



department for
**culture, media
and sport**

Review of Free-to-Air Listed Events

DCMS Consultation Document

December 2009

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Contents

Chapter 1 - Introduction and Purpose of the Consultation	4
Chapter 2 - Background to the Free-to-Air Listed Events regime	7
Chapter 3 - Recommendations of the Panel	10
Chapter 4 - The Secretary of State's Provisional Conclusions	12
Chapter 5 - Consultation process – evidence sought and who should respond	16
Chapter 6 - How to respond and consultation principles	22

Chapter 1: Introduction and Purpose of the Consultation

1. In September 2008 the then Secretary of State for Culture, Media and Sport (“the Secretary of State”), Andy Burnham, announced his intention to commission an independent review of the UK’s free-to-air listed events regime, to be undertaken during 2009. The last such review took place in 1998. Andy Burnham subsequently announced that the review would be conducted by an Independent Advisory Panel chaired by David Davies, broadcaster and former Executive Director of the Football Association.
2. The Panel was asked to consider:
 - 2.1. the principle of having a list;
 - 2.2. the criteria against which events may be listed; and
 - 2.3. the content of any list itself.
3. The Panel’s report was published on 13 November 2009, along with a range of research material which the Panel had taken into account.
4. This Consultation Document sets out how the Secretary of State intends to take the decision making process forward. It sets out a number of provisional conclusions reached by the Secretary of State.
5. The Secretary of State has not yet reached any concluded views. He is still considering the issues, and remains open minded about his final decision. Setting out his provisional conclusions simply indicates that, on the information currently before him, he is minded to reach such conclusions. This consultation is intended to provide a focussed opportunity for those who wish to respond to provide whatever information and express whatever views they wish. Those representations can of course cover any ground that those responding consider should properly be drawn to the Secretary of State’s attention. The Secretary of State’s final conclusions will be reached having regard to all the views and all the material he receives as a result of this consultation.
6. The Panel reached clear conclusions as to the criterion that should be used in determining whether an event was capable of being listed. It should be an event that “*has a special resonance and not simply a significance to those who ordinarily follow the sport concerned*”. Such an event is likely to be either (or both) a pre-eminent national or international event in sport or to involve the national team or national representatives and likely in any event to command a large television audience (“the Major Event Test”).

7. On the basis of this test the Panel identified a number of events that it felt passed this test (“the Candidate Events”). These are set out at paragraph 29.
8. The provisional conclusion of the present Secretary of State, Ben Bradshaw, is that he should accept the recommendations put forward by the Panel as to:
 - 8.1. the retention of a list in principle;
 - 8.2. the use of the Major Event Test as part of the criteria for drawing up a final list; and
 - 8.3. the Candidate Events identified as having passed the Major Event Test.
9. However, the Panel expressed no view and took no account of the impact or consequences on the sport or sporting body of listing, stating that it considered such matters were for the Secretary of State to take into account. The Secretary of State’s provisional conclusion is that, in making any final decision as to which events should be listed, he should take account of the possible impacts such listing might have on the sport for the Candidate Event in question and on those broadcasters who would be both interested in, and capable of, broadcasting a Candidate Event if it were not listed.
10. For this reason the Secretary of State considers that the Major Event Test needs to be accompanied by an impact assessment to enable him to reach a decision as to which events should be listed. This will involve him considering any matters relating to the impacts of listing that are drawn to his attention; and then assessing whether listing would have a disproportionate impact on the interests of those adversely affected by it. The principal factors that the Secretary of State has provisionally concluded should be taken into account are dealt with in detail in Chapter 4 below.
11. Accordingly, the purpose of this consultation document is to seek views on:
 - 11.1. the principle of retaining such a list;
 - 11.2. the formulation of the Major Event Test to identify which events could be listed - subject to consideration of the economic impact of so doing;
 - 11.3. which events (whether the Candidate Events identified by the Panel or other events) satisfy the Major Event Test;
 - 11.4. 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;
 - 11.5. which events should be listed based on the test and assessment, whether the Candidate Events identified by the Panel or other events; and

- 11.6. 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.
12. Views, comments and additional information are invited from all those with an interest in the subject, including on the wider impacts and effects of the changes in the UK list proposed in the Panel's report.
13. Responses to the consultation should be submitted by **Friday 5 March 2010**. Guidance on the evidence sought from consultees is set out in Chapter 5 below.

