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Australian Government

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

Mr Jason Lange
Executive Director
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Department of the Prime Minister and Cabinet
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BARTON ACT 2600

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Dear Mr Lange

Impact Analysis – Reforms to the Anti-Siphoning Scheme and List – Second Pass Final Assessment

I am writing in relation to the attached Impact Analysis (IA) prepared for the reforms to the anti-siphoning scheme (the scheme) and the anti-siphoning list (the list). I am satisfied that the IA addresses the feedback contained in your letter of 19 October 2023. The specifics are outlined below.

The articulation of the public policy problem in the IA has been expanded and enhanced and this has been closely aligned with an assessment of how regulatory gaps in the current scheme are having a negative impact on Australian consumers and the free-to-air television sector.

The IA outlines how the reformed scheme and list will support the statutory media policy objects established in subsection 3(1) of the *Broadcasting Services Act 1992*. The IA notes that, in a rapidly changing media environment, there is a latent but material risk that nationally important and culturally significant sporting events will migrate behind online paywalls in the coming years. The IA also notes that the list is not reflective of the growth and changes in sports over recent years and that its composition needs to be reconsidered with respect to women's events and Para-sports. The IA outlines how the proposed reforms to the scheme and list would address these issues and support free access to televised coverage of nationally important and culturally significant sporting events for all Australians.

The IA acknowledges the risks associated with any changes to the scheme and, in particular, that broadening the scheme to incorporate online services, or adding additional events to the list, may exacerbate concerns that the scheme distorts competition in the market for sports rights. The IA outlines in greater detail how these potential impacts have been identified and assessed, informed by three phases of consultation:

- a public consultation paper that was open for submissions in October and November 2022;
- stakeholder roundtables held in November 2022; and
- a public proposals paper that was open for submissions in August and September 2023.

The IA provides more detailed information about the assumptions that underpin the design of the options put forward to address the policy problem, and provides a more fulsome assessment of their benefits and costs. It also provides further explanation and justification for the lack of quantitative cost-benefit analysis to support the selection of the recommended option, including an assessment of available data against the Office for Impact Analysis' suggested methodologies.

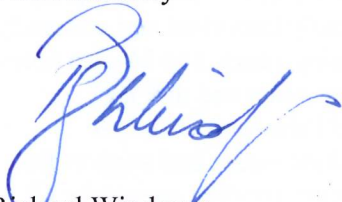
To support this assessment, the IA outlines that the successive consultations undertaken in 2022 and 2023, including the consideration of proposals, did not yield specific information on the potential financial impacts of the options canvassed. In part, this is due to the fact that information contained in agreements relating to the acquisition of sports rights is highly sensitive from a commercial perspective, and relevant parties have been unable or unwilling to disclose such information. The IA also notes that decisions to acquire sports rights are driven by a wide range of commercial and other factors, and it is therefore not feasible to isolate and quantify the impact that a potential change to the scheme or list may have.

The IA therefore provides an estimate – based on available information and submissions – of the likely benefits and costs of each of the options to industry, government and consumers. These estimates are supported in the IA with quantitative data provided through independent reports and surveys of audiences' preferences and behaviours in relation to TV consumption. Among other sources, this includes reports and research from the Social Research Centre, OzTAM, the Australian Communications and Media Authority and Ampere. The IA also includes further information on the implementation and evaluation of the proposed changes to the scheme and list, including through reference to the stated objectives of the reforms.

I confirm that the Department has attempted to identify the regulatory costs and impacts of each option, and identify potential offsets. However, it has not been possible to provide a quantitative assessment of these costs and impacts. As noted above, IA therefore provides a qualitative assessment of the likely regulatory costs and impacts associated with the framework, informed by available research and reports and the consecutive consultations undertaken in 2022 and 2023.

I am satisfied that the IA is consistent with the six principles for Australian Government policy makers as specified in the *Australian Government Guide to Policy Impact Analysis*, and I submit the IA to the Office of Impact Analysis for formal final assessment.

Yours sincerely



Richard Windeyer
Deputy Secretary
Communications & Media Group
15 November 2023