[GB] Bill to amend the Broadcasting Act of 1990

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On 14 December 1995, the British Government introduced a Bill to amend the Broadcasting Act of 1990. The 116 pages of the Bill make new provision about the broadcasting in digital form of television and sound programme services and for the broadcasting in that form on television or radio frequencies of other services. The Bill also provides for the establishment and functions of a Broadcasting Standards Commission and for the dissolution of the Broadcasting Standards Council. Furthermore, it makes provision for the transfer to other persons of property, rights and liabilities of the BBC relating to their transmission network. Finally, important changes are proposed in regard to the present media ownership rules. The Bill was accompanied by an Explanatory Memorandum of 114 pages.

When the Bill was sent to Parliament, it was accompanied by a document of questions and answers in regard to media ownership. This document was produced by the Department of National Heritage. It summarizes the changes in the Government's policy as outlined in 'Media Ownership: The Government's Proposals' (see: IRIS 1995-7: 11).

The Government proposes to abolish the current two licence ownership limit for Channel 3 and Channel 5 companies. Instead such companies will be permitted to combine as they wish within an overall limit of 15% of total television audience share. Secondary holding will be revised to reflect the abolition of the two licence limit. The use of the 'audience share' criteria is interesting since, as reported in the special issue of IRIS, 'IRIS 1995: Legal Developments in the Audiovisual Sector' (pp 12-14 at 14), the European Commission is also thinking of using this as a criteria for a possible future harmonisation of national media ownership rules (see: IRIS 1995-1: 7; IRIS 1995-2: 5; IRIS 1995-3: 9; and IRIS 1995-9: 12). In January 1995, the Commission even distributed the results of a study on the feasibility of using audience measurement as a basis for regulation (see: IRIS 1995-2: 5).

According to the proposals, the Independent Television Commission (ITC) will be given specific powers to ensure that any changes in the ownership of Channel 3 companies do not jeopardise regional programming and regional programme production.

Furthermore, the rule preventing Channel 3 companies and local newspaper groups from owning cable services in areas of overlap will be abolished. The

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reason given for this is that it will help investment and will not threaten plurality because their principal business is providing a means of delivery and not the provision of content. Originally, in last year's media ownership proposals, the Government proposed to prevent local newspaper groups having more than 30% of local paid-for newspaper circulation in the relevant area from buying local radio and television licences. In the Broadcasting Bill that has now been proposed, the Government decided to include free newspapers within the threshold, and to raise the threshold from 30% to 50%. In addition, publishers of local newspapers controlling less than 50% but more than 20% of the circulation of local newspapers in the relevant area can ask permission from the regulator to acquire a local radio licence. This permission cannot be granted in the case where this publisher already owns more than 50% of the local radio licences. In the case wher this publisher owns less than 50% of the local radio licences in the relevant area, a plurality test will apply: the regulator can grant the licence only if he deems that local pluralism and diversity will not be affected.

'Media Ownership: Q & A' of the Department of National Heritage.

A Bill entitled An Act to make new provision about the broadcasting in digital form of television and sound programme services and for the broadcasting in that form on television or radio frequencies of other services, to amend the Broadcasting Act 1990-to provide for the establishment and functions of a Broadcasting Standards Commission and for the dissolution of the Broadcasting Standards Council, to make provision for the transfer to other persons of property, rights and liabilities of the British Broadcasting Corporation relating to their transmission network, and for connected purposes, 14 December 1995.

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