

Reform of the Anti-Siphoning Scheme Regulation Impact Statement

Context

The *Broadcasting Services Act 1992* (BSA) provides the legislative framework for the anti-siphoning scheme. Established in 1994, the scheme regulates the acquisition of broadcast rights for sporting and other events of cultural significance or national importance, and seeks to ensure that they remain freely available to Australian viewers.

Main elements of the scheme

The main elements of the anti-siphoning scheme are outlined in section 115 of the BSA, which includes a power for the Minister for Communications to list in a formal notice (known as the anti-siphoning list), events that should, in the opinion of the Minister, be available free to the general public.

The basic rule

The anti-siphoning scheme operates as a licence condition imposed under paragraph 10(1)(e) of Schedule 2 to the BSA on subscription television broadcasting licensees, preventing them from acquiring a right to televise an event on the anti-siphoning list unless a free-to-air (FTA) television broadcaster (either national or commercial) has a right. In this way, the scheme considers FTA broadcasting to be the medium by which listed events should be 'freely available', and provides FTA broadcasters the first opportunity to acquire rights to events on the list without (in theory at least) competition from subscription television.

The list

The *Broadcasting Services (Events) Notice (No. 1) 2010* – known as the anti-siphoning list – is a legislative instrument made by the Minister specifying the events regulated under the scheme. The list has been amended at various points since it was first made in 1994, with events added and removed. However, changes have generally been incremental rather than substantial. To date, all events on the list have been sporting events and at present, the list includes between 1,200 and 1,300 events per year spanning 12 sports: Olympic and Commonwealth Games, horse racing, Australian Rules Football (AFL), rugby league, rugby union, cricket, soccer, tennis, netball, golf and motor sports.

Automatic delisting

Under subsection 115(1AA) of the BSA, events are automatically removed ('delisted') 2,016 hours (12 weeks) before they commence to provide subscription television broadcasters with some opportunity to acquire the rights to events that FTA broadcasters have no interest in acquiring. However, the Minister can prevent automatic delisting and retain a particular event on the anti-siphoning list if they believe that a FTA broadcaster has not had a reasonable opportunity to acquire rights to the event in question.

Multichannelling restriction

Under Part 4A of Schedule 4 to the BSA, events on the anti-siphoning list cannot be premiered on a FTA digital multichannel (i.e. ONE, GEM, 7mate) unless they have already been premiered (or shown simultaneously) on a primary (main) channel. This has led FTA broadcasters to request that the Minister temporarily remove ('delist') events from the list for a particular period of time, to enable them to utilise their main channels to provide first-run

(and often live) coverage on their multichannels. Since 2010, events have been delisted on at least 90 occasions, and FTA broadcasters will continue to request such delistings while the multichanneling rule remains in place.

Sports rights and coverage

The importance of televised sport for audiences

Sport (particularly live sport) continues to remain very popular with Australian audiences. Live sporting events consistently dominate the most popular programs on both FTA and subscription television.

As show in Table 1, in 2016 (calendar year), seven of the top ten rating programs on the FTA main channels were sport or sport-related, including both the AFL and National Rugby League (NRL) grand finals. Even excluding related programming (AFL presentations, post-match and on the ground), sporting events constituted six of the top ten events. Over 40 per cent of the top 50 rated programs and close to 30 per cent of the top 500 programs on FTA broadcasters' primary channels in 2016 were sport or sport-related.

Table 1 – Top Ten FTA programs, primary channels, 2016

Rank		Network	Audience 5 City Metro
1	AFL GRAND FINAL: PRESENTATIONS	Seven	3,163,000
2	AFL GRAND FINAL: SYDNEY V WESTERN BULLDOGS	Seven	3,070,000
3	RUGBY LEAGUE GRAND FINAL	Nine	2,663,000
4	RUGBY LEAGUE STATE OF ORIGIN: 1ST MATCH	Nine	2,631,000
5	AFL GRAND FINAL: POST MATCH	Seven	2,321,000
6	RUGBY LEAGUE STATE OF ORIGIN: 2ND MATCH	Nine	2,314,000
7	THE BLOCK -WINNER ANNOUNCED	Nine	2,205,000
8	AFL GRAND FINAL: ON THE GROUND	Seven	2,165,000
9	MOLLY: PART 1	Seven	2,088,000
10	MY KITCHEN RULES: WINNER ANNOUNCED	Seven	2,086,000

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For subscription television, and excluding the audience figures for repeat screenings, all of the top 500 programs screened in 2016 in terms of audience – including the top ten and top 50 – were sport or sport-related programming. As highlighted in Table 2, even when audiences for repeat screenings are included, nine of the top ten rating programs were sport or sport-related last year, with sports programming making up more than 85 per cent of the top 500 programs.

Table 2 – Top Ten STV programs, 2016

Rank		Channel	Audience
1	AFL PRELIMINARY FINAL #1: GWS V BULLDOGS	Fox footy	543,000
2	NRL STORM V SHARKS	Fox sports 1	499,000
3	AFL PRELIMINARY FINAL #2: GEELONG V SYDNEY	Fox footy	468,000
4	AFL QUALIFYING FINAL #2: GEELONG V HAWTHORN	Fox footy	448,000
5	AFL ELIMINATION FINAL #2: WEST COAST V BULLDOGS	Fox footy	447,000
6	AFL SEMI FINAL #2: HAWTHORN V BULLDOGS	Fox footy	441,000
7	AFL QUARTER FINAL #1: SYDNEY V GWS	Fox footy	440,000
8	GAME OF THRONES	Showcase	432,000
9	AFL SEMI FINAL #1: SYDNEY V ADELAIDE	Fox footy	413,000
10	NRL PRELIMINARY FINAL: #1 STORM V RAIDERS	Fox sports 1	400,000

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Despite declining audience numbers for FTA television more broadly (prime time evening audiences for the FTA television broadcasters in the mainland capital cities fell by almost nine per cent over the four years to 2016)¹, audiences for sports like AFL have remained fairly consistent since 2009.² For other sports, such as rugby league State of Origin, audience numbers have increased against their multi-year average.³ A 2014 report found that 96 per cent of Australians consume sport, spending on average 2.9 hours a week watching sport on television.⁴ However, audience popularity has not been maintained for all sports.⁵

- All three golf events included on the current anti-siphoning list receive low audience figures, and these numbers have (with some exceptions) been in decline over the past eight years. The United States Masters tournament has seen average daily viewing audiences over the past eight years of around 100,000 (including 77,000 in 2015 and 61,000 in 2016). The Australian Open has also seen relatively low audience numbers, with audiences for the tournament on days 1-2 averaging less than 200,000 viewers between 2009 and 2016. Audience numbers for the Australian Masters tournament were similar through until 2015, although the event was not held in 2016.
- For the Rugby League World Cup, there is significant disparity in audience numbers between matches played in Australia or New Zealand and matches played elsewhere. This generally reflects time zone differences and coverage in Australia falling outside of prime time. For example, audiences were significant for matches of the 2008 World Cup (played in Australia): average audiences for group matches and the semi-final involving Australia were over 500,000, and the final over 1,000,000. In 2013, with the tournament played in the United Kingdom and France, audiences for matches were less than 200,000 and the final less than 250,000.

¹ OzTAM Pty Limited. Sun-Sat 1800-2400, 5 City Metro, Wks 1-52, 2013 to 2016, Audience, Total People, Consolidated. Data © OzTAM Pty Limited 2016. The Data may not be reproduced, published or communicated (electronically or in hard copy) without the prior written consent of OzTAM.

² OzTAM Pty Limited. Sun-Sat, 5 City Metro, Wks 1-52, 2009 to 2016, Audience, Total People, Consolidated. Data © OzTAM Pty Limited 2016. The Data may not be reproduced, published or communicated (electronically or in hard copy) without the prior written consent of OzTAM.

³ Ibid.

⁴ PERFORM, Kantar Media Sport, SportBusiness Group, *The Global Sports Media Consumption Report 2014*.

