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The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

The Rt Hon Douglas Hurd CBE MP  
Home Office  
50 Queens Anne's Gate  
LONDON  
SW1H 9AT

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

*cc Brian Gilchrist*

Direct line 215 5422  
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*Neil Taylor*

I have seen your Private Secretary's letter of 19 January, proposing a draft reply to Michael Darlow. I think the reply needs to refer to the proposal we discussed at MISC 128 on 17 December 1987 about the provision of regular reports to me and to the Director General of Fair Trading.

We need to ensure fair terms of trade between the independent producers and the broadcasters while still preserving a proper distance between the government and commercial decision making.

But I doubt whether an independent producer would in practice use the OFT machinery to try to ensure fair terms of trade in any individual contract he negotiates with a broadcaster. My experience is that in a monopoly or monopsony market like broadcasting, this is unlikely to happen on the scale needed to ensure the more competitive market which is our aim. At MISC 128, we agreed that a general monitoring of the overall developing picture of the many individual contracts being between particular broadcasting companies and individual independent producers was required. I am aware that the IBA has already asked the ITV companies to report details of their

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independent commissions on a six monthly basis and no doubt the BBC will be producing a similar survey on a regular basis for its senior management. While they will not be preparing these primarily with an eye to ensuring fairer competition, it is in their interests to demonstrate that this is a consequential effect.

I think therefore that we should ask the BBC and IBA to provide these reports to myself, given my Department's interest in competition issues, and to the Director General of Fair Trading who has day-to-day responsibility for administering competition law. The reports would not be made public, but would help the Director General to decide whether at any time a monopoly reference might be appropriate. This would both use the existing machinery of the OFT to the fullest extent possible, which we agreed at MISC 128 was desirable, while preserving a proper distance between the government and the commercial decisions involved in the individual contracts between broadcasters and independent producers. The OFT and my officials might wish to discuss the format of these reports with the BBC and IBA initially.

If colleagues agree to this proposal, it can be included in the reply to Darlow. I will write to the Director General of Fair Trading to draw his attention to the fact that the BBC and the IBA will be invited to submit reports regularly summarising the relevant terms of the contracts they will be signing with independent producers. If the BBC and IBA decline to provide such reports, this could in itself be of interest to the Director General. It would obviously be for you to approach the BBC and IBA in the first instance to ask to provide the reports voluntarily.

I am copying this letter to the Prime Minister, other members of MISC 128 and to Sir Robin Butler.



BBC France



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