

BROADCASTING OF MAJOR SPORTING EVENTS: A VOLUNTARY CODE OF CONDUCT FOR RIGHTS OWNERS

Introduction

Coverage of sport broadcast on television – and also on radio online and on social media – has grown significantly in recent years. This development has been to the benefit of major spectator sports in the UK and the sporting public alike.

Technology and trends in consumption are also changing rapidly. The internet – and social media in particular – is revolutionising the way in which people consume sports content. In particular, the growth in on-demand services and the proliferation of connected mobile devices provides an increasing range of opportunities to engage new and existing audiences, for example through highlights clips and streaming.

In this context, this Code of Conduct (“the Code”) is a voluntary commitment by the sports rights owners to make broadcast coverage of their events widely available to the viewing public and to reinvest a proportion of the proceeds from the sale of rights back into the long-term development of their respective sports.

Commitments under the Code

The signatories to this Code believe that as individual governing bodies of sport and competition organisers, they are best placed to strike an appropriate balance between generating commercial revenue from the sale of the rights they own and maintaining long-term public interest in their sports through the widest possible exposure.

Where applicable, the signatories to this Code agree to abide by the following principles as owners of the rights to events under their control:

- **Accessibility:** To use all reasonable endeavours to ensure that broadcast coverage of all major sporting events is available in the UK through free-to-air television broadcasts in live, recorded or highlights form and/or through digital and social media and;
- **Reinvestment:** To reinvest a minimum of thirty percent of the net revenue generated from the sale of UK broadcasting rights into the long-term development of their sport.

The signatories therefore agree to support this Code, as revised, in order to provide assurance that the UK television broadcast rights not subject to statutory regulation under the Listed Events provisions of the Broadcasting Act 1996 (as amended) are subject to the same general principle as applies to those events i.e. available in free-to-air television broadcasts on channels which are received by at least 95 per cent of the UK population (or any such percentage as amended).¹ Ofcom, the independent regulator for the UK

¹ Under the *Broadcasting Act 1996*, Listed Events must be offered to broadcasters whose channels are available to at least 95% of the population. The *Digital Economy Act 2017* enables the Secretary of State to amend this qualifying percentage as necessary.

communications industries, monitors the Listed Event provisions placed upon sports rights owners.²

Similarly, where applicable, signatories support the Code as a means of demonstrating their continued investment in, and commitment to, the long-term development of their respective sports.

The Code applies principally to the UK television broadcasting of major sporting events. However, the signatories will also own the rights to other audiovisual and audio content for broadcast on other platforms, including internet, mobile applications and radio, which can be utilised to ensure that the general public has access to their sports.

In terms of the Accessibility Principle, it is recognised that as technology and consumer trends change, rights holders will take a strategic approach to the sale of rights for their events which ensures their sports are available across a range of platforms and in a variety of formats. In this context, signatories may utilise online audiovisual rights as a means of compliance with the Accessibility Principle, for example where exclusive live television coverage is offered to a pay-TV broadcaster and clips and highlights are offered online. However, where a signatory seeks to comply with the Accessibility Principle in this way, it will be for the signatory to demonstrate to the Sports Broadcast Monitoring Committee's satisfaction that such clips and highlights are meaningful in substance and accessible by a sufficiently large proportion of the population.³

Where applicable, if signatories seek to utilise online audiovisual rights to comply, they agree to apply the Reinvestment Principle of the Code to revenues generated from these other media rights and for compliance to be monitored accordingly.

The Code applies equally to the rights to both men's and women's sports events and in some cases signatories already package the sale of men's and women's broadcast rights together. As women's sport continues to grow, it is envisaged that rights owners will seek to ensure that any rights they sell are compliant with the principles set out in the Code.

The Sports Broadcast Monitoring Committee

The signatories agree that compliance with this Code should be monitored and reported on by the Sports Broadcast Monitoring Committee (the "Committee") to ensure that the Code is seen to be complied with in practice. The Committee is chaired by an independent person and includes both representatives of the signatories and independent members.

² Code on Sports and Other Listed and Designated Events: https://www.ofcom.org.uk/data/assets/pdf_file/0029/35948/ofcom_code_on_sport.pdf.

³ While compliance is ultimately for the Committee to decide, it may take into consideration the extent to which the clips and highlights constitute a meaningful reflection of the live action and the extent of any restrictions on the ability to access the content online.

References in this Code to “major sporting events” mean all events which have significant national or international standing, the television rights to which are solely under the ownership or control of the participating UK governing bodies or other signatories to this Code.