⁵ All audience numbers included in the following points are sourced from OzTAM Pty Limited. Sun-Sat, 5 City Metro, Wks 1-52, 2009 to 2016, Audience, Total People, Consolidated. Data © OzTAM Pty Limited 2016. The Data may not be reproduced, published or communicated (electronically or in hard copy) without the prior written consent of OzTAM.

- Audiences for matches of the FIFA World Cup involving Australia have been very high. In 2010 (South Africa) and 2014 (Brazil) matches involving Australia generally commanded audiences of around 1 million viewers on average. However, audiences have been significantly lower for matches not involving Australia. For example, non-finals matches not involving Australia averaged less than 200,000 viewers in 2014.

A similar pattern of generally low (and in some cases declining) audiences for events played overseas, and international events not involving Australian representation, can be seen with international rugby league and rugby union test matches, the Rugby Union World Cup, the International Cricket Council (ICC) Cricket World Cup, the ICC World Twenty20 (T20) Cricket World Cup and Davis Cup tennis.

The importance of sports rights for broadcasters and sports bodies

Sports programming has always been important for the business models of both FTA and subscription television broadcasters, and this importance appears to be increasing in a digital media environment. As consumers take up streaming services such as Netflix, Stan and other online outlets to watch films and drama programs, broadcasters are becoming increasingly reliant of live, event-based programming to attract audiences, which includes sport. This is evident in the fierce competition for the acquisition of the media rights (broadcast and digital) to major sporting codes, and the growth in prices paid for such rights.

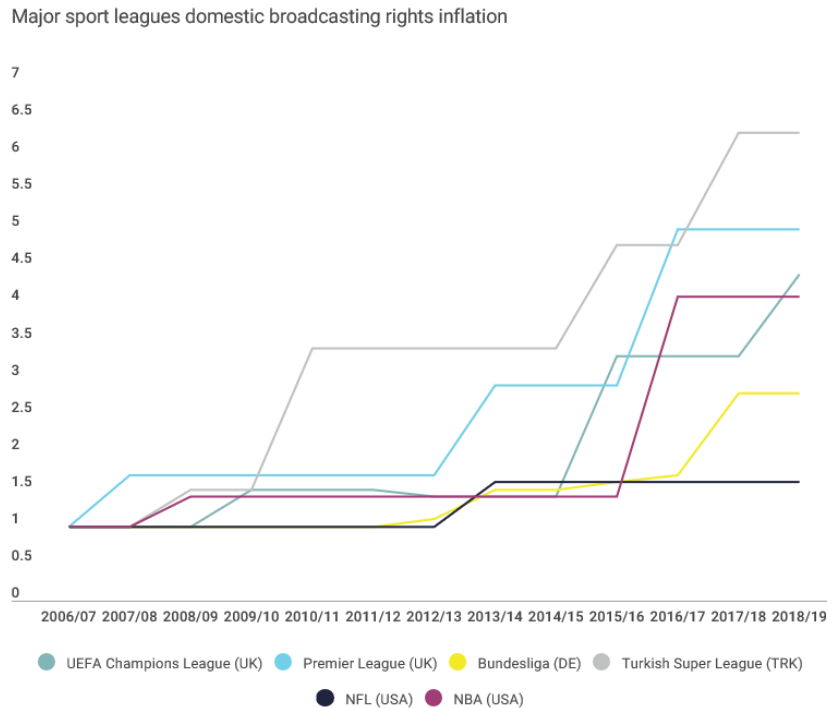
- In 2015, the AFL signed a six year deal for the broadcasting rights with the Seven Network, Foxtel, and Telstra for \$418 million per season, beginning in 2017. This was a substantial increase from the 2012 to 2016 deal, which was worth \$250 million per season.
- In 2015, the NRL signed a five year deal for the rights with the Nine Network, Foxtel, and Telstra for \$1.8 billion, beginning 2018, a 70 per cent increase on the current deal of just over \$1 billion for the five years through until 2017.
- Internationally, the Football Association in England sold the 2016 to 2019 English Premier League broadcasting rights to their local market for over £5.1 billion to Sky and BT Sports, a substantial increase from the £3.0 billion they received for the 2013 to 2016 period. In this instance, Sky reportedly bid higher than they anticipated for the rights, but decided that the football broadcasting rights were fundamental to attracting and keeping subscribers.⁶
- In 2017, global spend on sports media rights is expected to hit \$45 billion.⁷

Figure 3 demonstrates this growing cost of sport rights in overseas markets. This trend is persisting despite the pattern of declining profits for many broadcasters. The commitment and willingness shown by broadcasters and media companies to spend on media rights for sports stresses the importance of live events on television. Broadcasters are now competing not only among themselves, but also trying to protect their content and audiences from new media organisations.

⁶ British Broadcasting Corporation, *Premier League in record £5.14bn TV rights deal*, 10 February 2015.

⁷ Nielsen, *Commercial Trends in Sport 2017*, March 2017.

Figure 3



Ampere Analysis *Ballon d'More: How much longer can sports rights values continue to inflate?* 29 March 2017

As seen above, media rights make up a significant and growing source of revenue for sports bodies. For example, the AFL received 46 per cent of their total revenue from broadcasting arrangements in 2016,⁸ Over recent years, the AFL has experimented with their match schedule to maximise television audiences and subsequently increase the value of future broadcasting deals (for example, 2017 will see eight Thursday night fixtures).

Sports bodies and media companies (including broadcasters) are also looking to re-orient and re-package their content to meet changing consumer preferences and, in particular, to make their sports more accessible to passive consumers who may have a passing interest in their sport.⁹ Twenty20 cricket is an example of this, with the short form of the game is more appealing to consumers who may not see themselves as cricket fans. Twenty20 cricket has had great success both locally and abroad, with the Big Bash League rating highly in Australia. This success has made cricket more commercially successful, and other sports, such as tennis and athletics, are following cricket's lead.

This forms part of a broader growth in the market for online and mobile sport rights. Both in Australia and internationally, the nature of sports rights are changing, as over the top, online and telecommunications providers are beginning to offer live coverage of sports.

In 2015, Optus surprised the market when it beat Foxtel to the broadcast rights for the English Premier League, paying \$63 million per season for three seasons beginning with 2016/17. This was a significant increase on the previous deal, where Foxtel was believed to have paid between \$20 and \$25 million per season. Optus will broadcast all games through a mobile app, their website, and through their set top box, all exclusively to Optus customers. This is similar to BT Sport's coverage of the sport in the UK, although BT Sport has fewer games.

However, in Australia to date, new media coverage has tended to be complementary to broadcast coverage, rather than a replacement for it. The major sporting codes in Australia still generally consider online rights to be complementary to broadcast rights, with Telstra

⁸ Figure derived by the Department from publically available information in the AFL's 2016 Annual Report.

⁹ Nielsen, *Commercial Trends in Sport 2017*, March 2017.

typically acquiring rights packages that sit alongside the broadcast rights. Examples of this are recent AFL and NRL agreements.

- The AFL rights agreement for 2017 to 2022 will see Seven Network broadcasting between 3 and 4 matches per round nationally in all states and territories (although this may vary in states). Fox Sports will broadcast all matches live on all devices, including cable, satellite, IPTV, tablets and smart phones. Telstra will broadcast all matches live on mobile via the AFL app for subscribers. This is broadly consistent with the arrangements in place for 2012 to 2016.
- The NRL rights agreements for 2018 to 2022 split rights between Nine Network, Fox Sports and Telstra. Nine will provide 3 live matches per week, Fox Sports will broadcast all matches live on all devices, including cable, satellite, IPTV, tablets and smart phones, while Telstra will telecast game on its mobile network as well as replays and highlights on its new Telstra TV platform. The previous rights agreement for 2013 to 2017 saw the same broad arrangement.

The other trend evident in Australia is for broadcasters themselves to take up online and mobile rights.

