



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Anti-siphoning review

Proposals paper

August 2023



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Chapter 1: Summary of the proposals paper

The Albanese Government committed to undertake a review of the anti-siphoning scheme in the context of the 2022 Federal Election.

This paper seeks comment on a set of specific proposals to reform the scheme and the anti-siphoning list.

The role of the scheme

The objective of the anti-siphoning scheme (the scheme) is to support free access to televised coverage of events of national importance and cultural significance.

At present, the scheme seeks to further this objective by regulating the order in which the right to televise events on the *Broadcasting Services (Events) Notice 2023*¹ (the current anti-siphoning list) may be acquired by licensed television broadcasters. To date, the only programs included on the list – and therefore regulated under the scheme – have been sporting events.

While the scheme targets the traditional broadcasting sectors, the market in which sporting events are televised and consumed by audiences is rapidly evolving. It is a very different market today compared with the one in existence at the time the scheme was implemented. Two developments best represent this change:

- Australians' viewing options have broadened in the past decade to include online services, and viewers' habits are changing as a result
- Sport remains a genre of live programming that continues to attract audiences in significant numbers, and the value of high-profile sports rights has grown exponentially over recent years.

The initial phase of the review

In October 2022, the review of the anti-siphoning scheme was initiated with the release of the *Review of the anti-siphoning scheme: consultation paper*.² That consultation paper sought comment from interested parties on a wide range of issues associated with the scheme and the regulation of television coverage of key sporting events.³

Respondents generally recognised the continued importance of supporting free access to televised coverage of nationally important and culturally significant sporting events. They also provided comment on the growing coverage of sporting events online and the acquisition of media rights by streaming services and digital platforms. At present, the scheme does not apply to online services, including:

- subscription streaming services, such as Netflix and Amazon Prime Video
- dedicated sports streaming services, like Kayo Sports and Optus Sport
- broadcast Video On Demand (BVOD) services, such as 9Now and 7plus
- digital platforms, including Twitter and YouTube.

Respondents to this initial consultation process requested that they be afforded the opportunity to provide comment on any specific proposals to the scheme and list before they are introduced into the Parliament.

¹ [Broadcasting Services \(Events\) Notice 2023](#).

² Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#).

³ The majority of submissions to the 2022 consultation paper did not raise the possibility of non-sporting events being added to the list.

This proposals paper responds to that request, and outlines three models for reform of the scheme and three options for a new list.

Importantly, this paper identifies the Government's preferred reform model and preferred list option. While this does not reflect a final decision of the Government, it provides all interested parties with an indication of the preferred approach to reform of the scheme and list. The Government's final decision on these matters will be informed by the feedback and comments provided in relation to these reform options.

Preliminary findings

The initial phase of the anti-siphoning review considered a wide range of issues associated with the scheme and the regulation of television coverage of key sporting events. This has informed the development of the models for reform of the scheme and the options for a new list outlined in this paper. While these proposals are subject to consideration through the current consultation process, there are a number of areas where preliminary findings have been made. These preliminary findings are detailed in Chapter 5, and summarised below.

- **Preliminary finding 1: the core objective of the anti-siphoning scheme remains relevant**

The review has found that the core objective of the anti-siphoning scheme – to support free access to televised coverage of events of national importance and cultural significance – remains relevant and appropriate. The anti-siphoning scheme should continue to operate to further this objective.

- **Preliminary finding 2: the scheme has an ongoing role but needs to be broadened to incorporate online services**

The anti-siphoning scheme was established to address the risk of nationally important and culturally significant events migrating behind paywalls, and no longer being available for free to Australian audiences. The review has found that in a contemporary media environment this risk remains, and that the concerns evident in an analogue media environment are also present in a digital environment. There is a 'regulatory gap' in relation to online services and a case to broaden the remit of the regulatory framework to mitigate the attendant risks.

- **Preliminary finding 3: the composition of the anti-siphoning list needs to be reconsidered**

To date, the anti-siphoning list has included sports that involve athletes without disabilities. To a lesser extent, it has also tended to involve competitions in which only men compete. This is a product of history rather than deliberate design. Nonetheless, the review has found that there is a case to consider the composition of the list with respect to women's sports events and Para-sports.

Reform models

The scheme does not currently apply to online media services, and the paper proposes three reform models to address this regulatory gap. These are summarised in Table 1 and described in detail in Chapter 6.

The primary focus of each model is the extension of the scheme to online media. However, the mechanisms proposed to achieve this extension differ significantly between the models.

Table 1: Summary of models to reform the anti-siphoning scheme

	1. Free-to-view	2. Broadcasting safety net	3. Free-to-air first
Summary	A new scheme (to replace the current scheme) that would impose availability and coverage obligations on all content services (online, broadcast or any other media service) that provide coverage of iconic sporting events to Australian audiences.	An extension of the current scheme to prevent the acquisition of any type of right to provide coverage of an iconic sporting event to Australians by a content service provider until a free-to-air broadcaster has a right to televise the event on a broadcasting service, or the event is automatically delisted. ⁴	A significant extension of the current scheme to prevent the acquisition of any type of right to provide coverage of an iconic sporting event to Australians by a content service provider until a free-to-air broadcaster has both a right to televise the event on a broadcasting service <u>and</u> a right to provide coverage of the event on a content service, or the event is automatically delisted. ⁵
Restriction on rights acquisition?	No	Yes	Yes
Availability obligations?	Yes	No	No
Coverage obligations?	Yes	No	No
Reduction of the list?	Yes	No	No

The Government’s preferred reform model is the Model 2: ‘broadcasting safety net’.

Under this approach, the scheme would be expanded to prevent content services (including, but not limited to, streaming services) from acquiring a right to provide coverage of a listed event to audiences in Australia until a free-to-air broadcaster has a right to televise the event on a free-to-air broadcasting service. This effectively extends the scope of the restriction on the acquisition of rights under the current scheme, which only applies to subscription television broadcasting licensees.

This model would affirm free-to-air broadcasting services as the ‘safety net’ for free access to televised coverage of nationally important and culturally significant sporting events for all Australians. To this end, it provides free-to-air broadcasters with preferential treatment in terms of acquiring the relevant rights. This addresses the risk of these events migrating to platforms that involve direct or indirect costs for Australian audiences.

However, this model doesn’t provide free-to-air broadcasters with preferential treatment in terms of their ‘non-broadcasting’ content services (i.e. BVOD or other online services). To do so would go beyond the aim of this particular model (which is founded on the accessibility of the stable and ubiquitous terrestrial free-to-air television broadcasting platform) and would provide free-to-air broadcasters with an additional commercial advantage over other providers of content services.

As per the current scheme, once a right to televise a listed event had been acquired by a free-to-air broadcaster, or the event is automatically delisted 26 weeks prior to its commencement, any party would be able to acquire rights to the event without restriction.

⁴ 26 weeks prior to its commencement.

⁵ Ibid.

List options

Under the current scheme, the anti-siphoning list is a legislative instrument made by the Minister that specifies the events, or events of a kind, the televising of which, in the Minister’s opinion, should be available free to the general public. The proposals in this paper are not intended to alter this.

A list needs to have been made for the anti-siphoning scheme to work, as the restriction on the acquisition of rights by subscription television broadcasting licensees under the current scheme (or the operation of any revised scheme) depends on a list being in place.

The current list – the *Broadcasting Services (Events) Notice 2023*⁶ – was made in March 2023 and expires on 25 March 2026. This list was made as an interim arrangement to provide continuity for the scheme while broader reforms are developed and progressed as part of this review. The current list includes approximately 1,900 events.⁷

This paper includes three options for a new list that could be made once reforms to the scheme are implemented. These are summarised in Table 2 and described in detail in Chapter 7.

Table 2: Summary of options to reform the anti-siphoning list

	1. Streamlined list	2. Modernised list	3. Expanded list
Summary	A significant reduction compared with the current list.	An increase compared with the current list, including in relation to women’s events and Para-sports.	A significant increase compared with the current list, including in relation to women’s events and Para-sports.
Number of events ⁸	~330	~2,500	~2,800
Compatibility with reform models	Intended to be compatible with the free-to-view model (Model 1).	Intended to be compatible with the broadcasting safety net and free-to-air first models (Models 2 and 3).	Intended to be compatible with the broadcasting safety net and free-to-air first models (Models 2 and 3).

Each of the three list options includes both men’s and women’s rugby league, rugby union, cricket and soccer matches that involve a senior Australian representative team, irrespective of whether these matches are standalone international fixtures or are played as part of a world cup tournament. For example, each list would include matches of both the FIFA World Cup and the FIFA Women’s World Cup.

This is intended to ensure the consistent treatment of matches that involve senior Australian representative sides selected by relevant sports bodies, irrespective of gender. However, there are distinctions between the list options in terms of how many such events are included on the list, ranging from minimal for the ‘streamlined list’ option through to more expansive for the ‘expanded list’ approach.

The Government’s preferred list is the ‘modernised list.’ This list is designed to operate effectively with reform models 2 or 3 and – more substantively – to better reflect the modern media landscape and moderately broaden the composition of nationally important and culturally significant events.

⁶ [Broadcasting Services \(Events\) Notice 2023](#).

⁷ This estimate of the number of events on the list is indicative only. It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically. This figure represents an estimate of the number of events on the list in a hypothetical calendar year. For the purposes of this paper, it is assumed that all quadrennial, biennial and annual events take place in the one year. It does not represent the likely number of events in any given year.

⁸ Estimates in this row are indicative only and adopt the caveats and assumptions as the above estimate of the number events on the current list.

The modernised list option would involve an increase in the number of events on the list compared with the current instrument, rising from approximately 1,900 events under the current list to around 2,500 events. The additional events on this list would include: all events held as part of the Paralympic Games; the finals matches of the Australian Football League (AFL) and National Rugby League (NRL) Women's Premierships; and the NRL Women's State of Origin Series.

As noted above, the modernised list would also include international rugby league, rugby union, cricket and soccer matches that involve a senior Australian representative team, irrespective of gender, and irrespective of whether these matches are standalone fixtures or played as part of a world cup tournament.

Chapter 2: Making your views known

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) is seeking feedback from interested parties on the proposals outlined in this paper for the reform of the anti-siphoning scheme and anti-siphoning list. Comments and submissions received will inform the Australian Government's future decisions regarding the scheme and the list.

Making a submission

The department is welcoming written comments and submissions on the matters outlined in this paper. Comments and submissions should be received by **5:00 PM Australian Eastern Standard Time on Sunday, 17 September 2023**.

Comments and submissions can be lodged by:

Website: <https://www.infrastructure.gov.au/have-your-say/>

Post: Media Reform—Online Safety, Media and Platforms Division
Department of Infrastructure, Transport, Regional Development, Communications and the Arts,
GPO Box 2154 CANBERRA ACT 2601

Comments and submissions should include the respondent's name, organisation (if applicable) and contact details.

Questions about the consultation process can be directed to media.reform@communications.gov.au.

Publication of submissions and confidentiality

All submissions will be made publicly available by the department unless a respondent specifically requests that a submission, or a part of a submission, be kept confidential. Comments will not be published.

The department reserves the right not to publish any submission, or part of a submission, which in its view contains potentially offensive or defamatory material, or for confidentiality reasons.

The department is subject to the *Freedom of Information Act 1982* and comments and submissions may be required to be disclosed by the department in response to requests made under that Act.

Chapter 3: The purpose of this consultation

The process so far

The Albanese Government committed to undertake a review of the anti-siphoning scheme in the context of the 2022 federal election.

The review was initiated in October 2022 with the release of a consultation paper.⁹ A total of 25 submissions were received in response to the consultation paper, comprising: five from the media sector (free-to-air broadcasters, subscription broadcasters and streaming services); 13 from the sporting sector; and seven from academics and other organisations.

All 13 public submissions were published on the department's website: infrastructure.gov.au/have-your-say/. The remaining 12 submissions were confidential. Three roundtables were also held with industry representatives in November 2022 to augment the submissions process.

This initial phase of the review considered a wide range of issues associated with the scheme and the regulation of television coverage of key sporting events. These themes and issues included:

Table 3: Summary of themes emerging from 2022 consultation process

Themes	Issues
Policy settings and considerations	<ul style="list-style-type: none">• The policy objective being sought by the scheme• The role of the scheme in achieving this outcome
The operation of the scheme	<ul style="list-style-type: none">• The application of the scheme to online media• The form of regulatory rule at the heart of the scheme• The use and disposal of a right to televise an event on the anti-siphoning list• Coverage of events on the anti-siphoning list• Information disclosure and information gathering relevant to the scheme
The composition of the anti-siphoning list	<ul style="list-style-type: none">• The sports and events on the anti-siphoning list• The structure of the anti-siphoning list• The process for removing events from the anti-siphoning list

The key theme raised in submissions and through the supporting roundtable discussions was the growing coverage of sporting events online and the acquisition of media rights by streaming services and digital platforms.

⁹ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#).

This consultation

The Government is now moving to the next phase of the review, which is focusing on specific proposals for reform to both the scheme and list.

The 2022 consultation process for the review focused on the ‘big picture’: the broad policy objectives and settings for regulating sports rights; the operations of particular elements of the current scheme; and the general composition of the list. While providing a range of comments and views on these matters, stakeholders made clear their desire to be engaged on any specific proposals for reform to the scheme or list.

This paper responds to that request and puts forward three detailed models for reform of the scheme, and three specific options for a new list to be made alongside (or as part of) these reforms to replace the current list.¹⁰ The development of these models and options has been informed by the views of stakeholders put forward through the initial phases of the review, and draws on proposals for reform advanced by particular parties.

Comment is sought on each of the three proposed approaches to the scheme and the list.

The structure of this paper

The paper is organised into a number of discrete chapters.

- Chapters 2 through 4 provide (respectively): information on how to make a submission to this process; the purpose of the consultation; and relevant background.
 - These chapters are short and do not repeat the detailed information regarding the scheme and the trends in sports coverage provided in the preceding consultation paper. Interested parties are directed to that paper for further information.¹¹
- Chapters 5 through 7 constitute the substantive chapters of this proposals paper. They set out:
 - preliminary findings of the review (Chapter 5)
 - three models for reform of the scheme (Chapter 6)
 - three options for a new list (Chapter 7).

¹⁰ [Broadcasting Services \(Events\) Notice 2023](#).

¹¹ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#). See Chapter 2 (The anti-siphoning scheme) and Chapter 3 (Trends in sports coverage and consumption).

Chapter 4: Background

What is the anti-siphoning scheme?

The regulatory framework for the anti-siphoning scheme is established in the *Broadcasting Services Act 1992* (BSA) and came into effect in 1994.

The scheme seeks to increase the likelihood of free televised coverage of nationally important and culturally significant events.

The scheme

The scheme regulates the order in which the rights to televise events on the anti-siphoning list may be acquired by certain types of licensed television broadcasters. It operates as a licence condition for subscription television broadcasting licensees, preventing them from acquiring the right to televise an event on the anti-siphoning list unless a free-to-air television broadcaster has a right. The scheme's objective is to support free televised coverage of nationally important and culturally significant events. It does not guarantee this objective, but seeks to support its achievement.

The list

A key part of the scheme is the anti-siphoning list. Without a list, the scheme would have no operative effect.

The list is a legislative instrument made by the Minister under subsection 115(1) of the BSA. Through this instrument, the Minister may specify an event, or events of a kind, the televising of which should, in the Minister's opinion, 'be available free to the general public'.¹²

The list includes events from 11 sports: the Olympic Games; the Commonwealth Games; Australian rules football; rugby league; rugby union; soccer; tennis; netball; motorsports; horse racing; and cricket.

Events are automatically delisted (removed) from the anti-siphoning list 4,368 hours (26 weeks) prior to the start of the specific event.¹³ This arrangement seeks to provide subscription television broadcasters with some opportunity to acquire the rights to events that free-to-air broadcasters could be considered not to be interested in acquiring if they have not done so by that time.

The Minister may retain an event on the anti-siphoning list (overriding automatic delisting) if they are satisfied that at least one free-to-air broadcaster has not had a reasonable opportunity to acquire the right to televise the event concerned.¹⁴ The Minister can also remove an event from the anti-siphoning list, separate from the automatic delisting arrangements referred above.¹⁵

The current list – the *Broadcasting Services (Events) Notice 2023*¹⁶ – was made in March 2023 and expires on 25 March 2026. This list was made as an interim arrangement to provide continuity for the scheme while broader reforms were developed and progressed as part of this review.

Other powers available to the Minister, but operating separately to the anti-siphoning scheme, are the anti-hoarding rules.¹⁷ The anti-hoarding rules are intended to encourage free-to-air broadcasters to provide

¹² [Broadcasting Services Act 1992](#), subsection 115(1).

¹³ [Broadcasting Services Act 1992](#), subsection 115(1AA).

¹⁴ [Broadcasting Services Act 1992](#), subsections 115(1AA) and 115(1AB).

¹⁵ [Broadcasting Services Act 1992](#), subsection 115(2).

¹⁶ [Broadcasting Services \(Events\) Notice 2023](#).

¹⁷ [Broadcasting Services Act 1992](#), Part 10A—Anti-hoarding rules

live and complete television coverage of events they have acquired rights to, and to pass on any unused portion of those rights.

Administration and enforcement

The Australian Communications and Media Authority (ACMA) is responsible for enforcing compliance with licence conditions of broadcasters, and thus the scheme.¹⁸ There have been limited circumstances where the regulator or its predecessor organisation have investigated alleged breaches of the anti-siphoning rules, including suggestions that the broadcast rights for anti-siphoning listed events have been acquired by subscription television broadcasting licensees before free-to-air broadcasters.

Complaints received by the ACMA relating to the anti-siphoning scheme generally raise concerns about events not being broadcast live, in-full, or at all. This reflects the common misconception that the rules require free-to-air broadcasters to acquire the rights to an anti-siphoning listed event or to televise an event to which they have acquired the rights.

The anti-siphoning scheme does not:

- require free-to-air television broadcasters to acquire the right to televise anti-siphoning listed events, or to televise the events for which they do acquire rights
- stipulate what constitutes a 'right to televise' an event on the anti-siphoning list, although court cases have considered this issue to an extent¹⁹
- prevent the on-selling of some, or all, rights to an event on the anti-siphoning list to a subscription television broadcasting licensee or any other content service provider
- restrict the acquisition of a right to televise an event on the anti-siphoning list by any content service provider other than the holder of a subscription television broadcasting licence.

Trends in sports coverage and consumption

The 2022 consultation paper²⁰ noted that the media landscape for sports has changed dramatically since the anti-siphoning scheme was introduced. Sporting events continue to attract large audiences and sport remains a key content genre for many media outlets. However, Australian audiences now have far more choice from a wider range of providers and platforms, including streaming services.

Within Australia, streaming services have begun acquiring rights to sports, but have yet to exclusively acquire the rights to any events on the anti-siphoning list. Overseas, this trend is more advanced, with streaming services acquiring rights to high profile sports such as the English Premier League (soccer), the NFL (American football) and the Indian Premier League (cricket). A more detailed description of these trends is provided in Chapter 3 of the 2022 review consultation paper. The remaining chapters of this paper provide updates and additional information where this has been garnered through the review process to date.