The Principles

The Accessibility Principle

The signatories accept the general principle that coverage of all major sporting events in live and/or recorded and/or clips and highlights form should be generally available in free-to-air television broadcasts on channels received by at least 95 per cent of the UK population (or any such percentage as defined). Listed Events covered by the Broadcasting Act 1996 (as amended) are required to comply with these provisions.

The Code recognises the role of governing bodies and competition organisers in negotiating with broadcasters to obtain either the best market rate or other preferred financial arrangements for event coverage. The signatories acknowledge that the duty of sports bodies to maximise income from rights sales for the benefit of their sports and the desirability of the widest possible broadcasting exposure may not always coincide. They undertake to make every reasonable effort to strike a balance between these objectives that is in the long-term interests of their sport and the viewing public alike.

The signatories therefore agree to use all reasonable endeavours to tender their UK television broadcast rights openly and solicit bids from free-to-air broadcasters and to strive to achieve a reasonable balance between procuring the widest possible broadcasting exposure whilst at the same time generating an appropriate commercial return in the interests of their sport. They will also seek to ensure that broadcasters actually broadcast the events to which the rights have been sold and permit simultaneous UK radio or audio commentary.

It is recognised that a major factor in the negotiation of broadcasting rights will be the scheduling requirements and policies of broadcasters and that these will primarily determine the fees that they are prepared to offer and the contractual terms they are prepared to agree. These factors are not within the control of the sporting bodies. However, the signatories express the hope that broadcasters will endorse the spirit of this Code and act in accordance with it.

The Reinvestment Principle

The signatories to this principle⁴ commit themselves to reinvesting at least thirty per cent of the net revenue derived from the sale of UK television broadcasting

⁴ The PGA European Tour, Premier League and UK Athletics do not have formal responsibility for the long-term development of their sports. As such, they are not signatories to the Reinvestment Principle. They do, however, actively support and fund a range of projects and initiatives and are encouraged to inform the Sports Broadcast Monitoring Committee of such activity.

rights (and any other UK audiovisual and audio rights) to major sporting events with the aim of supporting the long-term development of their respective sports.

This investment may include expenditure on some or all of the following:

- youth programmes
- community sports facilities
- education and training
- coach education
- research and development
- volunteer training
- diversity programmes
- communication, marketing and engagement programmes aimed at developing the sport

This includes expenditure made by constituent members (e.g. clubs, counties, regions etc.) funded in whole or in part by revenues derived from broadcasting rights.

Monitoring

The signatories will provide information sufficient to enable the Committee to monitor compliance with these principles. The signatories will provide information as to their broadcasting arrangements and an explanation of how the requirements of this Code have been met in negotiating such arrangements, albeit nothing in this Code shall require signatories to disclose any commercially confidential information. Nonetheless, the Committee reserves the right to request further information from individual signatories where it deems it necessary to confirm compliance. If it has not been possible to secure the broadcasting of events on free-to-air television channels which are received by at least 95 per cent of the UK population (or any such percentage as defined), then the signatory will explain what efforts were made in that respect.

Each signatory will provide the following information to the Committee annually:

1. Confirmation of whether it has sold any UK television, digital audiovisual and audio broadcast rights during the previous year and, if so: (i) details of such arrangements including the length of the arrangement, the rights awarded and the television channels/platforms on which the rights will be utilised; and (ii) a statement as to whether it has complied with the Accessibility Principle.
2. If the signatory has not sold any UK television, digital audiovisual or audio broadcast rights in the previous year, a statement that the signatory's existing UK broadcasting arrangements remain in place and, if details of such arrangements have not been previously provided to the Committee, an explanation of the arrangements (including the same details set out in paragraph 1 above) and a statement as to whether they comply with the Accessibility Principle.
3. If the signatory is unable to state that the UK television, digital audiovisual and audio broadcasting arrangements comply with the Accessibility

Principle, the efforts made by the signatory to use its reasonable endeavours to offer wide access to its domestic broadcasting rights and the reasons why it was not possible to meet the Accessibility Principle.

4. a. the amount of UK broadcasting revenue from the sale of media rights;
- b. the amount and corresponding percentage of net UK broadcasting revenue spent on initiatives to support the long-term development of sport during the previous financial year;
- c. examples of reinvestment projects.

The Committee will monitor *inter alia*:

1. The circumstances in which the sports rights were acquired - for example whether terrestrial free-to-air broadcasters were given an opportunity to acquire the rights on fair and reasonable terms, and did in fact try to do so.
2. The manner in which the broadcaster(s) propose(s) to exercise the rights acquired and the steps taken to try to ensure that a substantial proportion of the population is not deprived of the opportunity of viewing the event(s) involved.

