

The Response of the Campaign for Press and Broadcasting Freedom to the Department of Trade and Industry Consultation Document *Liberalising Trade in Services*.

Introduction – about the Campaign for Press and Broadcasting Freedom

The CPBF was founded in 1979 to campaign for a freer, more accountable media. It has a wide membership base including trades unions, constituency parties, community groups, academic establishments and individuals. It produces regular publications (notably its bimonthly journal *Free Press*) and campaigns vigorously on media ownership, public service broadcasting and press reform. During the 1980's and 90's it backed, and or wrote Private Members' Bills on the Right of Reply for the late Frank Allaun, Austin Mitchell, Ann Clywd, Tony Worthington and Clive Soley. It has an established national and international reputation for promoting debate about the media and public service broadcasting and regularly submits evidence to Government consultations on many aspects of media policy.

1. Liberalising Trade in Services - The Consultation Process.

- 1.1. *Liberalising Trade in Services* requests 'thought-provoking, substantive and balanced responses, founded in fact and backed up by empirical evidence where possible'. It would, under any circumstances, be extremely difficult for any organisation, except for a large commercial company with an army of lawyers and accountants, to produce such responses within the three months consultation period laid down by the Department. However, the situation is made even more difficult for respondents by the fact that the document itself is neither substantive nor empirically detailed. We are therefore led to wonder from the start whether this consultation is in any way meaningful at all.
- 1.2. To take but one example, the consultation document only partially explains what commitments the government has *already* made under GATS, and there is little or no explanation of these. This forms an entirely inadequate basis for a proper consultation. **We therefore recommend that this information be made available to MPs, MEPs, members of the Scottish Parliament and of the Welsh Assembly, journalists and members of the public in as full and accessible form as possible and at the earliest opportunity. We also recommend that the official documents containing the requests made of the European Community are published forthwith.**
- 1.3. The document also states that 'our focus in this consultation is on the requests to the EC and the UK'. However, it is simply impossible to discuss the requests made *to* the EC and the UK without discussing the requests made *by* them, since the whole GATS process is clearly a classic example of horse-trading, and thus the nature of the latter will obviously to some extent determine the nature of the former, as well as vice-versa. It is also quite pointless to state, as does the press release accompanying the document, that 'we want to get these negotiations right, so that they can work for us *and work for developing countries*' (emphasis added) if the document itself attempts to narrow the focus of debate solely onto the requests made to the UK/EC. Furthermore, it is a matter of considerable public interest if British companies used, as we strongly suspect, the equally unsatisfactory 1998 consultation process to lobby the British government aggressively to pursue measures which would seriously weaken the public service sectors of developing countries and reduce their governments' ability to regulate in the public interest. The current document clearly regards the 'liberalisation' of services as being of unalloyed benefit to the developing world but as it chooses to present not the slightest evidence to back up this particular view, or rather article of faith, it is hardly incumbent upon respondents to marshal the evidence, however 'substantive' and 'empirical', to back up an opposing view. **We therefore recommend that the Department publishes all of the responses which it received in the course of the 1998 consultation process, all of the responses which it receives as a result of the present consultation, and all of the requests made by the EC.**
- 1.4. A recent article in the *Observer* claimed that a mere 12% of the UK population had ever heard of GATS, let alone understood its implications. Meanwhile, Project Censored of Sonoma State University has just cited GATS as the second most censored - in the sense of being ignored by the mainstream media - story of 2002. This blanket of silence can partly be explained by the fact that vast media conglomerates will stand to gain enormously by GATS, and thus prefer to keep their customers in the dark about its unpleasant consequences for their daily lives. However, it has also come about because there has been little or no public or parliamentary debate about the subject, and Ministers have shown an extreme unwillingness to engage in public meetings

during the consultation process. In such circumstances, it is both pointless and hypocritical to complain - as they and their civil servants have been known to do - that the GATS process is being 'misrepresented' by NGOs and others. **We therefore recommend that all future negotiations be postponed until the matters raised by GATS have been fully researched and assessed, and thoroughly debated both in the British and European parliaments and in other public fora.**