¹⁸ [Broadcasting Services Act 1992](#), Part 10, Division 3—Action in relation to breaches by licensees, and Part 11—Complaints to the ACMA

¹⁹ For example, in *Foxtel Cable Television Pty Ltd v Nine Network Australia Pty Ltd & Australian Broadcasting Authority* [1997] FCA 185 (26 March 1997) the court concluded that the effect of a contractual condition to delay the free-to-air broadcast of listed cricket matches by 7 days meant that the free-to-air broadcaster never acquired the right to televise any of the matches during the period they were on the list of declared events. The court found that it could not be said that a 'national broadcaster or television broadcasting licensee has the "right to televise the event" unless that broadcaster or licensee can televise it as it happens, or as soon thereafter as is technically feasible.' Similarly, it concluded that a right limited to broadcasting one-hour of highlights could not be said to be a right to televise the event, as 'the summary of a work is not the work itself'.

²⁰ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#).

Chapter 5: Preliminary findings of the review to date

The initial phase of the anti-siphoning review considered a wide range of issues associated with the scheme and the regulation of television coverage of key sporting events. These related to the broad policy aims and settings associated with the regulation of sports rights, along with the operation of elements of the scheme itself and the general composition of the list.

The 25 submissions provided in response to the 2022 consultation paper²¹ put forward a range of views and positions in relation to these matters. As noted in Chapter 3, the key theme raised in submissions and through the supporting roundtable discussions was the growing coverage of sporting events online and the acquisition of media rights by streaming services and digital platforms.

However, there was little or no consensus across these submissions in relation to potential changes to the scheme and to the list. Contrasting proposals were advanced from different sectors of the industry and, in many cases, these proposals constituted starkly different approaches to the regulation of sports rights and sports broadcasting.

While the differences between submissions were significant, there was consistency in the desire from parties to be able to review and comment on specific proposals for reform before they are introduced into Parliament. In particular, stakeholders requested the ability to comment on any changes of substance to the scheme itself, and any alterations to the composition of the anti-siphoning list.

To this end, Chapters 6 and 7 of this paper set out, respectively:

- three detailed models for reform of the scheme
- three specific options for a new list to be made alongside (or as part of) these reforms to replace the current list.²²

Although these reform models and list options require further consideration, there were several areas where preliminary findings have been able to be made based on the information surfaced through the review to date. These matters concern:

- the objective of the anti-siphoning scheme
- the role of, and need for, regulation to promote this objective
- the inclusion of online services in the regulatory framework
- the composition of the list with respect to particular competitions and sports.

A number of preliminary findings in relation to these matters are set out in this chapter. These are important, as they have guided the design of the reform models for the scheme presented in Chapter 6 and the options for the list considered in Chapter 7.

Preliminary finding 1: the core objective of the anti-siphoning scheme remains relevant

The anti-siphoning scheme operates to support the free availability of certain types of programs. Section 115 of the BSA provides that the Minister may specify an event, or events of a kind, the televising of which should, in the opinion of the Minister, 'be available free to the general public'. To date, the only programs regulated under the scheme have been sporting events.

²¹ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#).

²² [Broadcasting Services \(Events\) Notice 2023](#).

The objective of the scheme was outlined in the Explanatory Memorandum to the Broadcasting Services Bill 1992 (the 1992 Explanatory Memorandum), which states that:

*'...on equity grounds, that Australians will continue to have free access to important events. It will, however, also allow subscription television broadcasters to negotiate subsequent rights to complementary, or more detailed, coverage of events.'*²³ (emphasis added).

In effect, the scheme operates to increase the likelihood of free televised coverage of nationally important and culturally significant events. It does not guarantee this outcome, but seeks to further its achievement.

This term – nationally important and culturally significant – is referred to in the 1992 Explanatory Memorandum, but isn't defined in the BSA. This provides a degree of flexibility in terms of the events that may be considered for inclusion on the list and avoids the imposition of rules or criteria that are rigid or may become dated over time. This is also consistent with the approach taken in other jurisdictions in relation to the regulation of sports rights and coverage, including the 'listed events regime' in the United Kingdom.²⁴

However, events of this nature would generally be those that have a degree of national resonance and incorporate an element which, in some way, unites the Australian community, not just those segments of the community that happen to have an interest in the particular event.

In response to the 2022 consultation paper, there was general agreement among stakeholders that the aim of providing Australians with free access to coverage of iconic sporting events remains appropriate.

Free TV Australia argued that:

The public policy principle underpinning the anti-siphoning list is that there is a public interest in ensuring that nationally significant sporting events remain available free of charge for all Australians to watch. This recognises that nationally significant sporting events play an important role in Australia's cultural and social life and that the access of Australians to these events must not be governed by how much they earn or where they live.²⁵

While arguing that the scheme does not currently achieve its stated goals, Foxtel agreed that:

...ensuring that Australians have "*free access*" to "*events of national importance and cultural significance*", as originally set out in the Explanatory Memorandum to the Broadcasting Services Bill 1996, remains a relevant and appropriate policy objective.²⁶

Similarly, Optus noted that:

...certain events, particularly sporting events, have a special place as part of Australia's cultural identity. The objective of the scheme was to ensure that events of national importance and cultural significance could be received by the public free of charge. Optus considers this remains appropriate and such an outcome should be the focus of any regulatory framework.²⁷

²³ Explanatory Memorandum to [Broadcasting Services Bill 1992](#), p 67.

²⁴ United Kingdom Department for Digital, Culture, Media & Sport (2022), [Guidance - Listed Events: Digital Rights Review](#).

²⁵ Free TV Australia (2022), [Response to the anti-siphoning scheme consultation paper](#), p 7.

²⁶ Foxtel Group (2022), [Submission in response to the review of the anti-siphoning scheme – Consultation paper](#), p 15.

²⁷ Optus (2022), [Submission in response to DITRCA Consultation Paper: Review of the anti-siphoning scheme](#), p 4.

As noted in the 2022 consultation paper, most Australians agree that free access to the coverage of sport remains an important public policy goal.²⁸

- A survey commissioned by Free TV in 2021 found that 69 per cent of respondents agreed that giving all Australians access to coverage of major sporting events is in the public interest.²⁹

This is supported by viewing rates.

- In 2022, some 67 per cent of Australian adults had watched sport in the preceding six months, with 42 per cent watching live sport in the preceding week.³⁰
- For sports viewers, 36 per cent considered the most important feature was that the content is freely available on broadcast television.³¹

The broader importance of sport to the cultural fabric of Australia was also noted in a range of submissions to the initial phase of the review. For example, the Australian Professional Leagues (APL) submission noted that:

Football in Australia has a tremendously diverse and multicultural base. When establishing themselves in Australia, many immigrant communities, particularly post World War II have used football as an important social outlet. Many local clubs around Australia continue to maintain these important cultural links. In more recent years, refugee communities such as those from Afghanistan and parts of Africa made extensive contributions to the Australian football landscape.

With such an expansive and diverse participation base, it is critical the professional leagues are linked with broadcast arrangements that make the watching of games accessible to as many as possible while remaining commercially viable.³²

Similarly, a submission from academics at the University of Sydney, Western Sydney University and Monash University stated that:

The clear intention of the *Broadcasting Services Act 1992* was to ensure social equity and the continuation of the long-standing ability of Australian audiences to watch their favourite sports on TV for free. Sport then, and still now, attracts very large audiences and is significant in the everyday lives of many Australians.³³

The review has found that the objective of the anti-siphoning scheme – to support free access to televised coverage of events of national importance and cultural significance – remains relevant and appropriate in the contemporary media environment.

However, the way that this objective is recognised in the BSA could be strengthened. At present, the objective of free access to televised coverage of iconic events is reasonably well established through the scheme itself.

The higher level overarching objects of the Act, on the other hand, don't include any reference to, or acknowledgment of, this objective. It is therefore proposed that the objects of the Act, established in section 3, be amended to include a specific object of this nature:

To support free access to televised coverage of events of national importance and cultural significance to audiences throughout Australia.

²⁸ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#), p 27.

²⁹ Free TV Australia (2022), [Free TV Australia, 2022 Federal Election Policy Manifesto](#), p 3.

³⁰ Social Research Centre (2023), [2022 Television Consumer Survey – Final Report](#), prepared for the Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, p 18.

³¹ Ibid.

³² Australian Professional Leagues (2022), [Review of the anti-siphoning scheme](#), p 2.

³³ Tiffen R, Rowe D, Hutchins B (2022), [Submission to anti-siphoning inquiry](#), p 1.

Preliminary finding 2: the scheme has an ongoing role but needs to be broadened to incorporate online services

The anti-siphoning scheme was introduced to address the concern that nationally important and culturally significant events would be siphoned behind the paywalls of services to which Australians didn't have access. At the time, relevant paywall services were limited to subscription television broadcasting services.

The then Minister for Communications and the Arts, the Hon Michael Lee OAM, emphasized this concern in a press release announcing the making of the initial list in 1994:

...the “anti-siphoning” list would ensure that viewers would not be forced to pay for major sporting programs which they now received free of charge...³⁴

A key question for this review is whether there remains a risk of nationally important and culturally significant events being siphoned behind paywalls, whether by traditional subscription television broadcasting services (as was the case when the scheme was established), or by newer, online subscription-based media services.

As noted in the 2022 consultation paper, the ways in which Australians now consume media content, including sport content, has changed dramatically since 1994. It is no longer a choice between free-to-air and subscription television services, and audiences are migrating from traditional broadcasts to online services.³⁵

This is the case for a range of content consumption, from news and entertainment, to live sporting events. While free-to-air and subscription broadcasting remain key avenues by which Australians access coverage of sporting events, there has been a significant expansion in the range of television and television-like services capable of providing this coverage.

Subscription streaming services, such as Paramount+ and Amazon Prime Video, along with dedicated sports services, like Kayo Sports. The latter in particular provide extensive coverage of live sports content. Some sports bodies also provide direct streaming options.

Broadcast video on demand (BVOD) services, such as 9Now and 7plus, provide access to coverage of sporting content, often in conjunction with linear broadcasts. While users typically have to sign up to an account for these services, the service itself operates on a free-to-access, ad-supported basis.

Mobile services that are accessed through apps on portable devices, such as phones and tablets, can include subscription streaming services as well as free-to-air BVOD services. They may also have links to the provision of internet or phone services, such as with Optus Sport.

Gambling apps and platforms, such as Tabcorp and Bet365, provide limited access to live streaming of sports for their users. Although these activities can be limited as a result of the digital rights held by other media entities, it has a growing market and audience.

Digital platforms, such as YouTube, make large amounts of content available daily, including channels that offer highlights and replay content for the AFL³⁶, NRL³⁷ and the Olympics, among other sports.³⁸ YouTube has also recently secured rights to stream some NFL (American football) matches.³⁹

³⁴ Parliament of Australia (31 May 1994), [Major sporting events to remain on free to air television](#).

³⁵ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#), p 22.

³⁶ YouTube, [AFL](#) (official channel).

³⁷ YouTube, [NRL - National Rugby League](#) (official channel).

³⁸ YouTube, [Olympics](#) (official channel).

³⁹ YouTube, [The New Home of NFL Sunday Ticket | Save \\$50 now \(youtube.com\)](#)

Some of these services are supported by advertising and are ‘free’ in the sense of no explicit payment by viewers.⁴⁰ However, many are based on subscription models, including subscription models that offer some free programs, or ‘freebies’, and these services have been embraced by Australians.

- In the first quarter of 2023, Kantar found that 6.12 million Australian homes, or 61.5 per cent of households, are subscribed to at least one streaming service.⁴¹
- The number of Australian subscriptions to Subscription Video on Demand (SVOD) services increased from 12.3 million to 23.4 million between June 2019⁴² and June 2022.⁴³
- ACMA reported that in 2021–22, there were 3,539 hours of Australian sports content available across five SVOD services operating in Australia, representing almost half of all Australian content on these services.⁴⁴

This trend is also reflected in sports-specific streaming services:

- In 2022, Deloitte found that 30 per cent of Australian households have at least one sports subscription service, largely driven by subscriptions to Kayo (owned by Foxtel) and Optus Sport.⁴⁵
- In 2023, Foxtel reported that Kayo had 1.411 million active subscribers (1.401 million paid) for the quarter ending 30 June 2023.⁴⁶
- SingTel, of which Optus is a subsidiary, reported that Optus Sport had 926,000 active subscriptions in the financial year ending 31 March 2023.⁴⁷

In light of these developments, the review has considered whether there is a material risk of nationally important and culturally significant sports migrating to online services and, in particular, to subscription-based platforms.

Submissions to the 2022 consultation paper highlighted that online rights are pivotal to the future of sports coverage.

The Coalition of Major Professional and Participation Sports (COMPPS), which represents major sporting bodies in Australia, stated that:

...the sale of online and digital rights has become a critically important revenue stream...the importance of maximising revenue from the sale of online and digital rights as part of the overall media rights strategy of COMPPS members will continue to increase in the coming years...⁴⁸

⁴⁰ Explicit costs include subscription fees or pay-per-view charges, charged by the content service provider or an intermediary, to access the coverage of the event.

⁴¹ Kantar (1 May 2023), [Australian streaming market stabilises despite 1.1 million cancellations](#).

⁴² Telsyte (17 August 2020), [Subscription home entertainment soars in Australia](#).

⁴³ Telsyte (29 August 2022), [Subscription entertainment defies rising cost of living pressures](#).

⁴⁴ Australian Communications and Media Authority (2023), [Communications and media in Australia: Trends and developments in viewing and listening 2021–22](#), p 9. The five SVOD services which reported data (Netflix, Stan, Amazon Prime Video, Paramount+ and Disney+), included. Services such as Kayo and Optus sport did not report data and are not included.

⁴⁵ Deloitte (2022), [Media Consumer Survey 2022](#), p35.

⁴⁶ Foxtel Group (2023), [Foxtel Group Fiscal 2023 Fourth Quarter and Full Year Earnings](#).

⁴⁷ Singtel (2023), [Singapore Telecommunications Limited and Subsidiary Companies: Management Discussion and Analysis of Financial Condition, Results of Operations and Cash Flows for the second half and financial year ended 31 March 2023](#), p43.

⁴⁸ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p2.

Similarly, Free TV argued that audiences expect free-to-air broadcasters to provide access to coverage of sporting events through both linear broadcasts and their BVOD streaming platforms, and that doing so is central to its members' commercial strategies:

In the modern media environment, Australians are increasingly expecting to be able to access content from FTA broadcasts on the device of their choice and wherever they are.⁴⁹

BVOD services are a vital part of the commercial proposition for networks and a key factor in the future sustainability of our sector...the availability of BVOD rights for live and free sport is directly related to the achievement of the Government's broader communications policy.⁵⁰

The Commonwealth Games Federation Partnership, which is the global governing body for the Commonwealth Games, noted that:

...the landscape of media distribution and sports broadcasting is rapidly evolving. In addition to FTA and Pay-TV broadcasters, alternative distribution mediums have emerged and now include streaming and OTT distributors, such as Amazon, DAZN and even social media platforms. Accordingly, we envisage a future where alternative distributors (i.e. non-FTA or Pay-TV) will be interested in obtaining the Rights and become realistic options to broadcast the Games.⁵¹

The importance of online rights to sports coverage is also evident in the Australian media market. In recent years, subscription and free-to-air broadcasters have increasingly acquired online rights as part of their media rights packages.

- **Foxtel** has obtained online sports rights to a range of events and typically provides coverage to subscribers through its dedicated Kayo streaming service. A wide range of sports and competitions are available through the service, including the vast majority of AFL and NRL Premiership matches.
- **Seven West Media** obtained the broadcast rights to the 2020 Tokyo Olympic Games, as well as the rights to stream the Games. Audiences were able to access coverage of events via 45 channels across Seven and 7plus⁵².
- **Nine Entertainment Co** uses its BVOD platform 9Now to simulcast a range of sporting events, including NRL matches and the 2023 Ashes. It has also provided extensive coverage of matches of the Australian Open through 9Now.

⁴⁹ Free TV Australia (2022), [Response to the anti-siphoning scheme consultation paper](#), p15.

⁵⁰ Ibid

⁵¹ Commonwealth Games Federation Partnerships (2022), [Review of the Anti-Siphoning Scheme – Response to Consultation Paper](#), p1.

⁵² Inside 7 (2022), [Seven honoured at Sport Australia Media Awards](#)

Subscription-based streaming services that are not owned by broadcasting service providers have also made some initial forays into the sports rights market in Australia.

- In February 2021, **Amazon Prime** secured a two-year exclusive agreement with Swimming Australia to stream several Australian swimming events not on the anti-siphoning list.⁵³ This included the Australian Swimming Trials in the lead up to the 2020 Tokyo Olympic and Paralympic Games and the qualifying events for the 2022 Birmingham Commonwealth Games.
- In June 2023, **Tabcorp** secured the digital, free-to-air and subscription television rights to the Melbourne Cup.⁵⁴ As Tabcorp is not a licensed broadcaster it would need to subcontract the broadcast rights should it wish to exploit them. However, it could provide coverage of the event exclusively online without restriction under the current anti-siphoning scheme.
- **Optus Sport** holds the exclusive rights to televise a range of European, Asian and international soccer matches in Australia. In 2021, Optus Sport acquired the right to stream all 64 matches of the 2023 FIFA Women's World Cup, hosted by Australia and New Zealand.⁵⁵ Fifteen matches are also being made available on the Seven Network,⁵⁶ and Optus Sport are also making eleven matches available for free on its platform. However, the remainder will be available only to Optus Sport subscribers.

Around the world, there has also been a trend towards exclusive online coverage of live sports, reflecting changes in viewer preferences as well as adjustments in the business strategies of streaming services.

- Forty per cent of global fans now opt to stream live sports events through digital platforms,⁵⁷ and subscription-based streaming services are prominent in a number of jurisdictions.
 - In 2021, around 25 per cent of the annual spend on sports coverage rights in Germany was derived from subscription streaming services and this figure was around 35 per cent in Italy.⁵⁸
 - This number was estimated to rise to 53 per cent for the Italian market in 2022.⁵⁹
- The global spend on sports rights by subscription streaming services is forecast to reach US\$8.5 billion in 2023, a 64 per cent increase from US\$5.2 billion in 2022 and US\$2.9 billion in 2021, with the majority of the spend coming from North America and Western Europe.⁶⁰

The increasing consumer take-up of subscription-based services to access coverage of major sporting events is mirrored in some significant rights deals over recent years.

⁵³ Carp S (4 February 2021), [Amazon dips toe in Australian market with swimming streaming deal](#), Sports Pro Media.

⁵⁴ Meade A (23 June 2023), [Ten Network drops bid to secure Melbourne Cup rights over Tabcorp deal](#), The Guardian.

⁵⁵ Optus Sport (3 August 2021), [Optus Sport secures media rights to the FIFA Women's World Cup 2023](#).

⁵⁶ 7news.com.au (31 October 2022), [Women's World Cup live and free on Seven and 7plus in 2023, Matildas match times and venues revealed](#).

⁵⁷ Nielsen (2022), [Global Sports Marketing Report](#), p5.

⁵⁸ Ampere Analysis (2022), [Trends and Dynamics in the Sports Broadcasting Sector – Abridged Report for Ofcom Analysis](#), p23.

⁵⁹ Ibid.

