

The Forge
Mead Road
Cranleigh
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GU6 7BG

John Vickers Esq.,
Director General,
Office of Fair Trading,
Fleetbank House,
2-6 Salisbury Square,
London,
EC4Y 8JX.

3 October 2000

Dear Sir,

I am writing in connection with what seems to be a monopoly in short wave broadcasting. I have been trying to obtain a licence for an independent short wave radio station since 1984.

On 1 April 1997, BBC World Service transmission was privatised as Merlin Communications International. At the same time, BBC domestic transmission was privatised and became Castle Communications. There is no monopoly with Castle since there is another operator (NTL) which has roughly half of the domestic broadcast transmission market.

On short wave, however, no attempt was made to split the several UK transmitting facilities between more than one operator. Neither was any invitation made to potential new operators.

Apart from broadcasting BBC World Service, Merlin transmits programmes for overseas state radios, as well as for a variety of private organisations and for themselves. The latter is precisely what I had been seeking to do. Wireless Telegraphy licences for short wave broadcasting are held only by Merlin and the government will not issue such a licence to anybody else.

I wonder whether this might be something you regard as covered by the Fair Trading Act 1973?

Yours faithfully,

Trevor Brook

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Ms Rita Hall-Hughes
Competition Branch 4
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

Your reference CP/0154-00

2 January 2001

Dear Ms Hall-Hughes,

Thank you for your letter of 15 December and explanation of the current legislative position.

Some background to the matter may be helpful. As long ago as 1984 I devised the concept of an independent science, technology and media short wave station. The government stated there were no frequencies available and always refused to issue a licence.

This led me, in 1997, to take the issue to the European Court of Human Rights in Strasbourg, where the DCMS not only used the frequency argument but further claimed that to allow any other station on short wave would destroy Britain's reputation and credibility abroad. This was extraordinary, since Merlin was by now in existence and broadcasting independent stations on short wave such as Virgin Radio, Radio Caroline, Global Sound Kitchen, a Dutch supermarket promotion and their own Merlin Network One. You also need to know that there is no limit to how many short wave frequencies each country may book for its use.

Earlier this year, the court ruled that under human rights law the United Kingdom government could not be compelled to licence independent stations on short wave because it did allow independent stations on the medium wave and FM bands.

My concern is whether the arrangement for short wave complies with UK and EU law.

Yours sincerely,

Trevor Brook

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Your reference CP/0154-00

26 February 2001

Dear Ms Hall-Hughes,

Thank you for your letter of 2 February. Indeed, I have no complaint against Merlin per se.

There is a parallel with air travel which may illustrate what I mean. Some years ago there was a situation where one airline in this country used all the slots available to Britain for transatlantic flights. This came to be recognised as unfair. Other operators based in the UK were allowed a slice of that cake and British Airways lost its monopoly.

You or I can go to Merlin and book broadcasts. I have wished to operate on short wave for seventeen years. Other countries in the world and the EU permit independent operators. There simply is no special British reason why *this* cake should not be shared.

The Radiocommunications Agency has explained to you how a country could be regarded as overbidding for frequencies. Notably, you have not been told that booking for just one more service would actually take the United Kingdom to that point - because that would not be the case. This is manifestly evident when you recall that Merlin has been able to undertake new broadcasts for many organisations†.

The dishonest frequency story is a smoke screen. An entrenched departmental policy is causing a monopoly for Merlin which is not specified by statute.

Does this policy seem fair to you? Can your organisation deal with it?

Yours sincerely,

Trevor Brook

† In addition to international and forces services for various countries, some of the non-state ones are:

"Levi's Global Sound Kitchen" (dance music)	"G One" (Ginger Media)
"Adventist World Radio"	"Merlin Network One"
"Irish Overseas Broadcasting Limited"	"Rock Radio Network"
"Virgin Radio"	"Country Music Radio"
"Imagination Radio" (soft rock from Staffordshire)	"HCJB" (gospel)
"Mediazoo" (tv and radio news)	"Mid West Radio" (Claremorris, Ireland)
"World Beacon" (gospel)	"Radio Caroline"
"Albert Heijn" (Dutch supermarket)	"Wales Radio International" (Preseli Radio, Pembroke)

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30 May 2001

Dear Sir,

It is three months now since I sent the enclosed letter and I have yet to receive either a reply or an acknowledgement.

Is the matter properly in hand?

Yours faithfully,

Trevor Brook

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Your reference CP/0154/00

23 July 2001

Dear Ms Hall-Hughes,

Thank you for your letter of 13 June.

You have reiterated why the present situation does not infringe my human rights but not dealt with the matter of freedom to operate a business where a limited resource may have to be divided amongst traders.

I drew the historical parallel between permits for more than one British carrier to operate transatlantic flights and licensing on short wave. Richard Branson could buy a ticket to New York on British Airways *yet could not fly his own airline there* because of the policy of a public body. This is equivalent to myself being prevented from trading and competing as a short wave broadcaster.

In his interview on 20 July on BBC Radio 4, John Vickers stated that the OFT was "explicitly a pro-market organisation... hungry for evidence of people breaking competition laws" and keen to deal with "even restrictions coming from government rules and regulations".

Since the Radiocommunications Agency refuses to sell a short wave licence to anyone other than Merlin, surely it is an undertaking engaged in commercial or economic activity which prevents competition and hence is covered by the Act?

Yours sincerely,

Trevor Brook