- The Nine Network partnered with Cricket Australia (CA) to develop CA's official app. Subscribers are able to stream select cricket games, but unlike Telstra's broadcast of the NRL and AFL, the broadcast is a direct simulcast of Nine's coverage, and includes advertisement breaks. This is complementary to the television broadcast, as it gives audiences the option to watch cricket on the go, but it is expected audiences will watch on their television if they are able to.
- The Seven Network integrated online media to their coverage of the 2016 Rio Olympic Games. Audiences were able to watch live coverage online and on their mobiles. Seven also had an agreement with Twitter, where clips of key moments such as Australian gold medals were shown on the social network, while also integrating Seven's sponsors.

Research conducted in 2014 demonstrated that television is still the primary source of sports consumption, with 96 per cent of sports consumers in Australia engaging with television coverage of their preferred sports.¹⁰ While mobile engagement is increasing, it still only attracts 41 per cent of sports consumers. Mobile coverage is used for more than just streaming live play, and is often employed to compliment television coverage. For example, apps can provide live statistics and in-game analysis, or fans can discuss events through social media channels as they happen. This is particularly prominent in the US, and sports in Australia are increasing this kind of complementary mobile engagement.

In summary, to date there is little evidence at this time of sports rights migrating exclusively to online platforms. Sports rights largely continue to be negotiated with both FTA and subscription broadcasters, with FTA broadcasters generally taking up rights to some or all of these events.

The problem

The anti-siphoning scheme dates to an analogue era of media regulation. It contains outdated and redundant provisions which serve little purpose in a contemporary media environment. The list is also long and in need of reform.

¹⁰ PERFORM, Kantar Media Sport, SportBusiness Group *The Global Sports Media Consumption Report 2014*.

The multichannelling rule

As described above, the multichannelling rule prevents FTA broadcasters from televising events first, or exclusively, on their digital multichannels. The rule was introduced in 2006 to prevent consumers who had yet to make the switch to digital television, or for which digital television had yet to be rolled out in their area, from being disenfranchised by events being televised on digital-only channels. With the completion of digital switchover in 2013, this rule is now redundant. It effectively restricts the ability of FTA television broadcasters to optimally televise listed events without achieving any demonstrable consumer benefit.

The automatic delisting provisions

The automatic delisting rule permits subscription television broadcasting licensees to acquire the rights to events 12 weeks prior to their commencement. This doesn't align with the commercial reality of rights acquisition, where the majority of major sports rights contracts are settled between six months and two years from the commencement of the first event to be played as part of the competition or tournament.

The length and scope of the list

The anti-siphoning list is long by any measure, covering between 1,200 and 1,300 events in any given year (not including the individual sports comprising the Olympic and Commonwealth Games). While the broadcast rights to the majority of sports on the list continue to be acquired by FTA broadcasters and garner high audiences, this is not the case across the board.

For some events, the broadcast rights have not been acquired by a FTA broadcaster over recent years (for example, the United States Open tennis tournament). For other events, the competition itself has not been held, as is the case with the Australian Masters golf tournament. Low audiences have also been evident for a number of competitions, particularly those events or parts of events played overseas where there is little or no involvement of Australian individuals or teams. While there may have been reasonable grounds for the inclusion of these events on the anti-siphoning list in the past, it is questionable whether this rationale persists today.

The Government's policy objectives

The Government is seeking to uphold the following principles in considering potential reforms to the anti-siphoning scheme and list.

- **Ensuring that Australians continue to have free access to nationally important and culturally significant events**
- **Removing outdated or ineffective elements of the scheme**
- **Minimising the impact of the scheme where the inclusion of events under the under the scheme is no longer warranted**

When the anti-siphoning scheme was first established in 1994, 'freely available' equated to FTA television. While there are now a number of ways Australians can freely view sport (including through online platforms), FTA television remains the most easily accessible and popular platform for live sports consumption. It is therefore the Government's view that the anti-siphoning scheme should continue to play a role in ensuring Australians can access iconic events on FTA television. However, aspects of the anti-siphoning scheme are outdated and are adding to the regulatory burden on business, without providing any particular benefit to the Australian public. The anti-siphoning list is also long and given the

impact that the scheme has on the subscription television sector (discussed below), reform is warranted. The Government is committed to addressing these identified issues.

While the Government does not consider a wide reform agenda to be the right course of action at this point in time (for reasons outlined below), there are a number of areas where it would be possible to consider some form of regulatory or other intervention.

- The anti-siphoning scheme does not force FTA broadcasters to acquire rights to televise events on the anti-siphoning list (this remains a decision for the broadcasters themselves). It is possible to mount an argument that if FTA broadcasters are given 'preferential access' to acquire the rights to anti-siphoning events under the scheme, they should be made to acquire those rights, or lose that preferential access.
- The anti-siphoning scheme does not oblige FTA broadcasters to provide any particular level or type of coverage of anti-siphoning events. Again, this remains a matter for broadcasters. It would be possible to consider the imposition of coverage obligations, which forced broadcasters to meet certain minimum thresholds for the amount of live coverage provided, or the extent of coverage.
- The anti-siphoning scheme does not regulate the acquisition of rights to anti-siphoning events. As noted, the market for sports coverage is changing rapidly, and the rights packages for most sports contain some form of online or mobile rights. It may be possible to introduce a new anti-siphoning scheme designed to prevent rights migrating exclusively to paid, online platforms, and no longer being 'freely available'.

While these issues have been identified over recent years, it is not clear that the benefits of intervening to correct them, or address a perceived concern, would outweigh the costs at this time.

- Forcing FTA broadcasters to acquire the rights to anti-siphoning events, or to provide certain levels of coverage of such events could, for example, impose regulatory costs on these broadcasters if such rules were to materially distort the decisions they might otherwise make regarding rights acquisition and coverage.
- Restricting the capacity of sports rights holders to make rights available to online media providers might impose opportunity costs on these parties if it were to erode the value they could otherwise extract from those rights in the absence of the rule.

Moreover, it is not clear that regulatory or other intervention would be warranted in relation to issues that might be considered as part of a 'root-and-branch' review of the anti-siphoning scheme.

- While there may have been instances of FTA broadcasters acquiring but not televising anti-siphoning events in the past, there have been no allegations of this taking place over recent years. Broadcasters appear to generally use what they acquire.
- The type and extent of coverage of anti-siphoning events by FTA broadcasters has also improved with the commencement of digital television multichannels between 2008 to 2010 (the use of which has been made possible by temporary delistings to avoid the impact of the multichannelling restriction).
- While mobile sports rights are becoming an integral part of the media rights landscape for sports, there are no instances of anti-siphoning events migrating exclusively to online or mobile platforms, and no longer being freely available to Australian audiences. To date, mobile and online rights have been complementary to broadcast rights.

These are obviously areas that will need to be closely monitored, particularly in the new media space. However, it is unclear whether the imposition of regulations or other form of intervention would be justified at this point in time.

In addition, the difficulty of achieving meaningful change to the anti-siphoning scheme should not be underestimated. The anti-siphoning scheme is highly contested, and has been since its introduction. The FTA and subscription television sectors hold diametrically opposed views on the scheme, with the former arguing that it remains important in ensuring FTA coverage of key events and the latter arguing that it is anti-competitive and unduly favours the FTA sector. Most sports bodies have also argued that the scheme impedes their ability to maximise the value of their product.

In short, and for the reasons outlined above, reform of the scheme and list will need to be incremental and progressive.

Options

The following options have been considered in relation to the three issues noted above.

Issues	Options		
1. The multichannelling rule	1a – No change to current arrangements		1b – Remove the rule
2. Automatic delisting	2a – No change to current arrangements	2b – Extend the period to 26 weeks	2c – Extend the period to 52 weeks
3. The list	3a – Maintain the current list		3b – Implement targeted reductions

Analysis

This section examines the estimated costs and impacts of the various options on businesses, community organisations and individuals. This analysis includes consideration of compliance, administrative and delay costs, and (where appropriate) opportunity costs and indirect costs. None of the options considered involve the imposition of any new regulations. In all cases, they entail either the maintenance of existing arrangements, or the scaling back of these regulations.