For reasons of confidentiality, any information considered by a signatory to be commercially sensitive will be assessed confidentially by the Chair and independent members of the Committee. The Chair and independent members will then report their findings to the full Committee.

Reporting

Signatories are encouraged to report annually in their own publications the extent to which they have complied with the provisions of the Code.

The Committee will report to DCMS and Ofcom annually and issue a media release each year relating to the previous year's activity and compliance.

Additional information

Meetings of the Committee shall normally be held once a year. The secretariat to the Committee is provided by the Sport and Recreation Alliance.

Committee members representing the signatories are appointed via nomination from the Sport and Recreation Alliance's Major Spectator Sports Division. Independent members are selected and invited to join the Committee by the Chair on the recommendation of the Sport and Recreation Alliance. Independent members will be appointed initially for a period of five years.

The following organisations are signatories to the full Code:

- The England and Wales Cricket Board
- The Football Association
- The Lawn Tennis Association/The All England Lawn Tennis and Croquet Club (joint)
- The R&A
- The Rugby Football Union
- The Rugby Football League

In addition, the following organisations are signatories to the Accessibility Principle of the Code only:

- PGA European Tour
- The Premier League
- UK Athletics

The signatories will seek to encourage other sporting organisations to become signatories to the Code.

The Committee's Terms of Reference and membership can be found as an Appendix to this document.

Appendix One

The Sports Broadcast Monitoring Committee

Terms of Reference

A) Purpose

1. The Sports Broadcast Monitoring Committee (SBMC) serves to monitor the implementation of the Voluntary Code of Conduct for Sports Rights Owners ('The Code').
2. The SBMC will assess whether broadcast rights have been sold by sports rights owners in accordance with both the letter and spirit of the Code.
3. The SBMC has the right to report publicly on any of its findings.

B) Organisation

1. The secretariat for the SBMC will be provided by the Sport and Recreation Alliance.
2. The location of meetings will be determined as appropriate.
3. Meetings will be held as required, normally once per annum.

C) Membership

The SBMC will consist of:

1. Independent Chair
2. Representatives from the signatories to the Code.
3. At least one independent member – i.e. not from any of the sports rights owners.
4. Additional representatives from the Sport and Recreation Alliance and UK Sport.

D) Communications

1. Minutes will be distributed promptly to all SBMC members.
2. As appropriate, the SBMC will report on its work and relevant developments.
3. Any party that wishes to withdraw from the Code must publish a written notice to the SBMC of their reasons.

E) Signatories to the Code

1. The Code will apply in full to the following sports rights owners:
 - The England and Wales Cricket Board
 - The Football Association
 - The Lawn Tennis Association/The All England Lawn Tennis and Croquet Club

- The R&A
 - The Rugby Football Union
 - The Rugby Football League
2. The Accessibility Principle of the Code will apply to the following sports rights owners:
- PGA European Tour
 - The Premier League
 - UK Athletics
3. Representative bodies of other sports may adhere to the Code on similar terms, as may other UK bodies which have control of broadcasting rights to major national sporting events.

The membership of the Committee as at 1 July 2017 is:

Independent Chair

- David Scott CBE

Signatory Representatives

- Robert Sullivan (The Football Association)
- Fredrik Lindgren (PGA European Tour)
- David Mahoney (England and Wales Cricket Board)
- Bill Bush (Premier League)

Independent Members

- Neil Austin
- Karen Earl
- Kate Gallafent QC
- Ian Mill QC
- Alex Russell

Additional Members

- Emma Boggis (Sport and Recreation Alliance)
- Simon Morton (UK Sport)

July 2017

Appendix Two

The Listed Events

GROUP A comprises:

- The Olympic Games
- The FIFA World Cup Finals Tournament
- The FA Cup Final
- The Scottish FA Cup Final (in Scotland)
- The Grand National
- The Derby
- The Wimbledon Tennis Finals
- The European Football Championship Finals Tournament
- The Rugby League Challenge Cup Final
- The Rugby Union World Cup Final

GROUP B comprises:

- Cricket Test Matches played in England
- Non-Finals play in the Wimbledon Tournament
- All Other Matches in the Rugby Union World Cup Finals Tournament
- Six Nations Rugby Tournament Matches Involving Home Countries
- The Commonwealth Games
- The World Athletics Championship
- The Cricket World Cup – the Final, Semi-finals and Matches Involving Home Nations' Teams
- The Ryder Cup
- The Open Championship