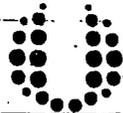


will suffice.

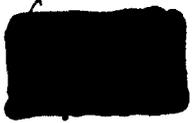
11/2



don't need to respond at all?

15006/11/2/25

United Business Media



31 January 2002

The Rt Hon Tessa Jowell MP
Secretary of State for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

DEPARTMENT FOR CULTURE MEDIA AND SPORT	
MANAGER	<i>SJS.</i>
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ACTING	<i>AK</i>
PERMISSION	
Grade 3	<i>AK</i>
Head of Information	
Private Secretary	
MSU - file	<i>11/2</i>
File Number	<i>CO1129178</i>

Dear Tessa,

I hope you found Tuesday's seminar at the IPPR helpful. As the split vote on the referral mechanism showed, there is no single agreed path to redemption!

I wanted to make a couple of specific points which particularly relate to our interests and therefore would have been inappropriate to raise at the meeting. As you know we own 36 per cent of Channel 5 which you visited recently. I was responsible for persuading the then Government to consider the award of a further terrestrial franchise in the early 1990s. At the time I told the Government and the ITC that I anticipated that Channel 5 would have a brief, and hopefully profitable career, as a stand-alone station but would soon become part of a larger broadcasting and media enterprise where its small but innovative and different voice would thrive. I had three particular options in mind; it should either become ITV 2 (to provide ITV with competitive bulk equivalent to the BBC), Sky 5 (where it would merge with Sky 1 and become the terrestrial arm of Sky), or Cable 1 (where it would become the terrestrial arm of the cable companies).

Channel 5 has indeed made a bright start and its ratings have exceeded our expectations but unfortunately its financial performance has fallen far short of the plan and with its fifth birthday approaching it is still losing well over £50 million per year. The strategic and economic case for a merger of Channel 5 into a larger media organisation which would both strengthen its service to viewers and substantially reduce the administrative and programme acquisition costs it is burdened with by operating on a stand-alone basis, is now overwhelming. The suggestion that there would be a legislative bar to Channel 5 being controlled by ITV or Sky leaves the debt laden cable companies as unlikely buyers and European media companies well placed to carry off the prize.

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My experience of recent Broadcasting Acts has been that quantitative measures of market share imposed by legislation have quickly been overtaken by events, often by the time the Bill has received Royal Assent. Such measures distort markets, prevent robust competition and leave overseas buyers, particularly those resident in the EU, with an opportunity to seize control of UK assets. While the opportunity for UK companies to take reciprocal action is there in theory, in practice it is a non starter because of the significant consolidation that has already taken place in the more benign competitive environment in most EU markets.

I would therefore urge you not to legislate for specific market share ceilings or to disbar one player from acquiring another and instead rely on a competition analysis on a case by case basis (with the primary input from OFCOM, the body which will have manifest expertise in this marketplace) with the back-stop that it can be called in by the Secretary of State for review on public interest grounds. This approach will allow companies to initiate and respond to the competitive dynamics of the marketplace and the changes in technology and for their proposals to be thoroughly scrutinised by the competition authorities in the light of the prevailing marketplace.

Good luck and best wishes,

Yours sincerely,



CLIVE HOLLICK