2. Audio-Visual Services.

- 2.1. As the 1998 consultation document admitted, audio-visual issues 'are likely to play an important part in future negotiations'. However, the present consultation document reveals that, thus far, the EC has made no requests to other countries. On the other hand, it also shows that it has received a number of requests itself. Of these, those that most concern the Campaign are those which request the EC to 'take full market access and national treatment commitments in relation to ... radio and television services, including production and broadcast transmission services' and to 'remove discriminatory subsidies and publicise objectives and criteria for subsidies'. There is no indication of exactly what has been requested of the UK as the document provides only a brief summary of the requests.
- 2.2. As the document itself makes clear, UK media policy is to some extent constrained by EU-wide legislation such as the Television Sans Frontieres directive, and for this we are profoundly thankful. We are also extremely relieved that EU policy on media has always to take into account France's admirable desire to protect not simply Francophone culture but European culture in general - even in the face of concerted opposition from certain other EU members. However, because of the opacity of the GATS process thus far, we, like others, remain quite unclear about the relationship between individual states and the European Commission in the offer-making process. We assume that each member state formulates its own offers individually and that all these offers will be amalgamated to form an EU-wide offer that the European Commission will take to the WTO negotiating table. Then, presumably, the offer as a whole will be agreed by a process of qualified majority voting, with unanimity being required under certain circumstances. However, as there is no record of who says what at the meetings of the Article 133 Committee (which take decisions on EU trade policy) or of the European Council, it is unclear whether, or to what extent, EU member states bargain over each others' offers before agreeing a final position. We are also extremely concerned that the European Commission is a body that is fundamentally committed to the pursuit of neo-liberal policies. **We therefore recommend that this whole process be made as transparent as possible, and that both the UK and European parliaments be given effective oversight of the final outcome.**
- 2.3. The Campaign is particularly concerned to preserve public service broadcasting in Britain, and from this point of view the aspect of GATS which most concerns us relates to subsidies, since the BBC licence fee is quite clearly considered to be a 'subsidy' by some of its commercial competitors/detractors. The GATS claims that subsidies can have 'distortive effects on trade in services' and commits WTO members to enter into multilateral negotiations to remove and avoid such measures. As the consultation document fails to point out, subsidies are already covered by GATS rules to the extent that they are 'measures' that must conform to the Most Favoured Nation rule (which means that, in any one member state of the WTO, the most favourable treatment granted in any given sector covered by the GATS must be extended to all other WTO members) and, where specific commitments have been made in a sector, to the National Treatment rule (which entails that all foreign service providers must be treated at least as well as domestic firms). Nor does it mention that there is already a great deal of uncertainty and confusion surrounding the implications of these existing rules for subsidy provision. In such circumstances it is frankly ludicrous to ask the public for guidance on the development of yet more rules. **We therefore recommend that the current rules on subsidies are thoroughly clarified before new ones are even considered.**
- 2.4. The consultation document asks for responses to the question: 'what kind of domestic subsidies might be considered trade distortive and why?' It neglects to add, however, the all-important phrase: 'by whom?'. It is quite clear, for example, that Rupert Murdoch regards the BBC licence fee as a form of 'domestic subsidy' which is 'trade distortive'; thus at BSkyB's annual meeting in November 2002 he complained that: 'our competition is the UK government and tax payers' and accused the BBC of 'predatory pricing', a theme that has long been pursued on a daily basis in the newspapers constituting Murdoch's press empire in Britain. It is also a view likely to be shared by the other foreign media companies which will enter the British television market as a result of the relaxation of ownership rules in the new Communications Bill. **We thus recommend that the BBC licence fee is quite explicitly and specifically excluded from the GATS, and in the clearest possible terms.** Otherwise it is perfectly possible that Murdoch, or any other purely commercial player in UK

television, could, through recourse to the WTO, bring about a situation in which the government was forced either to abolish the licence fee, or to pay Murdoch an annual sum equivalent to the revenue raised by the fee.

2.5. The Campaign is equally concerned about the implications for UK public service broadcasting of the attitude taken to domestic regulation by the GATS. The relevant Article (VI.4) states that: 'with a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, inter alia: (a) based on objective and transparent criteria, such as competence and the ability to supply the service; (b) not more burdensome than necessary to ensure the quality of the service; (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service'. The phrases which are the greatest cause of concern here are 'unnecessary barriers to trade' and 'not more burdensome than necessary', because what they entail is that regulations affecting all service sectors covered by GATS can be subject to WTO Dispute Panel adjudications. In other words, a small group of unaccountable trade lawyers in Geneva will become the final arbiter of what constitutes 'necessary' and 'burdensome' regulations, matters which are not only subjective but also intensely political. It would thus be perfectly possible for a new owner of one of the UK's commercial terrestrial channels to decide that the public service broadcasting requirements, weak though they are, laid down in paragraph 256 (6) of the Communications Bill, are too 'burdensome', and having failed to convince OFCOM of their case, take it to the WTO. **We thus recommend that Channels 3, 4 and 5 are clearly and explicitly excluded from the GATS.**

