

Prime Minister
I have clarified your
query on the second
page. Are you now
content?

Prime Minister

CONFIDENTIAL

Content with a direct
provision in ITV contracts?

PRIME MINISTER

REC6
26/2

I still don't like

REC6

THE ITV SYSTEM : ITN

it's I understand that even
in the USA - there are only
3 news gathering bodies - it seems

At MISC 128 on 9 February, during the discussion of the future of
ITN, concern was expressed that a weakening of ITN's position
might lead to the BBC developing a monopoly in the provision of
news programmes. I was asked whether, if the need arose, the
BBC news service could be the subject of a monopoly reference to
the Monopolies and Mergers Commission (MMC).

reasonable
whether
should
not be
able to
support
more
than 2
no

My legal advice is that a monopoly reference relating to the BBC
would seem to be possible. There is an element of uncertainty,
which stems not from the BBC's possessing a Royal Charter, but
from the issue of whether the BBC "supplies services" within the
meaning of the Fair Trading Act 1973. The Office of Fair
Trading took Counsel's opinion in 1979 and were advised that
the BBC could be referred but there must, however, remain an
element of doubt - which ultimately could only be resolved if the
reference were challenged in the courts.

A monopoly reference could deal with the straightforward economic
issues of monopoly abuse if many ITV companies were forced to
rely on the BBC for their news service. These could be subject
to remedies of the kind that the legislation provides for, such
as controls on prices and terms of contracts. But there would
also be issues of quality and variety of news presentation. It
is harder to envisage suitable remedies for these, except to the
extent that barriers to entry into the market for news could be
removed. I also doubt whether we would want to leave questions
of the accurate and impartial presentation of news to the MMC,
rather than dealing with them ourselves.



the department for Enterprise

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An MMC reference could only deal with a dominant position which had been established. If we wish to make sure it does not come about in the first place, the most direct method might be a provision in ITV contracts, preventing the use of BBC news services or those of any body in which they or another broadcasting authority had an interest. Although, at the meeting, it was suggested that this might be rather obtrusive, this might prove the simplest course, and, since our objective is to foster competition in news provision, might not seem unduly onerous.

??-BBC

not B.S.C.?

-S4C

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

D Y

23 February 1988

Department of Trade and Industry

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