Chapter 2: Background to the Free-to-Air Listed Events regime

14. Sport is a key element in our national identity, part of the glue that binds us together as a society. The Secretary of State would like to ensure that as far as possible everyone is able to watch live broadcasts of the sporting events that matter most to society, both across the United Kingdom as a whole and within the individual nations.
15. EC law permits Member States to draw up national legislation which provides for the establishment and maintenance of a list of events considered by that Member State to be of major importance for society and which should be made available on free to air television as widely as possible. National lists that are drawn up to meet criteria of transparency and major importance to society contained in an EC Directive will, if notified to and accepted by the European Commission, also take effect in other Member States, thereby preventing rights holders from, in effect, refusing to licence the broadcast of the event to a broadcaster providing a generally accessible (as opposed to paid for or subscribed) broadcast in the UK.
16. The UK has created such a list system using the Broadcasting Act 1996. The Broadcasting Act sets out conditions for a broadcaster to qualify as a “free to air” channel. To qualify the channel must be one: for which no payment needs to be made for reception beyond the normal TV licence fee; and whose broadcast is capable of being received by at least 95% of the UK population. Currently, BBC1, BBC2, ITV, Channel 4 and Five are “qualifying channels”. The regulation of the regime in the UK is supervised by Ofcom, which has drawn up a Code that sets out how it carries out this task.
17. Under this system it is in principle up to individual Member States to choose what criteria to apply in deciding whether an event is of major importance to society. Having established which events are of major importance to society, a Member State may then consider further the wider effects that listing a particular sporting event might have, whether on the relevant sport, on broadcasters or more generally.
18. Currently the UK’s list is divided into two parts; the Group A list which protects live rights and the Group B list which protects highlights.
 - (i) *The effect of being listed*
19. Under the UK’s listed events regime, where live rights are listed, they must be marketed on a non-exclusive basis so as to provide a genuine opportunity for at least one qualifying channel and one non-qualifying channel to acquire those rights on fair and reasonable terms. Preferably packages for highlights, delayed transmission, etc, should be sold separately. In relation to both qualifying and non-

qualifying channels, the proposed conditions should be non-discriminatory, the price sought must be fair and reasonable and the broadcasters must be given reasonable time to deal with the offer.

20. Where a channel has acquired exclusive live rights to a Group A listed event, the channel must apply to Ofcom for consent to broadcast that event exclusively. In considering whether to give consent Ofcom must satisfy itself that the conditions set out above have been met in the sale and purchase process. In the case of a Group B listed event, if any channel has acquired exclusive live rights, or exclusive highlights, again it must apply to Ofcom for consent and equivalent consideration will be given to such an application.
21. The effect of this is that whilst the operation of the Ofcom Code is designed to ensure that rights are sold on a fair, reasonable and non-discriminatory basis, however, in practical terms if any event is listed there is likely to be a distortion of the market in those rights. Non-exclusive rights to listed events are inherently less valuable than exclusive rights, particularly if one of the licensed broadcasters must be a free to air broadcaster.
22. UK legislation provides that if any event is added to the list by the Secretary of State, then any contract for the sale of rights entered into after the date of this consultation may not be valid.

(ii) The Independent Panel's Review

23. At the end of 2008 the previous Secretary of State, Andy Burnham, announced his intention that there should be independent consideration of the UK's listed events regime. The outcome of that consideration would be taken into account by him in deciding whether or not the Government should review the UK's list and, if so, on what terms. David Davies, former Executive Director of the FA, was appointed as Chairman and nine Panel members were appointed in January 2009. The Panel were asked to provide recommendations to the Secretary of State in the second half of 2009.

