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COMMUNICATIONS BILL: PLURALITY TEST

The Communications Bill will receive its first day of Lords Report on Monday. With regard to media ownership, we look likely to be defeated on three issues: foreign ownership, Channel 5 and the suggestion that there should be a 'plurality test' applied to media mergers. Peta Buscombe (for the Conservatives) and David Puttnam have both suggested that Government support for a plurality test would win their backing on foreign ownership and Channel 5. A concession of this sort could therefore help us avoid defeats across the board. The other options are: to stand firm against any policy change and go into ping pong with the Lords; or to make a concession that re-imposes a ban on large newspaper companies owning Channel 5. A plurality test was an idea we originally raised, and then rejected, during our consultation on media ownership, in 2001-2. It might be criticised as more regulatory than our current proposals, and portrayed as the Government backing down. However it could help drive deregulation in the future, providing a safeguard as individual ownership rules are removed (following an OFCOM review).

We are minded to make a concession – do you agree?

Early the week after next, the issues of plurality, foreign ownership and controls on the ownership of Channel 5 will be debated. The notion of a "plurality test" now commands support from all sides of the House. As proposed by David Puttnam, the test would allow plurality issues, as well as competition, to be looked at under the Enterprise Act in a merger situation.

Opposition is likely to be most vocal from those businesses affected by it, such as Sky or DMGT. Such companies opposed it when we originally consulted on the concept. However they have not lobbied against the ideas in the House of Lords and neither have the Conservatives, leaving us in a difficult position. Now the Enterprise Act is law, everyone can place the test in context. Furthermore, it should make future deregulation more likely, giving OFCOM confidence to remove remaining specific ownership restrictions. We would envisage that the test would only be invoked by the Secretary of State in exceptional cases.

Until now we have resisted calls for a plurality test on the basis that our mix of content regulation and core ownership rules should protect plurality. In Parliament, it has been argued that because the Bill is so deregulatory we should equip ourselves with the means of investigating further those rare cases where we have removed ownership rules but where some concerns remain. We can see the logic in this, although such a concession only makes sense if the wider liberalisation central to the Bill is retained.

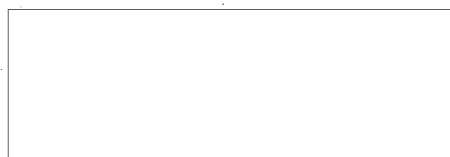
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If you agree, we propose to indicate the concession at Report, and subject to clearance with LP Committee colleagues we will make suitable amendments at Third Reading of the Bill.



TESSA JOWELL
Secretary of State
Department for Culture, Media and Sport

20 June 2003



PATRICIA HEWITT
Secretary of State
Department of Trade and Industry

20 June 2003