

R&A SUBMISSION IN RESPONSE TO THE LISTING REVIEW
CONSULTATION PROCESS

Response to Consultation Questions

Q.1 Do you think that the UK should continue to protect certain major events through live or deferred coverage on free to air television? Please give a reason for your response.

The R&A believes as a matter of principle that both sport and the public are best served by the holders of sports rights having the freedom to decide how best to market their rights, balancing income and exposure as they see fit.

The key issue is that reasonable access to The Open Championship is guaranteed for members of the viewing public. The R&A believes that this aim is achieved by virtue of the CCPR Voluntary Code of Conduct, of which The R&A is a signatory. This Code ensures that The Open Championship is available in the UK through free-to-air television broadcast in live or recorded form, as well as ensuring that a minimum of 5% of the revenue generated from the sale of broadcasting rights is re-invested to the wider development of the sport. The R&A does not see the need for listing, certainly for events owned by rights holders who are signatories to the Code, since live or deferred coverage is already and will continue to be made available on free-to-air television.

The R&A also feels that the media landscape is now very much more complex than when the list was last reviewed in 1997. The audience for all types of programming has fragmented including for sport which is now also consumed via a variety of different platforms including the internet and mobile. This is an important consideration when deciding whether there continues to be a requirement for protection of major events. The R&A is very conscious of the need to cater for all forms of media in its licensing agreements for The Open Championship.

The Open Championship now competes for TV airtime and financial support with many more international sporting events and indeed golf tournaments than when the list was last reviewed in 1997. In the case of the other 3 Major Championships in golf (the Masters, US Open and US PGA Championship), this is reinforced by the fact that these events all take place in the USA and are therefore available to a prime time audience in the UK. The R&A feels that The Open Championship should be treated fairly in relation to the other 3 Major Championships none of which are currently listed.

At the most, The R&A can accept the current status of The Open Championship as a B listed event but would strenuously resist any attempt to

re-categorise as an A listed event. The reasons for this viewpoint are set out in answers to the questions below.

Q.2 Do you think that events other than sporting events should be listed? If so, please give your reason. You will have an opportunity to suggest appropriate events at a later stage in this consultation document and do not need to do so now.

No opinion.

Are the current criteria right? These state that in order to be considered for listing, an event must have a special national resonance, serve to unite the nation and be a shared point on the national calendar. As such it is likely to be either a pre-eminent national or international event in the sport or involve the national team or national representatives in the sport concerned.

The R&A agrees that the current essential criterion test should form part of the criteria for determining whether an event is listed. However, the special national resonance argument should only be considered as one of a number of criteria all of which would need to be satisfied to justify listing. The R&A considers that the special national resonance criterion alone is far too broad and the response to Q.3 sets out The R&A's views on what the essential criteria should be.

Q.3 Do you agree that this should remain the essential criterion test? If you do not agree, please explain why and please indicate what you consider should be the essential criterion in a sporting context?

The R&A believes that the criteria, all of which should be met before an event is listed, or at the very least before an event is A listed, should be as follows:

- the current essential criterion test of national resonance, unifying the nation and a shared point on the national calendar; and
- it is likely to command a large television audience; and
- it is not available to all viewers in the form of highlights or deferred coverage; and
- its listing will not reduce the income of the sport from television broadcasters or have a negative effect on investment in increasing participation and/or improving levels of performance and/or in creating safe facilities.

Q.4 If your answer to Q2 was that non-sporting events should also be considered for listing, what might an essential criterion be?

Not applicable

Q.5 Having qualified under the essential criterion test, an event is more likely to be listed if it exhibits particular characteristics such as it commands a large television audience or has a history of being broadcast on free-to-air television. Do you consider that these characteristics remain appropriate? If you do not, or consider that additional characteristics should be included, please explain why.

The R&A considers that the fact that an event commands a large television audience should be part of the essential test in addition to the other criteria set out in The R&A's response to Q.3.

It should be noted that the average audience in the UK for the final round of The 2009 Open Championship was 3.25 million people which is less than 25% of the comparable audience for the most recent FIFA World Cup and Rugby World Cup Finals and less than 50% of the normal comparable audience for key events in the Summer and Winter Olympics, the European Football Championship Final, the Grand National, the Wimbledon Final, the FA Cup Final and Six Nations Rugby.

The R&A's specific comments on the likely factors currently taken into account by the Secretary of State are as follows:

- **Is it practical to offer full live coverage on a general channel?** It is practical to offer full live coverage on a general channel for The Open Championship. The Open Championship is currently licensed to the BBC in the UK through 2011. Although the BBC does not cover all available play, a high proportion of relevant play is available under existing arrangements. However, The R&A does need to keep open the possibility of licensing exclusive live coverage to a specialist channel, with evening highlights being available on a general channel. By way of example, the Ryder Cup is licensed exclusively live to Sky Sports with highlights being available in the evening on the BBC. The R&A wishes to keep open the option for this type of licence in the future.
- **The impact of listing in reducing the income or potential income of the sport and the consequences of that reduction for its investment in increasing participation and / or improving levels of performance and / or in creating safe facilities?** The impact of A listing would be very significant in reducing the income or potential income of golf. It is accepted wisdom that listing reduces the value of rights. To list The Open Championship as an A event would deprive The R&A of essential revenue streams which would mean fewer funds for investment at all levels of the sport. The R&A's current investments significantly exceed the requirement for no less than 5% of re-investment into sport from the sale of broadcast rights under the CCPR Voluntary Code of Conduct.
- **The likely impact of listing on the broadcasting market, including future investment in sports broadcasting, the level of competition and the position of public service broadcasters?** Whilst this question is mainly directed at broadcasters, The R&A's concern is that the reclassification of The

Open Championship as an A Listed Event would create a serious risk of undermining the market process. The balance of negotiation would be unfairly tilted in favour of free-to-air broadcasters.