⁶⁰ Ampere Analysis (2023), [Streaming services will spend over \\$8bn on sports](#), p1.

- In the UK, **Amazon** acquired exclusive rights in the UK to televise 20 English Premier League games per season across three years, starting in 2019. Amazon shared the rights with two major pay TV broadcasters – Sky Sports and BT Sport. While Amazon did not disclose how much it paid for the rights, Sky is reported to have paid around GBP 3.58 billion, while BT Sports reportedly paid GBP 885 million.⁶¹ The deal was renewed in 2021 to span the 2022 to 2025 seasons.⁶²
- In France, **Amazon** has recently extended its rights deal for the French Open tennis tournament, initially in place from 2019, and will provide exclusive coverage of the premier match each evening for the tournament’s initial 11 days for the period 2024 to 2027.⁶³ It will jointly provide coverage of all high profile matches from the semi-finals onwards along with broadcaster **France TV**.
- In Italy, streaming service **DAZN** acquired the right to televise Serie A soccer for three years from 2021.⁶⁴
- Sports rights have also been acquired by streaming services in the United States, where **Apple TV+** has exclusive rights to televise certain Friday night Major League Baseball matches.⁶⁵
- In the United States, the National Football League has agreed an 11-year deal, valued at over US\$100 billion, with all rights partners across digital and broadcast platforms.⁶⁶ **Amazon** is reported to be paying around US\$1 billion per year for the exclusive right to distribute the NFL’s Thursday night matches.⁶⁷ The NFL also provides a direct streaming option via NFL.com, including live video streaming and other streaming services. Through this direct service the NFL is able to manage global distribution of its events not already covered by other rights deals.

It is not guaranteed that the Australian market will follow the lead of these jurisdictions. The Australian media market has a number of unique features not present (or not present to the same degree) in overseas jurisdictions. For example, in many European and North American markets, subscription-based cable services have historically played a more significant role in the provision of television content compared with Australia, where free-to-air television services have tended to dominate.

It may be that the relatively high take-up of subscription-based streaming services in these overseas markets is an extension of this historical market structure, and may not be replicated in Australia. However, there was little information surfaced through the review to suggest that this is the case.

- Australia is one of the strongest adopters of new communications technologies in the world. In 2016, the World Bank’s Digital Adoption Index showed Australia’s digital adoption to be roughly 74 per cent higher than the global average.⁶⁸ This is reflected in research suggesting that Australians have been particularly enthusiastic adopters of smart phones compared with other countries⁶⁹
- Given the take up of communications technology, Australia is clearly an attractive market for subscription-based media. Netflix launched in Australia in 2015. Since this time, a significant number of new, online-only streaming services have come to Australia. These include Amazon Prime Video, Disney+, Apple TV+ and Paramount+. This is in addition to the domestic streaming offerings of Stan (launched in 2015) and Kayo Sports (in 2018) and BINGE (in 2020).

⁶¹ Rao PS and Draper K (7 June 2018), [Amazon Wins Exclusive U.K. Rights to Broadcast Some Premier League Matches](#), The New York Times.

⁶² Sweney M (13 May 2021), [Premier League renews £4.8bn TV deal with extra £100m trickle-down funds](#), The Guardian.

⁶³ Cunningham E (31 March 2023), [France TV and Amazon extend domestic Roland Garros rights until 2027](#), Sportcal.

⁶⁴ Pollina E (27 March 2021), [DAZN grabs broadcast rights for Serie A in Italy](#), Reuters.

⁶⁵ Apple (8 March 2022), [Apple and Major League Baseball to offer “Friday Night Baseball”](#).

⁶⁶ Belson K and Draper K (18 March 2021), [N.F.L. Signs Media Deals Worth Over \\$100 Billion](#), The New York Times.

⁶⁷ Palmer A (20 September 2022), [Amazon memo says ‘Thursday Night Football’ drew record number of Prime signups for a 3-hour period](#), CNBC.

⁶⁸ Departmental analysis of data available through: World Bank (2016) [Digital Adoption Index](#).

⁶⁹ Oviedo-Trespalacios, Nandavar S, Newton JDA, Demant D, Phillips JG (2019), [Problematic Use of Mobile Phones in Australia...Is It Getting Worse?](#).

- While the rate of new entrants to the Australian market is expected to moderate, the overall streaming market is forecast to continue to grow. The global video streaming market was valued at US\$ 89.03 billion in 2022 and is expected to grow at a compound annual growth rate (CAGR) of 21.5 per cent from 2023 to 2030.⁷⁰
- As noted previously, sports bodies and broadcasters have indicated through the initial review process that online rights are critical to their future, with consumers increasingly demanding online sporting coverage and the associated rights deals providing critical income for sports bodies.

These factors suggest that the previous distinctions in market structure between Australian and overseas jurisdictions are less likely to determine market trends and directions than they have been in the past. While there may be a ‘lag’ in Australia compared with overseas jurisdictions, it is reasonable to expect that subscription-based streaming services will play an increasingly prominent role in the coverage of sporting events in Australia.

The anti-siphoning scheme was established to address the risk of nationally important and culturally significant events migrating behind paywalls, and no longer being available for free to Australian audiences. The review has found that in a contemporary media environment, this risk remains, and that the concerns that were evident in an analogue media environment are also present in a digital environment.

The review has also confirmed that there is a ‘regulatory gap’ in relation to online services, and a case for broadening the regulatory framework to mitigate the attendant risks. The form of that regulation, and the scope of the regulated events, are further considered in Chapters 6 and 7 of this paper.

Preliminary finding 3: the composition of the anti-siphoning list needs to be reconsidered

The objective of the anti-siphoning scheme is to support free access to televised coverage of events of national importance and cultural significance. The review has found that this objective remains appropriate in a contemporary media environment.

To date, the anti-siphoning list has tended to include sports that involve athletes without disabilities. To a lesser extent, it has also tended to involve competitions in which men compete. The review has not found any information to suggest that the composition of the anti-siphoning list has been shaped by conscious and deliberate discrimination, or by any intent to exclude sports from the list based on the gender or disability status of the participating athletes.

Rather, the anti-siphoning list reflects the fact that, in Australia, the coverage of sports and sporting events that have been considered to fall into the category of nationally important and culturally significant have historically tended to involve men and have historically tended to involve athletes without a disability.

- These are the sports and competitions that have tended to receive extensive television coverage and have garnered significant broadcast audiences.
- They have typically involved representative teams or athletes selected by the relevant sports bodies at the national level, or major football codes that have a significant domestic following.
- They are also the sports and competitions where significant sums have historically been paid for media rights.

These are not definitive or exhaustive features of what constitutes nationally significant and culturally important events. However, the competitions that have historically been in the ‘first tier’ of Australia’s sporting calendar have tended to embody these features.

⁷⁰ Grand View Research, [Video Streaming Market Size, Share & Growth Report, 2030](#).

This is changing. The sports ecosystem in Australia is continuing to evolve as competitions develop and grow, and as audience attitudes and preferences change. A number of submitters to the initial phases of the review have argued that women's sports and Para-sports warrant an increased level of representation on the list.

Women's sports

The current list is skewed towards men's sports. As noted above, this is not the product of deliberately gendered decision-making regarding the composition of the list. In many cases, national women's competitions were either not in existence at the time that the last major changes to the list were considered (at or before 2017), or those competitions were relatively nascent in terms of their development and popularity.

Since that time, many competitions that involve women athletes have undergone significant growth and development. Participation rates for women and girls are at record levels for many sports, and many competitions have gone from strength the strength with growing club memberships and greater media coverage. In 2022, Fox Sports reported that roughly 70 per cent of Australians watched more women's sport than they did before 2020.⁷¹

The initial process of consultation undertaken as part of the review provided an opportunity for interested parties to share their views on the composition of the anti-siphoning list with respect to women's sports. There was considerable variation in views on this matter, and these perspectives generally fell into one of two categories:

- **Increasing coverage of women's events:** those in favour of including more women's sporting events on the list argued that this would reflect the changing values of Australian society and could benefit women's sport through increased broadcast coverage.
- **Not increasing coverage of women's events:** those opposed to increasing the representation of women's sporting events on the list generally did so on the basis that listing additional events could harm women's sports. They argued that this would impede the ability of sporting bodies to maximise revenue from coverage rights for these events, which would be counterproductive to the growth of women's competitions and participation.

There was also little agreement among sports bodies on this matter. Some argued in favour of including additional women's sports on the list. Most, such as the Australian Professional Leagues, while indicating support for making women's events available on free-to-air television, indicated their opposition to any change that would result in additional events being added to the list.⁷²

COMPPS, the representative body for major sporting organisations, argued that only events that are 'nationally important and culturally significant' should be included on the list, regardless of the gender of the athletes participating in the events.

Any event should only be included on the anti-siphoning list if that event is iconic and nationally important and culturally significant. This test should be applied to all events, regardless of whether that event is a women's or men's event.

As such, whether a women's event should be included on the anti-siphoning list needs to be considered on its own merits including but not limited to whether that event is in and of itself iconic and nationally important and culturally significant. A women's event should not be added to the anti-siphoning list automatically just because there is a men's version of the event which is on the anti-siphoning list. Similarly, a men's event should not be added to the

⁷¹ Fox Sports (7 March 2022), [Huge growth of Aussie love for women's sport revealed in new research](#).

⁷² Australian Professional Leagues (2022), [Review of the anti-siphoning scheme](#), p 4.

anti-siphoning list just because there is a women’s version of the event on the anti-siphoning list.⁷³

Free TV Australia argued for the list to explicitly include women’s sports. Free TV argued for the inclusion of the final series of the peak domestic competitions of major codes, the Matildas’ FIFA Women’s World Cup qualifiers, and all matches in the FIFA Women’s World Cup Finals.

We acknowledge the concerns regarding the gender bias on the list. To address these concerns we would support the inclusion of a greater number of women’s sports, particularly for the final series of the peak competitions listed above. In addition, the inclusion of the Matildas’ World Cup qualifiers and all matches in the World Cup would be appropriate.⁷⁴

Subscription services argued the scheme should be reformed to meet key objectives rather than operating to exclude certain providers from acquiring rights. They argued that platforms should be able to provide content behind a paywall or for free, and Foxtel noted that this had occurred with Suncorp Super Netball.

...Foxtel acquired the rights to the Super Netball domestic competition as well as Diamonds internationals (excluding Netball World Cup matches) starting in 2022. These events are not listed events. Nonetheless, the terms of the arrangement include that Foxtel will transmit two Super Netball games each week as well as all finals and Diamonds international games for free on Kayo Freebies.⁷⁵

Foxtel indicated that the list should only capture events that are clearly nationally important and culturally significant.⁷⁶ In particular, Foxtel argued that events only televised in a single state, including some AFL matches, and home matches of the New Zealand Warriors in the NRL, do not meet the ‘national’ criteria.⁷⁷

Optus noted that sporting content, outside of live broadcasts, can be beneficial for sports.

Streaming services also promote engagement with sports that may otherwise be unfamiliar to viewers. For example, 17% of sports watchers engage with new sports because of sports documentaries on such services (and this figure is higher for younger viewers). This increases a sports’ fanbase and promotes engagement with the sport.⁷⁸

Paralympics

Another area of growth in the Australian sporting landscape is Para-sport. Unlike the Olympic Games and Commonwealth Games, the Paralympics are not included in the current list.

While Australian Para-athletes have successfully competed in the Paralympics and world championships for many decades, their efforts have historically received relatively modest reporting and television coverage, particularly prior to the 2000 Summer Paralympics. In the initial phase of the review, some stakeholders argued that the Paralympics should be added to the list to reflect Australia’s changing cultural priorities that increasingly value these events.⁷⁹

⁷³ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p5.

⁷⁴ Free TV Australia (2022), [Response to the anti-siphoning scheme consultation paper](#), p20.

⁷⁵ Foxtel Group (2022), [Submission in response to the review of the anti-siphoning scheme – Consultation paper](#), p18.

⁷⁶ Ibid, p 7.

⁷⁷ Ibid, p 8.

⁷⁸ Optus (2022), [Submission in response to DITRDCA Consultation Paper: Review of the anti-siphoning scheme](#), p10.

⁷⁹ See for example: Australians for a Murdoch Royal Commission (2022), [Submission to the Review of the Anti-Siphoning Scheme](#), p5.

This year, Paralympics Australia announced that the Nine Entertainment Co. would be the broadcasting partner for the Para-Athletics World Championships in July 2023⁸⁰ and the 2024 Paralympics.⁸¹ Nine intends to provide coverage of the event via its free-to-air broadcasting services, its BVOD services, as well as via subscription streaming service Stan and commercial radio outlets. This rights agreement demonstrates the extent to which the position of Para-sports is changing in the Australian media landscape.

In light of the above, there is a reasonable case to consider the composition of the list with respect to women's events and Para-sports. Chapter 7 of this paper sets out three potential list options that address these issues.

⁸⁰ Paralympics Australia (3 July 2023), [Live Coverage To Feature Stars Of World Para-Athletics](#).

⁸¹ Paralympics Australia (23 May 2023), [Paralympics Australia Secures Landmark Paris 2024 Media Rights Deal](#).

Chapter 6: Potential models for reforming the anti-siphoning scheme

The anti-siphoning scheme currently prevents subscription television broadcasting licensees from acquiring a right to televise an event on the anti-siphoning list until a free-to-air broadcaster has a right to televise the event. In practical terms, this provides free-to-air broadcasters with the first opportunity to acquire the broadcast rights to these events.

However, the scheme places no restrictions on the acquisition of online media rights. As outlined in Chapter 5, reforms are needed to modernise the scheme and increase the likelihood of free access to televised coverage of nationally important and culturally significant events.

This chapter sets out three models to support the achievement of this objective. These are summarised in Table 4 and described in the sections that follow. The primary focus of each model is the extension of the scheme to cover online media rights. However, the mechanisms proposed to achieve this extension differ significantly between the models. The development of these models has been informed by proposals put forward by stakeholders in the preceding consultation process.

Pending the outcomes of this consultation, the Government’s preferred model is the ‘broadcasting safety net’.

Table 4: Summary of models to reform the anti-siphoning scheme

	4. Free-to-view	5. Broadcasting safety net	6. Free-to-air first
Summary	A new scheme (to replace the current scheme) that would impose availability and coverage obligations on all content services (online, broadcast or any other media service) that provide coverage of iconic sporting events to Australian audiences.	An extension of the current scheme to prevent the acquisition of any type of right to provide coverage of an iconic sporting event to Australians by a content service provider until a free-to-air broadcaster has acquired a right to televise the event on a broadcasting service, or the events is automatically delisted. ⁸²	A significant extension of the current scheme to prevent the acquisition of a right to provide coverage of an iconic sporting event to Australians by a content service provider until a free-to-air broadcaster has acquired both a right to televise the event on a broadcasting service <u>and</u> a right to provide coverage of the event on an online content service, or the event is automatically delisted. ⁸³
Restriction on rights acquisition?	No	Yes	Yes
Availability obligation?	Yes	No	No
Coverage obligation?	Yes	No	No
Reduction of the list?	Yes	No	No

Reforms to the scheme cannot be considered in isolation from the questions of the composition of the anti-siphoning list. Where relevant, the reform models reference the proposed list options in Chapter 7.

⁸² 26 weeks prior to its commencement.

⁸³ Ibid

Model 1: Free-to-view

Overview

Under this model, the current anti-siphoning scheme would be replaced by a new scheme. This new scheme would not impose any restrictions on the acquisition of media rights to listed events. However, if coverage of those events is made available to audiences in Australia, the relevant content service (any online, broadcasting or other media service) would need to ensure that coverage is:

- made available to the Australian public for free and on a broadly available technology platform (an ‘availability obligation’); and
- live and in full (a ‘coverage obligation’).

The free-to-view model described in this paper draws on aspects of proposals for reform of the scheme advanced by Foxtel, Optus and Janez Media in their respective submissions to the initial phase of review.

Mechanism

The current scheme – as set out in section 115 of the BSA and paragraph 10(1)(e) of Schedule 2 to the BSA – would be repealed and replaced with a new set of availability and coverage obligations. These obligations would apply to any content service that provides coverage of a listed event to audiences in Australia.

Dealing with rights

The free-to-view model would not place any restriction on acquiring, holding or transferring the media rights to listed events. Rather, this model would impose obligations on content services where coverage is made available to audiences in Australia. This marks a point of difference with Models 2 and 3, which target the sequence of acquisition of rights to listed events in the same manner as the current scheme.

Although rights acquisition would not be regulated under the free-to-view model, this approach would include specific provisions (exceptions) to ensure the availability and coverage obligations operate as intended and don’t create unworkable burdens for affected parties. These are described in more detail in the ‘exceptions’ section below.

The availability and coverage obligations of the free-to-view model would apply to any content service that makes coverage of the event available to audiences in Australia, irrespective of whether those rights are transferred from one coverage service provider to another.

Content service

For the purposes of the scheme, a content service would be defined to include:

- a) a service that delivers content⁸⁴ to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of a carriage service,⁸⁵ or
- b) a service that allows end-users to access content using a carriage service.

A content service provider would be a person who provides a content service to the public (i.e. to at least one person outside the immediate circle of the person who provides the service).⁸⁶

⁸⁴ ‘Content’ would be defined as per clause 2 of Schedule 8 to the [Broadcasting Services Act 1992](#) to include: text; data; speech; music or other sounds; visual images; or any other form or combination of forms.

⁸⁵ A ‘carriage service’ would be defined as per section 7 of the [Telecommunications Act 1997](#) to be a service for carrying communications by means of guided and/or unguided electromagnetic energy.

⁸⁶ This aligns with the construction of providing a content service to the public specified in clause 7 of Schedule 7 to the [Broadcasting Services Act 1992](#).

These definitions of ‘content service’ and ‘content service provider’ are used in each of three reform models canvassed in this paper. They are based on comparable definitions in Schedule 7 to the BSA.⁸⁷ However, they don’t incorporate the range of exceptions contained in Schedule 2 to the BSA as it is intended that the anti-siphoning scheme apply to all providers of content services. A narrower definition of ‘online content service’ wouldn’t be appropriate for this model as it wouldn’t capture services that are not provided using the internet (namely, broadcasting services).

In addition, the free-to-view model would contain provisions relating to the application of the availability and coverage obligations. Under the model, a person – whether they are a content service provider or not – could hold a media right to a listed event without triggering the availability and coverage obligations. This is an important construction.

If a person that held a right to a listed event were to be subject to the obligations simply as a product of holding that right, then this could have a range of unintended consequences. For example, a sports body or a sports rights broker or intermediary may, depending on the circumstances, technically hold a right to a listed event. However, they may not actually be a content service provider or otherwise be capable of providing coverage of the event to Australian audiences. It would be unreasonable to impose the obligations in these circumstances.

As such, the obligations under the free-to-view model would apply only to content services that actually provide coverage of a listed event to audiences in Australia.

To meet the threshold of ‘providing coverage of listed events to audiences in Australia’, the coverage would need to be provided:

- a) in a manner that is accessible to, or delivered to, one or more end-users in Australia;⁸⁸ and
- b) wholly or partly for the purpose of serving Australian audiences;⁸⁹

where that coverage comprises video footage of a part or the whole of the sporting event, irrespective of the technical characteristics of the provision or transmission.

