



## BRIEFING PAPER

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# Listed sporting events

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## Summary

The *Broadcasting Act 1996* (as amended) gives the Secretary of State for Digital, Culture, Media and Sport the power to designate key sporting events as “listed events”. This ensures that the broadcast rights to these events must be offered to the main free-to-air terrestrial broadcasters on “fair and reasonable terms”. Qualifying broadcasters are not obliged to bid for these rights, so it is possible that on some occasions listed events may not be shown by a qualifying broadcaster.

The current list was compiled in June 1998 and consists of two groups of events.

For Group A events, full live coverage must be offered to the free-to-air channels that are received by at least 95% of the UK population i.e. BBC1, BBC2, ITV1, Channel 4 and Channel 5. This group includes the FA Cup Final, the Grand National and the Olympic Games.

Group B events may have live coverage on subscription television provided that secondary coverage is offered to free-to-air broadcasters. This group includes the Six Nations rugby union tournament, the Ryder Cup, and cricket test matches played in England.

[Section 97](#) of the *Digital Economy Act 2017* gives the Secretary of State the power to amend the 95% qualifying condition. This is designed to “future-proof” the listed events regime as the way people watch TV changes with new technologies.

### **The future of the list**

In its December 2015 [sport strategy](#), the Government said that the national governing bodies of sports and other rights holders should be left to “strike the right balance between reaching a wide audience and using their rights to generate as much revenue as possible”.

In a Commons [debate](#) of 11 July 2018, the Government said that it did not plan to reopen the list of events and that the system was “delivering the best outcomes for the viewing public”.

# 1. What is a listed event?

The *Broadcasting Act 1996* (as amended) gives the Secretary of State the power to draw up a list of sporting events of national interest.<sup>1</sup>

No definition of “national interest” has been included in the legislation.<sup>2</sup> However the Department for Digital, Culture, Media and Sport has said that a “listed event” is “one which is generally felt to have special national resonance” and which contains “an element which serves to unite the nation, a shared point on the national calendar, not solely of interest to those who follow the sport in question.”<sup>3</sup>

The current list is divided into two categories: Group A and Group B.

For Group A events, full live coverage must be offered to qualifying broadcasters – i.e. broadcasters whose channels are available without payment to at least 95% of the UK population<sup>4</sup> - BBC1, BBC2, ITV1, Channel 4, and Channel 5.<sup>5</sup>

Events listed in Group B may have live coverage on subscription television provided that secondary coverage is offered to qualifying broadcasters.

The listing of events ensures that the broadcast rights to these events, if they are offered at all, must be offered to the main free-to-air terrestrial broadcasters on “fair and reasonable terms”.<sup>6</sup> Qualifying broadcasters are not obliged to bid for these rights, so it is possible that on some occasions listed events may not be shown by a qualifying broadcaster.

The Secretary of State can add and delete events from the list at any time, but only after consultation with the BBC, the Welsh Authority, the communications regulator [Ofcom](#), and the holder of the rights for the event in question.

Further detail on the current system is available in Ofcom’s Code on Sports and Other Listed and Designated Events.<sup>7</sup>

## Power to amend the 95% qualifying criteria

Under [section 97](#) of the *Digital Economy Act 2017*, the Secretary of State can amend the 95% figure in the qualifying criteria. The power was added to the *Digital Economy Bill 2016-17* through a Government amendment at [Report stage](#) in the Lords. This followed concerns, raised during earlier debates on the Bill, that the 95% figure did not take into account the impact of new technology on the way people watch TV.<sup>8</sup> Baroness Buscombe explained the purpose of the Government’s amendment:

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<sup>1</sup> Part IV of the *Broadcasting Act 1996* (as amended)

<sup>2</sup> [Review of free-to-air listed events](#), Report of the Independent Advisory Panel to the Secretary of State for Culture, Media and Sport, November 2009, para 15

<sup>3</sup> DCMS, [Coverage of sport on television](#), Undated, p4

<sup>4</sup> Section 98 of the *Broadcasting Act 1996* (as amended)

<sup>5</sup> Ofcom, [Code on Sports and Other Listed and Designated Events](#), July 2014, Annex 2

<sup>6</sup> DCMS, [Coverage of sport on television](#), Undated, p7

<sup>7</sup> Ofcom, [Code on Sports and Other Listed and Designated Events](#), July 2014

<sup>8</sup> See p49 of the Library’s [Committee Stage Report](#) on the Bill (CBP 7799, 24 November 2016) and p19 of the Library’s [Paper](#) on Lords amendments (CBP 7953, 24 April 2017); See also [HL Deb 8 February 2017 cc1763-9](#)

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(...) In the UK, the listed events regime operates to protect free-to-view access to the coverage of sports events with a national significance. Sport is a key element in our national identity, part of the glue that binds us together as a society, and we want to ensure that as far as possible everyone across the country is able to watch live broadcasts of the sporting events that matter most to society.

