



4th March 2010

David Patterson
Listed Events Consultation
5th Floor
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

listedeventsconsultation@culture.gsi.gov.uk

Dear Mr Patterson

Review of Free-to-Air Listed Events

The Association of Licensed Multiple Retailers (*ALMR*) welcomes the opportunity to comment on the Government's consultation on the listed events regime. As the only national trade body dedicated to representing the pub and bar trade we are well placed to comment on the impact of the proposals on businesses in that sector and their customers, an extremely significant customer base for premium sports broadcasting.

Overview

By way of background, the *ALMR* is the only national trade body solely dedicated to representing the interests of licensed retail companies – principally pub, bar, club and restaurant operators. Currently we have just under 70 companies in membership, between them owning and/or operating just over 10,000 outlets – around half the UK pub and bar estate. Whilst we have a number of national companies within membership, over two-thirds of our membership is derived from small independent companies operating 50 pubs or less under their own branding. These are predominantly suburban community or neighbourhood outlets, many of which will feature live sports as part of their core offering.

Customers see the screening of major sporting events as a reason to visit the pub – initially because this was one of the few venues in which to see such events, but increasingly to soak up the atmosphere of a live match. It is interesting to note that, despite ever increasing numbers of domestic cable and satellite subscribers, around 3-4 million people per week continue to watch Sky Sports in their local pub. The pub remains the only point of access for customers to see 'free' sport in the premier division. The prevalence of sports broadcasting in pubs perhaps fuelled the public responses to the Panel suggesting an entitlement or expectation of being able to watch major events for free.

Whilst sports broadcasting is free of charge for the pub customer, it is not without cost for the pub. The average BSkyB subscription is now £15,000 per annum or 2.5% of turnover for a community pub. These costs would only escalate if the protected list was abandoned and an increasing number of exclusive rights were sold to pay-for broadcasters. The maintenance of a protected list and the expansion in the number of events included within it will therefore provide a welcome boost to pubs as it will enable them to attract additional customers into their premises.

Should a listed events regime be maintained?

The ALMR supports the Government's proposals to retain the listed events regime. Abolition of it or restriction of the events included in the list would undoubtedly result in a significant restriction in access to the programming and an increased cost to commercial and domestic subscribers to paid-for channels.

Currently around 39% of pubs subscribe to BSkyB for premium sports broadcasting. All of these companies subscribe to BSkyB's satellite services as there are no alternative platforms available to commercial subscribers. The majority of operators see sports broadcasting as a key business and footfall driver: 86% of ALMR members who subscribed to pay TV services said it was the prime reason customers visited their outlets.

A recent industry analyst suggested that neighbourhood pubs can almost double their normal evening revenue when they show a premier football match – it can transform a Monday evening into a Saturday evening in terms of taking. Conversely, however, a pub which is unable to broadcast during such a 'must see' match will suffer a drop of 3% in revenue.

The average cost of a Sky subscription is £15,000 per pub per annum and Sky raises over £300million a year from the pub trade as a result. Following the last round of bidding for Premiership League broadcasting rights in 2006, the Guardian noted that: "with 47,000 commercial subscribers, mostly pubs and clubs, it is believed that BSkyB recoups its whole outlay for the Premiership TV rights solely from this market". In addition, the establishment of a very large, almost captive, subscriber base has enabled BSkyB to outbid all competitors for the broadcast rights in the sure knowledge that they would be able to levy charges to recover the costs of these rights free from the constraint of effective retail competition.

This has resulted in a vicious circle with Sky effectively acting as the "gatekeeper" in sports broadcasting. In its report on the sector the OFT concluded that the possession of exclusive rights gave BSkyB "considerable independence on setting subscription levels and wholesale prices". Sky itself has repeatedly stated that it will retain its ability to choose the most attractive games ahead of any broadcaster and ensure that these are the ones drawing the biggest pub audiences. The OFT also noted that Sky's unfettered ability to increase retail and wholesale prices was one reason why it could afford to outbid all rivals for broadcasting rights without fear of price competition at a retail level.

If the listed events regime was abolished, it would only exacerbate the already intolerable situation. Sky would use its considerable presence in the market to outbid rivals for those events of specific and special resonance. This would in and of itself restrict access but the associated increase the cost of subscriptions would mean that free access would also be likely to be restricted through pubs and bars. Successive and swingeing price increases of 590% since 1996 have resulted in a decline in subscriber numbers. The percentage of pubs subscribing to Sky has dropped by 24% over the past 5 years. A further increase in costs at this time would be unsustainable, irrespective of the fact that pubs would receive a greater amount of exclusive broadcasting.

