

HON. DIRECTOR

David Kennington Litt.D.,

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NO/DAW/DP

14th November 1988

The Editor,  
The Law Society's Gazette,  
The Law Society's Hall,  
113 Chancery Lane,  
London,  
WC2A 1PL.

Dear Madam,

In the great media debate now under way, following publication of the Government white paper "Broadcasting in the '90s", the proposals for extending the provisions of the 1959 Obscene Publications Act to cover broadcasting have been virtually ignored, certainly by the television bosses themselves, whose sole concern appears to be how they will be able to find the money to stay in business and hold on to their jobs post 1992. If the white paper's proposals become law, with the absurd Obscene Publications Act hanging over them like the sword of Damocles, they should also be concerned for their future liberty.

Maybe the consent of the Director of Public Prosecutions will be required before any prosecutions against broadcasters for offences under the Act can proceed, as the white paper assures us, but, where the test for 'obscenity', as enshrined in the Act, is so highly and inevitably subjective, that assurance becomes meaningless. The D.P.P. will, in the end, be able to decide no more objectively than will Lord Rees-Mogg and his repugnant Broadcasting Standards Council on "standards of taste and decency".

However, there is one extraordinary proposal which, whilst amazing and delighting defence lawyers, will surely outrage the judiciary. "It will", says the white paper, "be a defence for a person to show that he or she did not know and had no reason to suspect that the broadcast would render him or her liable to be convicted." This will, of course, be a complete reversal of the long established legal principle that ignorance of the law is no defence.

There can only be one reason for the incorporation of this astonishing new concept in British law. It is because the Government knows full well the stupidities, absurdities and injustices of the O.P. Act, recognizes that it is a clumsy, imperfect and unfair legislative instrument, and is worried by the enormously inhibiting influence it will have over freedom of expression in broadcasting, as

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it already has over the media elsewhere.

Rather than extending the areas of influence of the O.P. Act, the Government should be drastically reforming and reducing them to a minimal level which would bring this country into line with the vast majority of other EEC member states who have long since rid themselves of the infantile, 'nannyist' statutory censorship restraints to which we in the **U.K.** are still shamefully subject.

Yours sincerely,

David Webb,  
Honorary Director,  
National Campaign for the Reform of the Obscene Publications Acts