The multichannelling rule

Option 1a – retaining the multichannelling rule

Regulatory cost

The multichannelling rule does not, in itself, impose any regulatory costs on businesses. Compliance with the rule by FTA broadcasters does not require these businesses to make or keep records, notify the Government of activities, make applications or requests to Government, or procure permits or professional services. There are also no delay costs associated with applications to, or approvals from, Government. Retaining this rule would require no change to the BSA and the current absence of regulatory cost for businesses, consumer organisations and individuals is likely to be maintained.

Opportunity costs

Opportunity costs are the value of opportunities that cannot be realised because of the regulatory intervention. They are one of a number of costs that are excluded from the Office of Best Practice Regulation's Regulatory Burden Measurement framework and generally not required to be considered in a regulatory costing, although a qualitative analysis is within the remit of a standard form RIS.¹¹ In large part, this is because they can be very difficult to quantify due to the complexity of accurately predicting what a business would do in response to the removal or lessening of a regulation. To the extent that it is feasible, these costs are discussed below.

The multichannelling rule is likely to impose some level of opportunity cost on FTA broadcasters by restricting the degree to which they can fully utilise their digital multichannels. In the absence of delistings, FTA broadcasters are required to either provide coverage of listed events on their primary channels and displace other programming, or to maintain other programming and provide delayed coverage of anti-siphoning events (or no coverage at all) on their primary channels. Although it is not feasible to provide an estimate of this impact, it is reasonable to expect that this will curtail to some extent the capacity of FTA broadcasters to maximise their overall audience and therefore advertising revenue across all of their channels.

Consumers would also face some opportunity costs with the multichannelling rule in place. Where the operation of the rule leads broadcasters to choose to delay coverage of sporting events on their primary channels, or provide far less comprehensive coverage (being restricted to the one channel), there would be some erosion of consumer benefits, particularly for segments of the audience that are passionate sport fans. Although this potential impact is not able to be quantified, it is clear from representations made to Government over a number of years and through public discourse that lack of coverage of sport by FTA broadcasters can disappoint and aggravate some viewers.

Indirect costs / impacts

Indirect costs are those that may arise indirectly from the impacts of regulatory changes, including changes to market structure and competition impacts. As with opportunity costs, indirect costs are not generally required to be considered in a regulatory costing or for a standard form RIS.¹² However, for completeness, it is worth noting that the multichannelling rule *may* provide some indirect benefit for the subscription broadcasting sector.

Where both subscription and FTA broadcasters hold rights to a particular anti-siphoning event, and FTA broadcasters are restricted to using their primary channels to provide coverage, this may confer on subscription broadcasters some measure of competitive advantage to the extent they can provide more fulsome or attractive covering using one or more channels. Any such indirect benefit is likely to have been factored in to the negotiations with the relevant sports body for rights and reflected in the price paid by subscription broadcasters for their rights. However, the fact remains that the regulation itself does affect the competitive dynamic between FTA and subscription broadcasters.

Option 1b – removing the multichannelling rule

Option 1b is essentially the reverse of Option 1a, as described above. This option is deregulatory in nature, and would involve legislative amendment to remove the multichannelling rule (Part 4A of Schedule 4 to the BSA) from the anti-siphoning scheme. This would involve some change in the regulatory, opportunity and indirect costs imposed on businesses and consumers.

¹¹ Office of Best Practice Regulation, *Regulatory Burden Measurement framework*, February 2016, page 4.

¹² Office of Best Practice Regulation, *Regulatory Burden Measurement framework*, February 2016, page 4.

Regulatory cost

As noted above, there is no regulatory cost directly associated with the multichannelling rule. However, its removal is expected to result in some regulatory cost savings for FTA broadcasters. For these broadcasters to actually use their multichannels to provide first run or exclusive coverage of an anti-siphoning event – in effect, to avoid the outdated rule – it is necessary for the Minister for Communications to temporarily remove the event in question from the anti-siphoning list. As noted above, delistings of this nature have been common since 2010, although generally only at the request of the relevant FTA broadcasters (if a broadcaster doesn't intend to make use of their multichannels to provide coverage, there is little point in temporarily delisting the event).

There is an administrative cost associated with FTA broadcasters applying to have certain events temporarily delisted from the list. This includes the time required to assess their programming schedule and determine the possible use of multichannels, prepare and submit the requisite delisting request (outlining broadcast time and proposed channel usage in affected licence areas), and to respond to any requests for additional information.

The removal of the multichannelling rule would remove these regulatory costs, which are expected to be in the order of \$8,000 per annum across the sector. This is based on an estimate of the time take to prepare and submit a delisting request (three hours) at an estimated cost of \$200 per hour.¹³ On average, there have been 13 delistings per year since 2010. See [Appendix A](#) for further details.

Table 3 - average annual regulatory costs (from business as usual)

Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	(\$8,000)	\$	\$	(\$8,000)

As noted in Table 3, community organisations and individuals are unlikely to incur any regulatory costs under this option.

Opportunity costs

It is expected that the removal of the multichannelling rule would moderate any opportunity costs arising from the restriction on the use of multichannels by FTA broadcasters. This would arise from FTA broadcasters being able to optimise their use of channels to provide coverage of anti-siphoning events and other programming, and in turn maximise advertising revenue. Consumers would also benefit from the removal of the rule, and it is likely to result in more extensive coverage and more live coverage of events. This has been attested by the enhanced coverage of anti-siphoning listed sports on multichannels since 2010 permitted by the temporary delisting of these events.

Indirect costs / impacts

The potential competitive advantage conferred on subscription broadcasters by the multichannelling rule (outlined above) could be expected to be eroded with its repeal. This potential advantage exists where both subscription and FTA broadcasters hold rights to an anti-siphoning event, and FTA broadcasters are restricted to using their primary channels to provide coverage, while subscription broadcasters can provide more fulsome or attractive coverage using one or more channels. While subscription broadcasters may still be in a position to provide more attractive and / or fulsome coverage than their FTA competitors due

¹³ This figure of \$200 per hour is based on an assumption of the rate per hour (at full cost) of one senior staff member who is familiar with regulatory and government affairs.

to their larger range of channels, this advantage would no longer be due to the multichannelling restriction.

The automatic delisting period

Option 2a – make no change to the current regulatory arrangements

Option 2a would maintain the existing arrangements and involve no change to the BSA. As such, the impact of the rule on businesses, consumer organisations and individuals is likely to be maintained.

Regulatory costs

Under subsection 115(1AA) of the BSA, events that remain on the list 12 weeks before their commencement are automatically removed from the list, unless the Minister declares (via legislative instrument) that the event continues to be on the list after that time. Any regulatory costs imposed on subscription broadcasters through this automatic delisting process would be negligible, and contained to monitoring the timing of an event before entering into any agreement to purchase rights. There are also no delay costs associated with applications to, or approvals from, Government.

Opportunity costs

As outlined above, opportunity costs represent the value of opportunities that cannot be realised because of the regulatory intervention. They are difficult to quantify and although not required for this analysis, a description of possible costs – in general terms – is provided.

Sports bodies and subscription broadcasters may incur some level of opportunity cost as a result of the current arrangements. Major sports rights contracts are normally settled and announced between six months and two years before the first events to be played as part of the competition, tournament or series take place. Among other things, this enables sports bodies and broadcasters to bed down coverage and scheduling arrangements and promote the events to audiences and subscribers. Under the current scheme, where no FTA broadcaster is interested or willing to acquire a right to an anti-siphoning listed event, subscription broadcasters are still unable to acquire a right until three months from the event taking place. This can be expected to compress the contracting process for both sports bodies and subscription broadcasters, and will necessarily limit the extent to which sports programming and packages can be promoted to audiences.

Consumers may also incur some opportunity costs should sports programming not be acquired by a broadcaster. Twelve weeks may not be enough time for subscription broadcasters to reach an agreement with rights holders and schedule camera, studio, playout and other resources to cover the event, particularly if it coincides with other sporting events. The effect of this would be that consumers would not have access to view those sports on any Australian broadcast platform. Although there is no indication that this has occurred in recent years, the potential impact would nonetheless remain.