The review of the listed events regime represents a unique opportunity to break this vicious circle and Sky's stranglehold by allowing access to a greater number of protected events. We urge the Government to maintain the listed events regime as proposed.

Major Events Test

The Government is proposing to restrict the list to those events of special resonance and not just those which appeal to fans. It is therefore suggesting a 3 pronged test of whether an event should be included in a protected list: a pre-eminent national or international event; one involving the national team or representatives; and, likely to command a large TV audience.

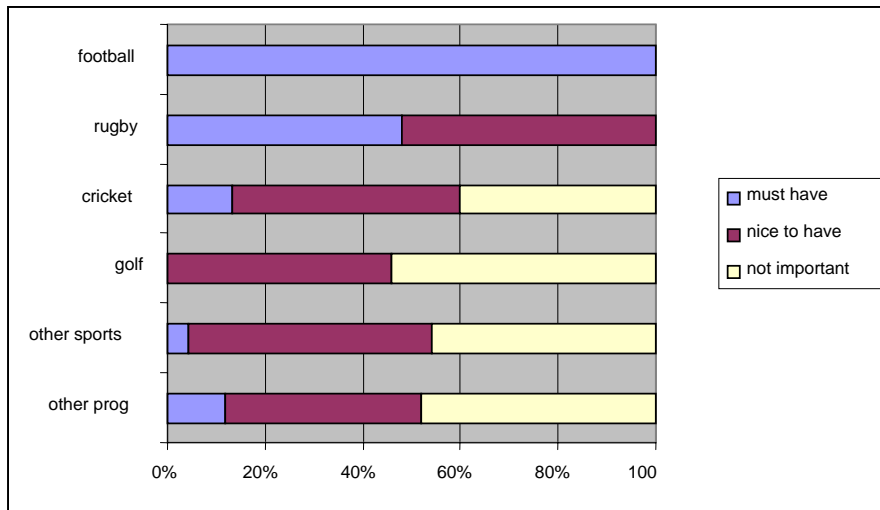
The concept of a ‘floating voter’ is undoubtedly the correct approach and the ALMR supports in principle the 3 pronged approach outlined above. We are concerned, however, that this might be applied too strictly and that the proposed content of the list outlined in the consultation document may be too narrow if applied sequentially. We recommend that the application of the criteria be subject to a weighting or a reordering of priority.

The principal test should be whether the event is either pre-eminent **OR** it is an event involving the national team. Both heads need not be satisfied. In our view, any event involving the national team or individual country teams – home or away – should automatically be included in the list. This is essential in respect of football, but equally important in rugby or cricket since these are the sports which are most likely to attract the highest pub audiences.

The Proposed List

The ALMR supports the widest possible list in order to meet the Secretary of State’s objective of ensuring “everyone is able to watch live broadcasts of the sporting events that matter most”.

In response to a survey on pay-tv, pub operators have indicated below the events which matter most to them and to their customers. These are the events which generate the highest footfall and viewing audience and this should be reflected in the drafting of the list.



In contrast to domestic subscribers, the primary reason for commercial subscriptions is access to premium sports coverage – in particular to live football and more specifically to live FAPL matches. Other sports are important, but are less critical than football. The results demonstrate that commercial subscribers are keen to secure access to a range of premium sports broadcasts, not just football. Rugby is clearly an important factor in a decision to subscribe, with no respondents rating it as unimportant. In common with domestic subscribers, many respondents identify sports other than football as being “*must have*” – in particular, 48% cited rugby, 8% cited cricket and 4% cited other sports.



In light of the above, we strongly support the inclusion of all England home and away qualifying matches in the FIFA and UEFA Cups. The fact that these were not included in the current list meant that fewer than 1 million were able to view a recent England qualifier when it was shown only on Setanta.

We are extremely concerned, however, at the decision to remove protection from some important events which were previously protected. We strongly recommend that the list be expanded to include all Rugby 6 Nations Games, the Cricket World Cup and all England Cricket Test Matches (not just the Ashes). These are the events which matter most to the pub customers.

We should be happy to provide additional information or to expand on any of the points raised above.

Kind regards

Kate Nicholls
Head of Communications