

The Citizen's Voice in Broadcasting

29th August 1997

VLV/J3/696

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

Dear [REDACTED],

Events Listed Under Part IV of the Broadcasting Act 1996

I am replying to the Secretary of State's letter of 10 July asking for our views on the access of listeners and viewers to those events which have a major role in our national life.

(1) Voice of the Listener and Viewer (VLV) supports the Government's proposal to establish a set of broad criteria which would improve the transparency of the listing process, but it also recognises that these would not remove the need for the exercise of judgement by the Secretary of State.

(2) VLV broadly accepts the criteria which might justify the listing of an event. It has reservations about the fourth criterion however, namely that it involves the national team in the sport concerned in a major international tournament. This criterion appears to give precedence to team sports over those requiring individual prowess and effort, such as athletics, lawn tennis, golf, horseracing or showjumping. The emphasis on a national team also raises definitional problems as to whether a series of individuals who participate in different events, such as series of athletic events, can be deemed to constitute a team.

VLV would therefore suggest that this criterion is modified to read: "it involves the national participants in the sport concerned in a major international tournament."

(3) VLV also has reservations about including the consideration that an event is a shared point in the national character in this part of the criteria for listing an event. (see our response (4)(a) below.)

More/page 2

(4) VLV agrees that an event should be more likely to be listed if it exhibits particular characteristics making listing an apt response. In this regard, VLV proposes that:

(a) The criterion of being a shared point in the national calendar should be one of the particular characteristics making listing an apt response, rather than simply including it among the criteria justifying the listing of an event.

(b) The criterion of being "a regular, readily defined event of limited duration" should be modified to make clear that it occurs "annually or less frequently". That is, events which occur on a monthly or quarterly basis should be excluded.

(5) In considering the impact of listing on the likely costs and benefits to the sport concerned, VLV considers that the criteria should only consider the payments by broadcasters that are directly invested by the sports authorities concerned in the creation of safe facilities for the public and which permit free access to aspirant sportsmen and women who wish to increase their participation and/or improve their levels of performance in the sport concerned. That is to say, no regard should be paid to payments which further increase the commercialisation of sport.

(6) In considering the likely impact on the broadcasting market of listing an event, including future investment in sports broadcasting, VLV considers that the Secretary of State should consider the likely impact on all broadcasting, both public and private, and on all other forms of broadcasting as well as sports broadcasting. In VLV's view, the recent hyperinflation in the cost of sports rights has reduced the programme spend, notably that of public service broadcasters, on non-sports broadcasts. One likely impact of listing a sports event would therefore be to release money for broadcasters to increase their programme spend on non-sports broadcasts, many of which would have a potential export value. This would be particularly likely if the event listed had a predominantly national, as opposed to an international appeal.

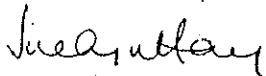
(7) With regard to the availability to viewers of highlights of a sporting event, VLV considers that such highlights can already be broadcast by rival broadcasters under the concessions for fair use for reporting news and current affairs allowed by the Copyright Designs and Patents Act 1988, although it accepts that special arrangements may be necessary for broadcasters to be given a special indemnity against being required to sign away their statutory rights of fair use in order to have access on a subscription basis to a service which contains the relevant broadcast.

(8) VLV submits however, that where the broadcaster holding the exclusive right to a sports event undertakes to make arrangements to sublicense a secondary and non-simultaneous broadcast of the event to a public broadcaster, this should be one criterion which the Secretary of State could consider when deciding whether or not to list an event.

(9) VLV also submits that the choice for viewers between seeing a simultaneous broadcast of a sports event, and the possibility of seeing that event in a secondary and non-simultaneous broadcast, would increase the degree of competition between the broadcasts of that event, including the quality of the commentary and subsequent analysis both on video and otherwise, of the event.

(10) VLV considers that all these criteria can be applied in practice. In general, the Secretary of State should seek to ensure the greatest good for the greatest number of UK listeners and viewers, consonant with the survival and continuance of the relevant sports.

Yours sincerely



Mrs Jocelyn Hay
Chairman