

~~GENCENSORED~~

NATIONAL CAMPAIGN FOR THE REFORM
OF THE OBSCENE PUBLICATIONS ACTS

N C R O P A

FIGHTING SEXUAL CENSORSHIP

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18th September 1995

The Rt. Hon. Mrs. Virginia Bottomley, JP, MP,
Secretary of State for National Heritage,
Department of National Heritage,
2-4, Cockspur Street,
London,
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Customer Reference **DY 9768 7105 5GB**

Re: First French Erotic TV Channel & EU Transfrontier TV

You are reported in the August 27th edition of "The Mail on Sunday" as having declared that you would do everything in your power to stop the recently launched French erotic TV channel "Rendez-vous Television" from being able to be received in the U.K. by those here who wish to receive it. Why should you, so dictatorially, wish to deny consenting adults in this country their right to freedom of expression and their rightful individual freedom to choose for themselves what they see and hear - just as the people of virtually all other European Union Member States are so permitted?

Freedom of Expression is a fundamental human right, which is why it is enshrined in both the 1948 United Nations Universal Declaration of Human Rights (Article 19) and the 1950 European Convention on Human Rights (Article 10). The U.K. is an originating signatory to both of these great Charters of Liberty, and yet, still stubbornly and scandalously - and now virtually uniquely - refuses to honour its purported commitment to these crucial basic values. The U.K.'s outrageously draconian and out-moded State sexual censorship laws, like the Obscene Publications Acts, but also including sections of those which come within your special remit concerned with broadcasting, are effectively diametrically opposed to this commitment.

Notwithstanding that individual notions of 'indecentcy' and 'obscenity'

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(the concepts of which serve as the absurd test application and effective determining yardstick in all British sexual censorship law) are entirely subjective, and that 'one man's (or woman's) "porn" is another man's art', it is no business of any Government, of whatever political hue, to dictate on standards of individual taste and morals. It is deeply disturbing that that is what you, alongside your other Government colleagues, clearly wish to do.

Your contention that sexually explicit material (or "pornography", as you choose to call it) "offends the overwhelming majority of people in this country" is hugely suspect and much more likely to be wholly fallacious. However, whether or not it is true is immaterial. The undoubted implication in your unsubstantiated claim that whatever offends some people should automatically be proscribed for all, is as dangerous as it is preposterous. Even if only one British person found sexually explicit material inoffensive and desired to have free access to it, it would still be quite improper - and unjust - for him (or her) to be prevented from doing so, as John Stuart Mill has so correctly taught us.

But your whole ^{based} premise - viz. that "pornography degrades" - is, of course inevitably/^{based} upon your own entirely subjective opinion, totally unsupported by verifiable fact. "Pornography" (sexually explicit material), which is the explicit depiction of sexual thought and action, does not necessarily degrade. Sex and sexual activity is a perfectly natural, instinctive, hugely pleasurable, human pursuit. It thus follows as surely as the night follows the day, that material about sex will instinctively arouse similar passionate interest. Your desire to suppress sex and matters sexual, as many a non-Brit will puzzlingly confirm, is uniquely a peculiarly British unnatural, unhealthy and even dangerous phenomenon. No wonder Rendez-vous Television's artistic director so derides us for being the only country raising serious objections to his channel. Michael Marcusson, the channel's owner tells us that we "must be a little more liberal in 1995". In the NCROPA's view that will be quite insufficient. A mountain more liberality and tolerance - and in freedom! - is what this increasingly depressing, ever more authoritarian, repressed country requires.

The NCROPA and its many supporters urge you to ignore the hysterical and quite unrepresentative rantings of the "Mail" newspapers and their like, show them and the rest of the vociferous minority 'Puritan Brigade' in this country that they are not the ones who set the agenda on British morality issues, and honestly and fairly implement true Conservative Party philosophy policy of freedom of choice, freedom of the individual and freedom of the market-place.

Incidentally, you claim, according to "The Mail on Sunday", that you have "the full support of the European Commission" over this issue. I do not believe this to be strictly accurate. At the time of the "Red Hot Dutch" TV battle to operate a similar 'sex' orientated channel in the U.K. two years ago, I wrote to all the then European Commissioners, including Prof. Joao de Deus Pinheiro who had the responsibility for audiovisual affairs. Although he wrote to me then that individual EU

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Member States were allowed to decide for themselves what television programmes they permitted to be disseminated within their own individual national borders, the interpretation of Articles 2 and 22 of the European Union Council Directive on Broadcasting Activities (89/552/EEC) varied considerably. So, too, did the attitudes of Member States to the Council of Europe's Convention on Transfrontier Television and that is why at that time (in 1993) only six Council of Europe Member States had ratified it. Sweden, whence "Rendez-vous Television" now transmits, was not one of them. I accept that Sweden has since become a full Member of the EU, and is thus subject to any EU legislation previously agreed and enacted - including the Council Directive on TV Broadcasting. However, since the British Government's proscription of the Continental Television channel ("Red Hot Dutch TV") was referred by the British High Court to the European Court in Luxembourg on 23rd April 1993 (although an application to lift the proscription order until after such a hearing was rejected, and also subsequently on Appeal), and since that hearing has still not yet taken place, the legality, under EU Law of your predecessor's (Peter Brooke, MP) proscription order on Continental Television plc, and thus of any other such proscription order made under the provisions of Sections 177 and 178 of the UK's Broadcasting Act 1990, is in doubt. (I have been in touch with the European Court in Luxembourg which has confirmed that the Continental Television case is still listed, awaiting a hearing date, but that because of procrastination and delay by the British Authorities, but not because of the fault of the EU Court, no date has yet been fixed.) It would thus be most improper for you to use your powers under the UK Act again until the matter has been properly resolved by the European Court.

Here in the U.K. we have just been celebrating the 50th anniversary of VE and VJ days and the end of the world's bloodiest war. That war was fought in order to preserve all our freedoms - including that most fundamental freedom, freedom of expression. It is surely ironic, not to say scandalous, that 50 years after defeating the German, Japanese and Italian dictators, sexually-explicit material (including that in the television format) is freely available in all those countries - and, indeed, in almost all other countries of the so-called 'free world' involved in that war, including, now, even in former totalitarian, Communist Eastern Bloc countries - whereas here in the United Kingdom, we, the 'victors' of the conflict, are still denied such a freedom. We earnestly entreat you and the Government to which you belong urgently to reconsider your pathetically blinkered 'British' attitude to this matter. It is high time the "No sex, please - we're British" outlook was replaced by the "More sex, please - we're human" society.

Yours sincerely,

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

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