(iii) Extent of evidence and research gathered by the Panel

24. The Panel's report gathered and drew on a wide range of evidence and research to support its recommendations. In order to gather the material necessary for its conclusions the Panel took the following steps:
 - 24.1. The Panel undertook a public consultation which ran from 8 April to 20 July 2009.
 - 24.2. At the same time the Panel wrote to 187 sporting, media, broadcasting, viewer and other organisations – domestic and international – inviting them to participate in the consultation exercise. Some of these organisations had meetings with members of the Panel and others made submissions in writing.
 - 24.3. The Panel visited the Scottish Parliament, The Welsh Assembly and arranged a joint meeting of the All Party Media and Sports Groups at the

Palace of Westminster. The purpose of this was to hear directly the views of the nations.

24.4. The British Market Research Bureau was commissioned to undertake quantitative and qualitative research to ascertain broader public views.

24.5. The specialist economic consultancy Frontier Economics was commissioned to undertake an initial analysis of viewing patterns as well as a general analysis of the impact of listing on the sale of sports broadcast rights.

25. The Panel's report was published on 13 November 2009. A full copy of the report can be found on the DCMS website at:-

http://www.culture.gov.uk/reference_library/publications/6434.aspx.

Copies of the notes of the Panel's meetings, research referred to, a summary analysis of the consultation responses from members of the public and written responses to the consultation can be found on the DCMS website at:-

http://www.dcms.gov.uk/reference_library/publications/6444.aspx

Chapter 3: Recommendations of the Panel

26. The Panel's recommendations are as follows:

The principle of listing

27. The Panel heard opposing arguments on whether or not listing should be maintained in the UK and concluded that at the current time the UK should continue to have a list.

The major event criteria

28. The Panel felt that the criteria that had been in place for the 1998 review should be modernised and simplified as follows:

"In order to be eligible to be listed, 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."

The List

29. The Panel concluded that because of the developments in technology, broadcasters no longer have the same scheduling difficulties in relation to long events and there was therefore no need to continue with a B list. The Panel recommended that the list need no longer be divided into live rights and highlights and only live rights should be protected. The Panel concluded that any decision to list events should be based on the criteria set out above.

The new list as recommended by the Panel ("the Candidate Events"):

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

- The FA Cup Final
- The Scottish FA Cup Final (in Scotland)
- The Grand National
- Home and away qualification matches in the FIFA World Cup and UEFA European Football Championships (in the home nation to which they relate)
- The Wimbledon Tennis Championship in its entirety
- The Open Golf Championship
- The Rugby Union World Cup Tournament in its entirety
- Cricket's Home Ashes Test Matches
- Wales matches in the Six Nations Rugby Championship (in Wales)

Changes to the current list

The events added to the current list would be:

- Home and away qualification matches in the FIFA World Cup and UEFA European Football Championships (in the home nation to which they relate)

Events previously on the B list to be moved to the A list would be:

- Non-Finals play in the Wimbledon Tournament (Finals currently on A list)
- The Open Golf Championship
- All other matches in the Rugby World Cup Finals Tournament (Final currently on A list)
- Cricket's Home Ashes Test Matches
- Wales matches in the Six Nations Rugby Championship (in Wales)

The Panel proposed that the following events would no longer be listed:

From the A list:

- The Winter Olympics
- The Derby
- The Rugby League Challenge Cup Final

Events previously on the B list that have not been moved to the A list:

- Cricket Test Matches played in England (outside of the Ashes)
- Six Nations Rugby Tournament Matches involving Home Countries (outside of Wales matches in Wales)
- The Commonwealth Games
- The World Athletics Championship
- The Cricket World Cup – the final, semi-finals and matches involving Home Nations teams
- The Ryder Cup

Chapter 4: The Secretary of State's Provisional Conclusions

(i) The principle of a list

30. The Secretary of State considers that the Panel has come forward with a persuasive set of reasons for retaining the listing system.
31. The Secretary of State provisionally agrees with the Panel that as many members of the UK population as possible should have access to events of major importance for society. Whilst the media landscape is changing fast it appears on the material before the Panel that a significant proportion of the population do not, for varying reasons, have access to pay television and whilst some of the population have the ability to see such events in other ways, a significant proportion of the population does not. The Secretary of State is particularly concerned about the accessibility for those on low incomes and the elderly of subscriber services on which such events might otherwise be broadcast. The Secretary of State considers it important that the UK and its individual nations should be able to promote their individual sense of identity and one of the ways this is achieved is through all of us being able to join together in enjoyment and celebration of these important events.
32. Therefore, the Secretary of State's provisional conclusion is that there should continue to be a list.

