



## Scottish Screen Response to the Department of Culture, Media and Sport Consultation on the Free-to-air Events Review

Scottish Screen is the national government-backed agency responsible for developing all aspects of screen industry and culture across Scotland, focusing on the following five priority objectives:

1. **Education** – to ensure that people of all ages and backgrounds are inspired and equipped to analyse, appreciate, explore, create and share screen media;
2. **Enterprise and Skills** - to ensure that there are appropriate levels of skilled individuals and viable companies to sustain all aspects of the screen industries across Scotland;
3. **Inward Investment** - to promote Scotland as a dynamic, competitive and successful screen production hub;
4. **Market Development** - to ensure that the widest range of screen product reaches and is appreciated by a diversity of audiences;
5. **Talent and Creativity** - to identify nurture, develop, support and progress Scotland's screen talent and screen production companies.

Scottish Screen welcomes this opportunity to respond to the current consultation on the Department of Culture, Media and Sport's free-to-air listed events. We believe the timing of this review is particularly opportune in the context of Ofcom's review of Public Service Broadcasting, the Digital Britain review and – of particular importance to Scotland – the recommendations of the Scottish Broadcasting Commission (SBC).

Scottish Screen set out its views on the listed events schedule in its written evidence to the SBC during the SBC's investigation into the cultural aspects of broadcasting and production in Scotland and we continue to hold the following views on the matter:

“Sport is an area of great importance to viewers and is an area where the quality of Scottish PSB programming is often questioned, certainly in comparison with the UK network. The role of sport in national cultural life is also important. The Westminster Department of Culture, Media and Sport maintains a schedule of ‘listed events’, administered by Ofcom, which are guaranteed free-to-air coverage, should the broadcasters decide to schedule them. It defines a listed event in the following terms:

“...one which has “national resonance”. It should contain an element that serves to unite the nation and not only be of significance to people who normally follow the sport in question. The Government recognises the importance of a national identity within the sporting arena, for example the shared pride and expectation of watching our representatives compete in and perform well at the Olympic Games, and it is for this reason that such events are protected by inclusion in the list.”

While the list does include the Scottish FA Cup Final (in Scotland)<sup>1</sup> and Six Nations Rugby Tournament Matches Involving Home Countries, its overall composition understandably reflects the numerical appeal in England of, for example, Rugby League and cricket events. It is somewhat dubious whether these events could be regarded as having ‘national resonance’ in Scotland. A review of the adequacy of the list from a specifically Scottish perspective is worthy of consideration.”<sup>2</sup>

It is clear from the SBC’s Interim Report on the cultural phase of its enquiry and supporting research that Scottish Screen’s was far from alone in its desire to see the list address the issue of ‘national resonance’ from a more Scottish cultural perspective.

**Scottish Screen endorses the SBC’s interim and final reports, including its recommendation that, on balance, Scotland football internationals should be available to the population as a whole:**

“One PSB issue which emerged very strongly after the Commission was established is the debate over live television broadcasting of major sporting events – triggered initially by concern over coverage of recent international football matches involving Scotland. There is a clear upsurge in calls for this to be reviewed, to reflect the evident national passion in Scotland surrounding the game of football and other major sporting events where Scotland is represented.

Good arguments have been made for adding Scotland’s qualifying round football matches for both the World Cup Finals and the European Championship Finals to the list of sporting events which are “protected” for viewing on free-to-air and universally available television channels. The Department for Culture, Media and Sport (DCMS) is the UK Government Department responsible for policy in this area, and it has already indicated that it will be reviewing the list in the course of parliamentary year 2008/09<sup>3</sup>. The key test for a “listed event” is that of “national resonance” – that is, the event in question is a key sporting event that serves to unite the nation and is of significance not only to those people who normally follow the sport in question. There is certainly a view that qualifying matches for the major international football tournaments meet this criterion.

