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~~PRIME MINISTER~~

Discussed  
on

EC BROADCASTING DIRECTIVE

You have to reply to President Bush's message urging us in very strong terms to vote against the EC Broadcasting Directive when it comes to the Council of Ministers on Tuesday. You will find attached letters from Cabinet Office and FCO explaining why we ought to vote for it. These were written before your discussion with John Major yesterday.

I have had a long talk with the Home Secretary this afternoon. His position is a reasonable one. He fully understands the difficulty in which the President's direct, personal appeal puts us in. On the other hand, it has been a pillar of our broadcasting policy to have an international convention to prevent pornography. We took a lead in negotiating the Council of Europe Convention on this, which has been successfully completed. At the Rhodes European Council, you agreed that there should be an EC Directive as well and insisted successfully that it must be on exactly the same lines as the Council of European Convention. Both contain a procedure whereby you can suspend material of an offensive nature. But they also both have the provision to which the Americans object, that is for a quota of European programmes. (I think the precise formulation is that networks should preserve a majority of transmission time for European works 'where practicable'.) But in the view of the experts this has been watered down to the point where in practice it would be meaningless.

The American objections presumably apply both to the Council of Europe Convention and to the EC Directive, although the President's message deals only with the latter. The Home Secretary does not much mind about the EC Directive, but is very keen indeed not to sacrifice the Council of Europe Convention which we have signed and which will - when ratified - have treaty force. Without it, he feels there will be a major gap in our broadcasting policy: and we would be particularly vulnerable if it were known that we had agreed to abandon it under the pressure of American commercial interests (which is frankly what is driving the President). He hopes, therefore, that in reply to the President we can avoid

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saying anything which would puts the Convention at risk.

It seems to me that our reply should point out the reasons why we have supported action in Europe to protect children and others from pornography and do not want to leave ourselves defenceless on this score. It could also say that we do not think his concerns about the quota are justified in practice. But in view of the President's very strong concerns, we will not be instrumental in the passage of an EC Directive. The point of these latter words is that it seems far from certain that the Germans will vote against it. (Anyway their objections are nothing to do with its protectionist character but based on constitutional difficulties involving the Laender.) If the German and Danes do vote against it, and our vote is crucial, then we will vote against too. But if the Germans and/or Danes do not oppose it, we will not vote against simply for demonstrative purposes.

I attach a draft on these lines. It tries to convey the point that what he asks is not without considerable difficulty for you and it is only as a favour that you are doing it. That opens the way for you to seek a similar favour from him.

Charles Powell

1 October 1989

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