



ABC submission on the Anti-Siphoning Review Proposals Paper

September 2023

The Australian Broadcasting Corporation (ABC) welcomes the opportunity to comment on the Anti-Siphoning Review Proposals Paper (the paper).

The role of the ABC is to deliver valued services that reflect and contribute to Australian society, culture and identity, and to inform and entertain the Australian community. Sport is intrinsic to each of these responsibilities.

Despite far-reaching shifts in the media landscape, Australians continue to demonstrate their desire to access sporting coverage for free, and the public interest in ensuring widespread and equitable access endures.

The increased commercialisation of sport has seen live sport on the ABC diminish to a point where today the ABC is only able to broadcast major events on television sporadically. The ABC continues to engage audiences with audio coverage across ABC Radio and online platforms, providing Australians with thousands of hours of high-quality commentary for AFL, NRL, Cricket and other major sports in Australia and from overseas.

As the national public broadcaster, the ABC has an interest in ensuring that Australians can easily access events of national importance and cultural significance.

In December 2022, the ABC submitted a response to the Review of the Anti-Siphoning Scheme.¹ The ABC maintains its belief that there are strong public policy reasons for maintaining the scheme and its original intent: **significant sporting events should be freely available and accessible to Australian audiences.**

The ABC has examined the proposed scheme and the proposed list, and recommends the adoption of Model 2, the Broadcasting Safety Net model, and list 3, the Expanded List, with amendments.

1. The ABC's commitment to sport and sporting events

The ABC has a rich history of producing iconic, high-quality sporting coverage and content, dating back to the earliest days of television with the 1956 Melbourne Olympic Games and, on radio test cricket during the 1930s. Nearly 90 years later, the ABC still provides audiences with a wide range of sports content live and on-demand across a variety of broadcast and digital platforms. ABC Sport – across television, radio and online – engages millions of Australians each month.

¹ <https://about.abc.net.au/reports-publications/abc-submission-to-anti-siphoning-consultation/>

The ABC’s commitment to sport reflects its Charter responsibility to broadcast “:

programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community”;²

Broadcasting sport assists the ABC to fulfil this function because sport is integral to shaping the Australian national identity and culture.³ The ABC’s coverage of sports remains of high quality, with audiences giving ABC Sport a quality score of 88 per cent in 2022 and 2023 to date.⁴ In 2022, time spent listening across ABC Sport was 2 hours and 55 minutes each week – up from 2 hours and 36 minutes in 2022.⁴ Also in 2022, ABC Sport DAB+ achieved a record average weekly reach of 266,000 listeners – this is up from 234,000 on average in 2022.

The ABC continues to play an important role in broadcasting sport to Australians.⁵ However, due to budgetary constraints and the increased cost of production and rights, the ABC currently provides limited coverage of sporting events on television.

Notwithstanding this fact, the ABC continues to support the underlying principle of the anti-siphoning scheme, which is to ensure that the most significant sporting events are made available to Australian audiences on free-to-air television.

Models to reform the anti-siphoning scheme

1. Free-to-view

Under this model, rights holders are required to provide coverage for free and on a broadly available technology platform, live and in full.

The ABC finds the requirement to provide coverage on a ‘broadly available technology platform’ to be of concern. The paper proposes that the content service must provide coverage using a platform that is available to a minimum of 99 per cent of the Australian population.

While the paper notes that internet services are available to more than 99 per cent of the Australian population, availability doesn’t equate to access by consumers. The ABC agrees that factors such as take-up, service cost and service capability are relevant to consideration of whether the free-to-view model is capable of delivering on the objective of supporting free access to televised coverage of nationally important and culturally significant sporting events.

A significant proportion of Australians do not have access to broadband, and many cannot afford subscription services. The Australian Digital Inclusion Index (ADII) found that, in 2023, 9.4 per cent of Australians were highly excluded from the benefits of

² *Australian Broadcasting Corporation Act 1983* (Cth), s6(1)(a)(i)

³ ABC (22 August 2016), *Australian identity and sport* - ABC Radio National.

⁴ GFK 5 City S1-8 2022, S1-5 2023.

⁵ The ABC has audio broadcast rights for Cricket, AFL and NRL in Australia, as well as the ability to broadcast numerous other sports. ABC digital services provide a dedicated sports website, podcasts, and social media content.

Australia's digital transformation⁶. Although the ADII found that this number had decreased slightly from previous years, it still represents a significant portion of Australians who are not able to access digital services, much less access significant events streamed online.

The report also found that Australians who identify as First Nations, are aged 75+, or with lower education, employment and income were more likely to be highly excluded.

These Australians rely on free-to-air services, such as the ABC, that deliver news and entertainment via television, radio and other means which don't rely on access to the internet. The ADII also found that substantial numbers of Australians continue to experience affordability stress, meaning they would need to pay more than 5% of household income to maintain quality, reliable connectivity. This factor does not exist for free-to-air broadcasters.

Even if the events are made available on a streaming service that is free to use, a significant proportion of Australians would still have to spend more of their income to watch the event through the service, ultimately resulting in the event not being freely available and accessible.