(ii) The Major Event Test

33. The Major Event Test is intended to identify events of major importance to society only, that is events that are candidates for listing. Such a Test is not intended to address the wider considerations that the Secretary of State intends to address using an impact assessment. With that caveat, the Secretary of State's provisional conclusion is that the Panel's recommended formulation of the Major Event Test should be accepted.

(iii) The Proposed Impact Assessment

34. The Secretary of State has provisionally concluded that an impact assessment should accompany the Major Event test.
35. He has reached this provisional conclusion because he recognises that listing has the potential to have significant impacts on the sports, sporting bodies and also broadcasters involved. He also recognises that a variety of legal rights and interests are engaged by the listing system:
- 35.1. A system of listed events inevitably impacts upon the value of the package intellectual property rights ("IPR") in relation to the events listed. In legal

terms this either amounts to an interference with or a control on use of such property rights.

- 35.2. Equally, restricting which broadcasters may or may not broadcast which events constitutes a restriction on the EC freedoms to provide and receive services.
 - 35.3. A variety of ancillary qualified rights of similar scope (such as the right to pursue a business or occupation recognised by EC law) may also be engaged by listing.
 - 35.4. The interests of consumers in having diverse, innovative and developed sports coverage that is the product of competition.
36. However, the Secretary of State also considers the listing regime fulfils obvious and justifiable public interests - namely the societal and cultural goals of pluralism, public debate, full and comparatively unfettered participation and positive access to information. In a society such as the United Kingdom, in which sport is so richly and fully integrated into its fabric, such goals are of considerable importance. Quite apart from justifying purely national rules, such concerns plainly underpin the EC Directive authorising mutually recognised listing rules. Equally, the provision of free to air broadcasting of sports events may also produce other beneficial effects such as increased public participation in sport (with the benefits to community cohesion and health that brings).
37. However, it does not follow that in pursuing these legitimate goals each and every interference with rights in consequence is justified. The steps taken must nevertheless be proportionate, that is do no more than is necessary to achieve the particular pluralist goal in question (i.e. obtaining wide and unfettered live televisual access to the event in question) and strike a fair balance between the rights of those affected and the interests of the public as a whole.
38. To this end the Secretary of State has provisionally concluded that he should consider the impact of listing an event upon the finances of a sporting body and any strategic direction that body has publically expressed (across the range of activity it supports), as well as upon affected broadcasters and the wider broadcasting market.
39. That said, the Secretary of State considers it important to note that in order to pass a domestic or EC threshold of being an event of major importance for society it is likely (but not inevitable) that the IPR in relation to such an event are of heightened value, precisely because of the wider appeal of such events to a potential viewing audience. The restriction of such rights is therefore inherently likely to produce a substantial diminution in the value of such rights. However, that diminution in itself cannot be sufficient reason to defeat a listing regime.
40. Moreover, the income streams generated by selling exclusive broadcasting rights are but one part of a sport's governing body's potential revenues; and offering exclusive broadcasting content in relation to such events is only one part of the potential exclusive content (sporting or otherwise) which a subscription broadcaster can use to attract subscribers.