To be clear, the listed events regime is not under any immediate threat. However, modern viewing trends mean that the requirement for a television service to be received by at least 95% of the population may, depending on how this is interpreted in the future, become increasingly hard to meet...With everyone's changing viewing habits, this has to remain under review and as flexible as possible. As more people, especially the young...watch television content on phones and other streaming services, this could put the regime at risk in the future.

We want to safeguard against this and ensure the ongoing viability of the listed events regime. This clause will confer a power on the Secretary of State to ensure that, as media consumption habits change, the Government's policy objective to ensure that listed events are widely available on free-to-view services continues to be met. The clause confers a power on the Secretary of State to amend the percentage of the population by which a channel must be received in order to qualify...It will enable the Secretary of State to lower the relevant percentage to ensure that there continues to be a list of channels which meet the qualifying conditions. It also provides that any amendment to the percentage does not affect the validity of any existing contract to broadcast a listed event...There is no intention at this stage to review or revise the list of events itself.<sup>9</sup>

The amendment was agreed without division.<sup>10</sup>

In the Commons, Matt Hancock, the then Minister of State for Digital and Culture, said that the amendment would "ensure that the [listed events] regime is future-proofed as the way people watch TV changes with new technologies".<sup>11</sup>

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<sup>9</sup> [HL Deb 29 March 2017 cc640-1](#)

<sup>10</sup> [HL Deb 29 March 2017 c653](#)

<sup>11</sup> [HC Deb 26 April 2017 c1126](#)

## 2. Current listed events

The current list was compiled in June 1998 and is as follows:

### Group A: full live coverage protected

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

### Group B: secondary coverage protected

- Cricket Test matches played in England
- Non-Finals play in the Wimbledon Tournament
- All other matches in the Rugby World Cup Finals
- Six Nations Rugby 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 Golf Championship<sup>12</sup>

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<sup>12</sup> Ofcom, [Code on Sports and Other Listed and Designated Events](#), July 2014, Annex 1; [HC Deb 25 June 1998 c600-1W](#)

### 3. The future of listed events

#### Labour Government review of listed events (2008-09)

In December 2008, the Labour Government announced a review of listed events, to be carried out by an independent advisory panel.<sup>13</sup> The panel reported in November 2009 and supported the continued protection of some major sporting events.<sup>14</sup> However, it recommended that there should be a single list of live events, with some current events de-listed.

A consultation document on the panel's report was published in December 2009.<sup>15</sup> The review and consultation are looked at in more detail in an appendix to this paper.

When the Coalition Government came into power, it said that it would not make any decision on the future of listed events until after the conclusion of digital switchover.<sup>16</sup>

#### Government position

In its [sport strategy](#), published in December 2015, the Government said that it did not intend to reopen discussion on listed events:

(...) Rather than being told by government what to show and what not to show on free-to-air television, it is for NGBs [national governing bodies] and other rights holders to strike the right balance between reaching a wide audience and using their rights to generate as much revenue as possible. However, one of the two fundamental principles of the SRA's [Sport and Recreation Alliance] Voluntary Code of Conduct on the Broadcasting of Major Sporting Events is that, wherever possible, all major events under the control of signatories to the code receive free-to-air television coverage in the UK. We would like to see more organisations sign up to this part of the code and ensure that live sport can have the widest reach possible and fulfil its inspirational potential.<sup>17</sup>

The Sport and Recreation Alliance [website](#) has details of its Code of Conduct, referred to above.