Option 2b – extend the automatic delisting period to 26 weeks

This option would lengthen the automatic delisting period to 26 weeks before events take place. This would require amendment to subsection 115(1AA) of the BSA.

Regulatory costs

Negligible, as per Option 2a. The automatic delisting rule should not impose any material regulatory costs on businesses, community organisations or individuals, and a change to the delisting period is unlikely to change this situation.

Opportunity costs

To the extent that subscription broadcasters and sports bodies face some opportunity costs from the current automatic delisting period (being restricted in when they can acquire rights to events under the scheme where no right is acquired by a FTA broadcaster), these costs would be moderated by a longer automatic delisting period. Similarly, to the extent that the 12 week period risks some rights not be acquired at all, a longer automatic delisting period should reduce that risk, with consequential benefit for consumers. It is not possible to provide any meaningful quantification of these potential cost reductions.

Option 2c – extend the automatic delisting period to 52 weeks

The regulatory and opportunity cost impacts of extending the automatic delisting period to 52 weeks are similar to Option 2b. There are no anticipated regulatory costs, and the potential opportunity cost mitigation for subscription broadcasters and sports bodies would be greater than for Option 2b. However, there is a risk that an automatic delisting period of 12 months may undermine the operation of the anti-siphoning rule. There have been numerous examples over recent years of the broadcast rights to sporting events being settled and announced between six and 12 months from the first event of the competition, tournament or series taking place.

- On 17 December 2015, the Australian Rugby Union announced a rights agreement covering rugby union fixtures for the period 2016 to 2020 involving Network Ten and Fox Sports. The first match covered by this agreement was played between Australia and England on 11 June 2016.
- On 13 February 2015, Network Ten announced a rights agreement with Formula One Management to broadcast the F1 Championship between 2016 and 2019, and also incorporating the final year of an existing agreement for 2015. This Australian Grand Prix of the 2016 F1 season took place on 20 March 2016.
- On 18 December 2014, the Netball World Cup (NWC) announced a rights agreement covering the 2015 NWC involving Network Ten and Fox Sports. The first match of the NWC involving the Australian team was played on 7 August 2015.
- On 4 June 2013, Cricket Australia announced a rights agreement with the Nine Network covering cricket fixtures for the period 2013-14 to 2017-18. The first test match of the 2013-14 Summer was played between 21 and 25 November 2013.
- On 21 August 2012, the Australian Rugby League Commission announced a rights agreement with the Nine Network and Fox Sports covering rugby league fixtures for the period 2013 to 2017. The first match covered by this agreement was the round 1 match of the 2013 NRL Premiership played between the Sydney Roosters and South Sydney Rabbitohs on 7 March 2013.
- On 1 June 2005, the Seven Network announced a rights agreement covering rugby union fixtures for the period 2006 to 2010. The first match covered by this agreement was played between Australia and England on 11 June 2006.

This pattern of rights acquisitions suggests that, in the future, at least some rights negotiations won't be settled until between six and 12 months from the affected events

taking place. A 12 month automatic delisting period would enable subscription television broadcasting licensees to acquire rights without restriction during this period; potentially before a rights deal involving a FTA network might otherwise be settled.

The list

Any assessment of the composition of the anti-siphoning list is, in part, an assessment of the impact of the scheme as a whole. Only by including events on the list are subscription television broadcasters subject to the licence condition that they not acquire a right until a FTA broadcaster has a right. There have been numerous reviews of the scheme over that past two decades.

In 2000, the Productivity Commission's (PC) review of broadcasting considered, among a range of matters, the anti-siphoning scheme. The Commission concluded that the scheme was exclusionary¹⁴ and gave FTA broadcasters a competitive advantage over subscription broadcasters and increased their revenue. Additionally, it disadvantaged sport organisations by decreasing their negotiating power in marketing their products.¹⁵

The PC came to a similar conclusion in 2009, as part of its annual review of regulatory burdens on business. The PC found the scheme to be anti-competitive, imposing a protracted negotiation process on subscription television broadcasters and reducing the bargaining power and potential revenue of sports bodies.¹⁶

Anti-siphoning was also discussed in the report of the Independent Sports Panel. This report (the Crawford Report) argued that that the scheme limited the earning potential for sports and reduced the quantity and quality of sports coverage on television by incentivising FTA broadcasters to acquire rights to popular sports (to the exclusion of less popular sports).¹⁷

None of these reviews and assessments attempted to quantify these impacts on businesses, (or community groups and individuals), and this RIS does not attempt to do so. As noted previously, it is very difficult, and in many cases impossible, to quantify opportunity costs due to the complexity of accurately predicting what a business would do in response to the removal or lessening of a regulation. Suffice to say, reductions to the anti-siphoning list will, if nothing else, reduce any potential adverse impacts of the scheme on broadcasters and sports bodies. Indeed, in 2009, the PC concluded that shortening the list would alleviate some of the problems it had identified, with the option to abolish the list also worthy of exploration.¹⁸

Moreover, the potential effects of the scheme on sports organisations and broadcasters need to be considered alongside the broader aim of enhancing the viewers' experience of major sporting and other events. Notwithstanding the rapid changes underway in the media market, the FTA and subscription television broadcasting remain the two platforms on which the vast majority of sports viewing takes place in Australia. If the aim of the scheme is to ensure the free availability of nationally important and culturally significant events, then protections in favour of the FTA platform are one mechanism to achieve this 'social equity' objective.

¹⁴ Productivity Commission, *Broadcasting Inquiry Report*, March 2000, p. 444.

¹⁵ *Ibid.*, pp. 434–35.

¹⁶ Productivity Commission, *Annual review of regulatory burdens on business: social and economic infrastructure services*, Research Report, Melbourne, 15 September 2009.

¹⁷ Independent Sports Panel, *The future of sport in Australia*, (the Crawford Report), Commonwealth of Australia, Canberra, 2009.

¹⁸ Productivity Commission, *Annual review of regulatory burdens on business: social and economic infrastructure services*, Research Report, Melbourne, 15 September 2009.

Option 3a – make no changes to the current list

Maintaining the current the list would involve no change to the *Broadcasting Services (Events) Notice 2010*, which currently covers around between 1,200 and 1,300 events per year. As such, the existing impact of the rule on businesses, consumer organisations and individuals is likely to be maintained.

Regulatory costs

The regulatory costs of including events on the list are expected to be negligible. The listing of an event does not require businesses to make or keep records, notify the Government of activities, make applications or requests to Government, or procure permits or professional services. There are also no delay costs associated with applications to, or approvals from, Government. Similarly, there are unlikely to be any regulatory costs imposed on community organisations or individuals.

Opportunity costs

As noted above, the anti-siphoning scheme restricts sports bodies' choice of purchasers for the broadcast rights to listed events before the automatic de-listing period. Before that time, sports rights owners are effectively required to make their rights available to FTA broadcasters, with subscription television operators excluded from negotiations. This can be expected to affect the price and the nature of those broadcast rights to some degree, and subsequently the type of public exposure the listed sports receive. These opportunity costs are recognised although not quantified in this RIS, for the reasons outlined previously.

Indirect costs

To the extent that the scheme alters the negotiation process for sports rights, it is likely to impose some indirect costs on sports organisations and subscription broadcasters. Broadcasters such as Foxtel have suggested that the scheme stunts industry growth and puts FTA broadcasters in charge of sports rights negotiations, while sports bodies have argued that it restricts their power to negotiate the best deals for their product.

Option 3b– targeted reductions to the list

This option would seek to reduce the scope and the impact of the list. This could be achieved by legislative amendment or by the making of a legislative instrument amending the *Broadcasting Services (Events) Notice 2010*. Reducing the list in this way would have two, overlapping effects.

- It would reduce the impact of the scheme on sports bodies and subscription television broadcasters.
- It would rationalise the list to focus on those events that, in a contemporary setting, possess some demonstrable national interest qualities.