41. The Secretary of State also provisionally considers that a properly managed sporting body is likely to wish to have a diversified income source, in particular because of the recognised vagaries of broadcasting revenue streams. Broadcasting to a wider free-to-air audience may also bring with it additional financial benefits (such as increased value in sponsorship agreements due to higher audience reach, increased public perception of and participation in the sport, increased merchandising opportunities and other factors). The Secretary of State has therefore provisionally concluded that it is unlikely to be sufficient to point simply to substantial decreases in net revenue - particularly where such decreases may be of a transitory nature or are capable of being addressed by a well-balanced commercial strategy. He recognises however that all of these factors need to be taken into account.
42. Finally, the Secretary of State provisionally considers that a further factor that may be of relevance in the balance, is the extent, if any, to which the sport in question has received direct or indirect public funding (such as through Exchequer or Lottery grants from UK Sport or Sport England, regional or local government support or other funding assistance such as charitable status) to support its activities – for example the construction of stadia, funding of grassroots etc.
43. For these reasons the Secretary of State’s provisional conclusion is that he will need to consider a range of inter-dependent and potentially conflicting factors.
44. Accordingly, the Secretary of State’s provisional conclusion is that he should consider any matters relating to the impacts of listing that are drawn to his attention; and then assess whether listing would have a disproportionate impact on the interests of those adversely affected by it. The principal factors that the Secretary of State has provisionally concluded should be taken into account are as follows:
- *The extent of any adverse impact upon a sporting body (across all its activities);*
 - *The extent of any positive commercial or other benefits resulting from being listed;*
 - *The duration or irremediability of such adverse effects – are these measures likely to have a long term or short term impact and can these be mitigated;*
 - *The extent of any net adverse financial effect upon a sport or sporting body commercial rights holder;*
 - *The impact of such measures on broadcasters and commercial rights holders;*
 - *The consumer detriment, in terms of lost drivers for broadcasting innovation, technical improvements to coverage and other developments;*
 - *Any additional beneficial/adverse effects such as the impact of listing upon public participation in sport;*

- *The extent of direct and indirect public funding provided to a sport, both in the recent past and prospectively.*

(iv) The List

45. The Secretary of State recognises that, in reaching its conclusions about which events should be included on the list, the Panel has given consideration to the detailed evidence presented during its consultation process.
46. The Secretary of State has provisionally concluded that the events included in the Panel's list would pass the Major Event Test. Such events seem to the Secretary of State to be those that are likely to and do currently attract the floating viewer – someone interested in watching a major event but who would not ordinarily follow the sport concerned. The Secretary of State takes this provisional view because it seems to him that these events do have a special resonance going beyond appeal to the dedicated sports fan (of any variety) or the dedicated fan of a particular sport.
47. However, the Secretary of State has not reached a provisional conclusion on which events should be included in the list. He wishes to consider that issue in the light of all the material and views generated by this consultation, including those relating to the impact assessment.

(v) Alternatives to a single list

48. The Secretary of State notes the Panel's recommendation that the list should no longer be divided into A and B; A for the protection of live events and B for highlights. Such a proposal has the considerable force of simplicity to recommend it.
49. However, the Secretary of State recognises that in the course of considering responses to this consultation exercise that argument and evidence may be presented that suggests it is in the public interest that particular events of major importance for society should be listed on the basis of highlights transmission alone or some other similar solution.
50. In recognition of the fact that other solutions may exist between the options of simply listing or not listing live transmission, the Secretary of State welcomes any views from interested stakeholders relating to the retention of a Group B list or other such proposals.

Chapter 5: Consultation process – evidence sought and who should respond

(i) *Evidence sought in relation to the principle of a list, the Major Event Test and the Candidate Events*

51. Consultees are free to, and invited to, submit their views on each of the three main issues set out below before the Secretary of State reaches a concluded view on the basis of the material presented to the Panel and any new material resulting from this consultation.
52. Consultees are invited to address:
- 52.1. the Panel's reasons for retaining the listing system; and
 - 52.2. the Panel's formulation of the Major Event Test, setting out any perceived defects, potential improvements or alternative formulations; and
 - 52.3. the Panel's proposed list of events – the 'Candidate List', that is the Panel's conclusions as to whether an event satisfies the Major Event Test. Parties addressing this issue are invited to respond with detailed reasons supporting their conclusions, providing any relevant viewing information, broadcasting data or statistics or other such information that supports their conclusion as to the presence or absence of any such special resonance.
- Of course, consultees remain free to raise all other points relevant to these issues.
53. However, because these three topics have been very fully canvassed before and by the Panel, and because the Secretary of State has the benefit of all of the material submitted to, and gathered by, the Panel consultees are not invited to resubmit existing material relating to these topics, even though the Secretary of State will be considering the matter afresh. The Secretary of State will consider and take account of the materials put before the Panel alongside fresh consultation responses before reaching any final conclusions.
54. Consultees should therefore focus their response to these topics on:
- 54.1. arguments not raised before the Panel;
 - 54.2. evidence not put before the Panel;