- **Whether there are any arrangements to ensure that access to the event is available to all viewers by means of highlights, deferred coverage and / or radio commentary?** Under the current licensing arrangements, access to The Open Championship is available to all viewers by means of live or highlights / deferred coverage. Live coverage is available on the BBC, deferred coverage is available on both the BBC (interactive, online and via BBC iPlayer) and on Setanta Golf as well as online via www.opengolf.com. Radio coverage is available on BBC Radio 5 Live. The R&A will continue to ensure that The Open Championship is available across all media.

Q.6 Are these the appropriate other factors that the Secretary of State should take into account when considering whether or not to list an event? If not, or you consider that additional factors should be taken into account, please explain why.

The R&A considers that these are the appropriate other factors that should be considered, but, as stated in Q.3 above, these should all be essential criteria, not just supplementary other factors.

The R&A does not accept the logic that one of the main reasons for having an A and B list is that the B list is largely created for events that might be difficult to schedule but could be protected by way of highlights. The Open Championship is a B listed event but is not difficult to schedule for a free-to-air broadcaster as has been demonstrated by the BBC for many years. By contrast, the Olympics is an A listed event but the BBC generally broadcasts less than 10% of the available coverage from the Olympics on BBC 1 / 2. The key issue is ensuring reasonable access to all viewers whether by live or highlights / deferred viewing, and the A list is not required to ensure this.

Q.7 Do you agree that both A and B list should be maintained? If not, please explain why.

The R&A supports the concept of a free market in television rights with reasonable access protected by virtue of the requirement to license highlights / deferred coverage under the CCPR Voluntary Code of Conduct. The R&A accepts the principle of B listing but does not agree with the principle of A listing.

The European framework for the Listed Events regime is set out in the Audio-Visual Media Services Directive and Article 3j states in paragraph 1 that each member state may take measures in accordance with Community law to

ensure that broadcasters under its jurisdiction do not broadcast on an exclusive basis events which are regarded by that member state as being of major importance for society, in such a way as to deprive a substantial proportion of the public in that member state of the possibility of following such events by live coverage or deferred coverage (emphasis supplied) on free television. In The R&A's view, listing of The Open Championship as an A event would tilt the balance unfairly in favour of free-to-air channels who would not pay the market value of rights fees. The CCPR Voluntary Code of Conduct (or if preferred by the Panel, the B listed events requirements) together with the Code of Practice on News Access ensures access to all key moments in all top sporting occasions and means that a perfectly reasonable balance is struck between the efficient operation of the TV rights market and ensuring wider public access to top sporting events. Attaching compulsory non-exclusivity to the live coverage of any sporting event is to tilt the balance too far in one direction.

To interfere with this process by A listing The Open Championship would reduce the value of rights, deprive golf of essential revenue streams and undermine the complex inter-relationship between funding, investment, public popularity and participation.

The R&A does not believe that there is any automatic public right of access to live coverage of any sporting event but rather that reasonable access to an event is assured by way of highlights and/or delayed coverage. The R&A is of the opinion that the objective which would be achieved by making the event A listed is already currently being pursued. Everyone is now getting reasonable access to those events which play a major role in our national life and revenue from broadcasting is helping substantially to develop wider participation and higher performance standards. The reduction in income for the sport by making an event A listed such as lesser investment in grass roots is of greatest concern to those sports.

Q.8 Are there any issues that you would wish to bring to our attention in regard to the way in which the listing arrangements are given practical effect by Ofcom?

No

What events should be listed?

We consider this question more relevant to broadcasters.

Q.9 Do you think that the Secretary of State should:

- **leave the current arrangements unchanged;**
- **move existing events between the A and B lists;**
- **add any entirely new events; or**
- **remove any events that are currently listed?**

Please give reasons for your answers.

The R&A believes that if there is a need for a list, The Open Championship should remain on the B list.

Q.10 If you have suggested that live coverage of such tournaments should be listed do you think that:

- the entire tournament should be listed; or
- only selected stages, events or matches involving national teams or representatives

Please give reasons for your view and, if you favour selected listing, please specify which tournaments and which stages, events or matches.

Not relevant for The Open Championship

Q.11 Please suggest which non-sporting events you would like to see listed and why.

No opinion.

Q.12 Do you have any other issues that you would like the Panel to take into account in considering what its recommendations should be?

The R&A opposes the principle of the A list.

Reasonable access to top sports events is granted by providing highlights and delayed coverage. No sports body is going to deny reasonable public access to its own sports events with the marginalisation that this would bring but at the same time, neither is it going to give its product away for less than its market value resulting in decreased investment at all levels of the sport.

The R&A does not believe that there is a sufficiently strong distinction between live coverage and highlights / delayed coverage to justify the negative consequences of A listing. Free-to-air broadcasters are able to compete for sports rights on fair and level terms with subscription broadcasters.

If the Panel believes that a list should be maintained, the criteria for listing should be more rigorous and there should be no need for an A list.