

PRIME MINISTER

Not submitted.

Ho letter already sent,
Hyl as amended following suggests
for LPS notes. RITA's office informed.
14/5

The National Audit Office have asked the Home Office for access to the Supplementary Volumes of the Peat Marwick Report into Economy, Efficiency and Effectiveness in the BBC. (The Home Office minute is at Flag A.) They propose to make their report available, while pointing out that they remain unconvinced that there is a legal obligation to do so, and that the report would be relevant for the use to which the NAO are entitled to put it.

Advice from Sir Robert Armstrong is at Flag B. He does not recommend the Home Office withhold the report, though he suggests that the NAO first be asked to give assurances that the report is genuinely required for an examination which they are entitled to undertake.

Content to accept Sir Robert's advice?

GR ✓ F? enclosed.

Pl. advise with the other letter which came in or this today. Then let me have back pl.

Mark Addison

MAA 14/5

14 May, 1985.



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

14 May 1985

Dear Dmd,

MBPM

Thank you for your letter of 8 May about the request of the NAO to see unpublished supplementary volumes of the Peat Marwick report on the BBC.

As you know our officials discussed with Cabinet Office slight changes to the amendments you have suggested and I attach a copy of the letter which has now been sent to the NAO by our Principle Finance Officer.

I regret that Richard Broadbent's letter of 13 May reached us after the letter had been despatched but I believe his points are fully covered by the final text.

I am copying this letter to Tim Flesher, Murdo Maclean, Richard Hatfield and to the Private Secretaries to other members of the Cabinet.

Yours (H),

Hugh Taylor

H H TAYLOR

D R Morris, Esq

13 May 1985

E S Young Esq
National Audit Office
Audit House
Victoria Embankment
LONDON
EC4Y ODS

Thank you for your letter of 13 March, formally requesting a copy of the full Peat Marwick report on value for money in the BBC, in connection with a possible economy, efficiency and effectiveness examination in relation to the settlement of the licence fee and the part played in this by the report.

As you know, the Peat Marwick report consists of a main report and two supplementary volumes. The Corporation has already published the main report, but not the supplementary volumes, which the BBC has explained contain commercially sensitive information. Given the care with which the National Audit Office customarily treat information of this kind, we have no objection to your seeing the supplementary volumes and I therefore enclose a copy. In doing so, however, I should say that we are not persuaded that the National Audit Act 1983, by reference to which as we understand it, the formal request in your letter is made, entitles you to access to the report for the purposes you describe. As you appreciate, the BBC itself is, of course, outside the scope of the Act.

J F HALLIDAY

Broadcasting; BBC finances Pt 2



15 MAY 1985



Treasury Chambers, Parliament Street, SW1P 3AG

H H Taylor Esq
 Private Secretary to Secretary of State
 Home Office
 Queen Anne's Gate
 London
 SW1H 9AT

CP

JRU p.c. [unclear]

The letter should go on the [unclear] [unclear]

13 May 1985

Dear Hugh

C & AGs ACCESS TO PAPERS

Thank you for sending me a copy of your letter of 3 May to David Morris about the release to the C & AG of unpublished material supporting the published Peat Marwick report on the BBC.

I understand that your proposed course of action is in line with advice given by the Treasury Officer of Accounts and that the purpose of your consultation with other departments is to avoid prejudicing their positions, e.g. in relation to nationalised industries papers, without giving them a chance to comment.

We entirely agree that constant vigilance is required if the specific terms of the National Audit Act, which were the subject of considerable debate with the sponsors of the Stevas Bill, are not to be effectively undermined by "precedents" established by the NAO. In this particular case the substance of what the NAO desire to see is not something which there is any point in seeking to "conceal" but the terms on which it is released are important and we think the addition to your draft letter suggested by David Morris is an improvement.

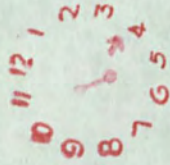
I am copying this letter to Tim Flesher, Murdo Maclean, Richard Hatfield and the Private Secretary to other members of the Cabinet.

Yours sincerely
 Richard Broadbent

R J BROADBENT
 Private Secretary

BBC Finance.

173 MAY 1965



40
48

PRIME MINISTER

The Home Secretary wished to let you know that the National Audit Office have asked the Home Office for access to the published Supplementary Volumes of the Peat Marwick Report into Economy, Efficiency and Effectiveness in the BBC. The Home Office minute is at Flag A. They proposed to make the full report available, while pointing out that they remained unconvinced that they were legally obliged to do so, nor that the report would be relevant for the use to which the NAO were entitled to put it.