- 54.3. alleged errors or flaws in the Panel's approach or reasoning; and
- 54.4. (in the case of the events on the Candidate List) the application of the Major Event Test as set out by the Panel to the events in question.

(ii) *Evidence bearing on the impact assessment, its application and any alternatives to full listing*

55. Consultees are invited to comment on the proposed impact assessment set out in Chapter 4 Part (iii). Views are sought as to:
 - 55.1. whether an impact assessment should be adopted;
 - 55.2. whether (or which of) the factors identified are valid factors;
 - 55.3. whether further factors are of relevance in the proportionality balance in all or in some cases - and if so which factors; and
 - 55.4. whether the proposed impact assessment should be otherwise modified or supplemented.
56. With regard to the application of an impact assessment to the circumstances of any particular event, consultees will be in possession of much fuller information about their activities and/or businesses - and the likely impact of listing an event - than the Secretary of State. Consultees are accordingly invited to provide the Secretary of State with the evidence which they consider supports any contention that an impact assessment (in the provisional form indicated above and any form they advocate) permits or precludes the final listing of a particular event or events.
57. To this end consultees are invited to provide the Secretary of State with the following information:
 - 57.1. The anticipated financial 'downside' of listing on the individual event (before account is taken of the 'upside', below), including, but not limited to, such matters as:
 - Any anticipated lost broadcast licensing revenue;
 - Any anticipated adverse gate/attendance/hospitality effects (any "stay away" effect of free to air broadcasting);
 - Any anticipated adverse sponsorship or merchandising effects;
 - Any other adverse financial effects.
 - 57.2. The anticipated financial 'upside' of the potential wider exposure obtained through free to air broadcasting, including, but not limited to:

- Any anticipated increased gate, attendance or hospitality at the broadcast or related events (e.g. as a result of any increased public awareness of the sport);
- Any anticipated increased sponsorship or merchandising effects through greater exposure;
- Any other positive financial effects.

57.3. The anticipated duration of such effects:

- Will adverse/positive effects be transitory or permanent?
- Will any adverse financial effects be capable of being offset or met in whole, or in part, by any strategy to diversify revenue streams? This includes the various ways rights can now be sold and packaged to different media markets.

57.4. The anticipated impact of any projected net loss revenue (temporary or permanent) on the sporting body or sport in question, including such matters as (if applicable):

- The adverse impact upon the overall funding/finances/infrastructure of the sport (if the rights are held by, or in conjunction with, a governing body or equivalent body);
- The adverse effect on sponsorship, merchandising, advertising, hospitality, merchandising, ticket sales etc;
- The effect on investment and the set up of a sport at all levels - including the future implementation of strategic plans – providing evidence on how revenue is distributed:
 - At the international/national level; and
 - At domestic professional club level (including elite development pathways);
 - At club and grassroots community sport level (including the impact on coaches; facilities; volunteers; those playing sport; social inclusion and community cohesion programmes etc);
 - To women's and disability sport provision.

57.5. The impact of listing on commercial rights holders and/or the relevant broadcasting market(s).

57.6. The anticipated extent of any consumer detriment, in terms of lost drivers for broadcasting innovation and other developments.

57.7. The anticipated extent of any (adverse/positive) effect on public interest in sport and numbers of people playing sport (both informally and formally).