Availability obligation

In order to satisfy the availability obligation, a content service would need to provide coverage of the listed event to the Australian public for free and on a broadly available technology platform.

Free availability

The coverage of listed events would need to be ‘free’. Under this model, coverage would be ‘free’ if viewers of the event are not required to explicitly pay to access coverage. In other words, there are no direct or explicit payments, such as subscription fees or pay-per-view charges, associated with the coverage of the event by the content service.

The free coverage obligation would not restrict the provision of advertising as part of the coverage. Nor would it extend to any ‘implicit costs’ associated with viewing the event, such as internet access charges, the costs of reception equipment or devices, or any requirement for users to have an account with the service.

⁸⁷ The relevant definitions are contained in Clause 2 of Schedule 7 to the [Broadcasting Services Act 1992](#) (‘content service’) and in Clause 5 (‘content service provider’). Consideration was also given to the definitions of ‘online content service’ and ‘online content service provider’ specified in clauses 2 and 3 and of Schedule 8 to the [Broadcasting Services Act 1992](#). However, these definitions are limited to services delivered by means of an internet carriage service that, via section 5 of the [Online Safety Act 2021](#), is limited to listed carriage services that enable end-users to access the internet. It is intended that the definition of content service for the purposes of the anti-siphoning scheme apply to all providers of content service, not just those provided via the internet. Consideration was also given to the definitions of ‘content service’ and ‘content service provider’ contained in sections 15 and 97 of the [Telecommunications Act 1997](#) respectively.

⁸⁸ An end-user in Australia would be an individual who is physically present in Australia or the external Territories, noting that the [Broadcasting Services Act 1992](#) applies to all of the external Territories, as per section 10.

⁸⁹ The concept of ‘wholly or partly serving Australian audiences’ forms an element of an ‘Australian media business’ in section 13A of the [Foreign Acquisitions and Takeover Regulation 2015](#).

A broadly available technology platform

A content service could use any technology platform to provide coverage of the listed event to Australians as the definition of a content service – adopted from Schedule 7 to the BSA – is technology-neutral and linked to the provision of content via a carriage service.⁹⁰ However, the content service provider would need to satisfy a requirement that the technology platform used to provide coverage of the event is ‘broadly available’ to the Australian population.

This element of the obligation would be important to fulfil the objective of the scheme of supporting free access to televised coverage of nationally important and culturally significant sporting events to all Australians. If content services were able to use a technology platform available to only a subset or portion of the Australian population, it would be unlikely to support this objective.

However, this threshold injects a degree of uncertainty into the model. While there is no standard for what might constitute a ‘broadly available technology platform’, free-to-air television services provide a useful benchmark.

In 2017, 98 per cent of Australian households were able to receive terrestrial television services on every working set in the household.⁹¹ Other estimates suggest that free-to-air television broadcasting services reach 99 per cent of the Australian population via commonly available reception equipment (television sets, set-top-boxes and other devices with an inbuilt radio frequency (RF) tuner), or connected to a device with an RF tuner).⁹²

For the free-to-view model, it is proposed that the content service must provide coverage using a platform that is available to a minimum of 99 per cent of the Australian population. As at September 2020, 99.3 per cent of premises could connect to the National Broadband Network (NBN)⁹³ and 99.4 per cent of the population are currently able to access Telstra’s 4G services.⁹⁴ On this simple metric, content services that were delivered online would be likely to satisfy the requirement of being broadly available.

However, availability doesn’t equate to access by consumers, and factors such as take-up, service cost and service capability are relevant to consideration of whether the model is capable of delivering on the objective of supporting free access to televised coverage of nationally important and culturally significant sporting events. This issue is discussed in more detail below.

Coverage obligation

In order to meet the coverage obligation, a content service would need to provide coverage of the listed event live and in full.

Live coverage

Events would be required to be shown ‘live’. The term ‘live’ would refer to coverage of the event at the time that the event occurs. This definition would require coverage of events to occur as play takes place, recognising the primacy of sport being live as opposed to other genres of entertainment content.

⁹⁰ As per section 7 of the [Telecommunications Act 1997](#), a carriage service is a service for carrying communications by means of guided and/or unguided electromagnetic energy.

⁹¹ Regional TAM, OzTAM, & Nielsen (2017), [Australian Video Viewing Report Quarter 4, 2017](#), p 11.

⁹² Free TV Australia, [Technology & Innovation](#).

⁹³ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *International comparison of fixed broadband performance, November 2020* (2020), [International comparison of fixed broadband performance – coverage and minimum speeds](#).

⁹⁴ Telstra, [Our Network](#).

However, exceptions would be permitted in particular circumstances, and this would include the circumstance where coverage was delayed due to:

- the technical parameters of the particular technology platform (for example, where coverage via a particular technology or combination of technologies unavoidably involves a ‘lag’ between play occurring and coverage being available to the user of the content service); and
- unforeseen technical or service outages, particularly those that are outside the control of the content service provider (for example, a network outage by a carriage service that impacts on the ability of a content service provider to provide live coverage of the event).

Even with these exceptions, this live coverage obligation is unlikely to be practicable for competitions that involve significant amounts of simultaneous play. This could include:

- competitions involving single sports, but with events or play taking place concurrently (such as tennis and golf tournaments; and
- competitions that involve multiple sports and multiple events taking place concurrently (such as the Summer and Winter Olympic Games and the Commonwealth Games).

A reduction in the number of events on the list would be required to ensure the live coverage requirement is workable for these and other competitions, and this option for the list is detailed in Chapter 7.

In-full coverage

Events will be required to be shown ‘in full’. This obligation would be satisfied if the whole of an event is shown, apart from an insubstantial proportion of the event. For example, interruptions by way of commercial breaks, news breaks, program promotions, announcements or brief crosses to other live events would amount to an insubstantial proportion of the event.

This proposed construction is drawn from existing statutory definitions of televising the whole of an event.⁹⁵ As with live coverage, a failure to provide in full coverage due to unforeseen technical or service outages, unplanned interruptions to play, or as a result of the nature of the contractual arrangements for rights (detailed in the following section), would not result in a breach of this obligation.

Exceptions

The free-to-view model would provide for exceptions to the availability and coverage obligations in two circumstances: ancillary coverage; and partial rights.

Ancillary coverage

The new scheme would provide an exception from the availability and coverage obligations for ancillary coverage. Ancillary coverage would be defined to include coverage that is:

- a) not more than an insubstantial portion of the event (such as highlights provided in news bulletins); or
- b) coverage that is secondary to the primary coverage of the event (such as a replay of the event).

This exception will be important to avoid imposing the live and in full obligations on entities that are legitimately not providing, and are not authorised to provide, this type of coverage.

Partial rights

The live and in full coverage obligation would be contingent on the scope of the rights made available by the rights holder to the content service provider and, in turn, the rights acquired by the content service provider.

⁹⁵ Subsection 146E(2) of the [Broadcasting Services Act 1992](#) provides for this construction of an ‘insubstantial proportion’ of an event in the context of the anti-hoarding rules contained in Part 10A of the Act.

If a sports body or other rights holder only made available the rights to provide coverage of a portion of a listed event, or to provide only delayed coverage of an event, then the live and in full requirements would be deemed to have been met, provided that the content service provider fully utilised the rights that they held.

Similarly, if a content service provider acquired the delayed coverage rights or a right to provide coverage of only a portion of the listed event, then the relevant obligations would be deemed to have been met, provided that the content service provider fully utilised the rights held.

This would prevent the situation of a party being in breach of the live and in full coverage obligation in the circumstances where they don't hold rights that are sufficient to enable them to fulfil that obligation. This approach is modelled on the obligations stipulated under the existing anti-hoarding rules in the BSA.⁹⁶

Comparison with the current scheme

This model would represent a departure from the current anti-siphoning scheme that regulates the acquisition of the rights to televise listed events. It would focus on the circumstances associated with the coverage of listed events – whether coverage is available free on a broadly available technology platform, and whether it is live and in full.

This model would not restrict any party from acquiring, holding or transferring rights, and would only consider the nature of the rights held with respect to the availability and coverage obligations (effectively requiring a content service that provides coverage of a listed event to fully exploit the rights they hold). Under this approach, the existing scheme would be repealed, and no elements would be retained in the new framework.

Relationship to the list

Elements of the free-to-view model will only work in a practical sense if they are coupled with a significant reduction in the number and range of events on the list.

The current list⁹⁷ was made in March 2023 as an interim arrangement while broader reforms were developed and progressed as part of this review. It contains events held as part of competitions across 11 sports and has a duration of 3 years (expiring on 25 March 2026). It contains events held as part of competitions across 11 sports and has a duration of 3 years (expiring on 25 March 2026).

As noted above, the coverage obligation (live and in full) is unlikely to be technically and financially feasible for competitions that involve multiple events that occur simultaneously: the Australian Open tennis tournament, the Summer and Winter Olympic Games, and the Commonwealth Games. These competitions can involve dozens of events occurring simultaneously, and a content service provider (or even a combination of providers) is unlikely to be able to provide live and in full coverage of every single event.

It may be possible to develop tailored coverage obligations for these types of events. Such obligations could, for example, require content services to provide coverage of a certain number of hours per day of the respective competitions. However, this would mean that live and in full coverage would only be in effect for a subset of events played as part of these competitions. For example, an 'hours-based' requirement for the Olympic Games would mean that only a small subset of events taking place as part of each Games would need to be shown live during the specified hours or during the relevant time period.

In addition, the availability obligation (particularly the requirement for coverage to be free) would severely impede the business model of subscription-based content services: subscription television broadcasting licensees; and subscription-based online content services. These entities would be unable to operate subscription-based models for coverage of a range of events that are currently included on the list, such as the weekly matches of the National Rugby League and Australian Rules Football premierships.

⁹⁶ Subsections 146F(3) and 146F(4) of the [Broadcasting Services Act 1992](#) provide that if a licensee has a right to a substantial proportion of an event, the relevant obligations have effect as if the proportion were a designated event in its own right.

⁹⁷ [Broadcasting Services \(Events\) Notice 2023](#).

This impact could be moderated if the model was to include an exception to the application of the availability and coverage obligations on a given content service provider in the circumstances where the obligations were met by another content service provider. For example, an exception for a subscription television broadcasting licensee from the obligations where another content service provider offered free, live and in-full coverage of the event.

However, this would add complexity and uncertainty to the scheme by rendering the liability for certain actions under the scheme by one party contingent upon the actions of another. It also wouldn't work for the rights to events that are held exclusively by the subscription-based service provider (i.e. where there is no 'free' coverage of the particular event).

For these reasons, the free-to-view model is only considered to be feasible if coupled with a reduction in the list. A proposed list of this nature – a streamlined list – is outlined in Chapter 7.

Comparison with the other models in this paper

The free-to-view model shares few similarities with the other models proposed in this paper: the broadcasting safety net model (Model 2); and the free-to-air first model (Model 3).

- The free-to-view model would operate as a set of obligations regarding the availability and coverage of anti-siphoning events, along with provisions to ensure the application of these obligations to content services that provide coverage of listed events to audiences in Australia. In contrast, Models 2 and 3 focus on rights acquisition and would not contain any availability or coverage obligations or associated application provisions.
- The free-to-view model is expected to be relatively more complicated to implement and administer compared with Models 2 and 3. In particular, the requirement for content services to provide coverage using 'broadly available technology platforms' adds a degree of uncertainty, as do the exemptions to prevent unintended impacts in relation to the proposed availability and coverage obligations.
- The free-to-view model would also require a significant reduction in the list to enable these obligations to be practicable, which is not the case with Models 2 and 3.
- For consumers, the free-to-view model would provide surety of free, live and in-full coverage, although for a smaller set of events (given the necessity for a shorter list). Models 2 and 3 wouldn't provide this explicit requirement, although there would be very strong incentives for free-to-air broadcasters to provide free, live and in full coverage. Models 2 and 3 would also have the potential to be applied to a wider range of competitions and events, as there would be no necessity for a shorter list (as is the case with the free-to-view model).

The key points of commonality with Models 2 and 3 include the definitions of 'content service', 'content service provider' and 'Australian end-user.'

Preliminary assessment

The free-to-view model would be a technology-neutral approach to regulating the coverage of nationally important and culturally significant sporting events. It would seek to ensure that all Australians are able to access free, live and in full coverage of these events where coverage is provided in Australia.

By targeting the coverage outcome, rather than the preceding acquisition of rights, this model would avoid a number of the acknowledged concerns with the scheme, including that it imposes regulatory burdens, constrains the ability of sports bodies to freely market their content, and impairs the capacity of subscription television broadcasting licensees to bid for such rights.

Sports bodies would have greater freedom to negotiate with content services regarding their rights. These bodies noted through submissions made through the initial phase of the review that the ability to maximise revenue from these rights is critical to their ability to invest in their respective sports at the grassroots level,

and underpins their operations as not-for-profit entities.⁹⁸ They also argued that expanding online coverage allows them to engage a younger and wider audience.⁹⁹

Subscription television broadcasting licensees would not be restricted in terms of their acquisition of rights and would be able to acquire rights to listed events at any time. This would align with Foxtel's view that the scheme should be reformed to ensure that listed events are made available to all potential acquirers of rights.¹⁰⁰ In its submission to the initial phase of the review, Foxtel argued:

It is no longer appropriate to maintain a legislative regime which aims to preserve access to nationally important and culturally significant events via a single medium which the majority of Australians are using increasingly less frequently as their primary means for media consumption... 'Free access' should no longer be equated with 'free-to-air television.'¹⁰¹

The free-to-view model would extend regulatory obligations regarding availability and coverage to content service providers that are not currently subject to the scheme, such as streaming services. In this regard, it would represent a broadening of the regulatory base with respect to the coverage of nationally important and culturally significant sporting events.

While the free-to-view model is technology-neutral, its ability to deliver on the overall objective of the scheme – free access to televised coverage of nationally important and culturally significant events – is technology-dependent, with implicit costs. As noted above, availability doesn't equal access, and the practical realities of providing coverage of listed events via a given technology or technologies are relevant to the fulfilment of the overall objective of the scheme. These factors are considered below in terms of access, cost and service capability.

Access

The free-to-view model relies on consumers having adequate access to the internet to ensure that listed events can be viewed for free, by all Australians. In this context, internet access has two key aspects:

- Availability: refers to whether or not relevant networks exist and are in place across the country to connect consumers to the internet.
- Take-up: refers to whether consumers actually connect to the available networks.

Availability

In a contemporary environment, the internet is widely available to Australians. As at September 2020, 99.3 per cent of premises could connect to the NBN.¹⁰² Mobile internet coverage is also high, with 99.4 per cent of the population able to access Telstra's 4G services¹⁰³ and 85 per cent able to access its 5G services.¹⁰⁴

However, with respect to mobile coverage, there are discrepancies in availability depending on which network a consumer uses.

- The Optus 4G network reaches some 97.3 per cent of the Australian population.¹⁰⁵

⁹⁸ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p 2-3.

⁹⁹ Ibid.

¹⁰⁰ Foxtel Group (2022), [Submission in response to the review of the anti-siphoning scheme – Consultation Paper](#), p 2.

¹⁰¹ Ibid.

¹⁰² Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *International comparison of fixed broadband performance, November 2020*, (2020), [International comparison of fixed broadband performance – coverage and minimum speeds](#).

¹⁰³ Telstra, [Our Network](#)

¹⁰⁴ Telstra, [Australia's Largest 5G Network](#).

¹⁰⁵ Optus, [Prepaid Mobile](#).

- TPG’s (Vodafone’s) business model focuses on metropolitan areas, with its 5G network covering more than 96 per cent of the population in Australia’s ten largest cities.¹⁰⁶

Mobile-only users of the internet are a minor but significant portion of the Australian population.

- In the 12 months to June 2020, 16 per cent of Australian adults were mobile-only users of the internet at home (mobile broadband or mobile phone), including 21 per cent of those aged 18 to 24.¹⁰⁷
- A separate study found that certain groups, including First Nations people and those on the lowest incomes, tend to be overrepresented in this cohort of mobile-only users of the internet.¹⁰⁸

This is relevant to the question of whether the free-to-view model can deliver on the objective of the scheme, given the variance in population coverage across mobile networks.

Take-up

Take-up of broadband services is also high at an aggregate level.

- 93 per cent of Australians had a home internet connection at June 2022.¹⁰⁹
- As at 30 December 2022, analysis of 13 leading retailers revealed there were 7.9 million retail broadband internet services in operation (7.5 million of which were NBN).
- As at 31 December 2022, there were approximately 28.7 million mobile services¹¹⁰ and some 4.4 million mobile broadband services.¹¹¹

However, many Australians have not taken up a home internet connection. In 2022, some 6.82 per cent of Australians had no internet connection at home,¹¹² and lower take-up is more prevalent among particular groups:

- 8.51 per cent of regional Australians had no internet connection at home, compared with 5.93 per cent of those in metropolitan areas.¹¹³
- 11.71 per cent of Australians over the age of 75 had no internet connection at home.¹¹⁴

Other surveys have found that, although the divide between metropolitan and regional areas has narrowed in recent years, it remains marked, and that those aged over 75 continue to be left behind.¹¹⁵

While the availability of internet services is close to universal, there are gaps and discrepancies in terms of take-up for certain groups within Australian society. It is unclear how a free-to-view model would accommodate these Australians with respect to the objective of the scheme of supporting free access to televised coverage of nationally important and culturally significant events.

Cost

The free-to-view model would require coverage of listed events to end-users in Australia to be free (with no direct or explicit payments, such as subscription fees or pay-per-view charges). However, accessing services online involves additional, indirect costs associated with an internet connection. This requires a fixed

¹⁰⁶ Vodafone Australia (15 February 2023), [Vodafone sets a new 5G high-speed score at the SCG | Vodafone Australia](#).

¹⁰⁷ ACMA (2020), [Mobile-only Australia: living without a fixed line at home | ACMA](#).

¹⁰⁸ Australian Digital Inclusion Index, [Key findings and next steps - Australian Digital Inclusion Index](#).

¹⁰⁹ ACMA (December 2022), [Communications and media in Australia: How we use the internet](#), p 3.

¹¹⁰ ACCC (June 2023), [Internet activity report – For the period ending 31 December 2022](#), p 8. It is unclear how many of these services included broadband.

¹¹¹ Ibid, p 8.

¹¹² ACMA (December 2022), [Communications and media in Australia: How we use the internet – data file](#).

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Australian Digital Inclusion Index, [Key findings and next steps - Australian Digital Inclusion Index](#).

broadband service, mobile broadband service, mobile service, satellite or ADSL. Each will have costs, typically charged monthly.

The take-up of internet services (above) demonstrates that the majority of Australians can afford to meet these access costs. However, this doesn't include all Australians.

- In 2022, 4 per cent of Australians needed to pay more than 10 per cent of their household income to gain quality, reliable internet connectivity, with this figure at 27 per cent of those in the lowest income quintile.¹¹⁶
- This research also found that, in 2022, 32 per cent of those in the lowest income quintile and 27 per cent of those in the second lowest income quintile expressed some level of concern over the cost of internet access.¹¹⁷

This cost hurdle constitutes a risk for the adoption of the free-to-view model, as Australians on lower incomes may get left behind if coverage of iconic sporting events were to migrate exclusively to online platforms.

