

# Consumers' Association

2 Marylebone Road  
London NW1 4DF  
Telephone 0171 830 6000  
Fax 0171 830 6220  
<http://www.which.net/>

[REDACTED]  
Head of General Broadcasting Policy Branch  
Room 413  
Department of Culture, Media and Sport  
2-4 Cockspur St  
London SW1Y 5DH

Direct Line: 0171 830 6098

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Dear [REDACTED]

Re: Consultation on events listed under Part IV of the Broadcasting Act 1996

Thank you for offering Consumers' Association (CA) the opportunity to comment on the above consultation document. CA, publishers of Which? and other consumer books and magazines is an independent consumer organisation with around 720,000 members. We have long taken an interest in broadcasting issues and were closely involved in the debates about the changes to the rules for listing events in the 1996 Broadcasting Act.

Listing an event under the Act has the inevitable consequence of affecting the amount that can be obtained for the broadcasting rights. This market distortion is likely to result in some consumers losing out (eg those who attend live events) and may have a long term impact on the sport concerned. This increases the need to ensure that the listing is done in as open, inclusive and fair a way as possible.

CA recognises that by publishing a list of criteria there is at least some way in which decisions can be gauged. This should increase the level of accountability in the process to some extent. However, while the criteria will inevitably be open to interpretation and can only be used as guidelines, as they stand they could be interpreted to include almost any sporting event. So, while we welcome the publication of the criteria we would suggest certain refinements which we list over the page. Furthermore, we would actually question whether listing is the most appropriate way to ensure wide access to sporting events. If the sporting bodies themselves

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were more accountable to their supporters and required to consult on decisions to sell rights this might go some way to preventing the transfer to subscription television of the sorts of events that meet the criteria.

There is also the question of how accountable the free-to-air broadcasters are and how decisions about spending priorities are made. The listing criteria seem to be aimed at covering only a small number of what are perceived to be exceptionally significant events. Given that we have a publicly funded broadcaster able to divert a substantial percentage of its income into launching digital television, a service that there is as yet no demand for, it seems slightly surprising that it cannot meet the market price of a few key events that are identified as meeting the criteria outlined in this paper. This is particularly true given that the potential to command a large audience and having '*national resonance*' are aspects of an event which may lead to it being listed. If the relevant events are genuinely likely to be so highly priced that the free-to-air broadcasters cannot pay for them, the impact of listing is clearly going to be significant and its implications need close consideration.

We have the following specific comments on the criteria laid out in the paper:

- *the event and its outcome has a special national resonance, not simply a significance to those who ordinarily follow the sport concerned;*
- *it is a preeminent and popular event giving it particular potential for encouraging participation in the sport concerned;*
- *it is an event which serves to unite the nation: a shared event in the national calendar;*

It is far from clear what these criteria mean in practice and there appears to be considerable overlap between them. Furthermore, the second criteria confuses the appeal of a sport to a wide audience and the ability to encourage take-up of the sport. There is not necessarily a direct link between these factors. The third criteria assumes that the UK has a shared appreciation of sports which is clearly not always the case. Cricket, for example, seems more likely to be of interest to the English than the Scottish, Welsh or Irish. It might be simpler to reduce these criteria to cover events that appeal to a wider audience than the normal followers of the sport and that are pre-eminent events.

- *it involves the national team in the sport concerned in a major international tournament.*

This criterion is the most directly measurable. However, we would prefer to see '*the national team*' replaced by '*a national team*' to reflect that the Scottish, Welsh and Irish may have different priorities from the English.

We have some comments on the '*characteristics*' listed as important in the decision making process.

- *it is likely to command a large television audience;*
- *it is a regular, readily defined event of limited duration;*
- *it has a history of being broadcast live on free-to-air services.*

Once again we welcome anything which makes the decision making process more transparent. The first of these 'characteristics' clearly has some merit. It is probably not worth listing an event that only a small percentage of the population is interested in. The third characteristic also has some logic to it. However, we can see no possible justification for the second characteristic including the requirement that it be a regular event, which appears to differentiate between sports on the basis of their organisational structure.

CA particularly welcomes the other factors to be taken into account. The impact of listing on the income of the sport, the impact on the broadcasting market and the potential to enable access via highlights are all central questions. However, it is not clear how much weight these will be given. We therefore urge the Secretary of State to ensure that any consultation on future changes to the listed events is more inclusive than just the broadcasters, the holders of the sports rights and those interested in participation in the sports (eg the Sports Council). It should also include viewers and listeners, sports fans and others with an interest.

I hope our comments are helpful, if you wish to discuss any of the points raised please do not hesitate to get in touch. Nothing in this response is confidential.

*Yours sincerely*

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