- 57.8. The actual and anticipated extent of direct and indirect public funding provided to the sport/sporting body adversely affected, both in the recent past and prospectively.
- 57.9. Any effect of listing an event on other factors that consultees consider relevant.
58. The Secretary of State will be looking to receive information directed to the following issues:
- whether to list an event that was not previously listed;
 - whether an event that was previously listed (whether on the A or B list) should be omitted from the list;
 - whether - in the event of retention of the A and B list - an event that was previously B listed should be moved to the A list and vice-versa;
 - Whether – in the event of no longer having the A and B list distinction – an event that was previously B listed is given a full listing.
59. To this end the Secretary of State would expect to receive evidence on the following matters:
- how much revenue the sport receives annually from funds directly attributable to the sale of rights to the events proposed for listing, and how that revenue is calculated;
 - what non-monetary benefits accrue directly as a consequence of the sale of rights to the events;
 - how funds previously received from the sale of the events were spent – for example, the activities they directly supported and the proportion of the cost of such activities this represented;
 - where the funding did not directly support particular activities, what activities are undertaken by the organisation at a cost comparable with the amount of revenue derived from the sale of the events;
 - the number of people employed and/or involved in the activities supported by the funding (or a comparative example);
 - the proportion of the annual income stream from the sales of rights for the events;
 - any impact - positive and negative - of the sale of the rights to the events on the sport concerned, beyond the direct revenue or benefits obtained.
60. Should a party potentially adversely affected by any listing decision fail to provide the information requested (in whole or in part) then the Secretary of State may consider inferring that the reason for such failure is that the missing evidence would not support their case.

(iii) *Nature of evidence provided*

61. For any evidence, it should be fully referenced to be acceptable; where references include links to public documents, data or analysis or specific quotes from recognised experts, or a full and clear explanation of how any analysis was undertaken and data sources used. You should be prepared to make any data that you use to generate an analysis available for secondary analysis by another party.
62. You may refer to any research or evidence in the public domain to support any claims of positive or negative impact. For example, if your area of interest is golf, you may refer to research based in tennis if there is a study showing the impacts in that context, so long as the other conditions are similar. This should be transparently referenced.
63. Positive and negative effects should, where possible consider the wider impacts on participation and interest in the sport (attendance and TV viewing, wider sales from related goods, wider investment, eg advertising or sponsorship).

(iv) *Who should respond*

64. The Secretary of State welcomes comments from individual members of the public.
65. The Secretary of State, as required by the Broadcasting Act 1996, would like to hear from:
 - 65.1. The BBC
 - 65.2. The Welsh Authority
 - 65.3. Ofcom
 - 65.4. In relation to all the events that the Panel has recommended should be included in, or omitted from the list, the persons from whom the rights to televise that event may be acquired.
66. The Department will be writing separately to each of these bodies inviting them respond to this consultation.
67. Given the specific recommendations made by the Panel to include sporting events in Wales and Scotland we welcome responses from bodies in both Wales and Scotland on the potential impact of the proposed changes on the sports concerned.
68. The Secretary of State also welcomes responses from others interested in this issue. He would like to hear from the following bodies:
 - 68.1. Parties disposing of broadcasting rights for events which could be listed

- 68.2. Broadcasters active in the UK market.
- 68.3. Sporting associations, events organisers and other rights holders.
- 68.4. Viewer and consumer associations.
- 68.5. General sports associations and funding bodies.

Chapter 6: How to respond and consultation principles

69. We welcome your views on the issues set out in sections 4 and 5 of this document. Please send them to us by **Friday 5 March 2010**.

70. Please send your reply to:

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

Or by e-mail to:

listedeventsconsultation@culture.gsi.gov.uk

71. We can also provide documents to meet the specific requirements of people with disabilities. If you need assistance please email:-

David.Patterson@culture.gsi.gov.uk

72. This consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.berr.gov.uk/files/file47158.pdf>

73. If consultees decline to provide confidential information for which the Secretary of State can rely on in his decision making process, he shall then only be able to base his decisions on the non-confidential material he receives.

Disclosure of responses

74. Please note that the Department will publish all responses in full, unless specifically requested not to do so. However, all information in responses, including personal information, may be subject to publication or disclosure under freedom of information legislation. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation.

75. Any such request should explain with appropriate levels of detail why confidentiality is necessary and what information is affected. You should provide a clearly marked or redacted version of the document indicating the passages that are considered confidential. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.



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