[GB] Parliamentary Committees Critical of Draft Communications Bill

IRIS 2002-8:1/13

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The UK Government has published a draft Communications Bill to reform fundamentally the regulation of broadcasting and telecommunications and to liberalise ownership rules (see IRIS 2002-6: 9). As part of the consultation process, the Bill has been examined by two Parliamentary Committees drawn from both Houses of Parliament.

The first report was that of the Joint Committee on Human Rights. The Committee considered that most of the Bill's provisions are unlikely to cause problems in respect of human rights; however some will require revision to provide adequate safeguards. Most seriously, the proposed power for the new Office of Communications (OFCOM) to impose penalties on, and revoke the licences of, broadcasters carries a serious risk of breaching Article 6 of the European Convention on Human Rights because of the lack of procedural protections or of an independent decision-maker. The provisions might also breach Article 10 as it would not be shown clearly that regulatory action was "necessary in a democratic society", and similarly might breach Article 1 of Protocol 1, as it would be unlikely that a fair balance between the general interest and the rights of licence-holders could be shown. The Government has stated that it will introduce fuller rights of appeal during the passage of the Bill in an attempt to remedy this problem.

Other problems of compliance with the Convention might arise in relation to the regulator's proposed power to require the provision of information; the adequacy of safeguards for the Secretary of State's power to intervene on public safety, public health or national security grounds; the regulator's power to require the broadcasting of corrections or apologies and that of the Secretary of State to require the broadcasting of announcements; restrictions on the ability of religious groups to hold licences; the prohibition on political advertising and powers to search for unlicensed television receivers.

The draft Bill was also examined by a Joint Committee of both Houses chaired by Lord Puttnam, the (former) film producer. The most well-publicised recommendation was that the proposed lifting of the current ban on non-EEA ownership of UK broadcasters be postponed until after the new regulator has been established and has had the opportunity to undertake a review of the programme supply market. The Committee also made 147 other recommendations for improving the Bill, although these did not challenge its

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fundamentals, with the Chairman expressing its purpose as being "to make a good Bill better". The recommendations cover: the legal framework for the new regulator, including amended legal duties and further encouragement for self-regulation; economic regulation, including telecommunications and spectrum management; media ownership, including restrictions on concentration and cross-media ownership; and content regulation, including the remits and regulation of public service broadcasters.

"Draft Communications Bill", House of Lords and House of Commons Joint Committee on Human Rights, Nineteenth Report of Session 2001-02, HL Paper No 149, HC 1102, 19 July 2002

http://www.publications.parliament.uk/pa/jt200102/jtselect/jtrights/149/149.pdf

"Draft Communications Bill Volume I - Report", House of Lords and House of Commons Joint Committee on the Draft Communications Bill, HL Paper 169-I, HC 876-I, 25 July 2002

http://www.publications.parliament.uk/pa/jt200102/jtselect/jtcom/169/169.pdf

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