Cost is also a factor relevant to the level of take up of streaming and other online services.

- In June 2022, research found that 19 per cent of Australians did not watch any online services in the previous 7 days, up from just over 12 per cent in the year prior.¹¹⁸
- Cost was the most common factor for consumers when determining whether to cancel an SVOD service.¹¹⁹

These cost challenges do not arise in the same way with free-to-air television services. With the exception of electricity — which online services also require to run — free-to-air television requires no ongoing outlay. While there is a need to purchase equipment, this is generally a one-off cost for a television or set-top box.

Service capabilities

The value of sport lies in the moment that competition occurs, and the events included on the anti-siphoning list are typically viewed by millions of Australians simultaneously. Broadcast technology is well suited to televising events on this scale on a one-to-many basis, as there are no viewer capacity limits.

For a free-to-view model to successfully replicate this level of access, the technology that underpins the model would need to have similar capabilities. It would need to be able to accommodate millions of Australians seeking to stream coverage at the same time, and to provide a robust service that maintains the characteristics of the service, including picture quality.

In this regard, Kayo Sports recommends an internet connection of at least 7.5 Mbps to stream its service in full High Definition (HD 1080p), noting that an internet connect of below 4 Mbps would only allow for Standard Definition streaming.¹²⁰ Similarly, Paramount+ recommends 4 Mbps for standard definition streaming, while 7plus and Stan recommend 3Mbps3 Mbps.¹²¹ The Australian Competition and Consumer Commission (ACCC) reports that a high definition Netflix stream requires around 2.2 Mbps.¹²² While it is possible to watch these services with lower speeds, this would be unlikely to provide an equivalent quality to the High Definition sports coverage provided through free-to-air broadcasts.

¹¹⁶ Australian Digital Inclusion Index: [Affordability](#).

¹¹⁷ Ibid.

¹¹⁸ ACMA (July 2023) [Communications and media in Australia: Trends and developments in viewing and listening](#), 2021–22, p 10.

¹¹⁹ Deloitte (2022), [Media Consumer Survey 2022](#), p 9.

¹²⁰ Kayo Sports, [What internet speed do I need to use Kayo?](#)

¹²¹ See: 7Plus, [Frequently Asked Questions](#); Stan, [Minimum Internet Requirements](#); and Paramount+, [How can I fix streaming issues on my device? \(paramountplus.com\)](#).

¹²² ACCC, (August 2022), [Measuring Broadband Australia: Report 18, Appendix](#), p 2.

There have been instances in the past where online services have not been able to accommodate audience demand. Australian consumers experienced poor quality streams on Optus Sport of matches played as part of the 2018 FIFA World Cup. Optus eventually allowed SBS to simulcast the remaining matches of the tournament on its broadcast channels to ensure access for Australian audiences.¹²³ These type of congestion issues could arise again if coverage of significant events were to be provided solely via an online platform, although this risk will moderate as the capacity of networks improves.

Government position

The free-to-view model is likely to be a suitable and appropriate model for the anti-siphoning scheme in the longer-term. It would represent a technology-neutral approach to the regulation of the coverage of nationally important and culturally significant sports events as it would directly target the consumer outcome – the availability and coverage of these sports – rather than the preceding acquisition of rights.

However, technology and market conditions in Australia are not mature enough to enable the adoption of this model in the near- to medium-term. While over 99 per cent of Australians can theoretically connect to high quality internet services, take-up of these services is inconsistent across the country. Without adequate internet, audiences would not be able to access coverage of sport via online services, even without an explicit charge for those services.

The Government’s preliminary view is that free-to-view model could be considered once online services are able to support free access to televised coverage of nationally important and culturally significant sporting events for all Australians, regardless of their financial means, location or other factors.

Model 2: Broadcasting safety net [Government preferred]

Overview

Under this model, the current anti-siphoning scheme would be expanded to prevent content services (including, but not limited to, streaming services) from acquiring a right to provide coverage of a listed event to audiences in Australia until a free-to-air broadcaster has acquired a right to televise the event on a broadcasting service. This effectively extends the scope of the restriction on the acquisition of rights under the current scheme, which only applies to subscription television broadcasting licensees.

This model would affirm broadcasting services as the ‘safety net’ for free access to televised coverage of iconic sporting events for all Australians. To this end, it provides free-to-air broadcasters with preferential treatment in terms of acquiring the relevant rights. This addresses the risk of these events migrating to platforms that involve direct or indirect costs for Australian audiences.

However, this model doesn’t provide free-to-air broadcasters with preferential treatment in terms of their content services (i.e. BVOD or other online services). To do so would go beyond the aim of this particular model (which is founded on the accessibility of the stable and ubiquitous terrestrial free-to-air television broadcasting platform) and would provide free-to-air broadcasters with an additional commercial advantage over other providers of content services.

As per the current scheme, once a right to televise a listed event has been acquired by a free-to-air broadcaster, or the event is automatically delisted 26 weeks prior to its commencement, any party would be able to acquire rights to the event without restriction.

¹²³ Duke J (28 June 2018), [World Cup: Optus surrenders final games to SBS after streaming fail](#), The Sydney Morning Herald.

Mechanism

The current scheme – as set out in section 115 of the BSA – would be amended to establish the broadcasting safety net model. Paragraph 10(1)(e) of Schedule 2 to the BSA (which imposes the licence condition on subscription television broadcasting licensees) would be repealed and replaced with a broader set of rules governing the acquisition of sports rights.

This expanded framework would prevent content service providers (all online, broadcast and other media services) from acquiring a right to provide coverage of a listed event to end-users in Australia until a free-to-air broadcaster – a commercial television broadcasting licensee or a national broadcaster – has acquired a right to televise the event on a broadcasting service.

Dealing with rights

The sequence of acquisition of media rights to listed events would be regulated under the broadcasting safety net model, as it is under the current scheme. The new ‘acquisition rule’ under the broadcasting safety net model would be based around two key elements: a broad ‘acquisition restriction’; and a specific ‘carve out’ for free-to-air broadcasting services.

Acquisition restriction

The acquisition restriction under the proposed rule would prohibit a content service provider from acquiring a right to provide coverage¹²⁴ of a part or the whole of an event on the anti-siphoning list to end-users in Australia¹²⁵ unless:

- a) a national broadcaster has the right to televise a part or the whole of the event on any of its broadcasting services; or
- b) the television broadcasting services of commercial television broadcasting licensees (other than licensees who hold licences allocated under section 38C or subsection 40(1) of the BSA) who have the right to televise a part or the whole of the event cover a total of more than 50 per cent of the Australian population.

This would establish a restriction on rights acquisition, subject to the following carve out for free-to-air broadcasting services.

Carve out

The acquisition restriction (above) would not apply to:

- a) the acquisition by a national broadcaster of the right to televise a part or the whole of the event on any of its broadcasting services; or
- b) the acquisition by a commercial television broadcasting licensee of the right to televise a part or the whole of the event on any of its commercial television broadcasting services.

This carve out would enable national and commercial broadcasters to acquire a right to televise a listed event on a broadcasting service without restriction under the scheme, as they would otherwise be prevented from doing so by the operation of the acquisition restriction and the broad definition of a content service.

However, it is important to note that this carve out would only apply to the broadcasting services provided by national and commercial broadcasters, and not to any other content services that they may provide to Australian audiences. This is an important distinction.

As noted in the outline section above, the aim of this model is to establish broadcasting services as the ‘safety net’ for free access to televised coverage of nationally important and culturally significant sporting

¹²⁴ Providing covering under this model would relate to providing coverage in the form of video footage.

¹²⁵ An end-user in Australia would be an individual who is physically present in Australia or the external Territories.

events for all Australians. To this end, it provides free-to-air broadcasters with preferential treatment in terms of acquiring the relevant rights.

However, this model does not provide free-to-air broadcasters with preferential treatment in terms of their content services (i.e. BVOD or other online services). To do so would go beyond the aim of this particular model (which is founded on the accessibility of the stable and ubiquitous terrestrial free-to-air television broadcasting platform) and would provide free-to-air broadcasters with an additional commercial advantage over other providers of content services.

This marks a point of difference with Model 3, which provides a broader carve out for all broadcasting services and content services provided by free-to-air broadcasters.

Content service

For the purposes of the anti-siphoning scheme, a content service would be defined as:

- a) a service that delivers content¹²⁶ to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of a carriage service,¹²⁷ or
- b) a service that allows end-users to access content using a carriage service.

A content service provider would be a person who provides a content service to the public (i.e. to at least one person outside the immediate circle of the person who provides the service).¹²⁸

These definitions are used in each of the reform models canvassed in this paper and are based on comparable definitions in Schedule 7 to the BSA.¹²⁹

A narrower definition of ‘online content service’ could be used in this model, but this would, in turn, require a separate rule to deal with broadcasting services (which don’t use the internet). The proposed use of the broader content service definition would allow the revised scheme to operate around one acquisition rule, rather than two.

Availability obligations

Availability obligations would not form part of the broadcasting safety net model. There was no evidence presented through the initial phase of the review to suggest that free-to-air broadcasters were ‘hoarding’ the rights to listed events (acquiring the rights and not providing coverage, or not otherwise making those rights available to other parties). This reflects the strong commercial incentive for broadcasters to fully exploit the rights which they have acquired (typically at significant cost). For these reasons, availability and coverage obligations were considered unnecessary for this model.

Coverage obligations

There are no coverage obligations envisaged for the broadcasting safety net model, based on the rationale noted above in relation to availability.

¹²⁶ ‘Content’ would be defined as per Clause 2 of Schedule 8 to the [Broadcasting Services Act 1992](#) to include: text; data; speech; music or other sounds; visual images; or any other form or combination of forms.

¹²⁷ A ‘carriage service’ would be defined as per section 7 of the [Telecommunications Act 1997](#) to be a service for carrying communications by means of guided and/or unguided electromagnetic energy.

¹²⁸ This aligns with the construction of providing a content service to the public specified in Clause 7 of Schedule 7 to the [Broadcasting Services Act 1992](#).

¹²⁹ The relevant definitions are contained in Clause 2 of Schedule 7 to the [Broadcasting Services Act 1992](#) (‘content service’) and in Clause 5 (‘content service provider’). Consideration was also given to the definitions of ‘online content service’ and ‘online content service provider’ specified in clauses 2 and 3 and of Schedule 8 to the [Broadcasting Services Act 1992](#). However, these definitions are limited to services delivered by means of an [internet](#) carriage service that, via section 5 of the [Online Safety Act 2021](#), is limited to listed carriage services that enable end-users to access the internet. It is intended that the definition of content service for the purposes of the anti-siphoning scheme apply to [all providers of content service](#), not just those provided via the internet. Consideration was also given to the definitions of ‘content service’ and ‘content service provider’ contained in sections 15 and 97 of the [Telecommunications Act 1997](#).

Exceptions

There are no explicit exceptions proposed in relation to the broadcasting safety net model.

Comparison with the current scheme

The broadcasting safety net model adopts the basic architecture of the current scheme, but modifies and extends it to capture online and other services.

It continues to prefer and prioritise free-to-air broadcasting services as the key means to promote the achievement of the scheme's objective (free access to televised coverage of iconic sporting events), and provides all other parties with the opportunity to acquire rights once a right to televise a listed event is acquired by a free-to-air broadcaster. The key difference is that the restriction on acquisition is extended to all media rights, and not just the acquisition of a right to broadcast by a subscription television broadcasting licensee.

Through the acquisition rule, the broadcasting safety net model effectively provides for a more specific definition of a 'right to televise' an event on a broadcasting service (compared with the current scheme), and includes a definition of a 'right to provide coverage' of an event on a content service to end-users in Australia (which is not part of the current scheme).

Relationship to the list

This model generally does not necessitate any particular composition of an anti-siphoning list. As noted above, the current list¹³⁰ contains events held as part of competitions across 11 sports and has a duration of 3 years (expiring on 25 March 2026). These events could be included as they stand as part of a new list made under the broadcasting safety net model. Equally, the events could be expanded or reduced, as the model is not dependent on the list being of a certain form or size. This marks a point of difference with Model 1, which is dependent on a list being made under the new scheme that is significantly shorter than the current list.

Comparison with the other models in this paper

The broadcasting safety net model is broadly comparable with the free-to-air first model (Model 3), but shares few similarities with the free-to-view model (Model 1).

- The broadcasting safety net model would regulate the sequence of acquisition of media rights to iconic sporting events in the same way as Model 3. In contrast, Model 1 would not seek to regulate rights, although it would provide for exceptions to the availability and coverage obligations to accommodate the type of rights held by relevant parties. Unlike Model 1, the broadcast safety net model would not contain availability and coverage obligations.
- The broadcasting safety net model is expected to be relatively less complicated to implement and administer as it constitutes an extension of the current arrangements, rather than the implementation of a new regulatory framework (as is the case with Model 1). There are also fewer new and novel regulatory concepts with this model compared with Model 1.
- The broadcasting safety net model could – within reason – be implemented with any form of the anti-siphoning list, unlike Model 1 which would necessitate a reduction in the list compared with the current instrument.
- For consumers, the broadcasting safety net model would provide a high likelihood of live and free coverage of listed events, given the preferential treatment afforded to broadcasters through the scheme and the strong commercial incentives to fully utilise any rights acquired to listed events. While this model would not provide the same level of surety of a free, live and in full outcome as Model 1, it would

¹³⁰ [Broadcasting Services \(Events\) Notice 2023](#).

potentially apply to a broader range of events (given the necessity for a relatively short list with Model 1). Compared with Model 3, the broadcasting safety net would not provide the same protections for free online coverage of events, although the practical differences for consumers may be minimal if coverage is provided by platforms with no explicit consumer costs.

The key points of commonality with Models 1 and 3 include the definitions of ‘content service’, ‘content service provider’ and ‘Australian end-user’.

Preliminary assessment

The broadcasting safety net model would seek to promote the achievement of the scheme’s objective (free access to televised coverage of nationally important and culturally significant sporting events) via the mechanism of free-to-air television. It would enhance the likelihood of these events being freely available to all Australians, and mitigate the risk of audiences being subject to additional costs to access this content. These potential costs would be both direct (subscription or other fees or charges imposed on end-users to access coverage), or implicit (associated with the cost of accessing content online).

This model wouldn’t prevent other media providers from offering live and free access to events, pending the acquisition restriction being satisfied or the event being automatically delisted. Any content service provider could seek to acquire a right to provide coverage of a listed event in this circumstance, and this coverage could be live and free (potentially advertising-supported) should the service provider consider this to be commercially viable. However, the intent of this model would be to use broadcasting services to establish a ‘safety net’ for free access to televised coverage of nationally important and culturally significant sporting events for all Australians, regardless of their financial means or location.

However, this model would exacerbate a number of the acknowledged concerns and risks with the current scheme.

- It would broaden the effective restriction on sports bodies in terms of their ability to negotiate with content services regarding their rights. These bodies have noted that their ability to maximise revenue from these rights is critical for their ability to invest in their respective sports at the grassroots level, and underpins their operations as not-for-profit entities.¹³¹ This model would effectively require sports bodies to negotiate with free-to-air broadcasters for broadcast rights before opening negotiations with other parties. This is more restrictive than the current scheme, although less onerous than Model 3.
- It would extend the commercial advantages afforded to free-to-air broadcasters under the current scheme and is likely to advance their negotiating position with regard to sports rights compared with their competitors. This is a product of the requirement for a free-to-air broadcaster to have acquired a right to televise the event on a broadcasting service before another party can acquire a right to the event.
- It would also draw into the scheme content service providers that are not currently subject to any restrictions in terms of rights acquisition. Services such as Amazon Prime, Disney+ and YouTube (among others) would not be able to acquire a right to provide coverage of events on their services until a free-to-air broadcaster had acquired a right to televise the event. These entities would be subject to the operation of the scheme should they seek to acquire rights to listed events in the future.

While these adverse impacts are likely to be material, they need to be balanced against the costs and risks associated with the status quo where online rights to iconic events are not regulated in any way.

The review has found that there is a latent although material risk of listed events migrating behind online paywalls in the coming years. International trends have seen the rights to single competitions or leagues being taken up by multiple providers, which can require consumers to pay for a number of services to gain access to coverage of the competition or league in question. This would be detrimental for audiences and have

¹³¹ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p 2-3.

regressive impacts across Australian society, impacting those without the means to pay for access to sports coverage the iconic events.

Even if this outcome doesn't eventuate, and all online coverage of listed events is provided free (without subscription charges or other explicit costs for end-users), online access is not free. As noted above, availability doesn't equate to access, and there are implicit costs associated with accessing online services for all consumers in the form of charges for broadband and mobile services. These costs are unlikely to alter significantly over the near- to medium-term, and their existence would undermine the ability of all Australians to have free access to televised coverage of nationally important and culturally significant sporting events (which has been, and remains, the objective of the scheme).

Government position

The broadcasting safety net would expand the current anti-siphoning scheme to support free access to televised coverage of nationally important and culturally significant sporting events in a contemporary media environment. It would bring online services into the scheme and mitigate the risks of the coverage of listed events migrating behind a paywall, or consumers otherwise facing additional costs to access this content.

The model would adversely impact sports bodies and a broader set of media entities (including online streaming services). However, it provides relatively unimpeded access to rights by content service providers once a right to televise an event has been acquired by a broadcaster, or it has been automatically delisted. It would also provide free-to-air broadcasters with no advantage in relation to the acquisition of those non-broadcasting rights (they would need to compete with any other content service provider in negotiation over such rights). On balance, the Government considers the broadcasting safety net model to be the preferred model for reform of the scheme at this time.

Model 3: Free-to-air first

Overview

Under this model, the current anti-siphoning scheme would be significantly expanded to prevent any content service provider (including, but not limited to, streaming services) from acquiring a right to provide coverage of a listed event to audiences in Australia until a free-to-air broadcaster has both a right to televise the event on a broadcasting service, and the right to provide coverage of the event to Australians on a content service.

This model substantially extends the scope of the current scheme by requiring a free-to-air broadcaster to acquire all 'key' rights to listed events (i.e. a broadcast right and an online right) before any other party can acquire a right. This addresses the risk of these events migrating to platforms that involve direct costs for Australian audiences by supporting free access to televised coverage of nationally important and culturally significant sporting events via services owned by free-to-air broadcasters.

Once a free-to-air broadcaster had acquired both of the requisite types of rights, or the event is automatically delisted 26 weeks prior to its commencement, any other party would be able to acquire a right to the event without restriction.

The free-to-air first model draws on aspects of the proposals for reform of the scheme advanced by free-to-air broadcasters in the initial phase of review.

Mechanism

The current scheme – as set out in section 115 of the BSA – would be amended to establish the free-to-air first model. Paragraph 10(1)(e) of Schedule 2 to the BSA (which imposes the licence condition on subscription television broadcasting licensees) would be repealed and replaced with a broad set of rules governing the acquisition of sports rights.

This expanded framework would prevent content service providers (all online, broadcast and other media services) from acquiring a right to provide coverage of a listed event to end-users in Australia until a free-to-air broadcaster – a commercial television broadcasting licensee or a national broadcaster – had acquired both:

- a right to televise the event on a broadcasting service; and
- a right to provide coverage of the event to end-users in Australia on a content service.