2.6. The Campaign's concerns about government policy, in so far as we can distinguish it, on the place of the audio-visual sector within GATS are only heightened by its policy towards broadcasting as exemplified by the Communications Bill. The fact that the government is perfectly prepared to open up the broadcast media to American ownership without the remotest possibility of reciprocity from the other side of the Atlantic, allied with the duty which the Bill lays upon OFCOM to ensure that its regulations do not involve '(a) the imposition of burdens which are unnecessary; or (b) the maintenance of burdens which have become unnecessary', suggests not simply that it cannot be trusted to exclude British broadcasting from GATS but, more seriously, that it is anyway determined to subject it to a GATS-style regime by other means. Such suspicions are only increased by recent well-placed stories that Gordon Brown has ordered an investigation into the funding of the BBC which could herald an end to the licence fee or allow other broadcasters to compete for a portion of it. As Christopher Roberts, chair of the Liberalisation of Trade in Services (LOTIS) Committee so aptly stated in a recent article in *Investment Adviser*: 'the requests that have or will be made ... of the EU are unlikely to cause problems for the UK, where service markets are already very open'. We could not have put it more clearly ourselves, except perhaps by quoting Peter Golding and Graham Murdock in *A World of Contradictions* (Merlin Press 2001), who argue that: 'whether or not all the proposals currently on the table are incorporated into the revised version of GATS, the marketised world view that underpins them is already firmly entrenched'.

3. Conclusion and Final Recommendations.

3.1. GATS has massive, and potentially catastrophic, implications for every country in the world. Its impact is likely to be most severe on poorer countries, but it will have negative consequences for the populations of industrialised countries too. The dubious origins of GATS are not exactly difficult to fathom: as the provision of services became ever more profitable in the 1980s, the rich world's service industries decided to get their hands on and profit from the services of poorer countries. They thus lobbied individual Western governments and the European Commission to press for a 'liberalisation' of the rules governing the provision of services.

3.2. As an organisation concerned with press and broadcasting freedom, the fate of the developing world falls outside our remit. However, as an organisation representing a considerable number of UK citizens, we would certainly like to register the strongest possible protest that the DTI has been actively involved in encouraging British companies in maintaining what can only be described as a rapacious and piratical attitude to the services of other countries. In particular it is frankly disgraceful that Peter Mandelson, in the Foreword to the 1998 consultation document should beg companies to 'please tell us which markets and which restrictive regulations you think we should concentrate on'. If this was the kind of craven, procuring spirit in which the consultation was undertaken it is perhaps hardly surprising that the DTI should refuse to publish the replies, which are doubtless all too revealing of the imperial attitudes taken by many major British companies to the overseas countries in which they trade.

3.3. However, what clearly began as an attempt to re-colonise the developing world by other means now turns out to have serious repercussions for the developed world too, as our concerns over broadcasting, and others'

concerns over health, education, public libraries, local government and so on, all too clearly demonstrate. As Scott Sinclair of the Canadian Centre for Policy Alternatives has put it: 'covering subsidies under the GATS is yet another instance where Uruguay Round negotiators, keen to gratify corporate lobbyists, recklessly pressed ahead with binding international treaty commitments - leaving their governments and citizens to cope with the difficult, practical policy fallout on their own'. It is thus hard to avoid the conclusion that the greed of western service industries has led a significant number of western politicians and their civil servants, especially those in thrall to neo-liberal fundamentalism, to endorse measures which, if uncontested, will lead to a full-blown crisis of democratic accountability in their own countries.

3.4. In view of the enormity of the issues posed by the GATS, the Campaign thus wishes to make recommendations which go beyond its remit as an organisation concerned with the media. In particular, we wish to endorse the following recommendations made by the European Branch of the International Parliamentary Network in October:

- **That the European Parliament be kept informed, and be called upon to give its opinion before any decision is taken concerning the 'offers' of liberalisation currently being prepared by the Commission.**
- **That all liberalisation requests addressed to the European Union by other WTO member countries be communicated by the Commission to the European Parliament.**
- **That the European Union ceases to ask for the liberalisation of third countries' public services under the aegis of the WTO.**
- **That there be no more binding GATS commitments until a full and independent economic, social and environmental impact assessment is conducted.**

Furthermore, we also endorse Brixen/Bressanone Declaration on Cultural Diversity and GATS adopted unanimously in October by the European Regional Ministers for Culture and Education. In particular we endorse their

- **Demand that we, as the democratic representatives of our citizens, be involved in all future negotiations within GATS which deal with education, culture and media issues, based on the principle of subsidiarity.**
- **Demand that democratically supported services in education, culture and media are excluded from further GATS involvement.**

ends.

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