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DEPARTMENT OF EDUCATION AND SCIENCE

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FROM THE SECRETARY OF STATE

The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
Privy Council Office
68 Whitehall
London SW1

Mark

25 July 1986

Jim Wallis,

LICENSING OF VIDEO RECORDING IN EDUCATION

WILL REQUEST IF REQUIRED

I have seen Paul Channon's letter of 11 July. I am sorry that the issue remains unresolved and I understand that we are now to discuss it at the next meeting of H.

I think that we are all agreed that one of the purposes of the legislation is to strike a balance between the interests of the copyright holders on the one hand, and those of education on the other. To do this, I would have preferred a video levy, as originally proposed by DTI, because of its lower cost and absence of administrative hassle; but failing that, the proposed licensing scheme also meets our objectives. As Paul points out, it will confer a number of rights and safeguards which will be welcome in the educational world.

The scheme, however, also imposes significant additional costs on local authorities. They have made it clear that they regard the proposals as creating a new burden. This is hardly surprising - they will have to pay for what they now get free. They will be worse off financially and that is the crux of the matter. It is quite clear that under the new burdens procedure these costs should fall on the DTI and I look to colleagues for their support on this important matter of principle.

Paul also refers to the role of the Tribunal and the possibility that it will help to moderate charges, particularly those falling on educational establishments. I accept and welcome this. Nonetheless it remains to be seen how the arrangements will work out in practice. Our best estimate of cost, which is based on enquiries about current usage, is some £15 million per year. For later years it will be possible to determine actual expenditure. It is unfortunate that costs were not discussed in H on 15 February. This was because, despite requests from my officials, the DTI omitted this aspect from their paper.

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With regard to Paul's contention that education would not be alone in being required to pay for video recording, I accept that there are other groups who, in principle, are affected. In practice, however, home tapers and education are the only groups of any significance and it is the contrasting treatment of these two major users which is at issue. He may be right in suggesting that the Berne Convention would be contravened by any provision to allow educational establishments the right to make free recordings from television for non-commercial purposes, but this could apply equally to domestic taping.

It would be damaging for us to change our stance on this issue once again. If the proposals were to be dropped, as suggested in Paul's penultimate paragraph, we should rightly be publicly criticised by educationalists for denying them legal access to material which they need, and by copyright holders for depriving them of income which is rightly theirs.

I am copying this letter to the Prime Minister, members of H Committee, Paul Channon and Sir Robert Armstrong.

Yours ever

Keith