In regard to the latter, it should be emphasised that there is no simple or uniform set of rules that enables an unambiguous decision on whether an event should be included on the list. Each competition and event is generally quite unique, and an assessment of the case for its inclusion on the list will require a balancing of factors.

Audiences for a given sport are an obvious criterion, and have the advantage of being quantifiable and independently verifiable. However, even audience numbers need to be considered in context. For example, a sport with an average audience across the five mainland capital cities of less than 200,000 viewers (low) provides a prima facie case for its

removal from the list. However, this rule can't be applied to all sports, and other factors may be relevant. While netball fixtures generally fall short of this audience threshold, for example, it needs to be considered that netball is the only exclusively female sport on the list.

The proposed reductions to the list put forward as part of this option are derived from the application of the following criteria.

- Whether there is a history of broadcast rights being acquired by a FTA broadcaster.
- Where the rights have been acquired by a FTA broadcaster, the nature and extent of the coverage provided (i.e. whether live or delayed, full or partial).
- The size of the FTA audience where events have been televised by an FTA broadcaster.
- Whether the event in question would be considered to have some degree of 'national significance' (for example, where it involves an Australian representative team).

The proposed changes are outlined in Table 4. A more detailed outline of the rationale for the changes provided at [Attachment B](#).

TABLE 4 – PROPOSED REDUCTIONS TO THE ANTI-SIPHONING LIST			
SPORT	COMPETITION (& details of listing)	RECOMMENDED LISTING	EFFECTIVE REDUCTION
FOOTBALL			
Rugby League	International Tests (matches with Aus, played in Aus, NZ or UK)	Matches with Aus played in Aus or NZ	Matches with Aus played against the UK in the UK, or against other countries in the UK
	World Cup (matches with Australia)	Matches with Aus played in Aus, NZ or PNG	Matches with Aus played in countries other than Aus, NZ or PNG
Soccer	FIFA World Cup (each match of the finals tournament)	Matches with Australia and the final	Matches not involving Aus, other than the final
	FIFA World Cup Qualifiers (each match involving Aus)	Matches involving Aus played in Aus	Matches involving Aus, played outside of Aus
	English FA Cup Final	Remove	Each match
Rugby Union	International Tests (matches with Aus, played in Aus, NZ, South Africa or Europe)	Matches with Aus played in Aus or NZ	Matches with Aus, played in South Africa or Europe
	World Cup (matches with Aus, qtr-finals, semi-finals and final)	Matches with Aus and the final	Matches not involving Aus, qtr-finals and semi-finals
CRICKET			
Limited Overs	Cricket World Cup (matches with Aus, semi-finals and final)	Matches with Aus and final, played in Aus or NZ	Matches with Aus, semi-finals and final when played outside Aus and NZ Semi-finals not involving Aus, when played in Aus or NZ
	T20 World Cup (matches with Aus and the final)	Matches with Aus and final played in Aus or NZ	Matches with Aus and final when played outside Aus and NZ

Tests	International Tests (with Aus, played in Aus and UK)	Matches with Aus, played in Aus, and Ashes tests played in UK	Matches with Aus played in the UK, but not against the UK (against another side)
GOLF			
	Australian Masters (each round)	Remove	Each tournament
	Australian Open (each round)	Remove	Each tournament
	United States Masters (each round)	Remove	Each tournament
TENNIS			
	Wimbledon (men's and women's singles quarter-finals, semi-finals and finals)	Remove	Each tournament
	United States Open (men's and women's singles quarter-finals, semi-finals and finals)	Remove	Each tournament
	Davis Cup (each match of the World Group tournament involving Aus)	Matches involving Aus played in Aus, plus the final involving Aus	Matches involving Aus, played outside Aus
NETBALL			
	International Tests (matches with Aus played in Aus or NZ)	Remove	Each match
MOTORSPORTS			
	V8 Supercars (each race)	Bathurst 1000	All races (other than Bathurst)

Regulatory costs

The regulatory costs of removing events from the events are expected to be minimal. Sports bodies and broadcasters will need to ensure they are aware of whether particular events are included or removed from the list, although the proposed consultation on the new list (outlined below) will support this awareness. Moreover, sports rights contracts normally span multiple years and as such, the composition of the list will only have relevance to broadcasters and sports bodies at the time the particular rights next come up for acquisition.

In terms of specific regulatory costs, removing events from the list will not require businesses to make or keep records, notify the Government of activities, make applications or requests to Government, or procure permits or professional services. There are also no delay costs associated with applications to, or approvals from, Government.

There would be no regulatory costs imposed on community organisations and individuals under this option.

Opportunity costs

To the extent that the anti-siphoning scheme adversely effects sports organisations and subscription broadcasters, the removal of events or parts of events can be expected to mitigate any such impacts for the sports bodies and broadcasters concerned. Although this is likely to represent some reduction in opportunity cost, any such reduction is not quantified in this assessment.

For consumers, the removal of events from the list may be perceived as reducing their availability on FTA television. However, the practical impacts of the proposed changes may be more muted.

- For some of the proposed delistings, the events either no longer take place (Australian Masters golf tournament), or over recent years have not been available on FTA television (United States Open tennis tournament). Their removal will have no impact on their potential availability on the FTA platform.
- For other events, including golf tournaments and rugby union, rugby league and cricket fixtures played overseas or not involving Australian representation, audience numbers are generally low and should rights to these events no longer be acquired by a FTA broadcaster, the number of affected viewers is likely to be small.

In considering the consumer impact of removing events from the anti-siphoning list, it also needs to be noted that FTA coverage of events on the list has generally improved over recent years. Enabled by the temporary delistings (outlined above), FTA broadcasters have typically acquired a broader range of rights to a number of events on the anti-siphoning list. Coverage has generally been more fulsome than it was prior to the commencement of digital multichannels, with more extensive live coverage. This has been seen in particular with coverage of the Australian Open tennis tournament and the Olympic Games.

Indirect costs

To the extent that the scheme affects the market for sports rights and the competitive position of the FTA and subscription broadcasting sectors, the removal of events from the list can be expected to reduce any such effects. The acquisition of rights to events or parts of events that are removed from the list would no longer be subject to restriction under the scheme, and both subscription and FTA broadcasters could seek to acquire rights at any point in time, rather than sequentially.

Consultation

There has been extensive consultation with industry and other groups over recent years in relation to the three problems being addressed as part of this package of reforms, and on the scheme as a whole. Change in these areas is generally well anticipated, although stakeholders have (and will continue to have) differing views on any particular reforms.

The most recent consultations were undertaken in late 2016 and early 2017, with the Minister for Communications seeking the views of industry stakeholders, including regional and metropolitan FTA broadcasters and subscription television broadcasters, regarding the anti-siphoning scheme and list. This continued conversations initiated by the former Minister for Communications in 2014.

Through these processes representatives of both the FTA and subscription broadcasters indicated that the mutlichannelling rule should be removed, although the subscription sector argued that such a change should only take place as part of wide-ranging reform to media policy (including the anti-siphoning scheme). Views on the automatic delisting were mixed,

with Foxtel arguing for the period to be extended to 52 weeks – along the lines of option 2c. – while the FTA sector would prefer a period of 16 weeks.

Representatives of both FTA and subscription broadcasters have also put forward their own changes to the list. Both sectors concede that some reductions to the list are warranted and neither has proposed any additions. In its most recent iteration, FTA broadcasters indicated their support for modest reductions to the list, generally targeting a limited number of rugby league, rugby union, soccer, tennis and golf events (or parts of events) played outside of Australia. The subscription sector has argued for more significant reductions, including cuts to the domestic football codes (AFL and NRL) and wide ranging reductions to events played overseas or not involving Australian participants. Through various reviews undertaken over recent years, and in consultations with Government, sports bodies have consistently called for cuts to the list.

It is proposed that further consultation be undertaken with stakeholders before the proposed measures are finalised, particularly the changes to the anti-siphoning list.

Evaluation and preferred options

The following options are recommended:

- 1b – removing the multichannel rule from the anti-siphoning scheme
- 2b – extending the automatic delisting period to 26 weeks
- 3b – targeted reductions to the list.