Dealing with rights

The scheme would regulate the sequence of acquisition of media rights under the free-to-air first model, as per the current scheme. This is the same approach as the broadcasting safety net model (Model 2), but marks a point of difference with the free-to-view model (Model 1) which does not seek to regulate the sequence of rights acquisition in any way.

The new ‘acquisition rule’ under the free-to-air first model would be based around two key elements: a broad ‘acquisition restriction’; and a specific ‘carve out’ for free-to-air broadcasting services.

Acquisition restriction

The acquisition restriction would prohibit a content service provider from acquiring a right to provide coverage¹³² of a part or the whole of an event on the anti-siphoning list to end-users in Australia¹³³ unless:

- a) a national broadcaster has the right to televise a part or the whole of the event on any of its broadcasting services; or
- b) the television broadcasting services of commercial television broadcasting licensees (other than licensees who hold licences allocated under section 38C or subsection 40(1) of the BSA) who have the right to televise a part or the whole of the event cover a total of more than 50 per cent of the Australian population;

and¹³⁴

- c) a national broadcaster has the right to provide coverage of a part or the whole of the event to end-users in Australia on a content service; or
- d) a commercial television broadcasting licensee has the right to provide coverage of a part or the whole of the event to end-users in Australia on a content service.

This would establish a broad restriction on rights acquisition, subject to the following carve out for free-to-air broadcasting services.

Carve out

The acquisition restriction (above) would not apply to:

- a) the acquisition by a national broadcaster of:
 - i. the right to televise a part or the whole of the event on any of its broadcasting services; or
 - ii. the right to provide coverage of a part or the whole of the event to end-users in Australia on a content service; or

¹³² Providing coverage of a listed event to end-users in Australia on a content service under this model would relate to provision of coverage in the form of video footage.

¹³³ An end-user in Australia would be an individual who is physically present in Australia or the external Territories.

¹³⁴ The proposed acquisition rule would stipulate that a right to provide coverage of an event on a content service to end-users in Australia does not include a right to televise the event on a national or commercial television broadcasting service. This will ensure that, for the purposes of the anti-siphoning scheme, the two types of rights are able to be dealt with separately and distinctly in terms of the regulatory framework.

- b) the acquisition by commercial television broadcasting licensee of:
 - i. the right to televise a part or the whole of the event on any of its broadcasting services; or
 - ii. the right to provide coverage of a part or the whole of the event to end-users in Australia on a content service.

This carve out would enable national and commercial broadcasters to acquire a right to televise a listed event on a broadcasting service, and the right to provide coverage of the event to end-users in Australia on a content service, without restriction under the scheme.

This is broader than the carve out provided under Model 2. This is because the intent of the free-to-air first model is to elevate free-to-air broadcasters, as opposed to free-to-air broadcasting services, as the key mechanism to deliver on the objective of the scheme.

A free-to-air broadcaster would need to have acquired both a broadcast right and an online right or other form of right before another party (i.e. any party other than a free-to-air broadcaster) could acquire a right to the event.

Content service

For the purposes of the anti-siphoning scheme, a content service would be defined as:

- a) a service that delivers content¹³⁵ to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of a carriage service,¹³⁶ or
- b) a service that allows end-users to access content using a carriage service.

A content service provider would be a person who provides a content service to the public (i.e. to at least one person outside the immediate circle of the person who provides the service).¹³⁷

These definitions are used in each of the reform models canvassed in this paper and are based on comparable definitions in Schedule 7 to the BSA.¹³⁸

A narrower definition of 'online content service' could be used in this model, but this would, in turn, require a separate rule to deal with broadcasting services (which don't use the internet). The proposed use of the broader content service definition would allow the revised scheme to operate around one acquisition rule, rather than two.

Availability obligations

Availability obligations would not form part of the free-to-air first model. As noted with respect to Model 2, there was no evidence presented through the initial phase of the review to suggest that free-to-air broadcasters were 'hoarding' the rights to listed events (acquiring the rights and not providing coverage, or not otherwise making those rights available to other parties). This reflects the strong commercial incentive for broadcasters to fully exploit the rights which they have acquired (typically at significant cost). For these reasons, availability and coverage obligations were considered unnecessary for this model.

¹³⁵ 'Content' would be defined as per Clause 2 of Schedule 8 to the [Broadcasting Services Act 1992](#) to include: text; data; speech; music or other sounds; visual images; or any other form or combination of forms.

¹³⁶ A 'carriage service' would be defined as per section 7 of the [Telecommunications Act 1997](#) to be a service for carrying communications by means of guided and/or unguided electromagnetic energy.

¹³⁷ This aligns with the construction of providing a content service to the public specified in Clause 7 of Schedule 7 to the [Broadcasting Services Act 1992](#).

¹³⁸ The relevant definitions are contained in Clause 2 of Schedule 7 to the [Broadcasting Services Act 1992](#) ('content service') and in Clause 5 ('content service provider'). Consideration was also given to the definitions of 'online content service' and 'online content service provider' specified in clauses 2 and 3 and of Schedule 8 to the [Broadcasting Services Act 1992](#). However, these definitions are limited to services delivered by means of an internet carriage service that, via section 5 of the [Online Safety Act 2021](#), is limited to listed carriage services that enable end-users to access the internet. It is intended that the definition of content service for the purposes of the anti-siphoning scheme apply to all providers of content service, not just those provided via the internet. Consideration was also given to the definitions of 'content service' and 'content service provider' contained in sections 15 and 97 of the [Telecommunications Act 1997](#).

Coverage obligations

As with Model 2, there are no coverage obligations envisaged for the free-to-air first model.

Exceptions

There are no explicit exceptions proposed for the free-to-air first model.

Comparison with the current scheme

The free-to-air first model adopts the basic architecture of the current scheme, but modifies and extends it to capture online and other services.

In this regard, the model preferences and prioritises free-to-air broadcasters as the entities to promote the achievement of the scheme's objective (free access to televised coverage of nationally important and culturally significant sporting events), and restricts the ability of other parties to acquire any rights to listed events until a free-to-air broadcaster has acquired both a right to televise the event on a broadcasting service, and the right to provide coverage of the event on a content service.

This represents a significant expansion of the current scheme, which currently only limits the ability of a subscription television broadcasting licensee to acquire the rights to televise listed events.

Through the acquisition rule, the free-to-air first model effectively provides for a more specific definition of a 'right to televise' an event on a broadcasting service (compared with the current scheme), and includes a definition of a 'right to provide coverage' of an event to end-users in Australia on a content service (which is not part of the current scheme).

Relationship to the list

This model generally does not necessitate any particular composition of an anti-siphoning list. As noted above, the current list¹³⁹ contains events held as part of competitions across 11 sports has a duration of 3 years (expiring on 25 March 2026). These events could be included as they stand as part of a new list made under the free-to-air model. Equally, the events could (within reason) be expanded or reduced, as the model is not dependent on the list being of a certain form or size. This marks a point of difference with the Model 1, which is dependent on a list being made under the new scheme that is significantly shorter than the current list.

Comparison with the other models in this paper

The free-to-air first model is broadly comparable with the broadcasting safety net model (Model 2), but shares few similarities with the free-to-view model (Model 1).

- The free-to-air first model would regulate the sequence of acquisition of media rights to iconic sporting events in the same way as Model 2. In contrast, Model 1 would not seek to regulate rights, although it would provide for exceptions to the availability and coverage obligations to accommodate the type of rights held by relevant parties. Unlike Model 1, the free-to-air first model would not contain availability and coverage obligations.
- The free-to-air first model is expected to be relatively less complicated to implement and administer as it constitutes an extension of the current arrangements, rather than the implementation of a new regulatory framework (as is the case with Model 1). There are also fewer new and novel regulatory concepts with this model compared with Model 1.

¹³⁹ [Broadcasting Services \(Events\) Notice 2023](#).

- The free-to-air first model could – within reason – be implemented with any form of anti-siphoning list, unlike Model 1 which would necessitate a reduction in the list compared with the current instrument.
- For consumers, the free-to-air first model would provide a high likelihood of live and free coverage listed events on both broadcasting services and online, given the preferential treatment afforded to broadcasters through the scheme and the strong commercial incentives to fully utilise any rights acquired to listed events.
 - While this model would not provide the same level of surety of a free, live and in full outcome as Model 1, it would potentially apply to a broader range of events (given the necessity for a relatively short list with Model 1).
 - Compared with Model 2, the free-to-air first model would enhance the likelihood of the coverage of events being provided via the online services of free-to-air broadcasters. However, from a consumer perspective, this may involve additional ‘indirect’ or ‘implicit’ costs in terms of accessing content online.

The key points of commonality with Models 1 and 2 include the definitions of ‘content service’, ‘content service provider’ and ‘Australian end-user’.

Preliminary assessment

The free-to-air first model would seek to promote the achievement of the scheme’s objective (free access to televised coverage of nationally important and culturally significant sporting events) via free-to-air broadcasters. It would enhance the likelihood of these events being freely available to all Australians, albeit via the broadcast and online services provided by national and commercial broadcasters.

This model would mitigate the risk of audiences being subject to direct costs to access this content (subscription or other fees or charges imposed on end-users to access coverage). However, audiences may be subject to implicit costs (associated with the cost of assessing content online) if broadcasters opted to provide exclusive coverage of listed events on their BVOD services.

This model wouldn’t prevent other media providers from offering live and free access to coverage of events, pending the acquisition restriction being satisfied or the event being automatically delisted. Any content service provider could seek to acquire a right to provide coverage of a listed event in this circumstance, and this coverage could be live and free (potentially advertising-supported) should the service provider consider this to be commercially viable. However, the intent of this model would be to use free-to-air broadcasters and the services they provide (broadcast, online or other) to support free access to televised coverage of nationally important and culturally significant sporting events for all Australians, regardless of their financial means or location.

However, this model would exacerbate a number of the acknowledged concerns and risks with the current scheme.

- It would substantially broaden the effective restriction on sports bodies in terms of their ability to negotiate with content services regarding their rights. These bodies noted through submissions to the initial phase of the review that the ability to maximise revenue from these rights is critical to their ability to invest in their respective sports at the grassroots level, and underpins their operations as not-for-profit entities.¹⁴⁰ This model would effectively require sports bodies to negotiate with free-to-air broadcasters for all major categories of rights (broadcast, online and any other form of right) before opening negotiations with other parties. This is substantially more restrictive than the current scheme.
- The free-to-air first model would significantly extend the commercial advantages afforded to free-to-air broadcasters – more so than Model 2 – and advance their negotiating position with regard to sports rights

¹⁴⁰ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p. 2-3.

compared with their competitors. Again, this is a product of the requirement for a free-to-air broadcaster to have acquired a right to televise the event on a broadcasting service and a right to provide coverage of an event on a content service before another party could acquire a right to the event.

- It would also draw into the scheme content service providers that are not currently subject to any restrictions in terms of rights acquisition. Services such as Amazon Prime, Disney+ and YouTube (among others) would not be able to acquire a right to provide coverage of events on their services until a free-to-air broadcaster had acquired a right to televise the event on a broadcasting service and a right to provide coverage of the event on a content service to Australian audiences. These entities would be subject to the operation of the scheme should they seek to acquire rights to listed events in the future.

While these adverse impacts are likely to be material, they need to be balanced against the costs and risks associated with the status quo where online rights to iconic events are not regulated in any way. The review has found that there is a latent although material risk of listed events migrating behind online paywalls in the coming years. As noted in relation to Model 2, international trends have seen the rights to single competitions or leagues being taken up by multiple providers, which can require consumers to pay for a number of services to gain access to the competition or league in question. This would have detrimental outcomes for Australian audiences with regressive impacts across Australian society, impacting to the greatest extent those without the means to pay for access to coverage of sporting events.

Even if this outcome doesn't eventuate, and all online coverage of listed events is provided free (without subscription charges or other explicit costs for end-users), online access is not free. There are implicit costs associated with accessing online services for all consumers in the form of charges for broadband and mobile services. These costs are unlikely to alter significantly over the near- to medium-term, and their existence would undermine the ability of all Australians to have free access to televised coverage of nationally important and culturally significant sporting events (which has been, and remains, the objective of the scheme).

These concerns regarding the implicit costs for consumers in accessing televised coverage of listed events online undermine the argument that free-to-air broadcasters should be provided with preferential access to these rights through the scheme (as envisaged under this model). The provision of coverage of a listed event by a free-to-air broadcaster via a content service (i.e. online) is little different from the provision of coverage of a listed event by a non-broadcaster, provided there is no subscription or other explicit fee imposed on the consumer in either scenario. The overall proposition from an audience perspective is likely to be the same, with the same technology constraints and costs.

Government position

The free-to-air first model represents a significant expansion of the scope of the anti-siphoning scheme. It would bring online services into the scheme and mitigate against the risks of coverage of nationally important and culturally significant sporting events migrating behind a paywall, or consumers otherwise facing additional costs to access this content.

However, it would do so in a way that would provide free-to-air broadcasters with significant commercial advantage and would place free-to-air broadcasters – rather than free-to-air broadcasting services – as the key mechanism to support the achievement of the scheme's objective of free access to televised coverage of iconic events.

It would impede access to both the broadcast and online rights to events by parties other than free-to-air broadcasters, and adversely impact sports bodies and a relatively broad set of media entities. It would also seek to treat the content services provided by free-to-air services (i.e. streaming services) differently to content services provided by other parties, although to the consumer there is likely to be little practical difference.

The level of regulatory intervention envisaged under the free-to-air first model may be justified in the future, depending on technology and market developments. However, at this point, the review has not found sufficient evidence to support this model in the near- to medium-term.

Chapter 7: Potential options for reforming the anti-siphoning list

Under the current scheme, the anti-siphoning list is a legislative instrument made by the Minister that specifies the events, or events of a kind, the televising of which, in the Minister’s opinion, should be available free to the general public. Under the current scheme, the list is made under subsection 115(1) of the BSA.

A list must be made for the anti-siphoning scheme to work, as the restriction on the acquisition of rights by subscription television broadcasting licensees under the current scheme (or the operation of any revised scheme) depends on a list being in place.

The current list – the *Broadcasting Services (Events) Notice 2023*¹⁴¹ – was made in March 2023 and expires on 25 March 2026. This list was made as an interim arrangement to provide continuity for the scheme while broader reforms were developed and progressed as part of this review. The current list includes around 1,900 events in total.¹⁴²

This chapter sets out the composition of three possible lists that could be made once reforms to the scheme are implemented. Any such list would effectively replace the current list, which would be repealed. The development of these list options has been informed by the preceding consultation process¹⁴³ and, to varying degrees, they draw on proposals put forward by stakeholders in that context.

The composition of any new list cannot be considered in isolation from the operation of the scheme. As such, the list options discussed in this chapter have been developed with regard to the reform models outlined in Chapter 6.

Pending the outcomes of this consultation, the Government’s preferred list is the ‘modernised list’ (Option 2).

Table 5: Summary of options to reform the anti-siphoning list

	1. Streamlined list	2. Modernised list	3. Expanded list
Summary	A significant reduction of the current list.	An increase of the current list.	A significant expansion of the current list.
Number of events ¹⁴⁴	~330	~2,500	~2,800
Compatibility with reform models	Intended to be compatible with the free-to-view model (Model 1).	Intended to be compatible with the broadcasting safety net and free-to-air first models (Models 2 and 3).	Intended to be compatible with the broadcasting safety net and free-to-air first models (Models 2 and 3).

¹⁴¹ [Broadcasting Services \(Events\) Notice 2023](#).

¹⁴² This estimate of the number of events on the list is indicative only. It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically. This figure represents an estimate of the number of events on the list in a hypothetical calendar year. For the purposes of this paper, it is assumed that all quadrennial, biennial and annual events take place in the one year. It does not represent the likely number of events in any given year.

¹⁴³ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (2022), [Review of the anti-siphoning scheme: Consultation paper](#).

¹⁴⁴ Estimates in this row are indicative only and adopt the caveats and assumptions as the above estimate of the number events on the current list.

Compatibility with reform models

The 'streamlined list' (Option 1) is the only list option that will work with the free-to-view model (Model 1). This is because the live and in full coverage requirement inherent to the free-to-view model necessitates a relatively shorter list compared with the current instrument. The 'modernised list' and 'expanded list' options (Options 2 and 3 respectively) are intended to work with either of the two alternative reform models for the scheme: the broadcasting safety net model (Model 2); and the free-to-air first model (Model 3).

Football and cricket matches involving a senior Australian representative team

There are a number of rugby league, rugby union and cricket matches on the current list that involve the senior Australian representative team, or the senior Australian representative team selected by the relevant sports body. These matches fall into one of two categories:

- 'standalone' matches that are not specific to a particular tournament, but are international-level fixtures played between an Australian senior representative side and an international counterpart; or
- 'world cup' matches played as part of the preliminary rounds or finals of a world cup tournament.

Standalone international matches

Standalone international matches are included in the current list in relation to three sports.

Rugby League

- International rugby league test matches that involve the senior Australian representative team.

Rugby Union

- International test matches that involve the senior Australian representative team selected by Rugby Australia.

Cricket

- Test matches, one day cricket matches and Twenty20 cricket matches that involve the senior Australian representative team selected by Cricket Australia.

Each of the list options canvassed in this paper adopts an inclusive approach to these international matches for both men's and women's events. Any listing that involves the 'senior Australian representative team' for a given sport is taken to include both the senior Australian men's representative side and the senior Australian women's representative side.

This approach will ensure the consistent treatment of matches that involve senior Australian representative sides selected by relevant sports bodies, irrespective of gender.

However, each list differs in terms of the scope and breadth of the listing of these international fixtures, ranging from a very minimal listing for both men's and women's fixtures under the 'streamlined list', through to a broader listing under the 'expanded list' option.

World cups

There are also a number of world cup tournaments for rugby league, rugby union, cricket and soccer included on the current list that involve the senior Australian representative team.

Rugby League

- The Rugby League World Cup

Rugby Union

- The Rugby World Cup

Cricket

- The International Cricket Council (ICC) Cricket World Cup
- The International Cricket Council (ICC) T20 World Cup

Soccer

- The Fédération Internationale de Football Association (FIFA) World Cup.

As with standalone international matches, the three list options in this paper take an inclusive approach to men's and women's matches played as part of these tournaments. Each list includes either:

- Separate listings for men's world cup matches and women's world cup matches where the relevant governing sports body delineates between the men's and women's tournaments in terms of naming and branding, as is currently the case with the ICC Men's and Women's Cricket World Cups, the ICC Men's and Women's T20 World Cups, and the FIFA World Cup and FIFA Women's World Cup.
- Singular listings of world cups where the governing sports body doesn't delineate between the men's and women's tournaments in terms of naming and branding, which is the case with the Rugby League World Cup and the Rugby World Cup.

The three list options differ in terms of the scope and breadth of the listing of these world cup tournaments, and graduate between a more limited listing for the streamlined list option through to a much broader listing with the expanded list option. However, the inclusion of both men's and women's tournaments in each option is intended to ensure consistent treatment of matches that involve senior Australian representative sides selected by relevant sports bodies, irrespective of gender.

Option 1: The streamlined list

Overview

The streamlined list would represent a reduction in the number of events on the list compared with the current instrument. This list option is detailed at **Attachment A**.