During a July 2018 Commons [debate](#) on listed events, the Government again said that it did not plan to reopen debate on the list.<sup>18</sup> Margot James, the Minister for Digital and the Creative Industries, gave this context:

(...) Listed events, and in turn our public service broadcasters, are fundamental to broadcasting in the UK, especially as viewing habits and the media landscape change. Of course, more people—more than 80% of the UK population—are watching online than ever before, and we are increasingly watching television on our phones

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<sup>13</sup> Archived DCMS website, [Free-to-air listed events review](#) [dated 7 April 2010]

<sup>14</sup> [Review of free-to-air listed events](#), Report of the Independent Advisory Panel, November 2009

<sup>15</sup> DCMS, [Review of Free-to-Air Listed Events Consultation Document](#), December 2009

<sup>16</sup> ["Decision on Free-to-Air Listed Events deferred until 2013"](#), DCMS press release, 21 July 2010; The Coalition Government repeated its position in a number of PQ responses – see, for example, [HC Deb 23 October 2012 c819W](#)

<sup>17</sup> HM Government, [Sporting Future: A New Strategy for an Active Nation](#), December 2015, p41; See also [HL5855](#) [answered 12 February 2016]

<sup>18</sup> [HC Deb 11 July 2018 c370WH](#)

and laptops at different times of the day. A record number of people streamed the England-Sweden game on BBC iPlayer, and nearly 4 million people watched it solely online.

In a world where people can subscribe to Netflix, Amazon and Sky or Virgin at the same time, it is more important than ever that free-to-air public service broadcasters can make an attractive offer to viewers. There is so much choice that it can be hard to know what to subscribe to and what to dispense with. However, the pull of public service broadcasters is still powerful, with 85% of people watching one of those channels every week. Together, they command a 55% share of all television viewing, independent of sport.

Our public service broadcasters spent £515 million on sport last year, delivering just over 3,000 hours of content; only factual programmes have more money invested in them. They contribute a huge amount to grassroots sport, with more than half a billion pounds flowing from broadcasters to national governing bodies, which helps sports to increase their grassroots appeal and gives children the opportunity to try new sports when otherwise they might not have been able to do so.

Understandably, our broadcasters can spend only so much money on buying rights to different sporting events...My personal opinion is that the British Open is much missed from the BBC, which sadly was not able to acquire the rights. However, if other genres started to suffer because of the amount spent on sport, that would not be fair to those who are not big sports fans. It is a difficult balancing act.

Furthermore, some sporting bodies may believe that they can drive a higher price for their rights by working with pay-TV providers or even internet companies such as Amazon. There is the opportunity for sports not on the list to forge their own path. It is ultimately for the national sporting bodies to decide whether they want to try to maximise their returns or strike a balance with a potentially bigger audience. That was at the root of the cricket issue...

The Government's position is to not reopen the list of events, which we believe to be working and delivering the best outcomes for the viewing public...

It is desirable for sports to try their best to maximise their audience and their income. I encourage sporting bodies to do their best to adhere to the voluntary broadcast principles of the Sport and Recreation Alliance, which include trying to ensure that at least highlights are shown on free-to-air television so that, for example, we can still watch golf highlights in that way...<sup>19</sup>

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<sup>19</sup> [HC Deb 11 July 2018 cc369-70WH](#)

## Appendix: 2008-09 review of listed events under Labour Government

In December 2008, the Labour Government announced a review of the list, to be carried out by an Independent Advisory Panel chaired by David Davies.<sup>20</sup> The review looked at three areas:

- the principle of having a list
- the criteria against which events should be listed
- the content of any list

### Report published (November 2009)

The Panel's report was published in November 2009<sup>21</sup> and supported the principle of protecting some major sporting events for the widest possible television audience, if necessary by means of listing them.<sup>22</sup>

The Panel said that guaranteeing only the highlights of a major event could no longer be seen as a sufficient substitute for live coverage<sup>23</sup> and that there should be a single list of live events protected for free-to-air television.<sup>24</sup>

Decisions on which events to include in a single list should be based on the following criteria:

(...) an event must have a special national resonance and not simply a significance to those who ordinarily follow the sport concerned.

Such an event is likely to fall into one or both of the following categories:

- it is a pre-eminent national or international event in sport;
- it involves the national team or national representatives in the sport concerned.

