Broadcasting Policy Division
2-4 Cockspur Street
London SW1Y 5DH
Telephone: 0171-211 6000
Facsimile: 0171-211 6460

Ref:TO97 33857

Cllr E Goodman
23 Budgen Drive
Redhill
Surrey
RH1 2QB

23 **September 1998**

Dear Cllr Goodman,

Thank you for your letter of 1 January to the Secretary of State concerning the Government's actions to proscribe the Eurotica Rendez-Vous service. I am sorry you have not had an earlier reply.

While the Secretary of State understands your opposition to his decision in respect of the Eurotica Rendez-Vous service, it might be helpful to set out some of the background and factors which led to this decision.

There are two relevant pieces of legislation. On the domestic front, the Broadcasting Act 1990 sets out the legislative framework for broadcasting in the UK, including provisions concerning the standards of taste and decency on television and radio which the public have a right to expect. The Act makes the Independent Television Commission (ITC) the main television broadcasting regulator and its role is defined by Parliament in the Act. In respect of foreign satellite services, the ITC is required to notify the Secretary of State of services which contain matter which offends against good taste or decency or is likely to be offensive to public feeling. It made such a notification in respect of Eurotica Rendez-Vous last autumn.

At a European level, the EC Broadcasting Directive is a single market measure intended to ensure the free flow of television programmes and broadcasting services throughout the European Community. It does this by setting certain minimum standards on matters such as advertising and sponsorship, and the protection of minors. If a broadcast meets these standards then no Member State may restrict reception of the broadcast on their territory. An exception to this principle is in respect of those services which pose a threat to the development of minors. The Directive states that '*Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence*'. The Directive provides that, where Member States believe a breach of this provision to have taken place, they may take measures against the relevant broadcaster, including those intended to restrict reception.

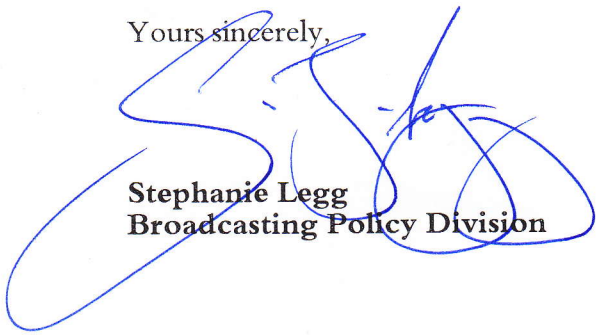
Any consideration of this matter must clearly have regard to both the need to protect children from exposure to potentially harmful material, and the principle of freedom of expression. In balancing these two issues, the Secretary of State took the view that the risk of children being exposed to the explicit hard-core pornography that is transmitted on Eurotica-Rendez-Vous should be minimised. He was satisfied that a proscription order against the service would be in the public interest. A proscription order declares a broadcaster as unacceptable and creates criminal offences for various acts in support of a proscribed broadcaster. This makes acts such as the supply of smartcards, the supply of programme material, advertising on or for the channel, publishing details of programmes and the provision of any other service in support of the broadcaster criminal offences. By, for example, stopping the sale of Eurotica smartcards the Government restricts access to the service in the UK.

Following the completion of the consultation process required by the Directive, the proscription order was made and laid before Parliament on 30 July. On 19 August, the High Court made an order staying the coming into force of the then order pending its hearing of Eurotica's challenge: it did not have time to consider the case at the time. Those proceedings took place on 9 and 10 September and the stay was lifted. The order proscribing Eurotica Rendez-Vous therefore came into force on 11 September and it is now proscribed.

The broadcaster was, however, granted leave by the Court to seek a Judicial Review of the Secretary of State's decision. The Government is confident that any review will uphold his action to protect the public interest in the development of minors by proscription of the Eurotica Rendez-Vous service.

In conclusion, you may continue to disagree with the decision to proscribe the Eurotica Rendez-Vous service, but I hope you will appreciate more clearly the factors that have contributed to this decision

Yours sincerely,



Stephanie Legg
Broadcasting Policy Division