Advice from Sir Robert Armstrong is at Flag B. He does not recommend the Home Office withhold the report, though he suggests that the NAO first be asked to give assurances that the report is required for an examination which the NAO are entitled to undertake.

Content to accept Sir Robert's advice?

MCA

13 May, 1985.

Ref. A085/1299

MR ADDISON

Release of Supplementary Volumes of the Peat Marwick
Report to the National Audit Office

I understand that the Prime Minister has asked for advice on the letter of 3 May, from the Home Secretary's Private Secretary, concerning the release of the two supplementary volumes to the Peat Marwick Report into Economy, Efficiency and Effectiveness (EEE) in the BBC to the National Audit Office (NAO).

2. The report itself has been published. The two supplementary volumes have not; they contain information which the BBC regard as commercially sensitive.

3. The Home Office proposes to release the supplementary volumes to the NAO but, in doing so, to make it clear that they:

a. expect the NAO to treat the commercially sensitive information contained in the volume in the customary way.

b. do not necessarily accept that the NAO has a right of access to the Report under the National Audit Act 1983.

4. The first condition does not cause any problems: the NAO have a good record for dealing with the commercially sensitive information. The second is more difficult.

5. Under Section 7(4) and Schedule 4 of the Act the BBC is specifically excluded from EEE investigations by the NAO. The Home Office is subject to such investigations. In carrying out such investigations the Comptroller and Auditor General (C & AG) has "a right of accessto all such documents as he may reasonably require."



6. The NAO claim that they have a right to see the report in connection with an EEE examination which the Comptroller and Auditor General is expecting to be asked by the Public Accounts Committee to undertake "in relation to the settlement of the licence fee". If such an examination were concerned with the EEE with which the Home Office discharged its function of considering and deciding the question of the level of the TV licence fee, then the NAO clearly have the right under the Act to carry out such an examination. Since the Peat Marwick Report was clearly relevant to the decision, the NAO would also be entitled to see the report.

7. If, however, as the Home Office suspect, such an examination would in fact be concerned with the question whether the grant to the BBC, particularly after the increase, represents value for money, then the NAO probably do not have the right to carry out such an investigation because:

a. the decision on the TV licence fee increase reflects Ministerial policy objectives, the merits of which, under Section 6(2) of the Act, cannot be questioned by the NAO.

b. EEE examinations of the BBC's use of the Home Office's grant are excluded from the Act.

If the NAO examination were of this broader kind the Home Office could perhaps legitimately refuse to release the report.

8. Any refusal by the Home Office to release the supplementary volumes would probably lead to a disagreement with the Public Accounts Committee which would, in due course, be taken to the House of Commons. The Home Office are in effect arguing that, since it is possible to conceive of an EEE examination within the scope of the Act, albeit of a very limited kind, to which access to the report could reasonably be required by the NAO, it would be better to avoid such a disagreement. At



the same time it is important for the Home Office to reserve its position as far as the wider type of examination is concerned, not least because of the precedent which could be set for future inquiries in other Government Departments. That is the purpose of the last sentence of the Home Office draft.

9. The Home Office proposal is supported by the Lord Privy Seal and, I understand, by the Treasury.

10. Perhaps the Government's position is sufficiently protected by the final paragraph of the draft letter. But given the doubts about why the NAO is seeking access to these volumes and whether the NAO is within its rights in doing so, there would be something to be said for the Home Office, without refusing the request, asking the NAO to satisfy them that the volumes are required for an examination which the Comptroller and Auditor General has the right to undertake.

11. I attach a draft letter to the Home Office.

REA

ROBERT ARMSTRONG

13 May 1985



DRAFT LETTER FROM MR ADDISON TO HUGH TAYLOR ESQ
PS TO THE HOME SECRETARY

The Prime Minister has seen your letter of 3 May to David Morris about the NAO request to see the supplementary volumes to the Peat Marwick Report on the BBC.

It seems from your letter that the Comptroller and Auditor General has not yet been asked to conduct an economy, efficiency and effectiveness examination in relation to the settlement of the TV licence fee; he is only expecting to be asked to do so.

Given the doubts about the purposes for which the NAO wants to see the volum^{me}s and about their right to have access to them, the Prime Minister suggests that the reply to the NAO should in effect be confined to the last paragraph of the draft enclosed with your letter, with an invitation to the NAO to satisfy the Home Office on the matters in doubt before the request for release of the documents is further considered.

I am sending copies of this letter to the Private Secretaries to other members of the Cabinet, to Murdo MacLean and Richard Hatfield.

Blasdeline: BBC Finance

Pa



COMMISSIONER