All three options are deregulatory in nature.

Multichannelling – Option 1b would remove an outdated and unnecessary regulation that serves little purpose in a contemporary media environment. This is expected to reduce regulatory costs incurred by FTA broadcasters and may also mitigate potential opportunity costs imposed on these business and on television audiences. This will also provide more transparency on the Government’s position in relation to the use of digital multichannels. In contrast, retaining the current rule – Option 1a – would maintain these regulatory and opportunity costs without providing any demonstrable benefits to business, community organisations or individuals.

Automatic delisting – extending the automatic delisting period to 26 weeks (Option 2b) would loosen the regulatory restrictions imposed on subscription television broadcasters under the scheme and enable them to acquire rights at any time within six months of an anti-siphoning listed event taking place. This can be expected to moderate any opportunity costs imposed on the sector and on sports bodies, enabling them to enter into rights agreement at an earlier point in time, bed down coverage and scheduling arrangements, and promote the events to audiences and subscribers. Retaining the existing rule would not alleviate any such impacts, and is generally out of synch with the timeframes for broadcast rights negotiations. Extending the automatic delisting period to 52 weeks would be welcomed by the subscription television sector. However, this has the potential to undermine the main provision of the scheme by weakening protections for the acquisition of rights to events by FTA broadcasters. There are numerous examples over recent years of rights agreements involving FTA broadcasters not being settled and announced until between 6 and 12 months of the first event of a competition, tournament or series taking place.

The list – Option 3b would make a number of targeted reductions to the list to remove events or parts of events that are no longer being held, that are not televised on FTA television, or that do not command audiences of any meaningful size. For this reason, the proposed reductions are expected to have only a minimal impact on audiences. In addition, this option

effectively reduces the breadth of the scheme and therefore its impact on subscription broadcasters and (in turn) sports organisations. This may mitigate opportunity costs imposed on these parties arising from the scheme's restrictions on the way in which they deal with broadcast rights. The alternative of retaining the current list – Option 3a – would not yield any such cost reductions and would maintain a list that includes events with little identifiable national or cultural significance.

Implementation

Legislative amendments would be required to implement the proposed changes, as follows.

- Removing the multichanneling rule would require the repeal of relevant provisions of Schedule 4 to the BSA, primarily those contained in Part 4A.
- Extending the automatic delisting period would require amendment to subsection 115(1AA) of the BSA.
- Removing events from the list would involve either legislative amendment or the making of legislative instrument amending the *Broadcasting Services (Events) Notice (No. 1) 2010*.

APPENDIX A

REGULATORY BURDEN MEASUREMENT REPORT

Cost per entity equals total cost per segment divided by total number of entities within the segment.

Summary report

Proposal name	Reform of the Anti-Siphoning Scheme
Reference number	22046
Problem	Reform of the anti-siphoning scheme is well overdue. In addition to favouring free-to-air television broadcasters, there are a number of other features of the scheme that have drawn criticism from stakeholders.
Objective	The government's policy objectives are to ensure Australians have freely available access to significant events, to reduce regulatory impediments to business and to reduce the impact of the scheme for business.

Explanatory information

Not applicable

Segments affected

Business

Option 1

Option name	The multichannelling rule
Option description	Remove the multichannelling rule for business.
Business affected	6

	Cost per business	Total cost for all business
Start up cost	\$0	\$0
Ongoing compliance cost per year	-\$1,000	-\$8,000
Start up time	0 hr	0 hr
Ongoing compliance time per year	0 hr	0 hr

Notes

1. An assessment of compliance costs in itself do not provide an answer to the most effective and efficient regulatory proposal. Rather, it provides information that needs to be considered alongside other factors when deciding between policy
2. Negative dollar figures present a cost saving.
3. If 'See PV' appears in a cell you can refer to the present value report for more information.

APPENDIX B

OPTION 3B – PROPOSED CHANGES TO THE ANTI-SIPHONING LIST

All references to audiences are based on OzTAM data.¹⁹

Rugby league

Competition (& details of listing)	Proposed removal
International tests (matches with Aus, played in Aus, NZ or UK)	Matches with Aus played against the UK in the UK, or against other countries in the UK
World Cup (matches with Australia)	Matches with Aus played in countries other than Aus, NZ or PNG

The recommended changes would leave international test matches with Australia played in Australia or New Zealand on the anti-siphoning list. Audiences have generally been strong for international tests, although the bulk of the matches making up these averages were played in Australia or New Zealand. There is a case for cutting the listing back to only these fixtures, as UK fixtures are irregular and have much lower audiences given the time zone differences. For example, in 2016, the average audiences for the Four Nations tournament (played in the UK) were 112,000 on the main channels and 92,000 on the GEM.

In relation to the rugby league World Cup, the recommended change would leave matches with Australia played in Australia, New Zealand or Papua New Guinea on the anti-siphoning list. There is a significant disparity between matches played in Australia / New Zealand, and those played in the northern hemisphere.

- For example, audiences were significant for matches of the 2008 World Cup (played in Australia): average audiences for group matches and the semi-final involving Australia were over 500,000, and the final over 1,000,000.
- In 2013, with the tournament played in the United Kingdom and France, audiences for round matches were less than 200,000 and the final less than 250,000.

Soccer

Competition (& details of listing)	Proposed removal
FIFA World Cup (each match of the finals tournament)	Matches not involving Aus, other than the final
FIFA World Cup Qualifiers (each match involving Aus)	Matches involving Aus, played outside of Aus
English FA Cup Final	Each match

The recommended change would leave FIFA World Cup matches with Australia on the list. Audiences for the games involving Australia have been very high: around 1 million viewers on average in 2010 (South Africa) and 2014 (Brazil). Audiences for the final have also been significant (over 800,000). However non-finals matches not involving Australia command small audiences (less than 200,000 in 2014). While quarter- and semi-finals matches not involving Australia generate reasonable ratings (around 300,000 viewers on average), it is difficult to mount the argument that these fixtures are nationally significant given the absence of national team participation.

¹⁹ OzTAM Pty Limited. Sun-Sat 1800-2400, 5 City Metro, Wks 1-52, 2009 to 2016, Total People, Consolidated. Data © OzTAM Pty Limited 2016. The Data may not be reproduced, published or communicated (electronically or in hard copy) without the prior written consent of OzTAM.

The recent history of rights acquisition in relation to these events is also pertinent. SBS acquired exclusive rights to the 2018 tournament, but in March 2016 decided to sub-license the rights to Optus. Under this deal, Optus has live rights to all 64 matches of the tournament, including 39 exclusive, along with rights to the 2017 FIFA Confederations Cup and the 2019 FIFA Women's World Cup. For the 2018 tournament, SBS has retained shared rights to 25 matches, including 1 live match per day, all Socceroos games, 4 matches from round of 16, 2 quarter-finals, both semi-finals and the final.

In relation to FIFA World Cup qualifiers, the recommended change would leave matches involving Australia played in Australia on the list. Audiences for FIFA World Cup qualifying matches involving Australia have varied significantly over the past four years. In 2012 and 2013, ahead of the 2014 World Cup, audiences gradually increased as the team progressed. The first match had an audience of 14,000, and the final match had an audience of 1,159,000.

However, in the lead up to the 2018 World Cup, audience have to date (early 2017) been modest. In 2015, matches averaged only 97,000, while in 2016 this picked up to 202,000. There is also a clear disparity between matches played in Australia and those played overseas, reflecting time zone differences and hence telecast times. In 2016, matches played in Australia averaged 302,000 viewers, while matches played overseas averaged 88,000 viewers.

There has also been some fluidity in terms of the rights. SBS held FTA broadcast rights to the qualifying matches of the FIFA World Cup involving Australia that were played before 1 September 2016. However, no FTA broadcaster held the rights to matches played on 1 and 6 September 2016, and hence the only coverage was on Foxtel. Filling this gap, close to the commencement of the event, Nine acquired from the Asian Football Confederation the rights to the remaining Round 3 qualifying matches involving Australia through until October 2017.