The aims of the streamlined list are two-fold:

- To enable the list to operate effectively with the free-to-view model for the reform of the scheme (Model 1 as outlined in Chapter 6).¹⁴⁵
- To apply the scheme in more limited circumstances by taking a narrower view of what constitutes nationally important and culturally significant events.

¹⁴⁵ The live and in full coverage requirement inherent to this reform model necessitates a truncated listing of certain events.

The proposed composition of the streamlined list has been informed by the proposals for reductions to the current list put forward by various parties in response to the 2022 consultation paper, including Foxtel, Janez Media, and a number of other parties that requested that their submissions be treated as confidential. However, in some cases, the listing of certain events differs from the proposals put forward by stakeholders to enable the scheme to operate effectively and to fulfil the aims noted above.

Consistent with the other two list options canvassed in this paper, the streamlined list takes a more inclusive approach to the matches that involve a senior Australian representative team. Regardless of whether these matches are played as ‘standalone’ international fixtures, or are played as part of a world cup, the streamlined list includes both the men’s and women’s tournaments. This approach has been adopted to ensure the consistent treatment of matches that involve senior Australian representative sides selected by relevant sports bodies, irrespective of gender.

Comparison with the current list

The streamlined list contains events from the 11 sports represented on the current list, but reduces the number of events listed under each.

It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically.

However, for illustrative purposes, the number of events on the current list is approximately 1,900, subject to a number of caveats and assumptions.¹⁴⁶

Under the streamlined list, adopting the same caveats and assumptions, the number of events would be approximately 330; a reduction of around 80 per cent compared with the current list.

Close to half of this reduction in the estimated number of events on the list is attributable to the removal of the bulk of the Summer Olympic Games, the Winter Olympic Games and the Commonwealth Games.

Relationship with proposed models

As noted above, the streamlined list has been designed to operate in conjunction with the free-to-view model for the reform of the scheme outlined in Chapter 6 (Model 1). This reform model is contingent upon a shorter list, as it would not be technically or financially feasible for content services to provide live and in full coverage of competitions that involve dozens of events occurring simultaneously. In terms of the current list, this includes the Australian Open tennis tournament, the Summer and Winter Olympic Games, and the Commonwealth Games.

The streamlined list outlined at **Attachment A** includes a proposed listing for these competitions that is feasible for the free-to-view model (with respect to the proposed coverage obligation) and that (to the extent possible) adopts the proposals put forward by stakeholders for a reduced list. Although this permits the listing of competitions that involve a degree of simultaneity of events, there are limits, as a content service provider (or multiple providers) wouldn’t be able to satisfy the live and in full coverage obligation where dozens of events take place at the one time.

The streamlined list is not intended to be compatible with the other two reform models proposed in Chapter 6: the broadcasting safety net model (Model 2); and the free-to-air first model (Model 3). Both of these models are constructed around a restriction on the acquisition of telecast and coverage rights by certain parties. To be compatible with either of these two reform models, the streamlined list would need to provide the parties involved (and the regulator) with certainty regarding the rights that can’t be acquired until a free-

¹⁴⁶ This estimate of the number of events on the list is indicative only. It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically. This figure represents an estimate of the number of events on the list in a hypothetical calendar year. For the purposes of this paper, it is assumed that all quadrennial, biennial and annual events take place in the one year. It does not represent the likely number of events in any given year.

to-air broadcaster has a relevant right or rights (depending on the scheme). In this regard, there would be limits on the ability of a list to characterise events based on factors that are unclear or unquantifiable at the time of acquisition.

It would be feasible to construct a streamlined list that is compatible with either of these two models. However, this approach isn't considered in further detail in this paper as the streamlined list option is intended to operate in conjunction with the free-to-view reform model.

Preliminary assessment

The streamlined list would significantly pare back the reach and scope of the anti-siphoning scheme. This option would see a reduction of around 80 per cent in the number of events on the list, from approximately 1,900 events to approximately 330 events.

This is by design, given the twin aims of this list option of ensuring compatibility with the free-to-view reform model and limiting the application of the scheme by taking a narrower view of what constitutes nationally important and culturally significant events.

For the relatively small number of events that would remain on the streamlined list, this option (in conjunction with the free-to-view model) would provide Australian audiences with a guarantee of live and in full coverage. Importantly, this guarantee would be in place regardless of whether the coverage was provided via a free-to-air broadcasting service, or via an online streaming service (or any other form of content service).

However, as noted in Chapter 6, there are differences between access and availability. The provision of coverage of events online does not, at present, mean that all Australians would necessarily have free access to this coverage. Variations in consumer take-up of broadband or mobile services, and the impact of factors such as indirect costs and service capabilities, mean that the objective of the scheme of supporting free access to televised coverage of these events by all Australians may not be fully realised.

The guarantee of live and in full coverage of these events is also likely to be little different to current consumer outcomes. While the current scheme (and the two alternative reform models proposed in this paper) do not contain mandatory coverage requirements, the high profile and iconic events proposed for inclusion on the streamlined list have historically received live and in full coverage via free-to-air television services. This is unlikely to change over the near- to medium-term, given this high profile and popularity of these events.

For the range of events effectively removed from the list under the streamlined list option – around 1,600 events – there is a risk that these events will not receive live, in full and free coverage. The anti-siphoning scheme would have no application to these events, and content service providers – including traditional subscription television broadcasting services and newer, subscription-based streaming services – could opt to provide coverage of these events on subscription-based platforms. They could also opt to provide partial coverage of these events.

This outcome is by no means certain. Content service providers (including broadcasters) may continue to seek to acquire rights and provide coverage of these events live and in full and on 'free' platforms. However, under the streamlined list option, there is an increased risk of these events being siphoned to paywalled services. Whether this is an acceptable risk ultimately depends on the importance of providing free access to coverage of these approximately 1,600 events.

From an industry perspective, the streamlined list option would provide sports bodies with greater opportunity to negotiate deals for rights without the restrictions of the scheme. Sporting bodies noted through submissions to the initial phase of the review that the ability to maximise revenue from these rights is critical to their ability to invest in their respective sports at the grassroots level, and underpins their operations as not-for-profit entities.¹⁴⁷

¹⁴⁷ Coalition of Major Professional and Participation Sports (2022), [Submission of COMPPS to the review of the anti-siphoning scheme](#), p. 2-3.

Free-to-air broadcasters would be detrimentally impacted by the streamlined list by no longer having the first opportunity to acquire the rights to a significant number of events under the protection of the scheme. Conversely, subscription television broadcasting licensees would be subject to less restrictions and would have greater opportunity to purchase and monetise those additional rights. Online streaming services and other content services would be brought into the scheme for the first time if they opted to acquire the rights to provide coverage of events on the streamlined list. However, this impact may be relatively modest given the narrow range of events on the list.

Government position

A streamlined list is the only list option that is compatible with the free-to-view model. As noted in Chapter 6, this is likely to be the most suitable and appropriate model for the anti-siphoning scheme in the long-term.

However, the technology and market conditions in Australia are not mature enough to enable the adoption of this model in the near- to medium-term and as such, the streamlined list is not the preferred option for the list at this time.

Option 2: The modernised list [Government preferred]

Overview

The modernised list would represent an increase in the number of events on the list compared with the current instrument. This list option is detailed at **Attachment B**.

The aims of the modernised list are two-fold:

- To enable the list to operate effectively with the broadcasting safety net and free-to-air first models for the reform of the scheme (Models 2 and 3 respectively, as outlined in Chapter 6).
- To apply the scheme in a way that better reflects the contemporary media landscape and moderately broadens the construction of nationally important and culturally significant events.

As noted in Chapter 5, proposals put forward by stakeholders varied considerably with respect to the composition of the list, particularly in relation to the listing of women's sports. This list option makes a number of additions to the list (the Paralympics and some domestic women's sporting events), taking those views into account. However, it does not adopt a number of the proposals put forward by these parties given the stated aims of this option.

In this regard – and consistent with the other list options – the modernised list also takes a more inclusive approach to the matches that involve a senior Australian representative team. Regardless of whether these matches are played as 'standalone' international fixtures, or are played as part of a world cup, the modernised list includes both the men's and women's tournaments. This approach has been adopted to ensure consistent and inclusive treatment of events regardless of the gender or the disability status of the athletes competing in the events.

Comparison with the current list

The modernised list continues to include events and competitions from the same 11 sports included in the current list. However, this list option would increase the number of listed events under certain sports, namely:

- all events held as part of the Paralympic Games
- the finals matches of the AFL Women's Premiership and the NRL Women's Premiership
- the NRL Women's State of Origin Series.

It isn't possible to provide a precise indication of the quantum of this increase, as the format and timing of many competitions changes over time and a number of competitions only take place periodically.

However, with a number of assumptions and caveats in place, the modernised list would constitute an increase of around 30 per cent compared with the current list, from approximately 1,900 events to approximately 2,500 events.¹⁴⁸

The bulk of this increase – some 87 per cent – comes from the inclusion of the Paralympic Games.

Paralympics

Over the past two decades the Paralympics have grown significantly in terms of events and media coverage.

- In 2021, the Australian audiences for the Tokyo Summer Paralympics were significant. The Opening Ceremony attracted an average national audience of 953,000; 10 times that of the Opening Ceremony for the Summer Paralympics held in Rio de Janeiro in 2016, and 42 per cent higher than the previous audience record set in Beijing in 2008.¹⁴⁹
- The average primetime free-to-air audience for the Tokyo Summer Paralympics was 305,000, with a daily average reach of more than two million and nearly one million utilising Seven's streaming platform 7plus.¹⁵⁰

Paralympics Australia has highlighted a number of positive community and other impacts that stem from the growth in the Tokyo Summer Paralympics.

68 percent of all Australians watched some part of the Tokyo Paralympics
58 percent said the Australian athletes made them feel proud to be Australian
96 percent said they felt inspired by the athletes
91 percent described them as wonderful role models
82 percent said the Paralympics change negative perceptions of people with a disability.¹⁵¹

Women's AFL and NRL

There has been a significant rise in women's sports in the past few years, particularly for Australian Rules Football and the National Rugby League.

The AFL and NRL introduced women's leagues in 2017 and 2018 respectively. This was concurrent with, or after, the last major changes to the list were made in 2017, and these competitions have grown significantly since their inception.

- The 2022 AFLW grand final was viewed by 439,545 people, up from 392,452 in 2021. Collectively, the 2022 AFLW finals series was watched by 1.42 million (up from 1.04 million in 2021).¹⁵²
- The 2022 NRLW grand final was watched by 342,000 (5 city average).¹⁵³ The average audience of the NRLW competition increased 53 per cent on Nine between 2020 and 2022, with a similar rise on Foxtel.¹⁵⁴

¹⁴⁸ This estimate of the number of events on the list is indicative only. It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically. This figure represents an estimate of the number of events on the list in a hypothetical calendar year. For the purposes of this paper, it is assumed that all quadrennial, biennial and annual events take place in the one year. It does not represent the likely number of events in any given year.

¹⁴⁹ Seven West Media (25 August 2021), [Tokyo 2020 Paralympics smashes records](#).

¹⁵⁰ Paralympics Australia (24 August 2022), [One Year Since Tokyo, Analysis Shows A Resounding Success](#).

¹⁵¹ Ibid.

¹⁵² Sports Industry AU (2022), [2022 AFL TV Ratings](#).

¹⁵³ Manning J (3 October 2022), [2022 NRL Grand Final delivers historically small crowd](#), Mediaweek.

¹⁵⁴ Phillips S (7 April 2023) [NRLW television ratings soar in bumper season](#) The Sydney Morning Herald

Relationship with proposed models

As noted above, the modernised list has been designed to operate in conjunction with the broadcasting safety net and free-to-air first models for the reform of the scheme (Models 2 and 3 respectively, as outlined in Chapter 6). Both models expand the scope of the scheme to place restrictions on parties other than free-to-air broadcasters acquiring media rights.

- Under the broadcasting safety net (Model 2), these restrictions lift when a free-to-air broadcaster has a broadcasting right.
- Under the free-to-air first model (Model 3), these restrictions lift when a free-to-air broadcaster has both a broadcasting right and an online right.

The modernised list is not designed to be compatible with the free-to-view model proposed in Chapter 6 (Model 1). That model is constructed around coverage obligations which require all events on the list to be shown live and in full. It would not be technically or financially feasible for content services to provide live and in full coverage of competitions that involve dozens of events occurring simultaneously. In terms of the current list, this includes the Australian Open tennis tournament, the Summer and Winter Olympic Games, and the Commonwealth Games.

Preliminary assessment

The modernised list would increase the scope of the anti-siphoning scheme. As noted above, this option would see an increase in the number of events on the list of approximately 30 per cent compared with the current list. The bulk of this increase is attributable to the inclusion of the Paralympic Games.

This increase is by design, given the twin aims of this option of ensuring compatibility with the broadcasting safety net and free-to-air first reform models, and applying the scheme in a way that better reflects the contemporary media landscape and moderately broadens the construction of nationally important and culturally significant events.

The modernised list – in conjunction with the broadcasting safety net or free-to-air first models – would include the bulk of the events already included on the current list. As with each of the list options, this proposal would take a more inclusive approach to international matches that involve a senior Australian representative team, and include standalone fixtures and world cup matches that involve a men's or women's senior representative side.

As noted above, there would also be a number of additional events included on the modernised list compared with the current list:

- all events held as part of the Paralympic Games
- the finals matches of the AFL Women's Premiership and the NRL Women's Premiership
- the NRL Women's State of Origin Series.

This list option would enhance the scope of the scheme compared with the current list. It would increase the likelihood of free access to televised coverage of these events for Australian audiences and, commensurately, would seek to mitigate the risk of these events being placed behind a paywall.

While it is not certain that free-to-air broadcasters would seek to acquire the relevant rights to these additional events, recent rights deals suggest that these broadcasters have a strong interest in providing coverage of these events.

- The 2024 Paris Paralympic Games are to be televised by Nine Entertainment across the Nine Network, 9Now and Stan.¹⁵⁵
- At least 30 AFL Women’s Premiership home-and-away matches, the finals series and the Grand Final will be televised on the Seven Network and 7plus under the recently agreed 2025-31 rights agreement.¹⁵⁶
- For the 2023 season, all matches in NRL Women’s Premiership and the NRL Women’s State of Origin are being broadcast live on the Nine Network and 9Now.¹⁵⁷

From an industry perspective, the modernised list option would continue to limit the ability of sports bodies to negotiate openly with respect to their rights. This is option would increase this level of restriction, given the addition of the Paralympic Games and matches of the AFL Women’s Premiership, the NRL Women’s Premiership and the NRL Women’s State of Origin.

Free-to-air broadcasters would benefit from the modernised list as it would maintain and, in some respects, advance their negotiating position with regard to sporting rights. Conversely, subscription television broadcasting licensees would face additional restrictions on their ability to purchase and monetise the additional events proposed to be included on the modernised list (until the events are delisted).

Online streaming services and other content services would be brought into the scheme for the first time if they opted to acquire the rights to provide coverage of events on the modernised list. The number of events they would lose the first opportunity to obtain would be greater than the streamlined list, but less than the expanded list.

Government position

The modernised list is compatible with the broadcasting safety net and free-to-air first models, with the former being the Government’s preferred model. The streamlined list would involve an increase in the scope and application of the scheme compared with the current list, although this is relatively modest in terms of the competitions involved (given that the bulk of this increase is attributable to the additional of the Paralympic Games, which take place every four years).

Importantly, the additional inclusions proposed for the modernised list would seek to ensure a consistent and inclusive treatment of nationally important and culturally significant events regardless of the gender or the disability status of the athletes competing in them. The modernised list is the Government’s preferred option for the new list.

Option 3: The expanded list

Overview

The expanded list would represent a significant increase in the number of events on the list compared with the current instrument. This list option is detailed at **Attachment C**.

The aims of the expanded list are two-fold:

- To enable the list to operate effectively with the broadcasting safety net and free-to-air first models for the reform of the scheme (Models 2 and 3 respectively, as outlined in Chapter 6).
- To apply the scheme in a way that better reflects the contemporary media landscape and significantly broadens the construction of nationally important and culturally significant events.

¹⁵⁵ Paralympics Australia (2023), [Paralympics Australia Secures Landmark Paris 2024 Media Rights Deal](#).

¹⁵⁶ AFL (2022), [Seven years, \\$4.5b: AFL reveals HUGE new broadcast rights deal](#).

¹⁵⁷ Hislop M (28 April 2023), [NRLW set for biggest season yet with expansion and new broadcast deal](#), Women’s Agenda; See for example: NRL (2023), [NRLW 2023: When, where to watch Round 1 games](#).

The proposed composition of the expanded list has been informed by the proposals for additions to the current list put forward by various parties in response to the 2022 consultation paper, including the ABC, SBS, Free TV, and a number of other parties that requested that their submissions be treated as confidential. However, in some cases, the listing of certain events differs from the proposals put forward by stakeholders to enable the scheme to operate effectively and to fulfil the aims noted above.

In this regard – and consistent with the other list options – the expanded list takes a more inclusive approach to the matches that involve a senior Australian representative team. Regardless of whether these matches are played as ‘standalone’ international fixtures, or are played as part of a world cup, the modernised list includes both the men’s and women’s tournaments. This approach has been adopted to ensure consistent and inclusive treatment of events regardless of the gender or the disability status of the athletes competing in the events.

The expanded list option would include a number of additional events compared with the current list:

- all events held as part of the Paralympic Games
- all matches of the AFL Women’s Premiership and the NRL Women’s Premiership, including the finals series
- the NRL Women’s State of Origin Series
- each match of the Super Rugby Pacific and Super W finals series if it involves at least one Australian team
- all matches of the FIFA Men’s World Cup and the FIFA Women’s World Cup
- each match in each tie and the final of the International Tennis Federation Billie Jean Cup tennis tournament that involves an Australian representative team
- all matches of the women’s Australian Netball team played in Australia.

Comparison with the current list

The expanded list continues to include events and competitions from the same 11 sports included in the current list. However, this list option would significantly increase in the number listed events with respect to certain of sports, namely: Paralympics, AFL, NRL, Rugby, soccer, tennis and netball.

It isn’t possible to provide a precise indication of the quantum of this increase, as the format and timing of many competitions changes over time and a number of competitions only take place periodically.

However, with a number of assumptions and caveats in place, the modernised list would constitute an increase of close to 50 per cent in the number of events compared with the current list, from around 1,900 events to around 2,800 events.¹⁵⁸

The bulk of this increase (60 per cent) is attributable to the inclusion of the Paralympic Games, with a significant minority (16 per cent) attributable to the inclusion of all matches of the AFL Women’s Premiership and NRL Women’s Premiership.

¹⁵⁸ This estimate of the number of events on the list is indicative only. It is not possible to provide a precise total of events on the list as the format and timing of many competitions changes over time and a number of competitions only take place periodically. This figure represents an estimate of the number of events on the list in a hypothetical calendar year. For the purposes of this paper, it is assumed that all quadrennial, biennial and annual events take place in the one year. It does not represent the likely number of events in any given year.

Relationship with proposed models

As noted above, the expanded list has been designed to operate in conjunction with the broadcasting safety net and free-to-air first models for the reform of the scheme (Models 2 and 3 respectively, as outlined in Chapter 6). Both models expand the scope of the scheme to place restrictions on parties other than free-to-air broadcasters acquiring media rights.