The ABC also finds problematic the requirement to reduce the number of events on the list to make this option workable. As noted in the paper, elements of the free-to-view model will only work if they are coupled with a significant reduction in the number and range of events on the list. The ABC comments further on the streamlined list on page 4.

2. Broadcasting safety net

Under this model, the scope of the restriction on the acquisition of rights under the current scheme, which only applies to subscription television broadcasting licensees, will be extended to include content services (including, but not limited to, streaming services).

In its December 2022 submission to the review of the anti-siphoning scheme, the ABC highlighted the risk of listed events migrating behind online paywalls, given that the current scheme has no mechanism to prevent such acquisitions from occurring. This would be detrimental for audiences and have regressive impacts across Australian society, impacting those without the means to pay for access to sports coverage of the iconic events.

The ABC is satisfied that this model adequately addresses the risk of listed events migrating to platforms that involve direct or indirect costs for Australian audiences, and when compared to models 1 and 3, would best support the likelihood of listed events being freely available to all Australians, and mitigate the risk of audiences being subject to additional costs to access this content.

3. Free-to-air first

Under this model, the current anti-siphoning scheme would be significantly expanded to prevent any content service provider from acquiring a right to provide coverage of a

⁶ Australian Digital Inclusion Index (2023) <https://www.digitalinclusionindex.org.au/key-findings-and-next-steps/>

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.

The ABC notes that the original goal of the scheme was to prevent subscription television broadcasting licensees from acquiring rights to exclusively televise events on the list and thus to keep significant sporting events freely available and accessible to Australian audiences. Noting the limited access to broadband for some Australians, the ABC believes that under the free-to-air first model, events may be acquired by a free-to-air broadcaster under the scheme and only streamed on a streaming service, subverting the underlying principle of the scheme as they would not be available and accessible to audiences unable to afford quality or reliable connectivity. Similarly to the proposed Free-to-view model, even if the streaming service is free to use, a significant proportion of Australians would still have to spend more of their income to watch the event through the service, ultimately resulting in the event not being freely available and accessible.

The provision of coverage of a listed event by a free-to-air broadcaster via a streaming service 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.

Options to reform the anti-siphoning list

1. Streamlined List

As highlighted in the paper, the Streamlined List is a much-reduced list that fails to appropriately account for Australians who cannot access VOD services. The reduced Streamlined List creates a real risk that events will be siphoned to paywalled and internet-only accessible services.

The ABC concurs with the papers' conclusion, that the technology and market conditions in Australia are not mature enough to enable the adoption of this model in the near- to medium-term.

2. Modernised List

The modernised list gives women's sport greater recognition when compared to the current list. However, it remains problematic, as it does not provide equal listing of matches for men and women's events. For example, for the AFL and Rugby League, each match of the men's premiership competitions is included in the list, while for women this is reduced to the finals series only. This approach seems at odds with the Government's intention to ensure a consistent and inclusive treatment of nationally important and culturally significant events regardless of the gender of the athletes competing in them.

Notwithstanding the concerns that the ABC has with this list, there are some modest amendments that could be made to the list which would maximise access for audiences to significant and important events.

Netball World Cup

There are strong grounds for the inclusion of elite women's netball on the anti-siphoning list, in particular the Netball World Cup. High visibility for this sport plays a crucial cultural role in Australian society, providing role models and demonstrating pathways for young women and girls to become professional sportspeople.

The Modernised List includes only the final and semi-final of the Netball World Cup if the final or semi-final involves the senior Australian representative team. The ABC recommends that this list be amended to include every match that includes the senior Australian representative team, in the same way that the Modernised List includes each match in the Fédération Internationale de Football Association (FIFA) Women's World Cup tournament that involves the senior Australian representative team. Netball is the biggest team sport in the country, played by nearly one million Australians. Viewing figures for the 2023 FIFA Women's World Cup demonstrate significant levels of interest in free-to-air coverage of elite women's sport.

Winter Paralympic Games

The ABC notes that the modernised list includes the Summer Paralympic Games, but not the Winter Paralympic Games. The Paralympics are increasingly considered by Australian audiences to be significant sporting events and therefore are worthy of inclusion on the list in the same way that the Winter Olympic Games are.

Additional sports to consider for inclusion on the Modernised List include the Women's Big Bash League (WBBL), the Women's National Cricket League (WNCL), the Super Netball series, and the A-League Women.

3. Expanded List

The ABC believes that the expanded list offers women's sport appropriate recognition, and greater public benefit when compared to the Modernised List. However, the ABC proposes the following amendments to the list to maximise access for audiences to significant and important events.

Netball World Cup

The Expanded list includes the final and semi-final of the Netball World Cup if the final or semi-final involves the senior Australian representative team, as well as each international netball match that involves the senior Australian representative team that is played in Australia. The ABC recommends that this list be amended to include every match that includes the senior Australian representative team, regardless of where it is played.

As per the ABC's recommended additions for the Modernised List, additional sports to consider for inclusion on the Expanded List include the Winter Paralympics, the Women's Big Bash League (WBBL), the Women's National Cricket League (WNCL), the Super Netball series, and the A-League Women.