The recommended change for the FA Cup final would see its removal from the anti-siphoning list. Audiences for this event have been consistently poor and in decline over the past 7 years, attracting only 66,000 viewers in 2016. It is also difficult to argue that an event that occurs overseas, involving no Australian participants or teams, is nationally significant, and therefore does not warrant inclusion on the list.

Rugby Union

Competition (& details of listing)	Proposed removal
International tests (matches with Aus, played in Aus, NZ, South Africa or Europe)	Matches with Aus, played in South Africa or Europe
World Cup (matches with Aus, qtr-finals, semi-finals and final)	Matches not involving Aus, qtr-finals and semi-finals

The recommended change would leave international rugby union test matches with Australia played in Australia or New Zealand on the list. Test rugby union is, for the most part, live and available through a combination of primary and multichannel coverage. Audience numbers for tests involving Australia and New Zealand are strong (around half a million viewers). They are also strong for matches against other rugby playing nations (such as England), when played in Australia. However, audience numbers for fixtures not played in Australia are much lower (generally around or less than 200,000).

In relation to the rugby union World Cup, the recommended change would leave matches with Australia and the final on the list. Rights to all listed matches have been acquired by FTA broadcasters and generally televised live. Audiences for the 2007 (France) and 2011 (New Zealand) tournaments were sound, although they were lower for 2015 (held in England). The 2011 final (NZ v France) had a significantly higher audience (1,220,000) due to the favourable time zone. Notably, the audiences for the quarter- and semi-finals that don't involve Australia are generally quite low (less than 250,000 in 2007 and less than 100,000 in 2015, although higher in 2011 due to it being played in NZ).

Cricket

Competition (& details of listing)	Proposed removal
Cricket World Cup (matches with Aus, semi-finals and final)	Matches with Aus, semi-finals and final when played outside Aus and NZ Semi-finals not involving Aus, when played in Aus or NZ
T20 World Cup (matches with Aus and the final)	Matches with Aus and final when played outside Aus and NZ
International Tests (with Aus, played in Aus and UK)	Matches with Aus played in the UK, but not against the UK (against another side)

The recommended change would leave matches of the ICC World Cup involving Australia and the final, played in Australia or New Zealand on the list. Audiences for ICC World Cup matches involving Australia are generally strong, particularly when played in Australia (2015) but also reasonable in overseas locations (2003, South Africa; 2007, West Indies; and 2011: India et al). However, audience numbers drop away significantly for matches and finals not involving Australia. In 2007, finals matches not involving Australia were not televised on FTA.

The recommended change for the T20 World Cup would leave matches with Australia and the final, played in Australia or New Zealand on the list. This is a relatively new tournament and Australia has only made the finals once (2010). FTA coverage in 2014 was on a multichannel. Although the rights to tournaments for 2009 (England), 2012 (Sri Lanka) and 2014 (Bangladesh) were all acquired by Nine and televised live, Australian audiences were very low. In part, this is likely to be due to time zone differences. Australia is scheduled to host the tournament in 2020, so audience numbers could be expected to be higher at that time.

In relation to international tests, the recommended change would leave matches with Australia, played in Australia, and Ashes tests played in the UK, on the list. Although overall audience numbers are falling, international tests played in Australia and the UK continue to command significant audiences. The subscription sector has suggested a minor reduction to the list, effectively removing any matches in the UK involving Australia and a team other than the UK. This retains matches played between Australia and the UK only, in the UK.

Golf

Competition (& details of listing)	Proposed removal
Australian Masters (each round)	Each tournament
Australian Open (each round)	Each tournament
United States Masters (each round)	Each tournament

The recommended change would remove the Australian Masters tournament from the anti-siphoning list. This event was not held in 2016 as the operator of the tournament (IMG Media) is reportedly ‘reimagining’ the event. There is no indication of whether the event will be held in the future. Furthermore, although the event was held in 2012, it was not televised on FTA, and days 1-2 of the 2011 event were also not televised. Average audiences for days 1-2 and 3-4 are generally low, although there is some spike in viewership for the final two hours of play on day 4.

The recommended change for the Australian Open would remove the tournament from the anti-siphoning list. The FTA broadcast rights to this event have shifted between broadcasters, although this has been more stable since 2013 when they were acquired by Seven. Audiences for the tournament on days 1-2 have been consistently poor, averaging less than 200,000 viewers. As with all golf events, average daily audiences are low with increased viewing for the final 2 hours play on day 4 only. It is worth noting that this portion of time represents less than 5 per cent of the 4-day tournament, which is listed in its entirety.

In relation to the United States Masters, the recommended change would remove the tournament from the anti-siphoning list. Audiences for the US Masters are lower than the Australian tournaments, due in part to time zone differences. Average daily viewing audiences over the past eight years have been very poor at 110,000 (including 77,000 in 2015 and 61,000 in 2016). Even during the peak viewing periods of the tournament – the last 2 hours of day 4 – audiences have been less than 150,000 over the last 3 years. The subscription sector has suggested the removal of the US Masters from the list: the event’s location and audience history tends to support this proposal.

Tennis

Competition (& details of listing)	Proposed removal
Wimbledon (men’s and women’s singles quarter-finals, semi-finals and finals)	Each tournament
United States Open (men’s and women’s singles quarter-finals, semi-finals and finals)	Each tournament
Davis Cup (each match of the World Group tournament involving Aus)	Matches involving Aus, played outside Aus

The recommended change for Wimbledon would remove the tournament from the anti-siphoning list. Seven has held the rights to Wimbledon since 2011 and has made increasing use of its multi-channels to provide coverage, particularly for the first 1 to 2 hours of play (through to 11:00 pm on the eastern states in Australia). These rights and coverage relate to the entire tournament, not just to the events included on the anti-siphoning list. Audiences have been relatively modest for the past few years, with an average of around 200,000 viewers on the main channel and 230,000 on 7TWO. This rises to over 250,000 for the women’s final and 400,000 for the men’s final on the main channel.

The recommended change for the United States Open would remove the tournament from the anti-siphoning list. The Open has not been shown on FTA television since 2011. The event was removed from the anti-siphoning list for the period 2013 to 2016 given the absence of interest from FTA broadcasters.

In relation to Davis Cup, the recommended change would leave matches with Australia played in Australia, and the final involving Australia, on the list. The World Group is the top tier of the Davis Cup competition, and Australia only qualified for this tier in 2014, reaching

the semi-finals stage in 2015. Since this time, audiences have been modest with day 2 and 3 audiences hovering between 100,000 and 200,000 viewers.

Netball

Competition (& details of listing)	Proposed removal
International Tests (matches with Aus played in Aus or NZ)	Each match

The recommended change would remove international tests from the anti-siphoning list. The history of netball rights acquisition and audiences have been poor over recent years. The FTA rights for test matches involving Australia and the Netball World Cup (2007, in New Zealand; 2011, in Singapore; and 2015 in Sydney) have shifted between Network Ten, the ABC, SBS and back to Ten over the past five years. No FTA broadcaster acquired any rights to test matches in 2012. Reflecting this, average audiences have been low, particularly for international tests. These fixtures have realised an average audience of 71,000 between 2009 and 2016, and numbers are dropping: 37,000 in 2014, 78,000 in 2015 and 39,000 in 2016.

Motorsports

Competition (& details of listing)	Proposed removal
V8 Supercars (each race)	All races (other than Bathurst)

The recommended change would leave the Bathurst 1000 on the list, and remove all other races held as part of the V8 Supercars series. Strong audiences justify the continued inclusion on the V8 Supercars Championship on the list in some form: an average audience for races excluding Bathurst of over 400,000; and over 1.2 million for Bathurst. However, Network Ten’s current rights agreement (2015 to 2020) only involves full and live rights for 6 of the 15 rounds of the Championship (including Bathurst). For the remaining 9 rounds, Network Ten only has rights to delayed highlights. Irrespective of audience numbers, the fact that the relevant FTA broadcaster only wishes to acquire the full rights to televise 6 of 15 rounds per year provides a reasonable case for reducing the listing.