The expanded list is not designed to be compatible with the free-to-view model proposed in Chapter 6 (Model 1). That model is constructed around coverage obligations which require all events on the list to be shown live and in full. It would not be technically or financially feasible for content services to provide live and in full coverage of competitions that involve dozens of events occurring simultaneously. In terms of the current list, this includes the Australian Open tennis tournament, the Summer and Winter Olympic Games, and the Commonwealth Games.

Preliminary assessment

The expanded list would significantly increase the scope of the anti-siphoning scheme. As noted above, this option would see an increase in the number of events of the list of close to 50 per cent compared with the current list, although the bulk of this increase is attributable to the inclusion of the Paralympic Games and the AFL and NRL Women's Premiership competitions.

This is by design, given the twin aims of this list option of ensuring compatibility with the broadcasting safety net and free-to-air first reform models, and applying the scheme in a way that better reflects the contemporary media landscape and significantly broadens the construction of nationally important and culturally significant events.

As with the other list options, this proposal would take a more inclusive approach to international matches that involve a senior Australian representative team, including standalone fixtures and world cup matches that involve a men's or women's senior representative side.

As noted in the overview, there would also be a number of additional events included on the expanded list compared with the current list. This would be done with the aim of increasing the likelihood of free access to televised coverage of these events for Australian audiences and, commensurately, seek to mitigate the of these events being placed behind a paywall. However, this outcome is would be dependent on free-to-air broadcasters opting to acquire the relevant rights to these events under either the broadcasting safety net or free-to-air first models for the scheme (Models 2 and 3 respectively as outlined in Chapter 6).

There is a risk that free-to-air broadcasters may not seek to do so, resulting in little net benefit for audiences compared with current listing arrangements if coverage is ultimately provided on subscription-based platforms (i.e. the rights to these additional events continue to be acquired by entities other than free-to-air broadcasters). Previous rights deals suggest this has been the case for some events included on the expanded list.

If the rights to these additional events are not acquired by free-to-air broadcasters, all other parties would be prohibited from acquiring any rights until the event is delisted (26 weeks prior to commencement). If this were to disincentivise entities other than free-to-air broadcasters from seeking to take up those rights, then there may be an erosion in overall benefits for audiences (i.e. if there were to be reduced or no coverage of the additional events).

From an industry perspective, the expanded list option would continue to limit the ability of sports bodies to negotiate openly with respect to their rights, and to a greater degree than the other list options. Free-to-air broadcasters would benefit from the expanded list as it would maintain and, in some respects, advance their negotiating position with regard to sporting rights.

Conversely, subscription television broadcasting licensees would face restrictions on their ability to purchase and monetise the additional events proposed to be included on the expanded list (until the events are delisted).

Online streaming services and other content services would be brought into the scheme for the first time if they opted to acquire the rights to provide coverage of events on the expanded list. The number of events they would lose the opportunity to obtain without restriction under the expanded list would be greater than the streamlined and modernised list options.

Government position

The expanded list option would be compatible with the broadcasting safety net and free-to-air first models. However, the expanded list would significantly increase the scope and application of the scheme compared with the current list. While the inclusion of these additional events may enhance the overall outcome for Australian audiences (and support the objective of the scheme of free access to televised coverage of iconic events), this outcome is not assured. Overall, a compelling case for this level of expansion hasn't been made through the review and this option is not the preferred approach to reform of the list at this time.

List 1: the streamlined list

Sport	Current list	Streamlined list	Gender
Olympic Games	Each event that is held as part of the Summer Olympic Games, including the Opening and Closing Ceremonies.	The Opening and Closing ceremonies of the Summer Olympic Games. The final medal rounds of events involving Australian athletes that make up the Summer Olympic Games.	M, W & Mix
	Each event that is held as part of the Winter Olympic Games, including the Opening and Closing Ceremonies.	The Opening and Closing ceremonies of the Winter Olympic Games. The final medal rounds of events involving Australian athletes that make up the Winter Olympic Games.	M, W & Mix
Commonwealth Games	Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.	The Opening and Closing ceremonies of the Commonwealth Games. The final medal rounds of events involving Australian athletes that make up the Commonwealth Games.	M, W & Mix
Horse racing	Each running of the Melbourne Cup organised by the Victoria Racing Club.	Each running of the Melbourne Cup organised by the Victoria Racing Club.	Mix
AFL	Each match in the Australian Football League Premiership competition, including the Finals Series.	One match of the Australian Football League Premiership competition played on the following days: ANZAC Day; Good Friday; Easter Monday; and the King's birthday public holiday in Melbourne, Victoria.	M
		Each match in the Finals Series of the Australian Football League Premiership competition.	M
Rugby League	Each match in the National Rugby League Premiership competition, including the Finals Series.	One match of the National Rugby League Premiership competition played on the following days: ANZAC Day; and Good Friday.	M
		Each match in the Finals Series of the National Rugby League Premiership competition.	M


Sport	Current list	Streamlined list	Gender
	Each match in the National Rugby League State of Origin Series.	Each match in the National Rugby League State of Origin Series.	M
	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia, New Zealand or Papua New Guinea	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia.	M & W
Rugby Union	Each international test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	Each international test match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each match of the Rugby World Cup tournament that involves the senior Australian representative team.	Each match of the Rugby World Cup tournament that: involves the senior representative team; and is played in Australia.	M & W
	The final of the Rugby World Cup tournament.	The final of the Rugby World Cup tournament if the event is played in Australia.	M & W
Cricket	Each test match that: involves the senior Australian representative team; and is played in Australia.	Each test match that involves the senior Australian representative team and is played in Australia.	M & W
	Each test match that involves both: the senior Australian representative team; and the senior English representative team; and is played in the United Kingdom.	Each match of an 'Ashes' series that involves the senior Australian representative team and the senior English representative team; and is played in the United Kingdom or in Australia.	M & W
	Each one day cricket match that: involves the senior Australian representative team; and is played in Australia.	No listing.	
	Each Twenty20 (T20) cricket match that: involves the senior Australian representative; and is played in Australia.	No listing.	
	Each match of the International Cricket Council Cricket World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	No listing.	
	The final of the International Cricket Council Cricket World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men's Cricket World Cup if the final is played in Australia.	M
		The final of the International Cricket Council Women's Cricket World Cup if the final is played in Australia.	W

Sport	Current list	Streamlined list	Gender
	Each match of the International Cricket Council T20 World Cup that involves the senior Australian representative team; and is played in Australia or New Zealand.	No listing.	
	The final of the International Cricket Council T20 World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men’s T20 World Cup if the final is played in Australia.	M
		The final of the International Cricket Council Women’s T20 World Cup if the final is played in Australia.	W
Soccer	Each match of the Fédération Internationale de Football Association World Cup tournament that involves the senior Australian representative team.	Each match of the Fédération Internationale de Football Association World Cup tournament that involves the senior Australian representative team and is played in Australia.	M
		Each match of the Fédération Internationale de Football Association Women’s World Cup tournament that involves the senior Australian representative team and is played in Australia.	W
	The final of the Fédération Internationale de Football Association World Cup tournament.	The final of the Fédération Internationale de Football Association World Cup tournament if the final is played in Australia.	M
		The final of the Fédération Internationale de Football Association World Cup tournament if the final is played in Australia.	W
	Each match in the Fédération Internationale de Football Association (FIFA) World Cup Qualification tournament that involves the senior Australian representative team; and is played in Australia.	No listing	
Tennis	Each match in the Australian Open tennis tournament.	The Men’s and Women’s singles finals of the Australian Open tennis tournament.	M & W
		Men’s and Women’s singles matches that make up the Australian Open tennis tournament that are played in the main two stadia of the tournament after 7:00 pm Australian Eastern Daylight Time.	M & W
	Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that involves an Australian representative team; and is played in Australia.	No listing	

Sport	Current list	Streamlined list	Gender
	The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.	No listing	
Netball	A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team.	A semi-final of the Netball World Cup if the match involves the senior Australian representative team; and is played in Australia.	W
	The final of the Netball World Cup if the final involves the senior Australian representative team.	A final of the Netball World Cup if the match involves the senior Australian representative team; and is played in Australia.	W
Motor Sports	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Mix
	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Mix
	Each Bathurst 1000 race in the Supercars Championship.	Each Bathurst 1000 race in the Supercars Championship.	Mix

Key	
Acronym	Meaning
M	Men's
W	Women's
Mix	Mixed/Open

List 2: the modernised list

Sport	Current List	Modernised list 	Gender
Olympic Games	Each event that is held as part of the Summer Olympic Games, including the Opening and Closing Ceremonies.	Each event that is held as part of the Summer Olympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
		Each event that is held as part of the Summer Paralympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
	Each event that is held as part of the Winter Olympic Games, including the Opening and Closing Ceremonies.	Each event that is held as part of the Winter Olympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
Commonwealth Games	Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.	Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.	M & W, Mix
Horse racing	Each running of the Melbourne Cup organised by the Victoria Racing Club.	Each running of the Melbourne Cup organised by the Victoria Racing Club.	Mix
AFL	Each match in the Australian Football League Premiership competition, including the Finals Series.	Each match in the Australian Football League Premiership competition, including the Finals Series.	M
		Each match in the Australian Football League Women's Premiership Finals Series.	W
Rugby League	Each match in the National Rugby League Premiership competition, including the Finals Series.	Each match in the National Rugby League Premiership competition, including the Finals Series.	M
		Each match in the National Rugby League Women's Premiership Finals Series.	W
	Each match in the National Rugby League State of Origin Series	Each match in the National Rugby League State of Origin Series.	M
		Each match in the National Rugby League Women's State of Origin Series	W
	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M & W

Sport	Current List	Modernised list	Gender
	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia, New Zealand or Papua New Guinea	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia, New Zealand or Papua New Guinea.	M & W
Rugby Union	Each international test match that: involves the senior Australian representative team selected by Rugby Australia; and is played in Australia or New Zealand.	Each international test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M & W
	Each match of the Rugby World Cup tournament that involves the senior Australian representative team selected by Rugby Australia.	Each match of the Rugby World Cup tournament that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M & W
	The final of the Rugby World Cup tournament.	The final of the Rugby World Cup tournament.	M & W
Cricket	Each test match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each test match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each test match that involves both: the senior Australian representative team selected by Cricket Australia; and the senior English representative team; and is played in the United Kingdom.	Each match of an 'Ashes' series that involves the senior Australian representative team and the senior English representative team; and is played in the United Kingdom or in Australia.	M & W
	Each one day cricket match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each one day cricket match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each Twenty20 (T20) cricket match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each Twenty20 (T20) cricket match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each match of the International Cricket Council Cricket World Cup that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia or New Zealand.	Each match of the International Cricket Council Men's Cricket World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M
		Each match of the International Cricket Council Women's Cricket World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	W
	The final of the International Cricket Council Cricket World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men's Cricket World Cup if the final is played in Australia or New Zealand.	M

Sport	Current List	Modernised list	Gender
		The final of the International Cricket Council Women's Cricket World Cup if the final is played in Australia or New Zealand.	W
	Each match of the International Cricket Council T20 World Cup that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia or New Zealand.	Each match of the International Cricket Council Men's T20 World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M
		Each match of the International Cricket Council Women's T20 World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	W
	The final of the International Cricket Council T20 World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men's T20 World Cup if the final is played in Australia or New Zealand.	M
		The final of the International Cricket Council Women's T20 World Cup if the final is played in Australia or New Zealand.	W
Soccer	Each match of the Fédération Internationale de Football Association (FIFA) World Cup tournament that involves the senior Australian representative team selected by Football Australia.	Each match of the Fédération Internationale de Football Association (FIFA) Men's World Cup tournament that involves the senior Australian representative team.	M
		Each match of the Fédération Internationale de Football Association (FIFA) Women's World Cup tournament that involves the senior Australian representative team.	W
	The final of the Fédération Internationale de Football Association (FIFA) World Cup tournament.	The final of the Fédération Internationale de Football Association (FIFA) Men's World Cup tournament.	M
		The final of the Fédération Internationale de Football Association (FIFA) Women's World Cup tournament.	W
	Each match in the Fédération Internationale de Football Association (FIFA) World Cup Qualification tournament that: involves the senior Australian representative team selected by Football Australia; and is played in Australia.	Each match in the Fédération Internationale de Football Association (FIFA) Men's World Cup Qualification tournament that: involves the senior Australian representative team; and is played in Australia.	M
		Each match in the Fédération Internationale de Football Association (FIFA) Women's World Cup Qualification tournament that: involves the senior Australian representative team; and is played in Australia.	W

Sport	Current List	Modernised list	Gender
Tennis	Each match in the Australian Open tennis tournament.	Each match in the Australian Open tennis tournament.	M & W, Mix
	Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that: involves an Australian representative team; and is played in Australia.	Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that: involves an Australian representative team; and is played in Australia.	M
	The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.	The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.	M
Netball	A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team selected by Netball Australia.	A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team.	W
	The final of the Netball World Cup if the final involves the senior Australian representative team selected by Netball Australia.	The final of the Netball World Cup if the final involves the senior Australian representative team.	W
Motor Sports	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Mix
	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Mix
	Each Bathurst 1000 race in the Supercars Championship.	Each Bathurst 1000 race in the Supercars Championship.	Mix

Key	
Acronym	Meaning
M	Men's
W	Women's
Mix	Mixed/Open

List 3: the expanded list

Category	Current List	Event	Gender
Olympic Games	Each event that is held as part of the Summer Olympic Games, including the Opening and Closing Ceremonies.	Each event that is held as part of the Summer Olympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
		Each event that is held as part of the Summer Paralympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
	Each event that is held as part of the Winter Olympic Games, including the Opening and Closing Ceremonies.	Each event that is held as part of the Winter Olympic Games, including the Opening and Closing Ceremonies.	M & W, Mix
Commonwealth Games	Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.	Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.	M & W, Mix
Horse racing	Each running of the Melbourne Cup organised by the Victoria Racing Club.	Each running of the Melbourne Cup organised by the Victoria Racing Club.	M & W, Mix
AFL	Each match in the Australian Football League Premiership competition, including the Finals Series.	Each match in the Australian Football League Premiership competition, including the Finals Series.	M
		Each match in the Australian Football League Women's Premiership competition, including the Finals Series.	W
Rugby League	Each match in the National Rugby League Premiership competition, including the Finals Series.	Each match in the National Rugby League Premiership competition, including the Finals Series.	M
		Each match in the National Rugby League Women's Premiership competition, including the Finals Series.	W
	Each match in the National Rugby League State of Origin Series.	Each match in the National Rugby League State of Origin Series.	M
		Each match in the National Rugby League Women's State of Origin Series.	W
	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	Each international rugby league test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M & W

Category	Current List	Event	Gender
	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia, New Zealand or Papua New Guinea	Each match of the Rugby League World Cup that: involves the senior Australian representative team; and is played in Australia, New Zealand or Papua New Guinea.	M & W
Rugby Union	Each international test match that: involves the senior Australian representative team selected by Rugby Australia; and is played in Australia or New Zealand.	Each international test match that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M & W
	Each match of the Rugby World Cup tournament that involves the senior Australian representative team selected by Rugby Australia.	Each match of the Rugby World Cup tournament that involves the senior Australian representative team.	M & W
	The final of the Rugby World Cup tournament.	The final of the Rugby World Cup tournament.	M & W
		Each match in the Super Rugby Pacific final series if it involves at least one Australian team.	M
		Each match in the Super W finals series if it involves at least one Australian team.	W
Cricket	Each test match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each test match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each test match that involves both: the senior Australian representative team selected by Cricket Australia; and the senior English representative team; and is played in the United Kingdom.	Each match of an 'Ashes' series that involves the senior Australian representative team and the senior English representative team; and is played in the United Kingdom or in Australia.	M & W
	Each one day cricket match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each one day cricket match that: involves the senior Australian representative team; and is played in Australia.	M & W
	Each Twenty20 (T20) cricket match that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia.	Each Twenty20 (T20) cricket match that: involves the senior representative team; and is played in Australia.	M & W
	Each match of the International Cricket Council Cricket World Cup that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia or New Zealand.	Each match of the International Cricket Council Men's Cricket World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M

Category	Current List	Event	Gender
		Each match of the International Cricket Council Women's Cricket World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	W
	The final of the International Cricket Council Cricket World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men's Cricket World Cup if the final is played in Australia or New Zealand.	M
		The final of the International Cricket Council Women's Cricket World Cup if the final is played in Australia or New Zealand.	W
	Each match of the International Cricket Council T20 World Cup that: involves the senior Australian representative team selected by Cricket Australia; and is played in Australia or New Zealand.	Each match of the International Cricket Council Men's T20 World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	M
		Each match of the International Cricket Council Women's T20 World Cup that: involves the senior Australian representative team; and is played in Australia or New Zealand.	W
	The final of the International Cricket Council T20 World Cup if the final is played in Australia or New Zealand.	The final of the International Cricket Council Men's T20 World Cup if the final is played in Australia or New Zealand.	M
		The final of the International Cricket Council Women's T20 World Cup if the final is played in Australia or New Zealand.	W
Soccer	Each match of the Fédération Internationale de Football Association (FIFA) World Cup tournament that involves the senior Australian representative team selected by Football Australia.	Each match of the Fédération Internationale de Football Association (FIFA) Men's World Cup tournament.	M
		Each match of the Fédération Internationale de Football Association (FIFA) Women's World Cup.	W
	The final of the Fédération Internationale de Football Association (FIFA) World Cup tournament.		
	Each match in the Fédération Internationale de Football Association (FIFA) World Cup Qualification tournament that: involves the senior Australian representative team selected by Football Australia; and is played in Australia.	Each match in the Fédération Internationale de Football Association (FIFA) Men's World Cup Qualification tournament that: involves the senior Australian representative team; and is played in Australia.	M

Category	Current List	Event	Gender
		Each match in the Fédération Internationale de Football Association (FIFA) Women's World Cup Qualification tournament that: involves the senior Australian representative team; and is played in Australia.	W
Tennis	Each match in the Australian Open tennis tournament.	Each match in the Australian Open tennis tournament.	M & W, Mix
	Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that: involves an Australian representative team; and is played in Australia.	Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that involves an Australian representative team.	M
	The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.	The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.	M
		Each match in each tie of the International Tennis Federation Billie Jean Cup tennis tournament that involves an Australian representative team.	W
		The final of the International Tennis Federation Billie Jean Cup tennis tournament if the final involves an Australian representative team.	W
Netball	A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team selected by Netball Australia.	A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team.	W
	The final of the Netball World Cup if the final involves the senior Australian representative team selected by Netball Australia.	The final of the Netball World Cup if the final involves the senior Australian representative team.	W
		Each international Netball match that involves the senior Australian representative team that is played in Australia.	W
Motor Sports	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.	Mix
	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Each race in the Fédération Internationale de Motocyclisme MotoGP World Championship held in Australia.	Mix
	Each Bathurst 1000 race in the Supercars Championship.	Each Bathurst 1000 race in the Supercars Championship.	Mix

Key	
Acronym	Meaning
M	Men's
W	Women's
Mix	Mixed/Open