It should also be likely to command a large television audience.<sup>25</sup>

Given the changing media landscape, the Panel observed that listed events might not have a "long-term future."<sup>26</sup> It also said that the list should be reviewed more regularly than it had been so far.<sup>27</sup>

The Panel recommended the following single list of protected events:

- The Summer Olympic Games
- FIFA World Cup Finals Tournament
- UEFA European Football Championship Finals Tournament

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<sup>20</sup> Archived DCMS website, [Free-to-air listed events review](#) [dated 7 April 2010]

<sup>21</sup> "[David Davies publishes his review of free-to-air listed events](#)", DCMS press release, 13 November 2009

<sup>22</sup> [Review of free-to-air listed events](#), Report of the Independent Advisory Panel, November 2009, para 124

<sup>23</sup> Ibid, para 145

<sup>24</sup> Ibid, para 170

<sup>25</sup> Ibid, para 138

<sup>26</sup> Ibid, para 168

<sup>27</sup> Ibid, para 169

- The Grand National
- The FA Cup Final (in England, Wales and Northern Ireland only)
- The Scottish FA Cup (in Scotland only)
- Home and away qualification matches in the FIFA World Cup and UEFA European Football Championships (listed in the Home Nation to which they relate)
- The All-England Wimbledon Lawn Tennis Championship (listed in its entirety)
- The Open Golf Championship
- Cricket's Home Ashes Test matches
- The Rugby Union World Cup Tournament
- Wales matches in the Six Nations Rugby Championship (in Wales only)<sup>28</sup>

The Panel acknowledged that this represented a “significant de-listing of events currently in Groups A and B”.

## Reaction to the report

According to some commentators, the review panel “adopted an antiquated approach that any event containing elements of importance to society should be listed”:

...the report does not explain how the entire FIFA World Cup, UEFA European Football Championship, Rugby World Cup and Wimbledon tennis championship are of major importance to UK society. The Panel discounts the damaging impact listing has for competition and the value of such events for funding sport.<sup>29</sup>

The Sport and Recreation Alliance argued that individual national governing bodies were best placed to make decisions about how their sporting events should be televised. It also expressed concern about the potential impact of the recommendations on the funding of sport, particularly at grassroots level:

A number of sports governing bodies and their ability to invest in grassroots sport are likely to be deeply affected if these recommendations are adopted and the Secretary of State should consider that carefully.<sup>30</sup>

The Alliance said that a debate was needed on the future broadcasting of sport on television:

...the speed at which the broadcasting landscape is changing means that these recommendations may only be an interim measure. What is more important is that we secure a consensus on how sport is broadcast in the digital age, particularly after digital switchover in 2012. Widespread access to digital TV for the vast majority of households will change forever the way sports rights are bought,

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<sup>28</sup> Ibid, para 170

<sup>29</sup> Benoit Keane and Francesco Savino, “The Davies report on UK listed events – a question of sport or television?”, *Entertainment Law Review*, vol 21(2), 2010, p69

<sup>30</sup> “Listed events review needs to kick-start longer term debate about sport on TV”, CCPR press release, 13 November 2009

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shared and broadcast. And that is only three years away. That's what we now need to plan for.<sup>31</sup>

A BBC [article](#) gives further reaction to the review's recommendations.<sup>32</sup>

### Consultation on the report's recommendations (December 2009)

In December 2009, the Labour Government published a consultation document on how to move forward following the Independent Advisory Panel's report.<sup>33</sup>

The Secretary of State's provisional conclusion was to accept the recommendations put forward by the Panel relating to:

- the retention of a list in principle
- the use of the Major Event Test as part of the criteria for drawing up a final list
- the events identified as having passed the Test<sup>34</sup>

The consultation sought views on:

- the formulation of the Major Event Test to identify which events could be listed - subject to consideration of the economic impact of so doing;
- which events (whether the Candidate Events identified by the Panel or other events) satisfy the Major Event Test;
- the use of an impact assessment to identify which events should be listed. Views are sought upon the necessity for such an assessment, and on the alternative formulations of such an assessment;
- which events should be listed based on the test and assessment, whether the Candidate Events identified by the Panel or other events; and
- whether other steps (such as the use of deferred coverage/highlights as used under the current listed events regime) might be used to mitigate the impact of listing.<sup>35</sup>

The deadline for responses was 5 March 2010. The Coalition Government came to power in May 2010.

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<sup>31</sup> Ibid

<sup>32</sup> "[Reaction to free-to-air decision](#)", BBC Sport, 13 November 2009

<sup>33</sup> DCMS, [Review of Free-to-Air Listed Events Consultation Document](#), December 2009

<sup>34</sup> Ibid, para 8

<sup>35</sup> Ibid, para 11

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