority would wish to see incentives from which all cable operators could benefit. There are two particular matters which could have a substantial impact.

The Authority would see merit in applying common carrier principles not to networks but to the ducts through which cable can be installed. Since a substantial part of the cost of a cable system is devoted to the provision of a system of ducts there are likely to be significant benefits from the common use of ducts which already exist and the sharing of costs with their owners. There could also be positive advantages in exploring arrangements under which local authorities might, using sources of finance not available to commercial companies, provide in their areas a new duct infrastructure available for use, on appropriate rentals, by any customer, including the holders of cable franchises. The Authority hopes that the Government will wish to look constructively at ways in which such practical help to the development of cable can be facilitated.

There is one present disincentive to the development of integrated networks which the Peacock Committee did not mention. At present, and until the position is reviewed (which the Government has promised will be in 1990), cable operators may provide voice telephony services only in association with BT or Mercury. The conditions on which Mercury will enter into such an association appear so far to require cable operators to provide a separate overlay system for telephone traffic. This is a negation of broadband communications. It represents a discouragement both to the development of the technology appropriate to the use of integrated networks and to the installation now of the kind of systems which will be so important to the nation's future. It would therefore be not only a boost to cable, but a firm move towards the fulfilment of the Government's hopes when it decided to promote the development of cable, if early steps could be taken to generate the confidence necessary for the technological preparations for the more comprehensive use of broadband systems. This would be achieved if the present restrictions on voice telephony were abolished or at least if the review of what was to happen in 1990 was brought forward and the decision announced at an early date.

**Recommendation 16 :** The restriction of cable franchises to EEC-owned operators should be removed.



The Authority recognises that there would be political sensitivity in abolishing a measure which Parliament only recently saw fit to impose to prevent control of the services transmitted direct into individual homes resting in foreign hands. The Authority's experience is that this restriction has probably had no great effect in slowing down investment in cable. Nevertheless, its abolition would be likely to make it somewhat easier for would-be cable franchisees to raise the necessary finance.

**Recommendation 17 :** All restrictions for both Pay-Per-Channel and Pay-Per-Programme as options should be removed, not only for cable but also for terrestrial and DBS operations.

The only present restrictions on pay-per-view on cable relate to the coverage of certain events (principally major sporting events) which the broadcasters had urged should be assured for the broadcast channels. The Government's decision to safeguard such events was taken in an atmosphere of greater fear than now exists about the damage which public service broadcasting might suffer if new commercially-based services siphoned off popular events. It now seems less justifiable. The more practical problem lies not in broadcast viewers being deprived of certain events but in cable viewers being prevented from enjoying more comprehensive coverage of events covered in part by broadcast channels, as a result of broadcast organisations securing, but declining to make available to others, the cable rights to certain events. This problem would not be affected by the recommendation but some redressing of the balance of power seems to be required.

**Recommendation 18 :** As regulation is phased out, the normal laws of the land relating to obscenity, defamation, blasphemy, sedition and other similar matters should be extended to cover the broadcasting media and any present exemptions should be removed.

In general, cable television is already subject to the law of the land. In the view of the Authority, this does not remove the necessity for additional regulation. The Authority would support the view of the Government and Parliament in enacting the Cable and Broadcasting Act 1984 that a number of special rules are appropriate for television services delivered direct to the home.

## Future Strategy

The Committee recommended as a broader strategy a conscious move towards creating a free market in broadcasting. This is not a matter on which the Authority considers it appropriate to express a view. It would however add the following comments. The deliberate liberalisation of the cable regime, introducing market forces into the provision of television services, was seen by the Government as supplementing the broadcasting system rather than superseding it. However, the inevitable increase in consumer choice through both cable systems and direct satellite reception, and the growing acceptance of the concept that viewers pay to receive those programmes they wish to watch, is bound to lead to the development of a market. That must raise longer term questions about the continuing place within that new environment of the public service element. The Authority recognises that its wish to speed up the cabling of the country - in which the proposals about ducts and voice telephony set out above will play an important part - will bring nearer the time when these questions have to be resolved. It recognises too that the changes in public service broadcasting suggested by the Peacock Committee will themselves have implications for the development of cable, and that it could well be beneficial to cable to be part of a free market in broadcasting.

BROADCASTING: DBS pt 6.