While the most recent spotlight has been on football, other sporting events should also be reviewed against the criteria for inclusion on the “protected” list. Currently, the list is determined at UK level and does not appear to take much account of different sporting priorities in each of the nations of the UK – so that, for example, the Rugby League Cup Final is currently protected for Scottish audiences, but not the decisive Scotland v. Italy (European qualifier) football match [in November 2007]. With several major sporting events of international significance due to be held in Scotland in the near future – not least the Ryder Cup and the Commonwealth Games in 2014 – it is now appropriate for a

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<sup>1</sup> The only event specifically ‘opted out’ from the UK as a whole.

<sup>2</sup> *Scottish Screen Written Evidence to the Scottish Broadcasting Commission on the Cultural Aspects of Broadcasting and Production in Scotland*, 2008, pp.6-7, paragraphs 18 - 19, on the Scottish Broadcasting Commission website at <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000356.pdf> .

<sup>3</sup> Hansard: HC Deb (2007-08) vol. 468, col. 309WH - <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm071205/halltext/71205h0009.htm>.

distinctive view to be taken of what constitutes “national resonance” in a Scottish context (and indeed in the other nations in the UK).

In a survey for the Commission of public attitudes to broadcasting in Scotland, 84% of people questioned thought that competitive matches played by the national football team should be shown live on free terrestrial television. 76% of those surveyed agreed strongly that this should be the case. This percentage greatly exceeds the 53% who said they were themselves interested in watching the games, indicating that support for free live broadcasting of the matches extends well beyond the football supporter base.

It is important to note that the Scottish Football Association told us in their evidence that the enhanced revenues from selling their television rights to pay-to-view broadcasters are used for developing the sport at a grassroots level, and that a substantial reduction in their income (by restricting bidding to the terrestrial broadcasters) would severely compromise their ability to do this.

The Commission believes that it is right on balance that Scotland football internationals should be available to the population as a whole, but the SFA argues that it is also necessary that it receives sufficient income from its broadcasting rights to fund the promotion and development of the sport.”<sup>4</sup>

Scottish Screen is pleased to note the explicit statement in the introduction to the current consultation that an event does not have to be of major importance to the whole of the UK to be considered for listing and that it is sufficient that it is of major importance to one of the nations and it can be listed on a national basis.<sup>5</sup> **We hope that the current review of listed events will start from the perspective of the individual component nations of the UK, rather than as an afterthought to the UK-wide position:**

“Pre-devolution, the UK was often viewed as a unitary state and we see that approach prevailing in the broadcasting regulatory framework and its application: the starting point is the UK perspective, with its component nations (and regions) being, if anything, a secondary consideration. This will always risk distortion for the smaller nations because one size does not always fit all. Therefore we would encourage an attitudinal shift towards working from the individual nations upwards rather than from London downwards – the starting point should be the component nations, which can then combine to build an integrated UK perspective. Such a change in approach would recognise and respect the diversity and identity of the nations, while maintaining the overall UK context.”<sup>6</sup>

We also note the existence of a World Cup football precedent in the Independent Television Commission’s (ITC’s)<sup>7</sup> persistent and successful support of the case for

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<sup>4</sup> Scottish Broadcasting Commission, *Interim Report on Cultural Phase*, March 2008, pp. 12-13, paragraphs 2.15 – 2.20, at

<http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000359.pdf> .

<sup>5</sup> Department for Culture, Media and Sport, *Free-to-air Events Review Consultation*, 2009, p.7, at [http://www.culture.gov.uk/freetoair/Consultation/documents/free\\_to\\_air\\_consultation.pdf](http://www.culture.gov.uk/freetoair/Consultation/documents/free_to_air_consultation.pdf) .

<sup>6</sup> Scottish Broadcasting Commission, *Platform for Success*, September 2008, p. 52, paragraphs 6.5 – 6.7, at <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000481.pdf> .

<sup>7</sup> The ITC was Ofcom’s predecessor in the sphere of broadcasting regulation.

Denmark's World Cup (football) qualifying matches to be protected for free-to-air transmission in that nation:

"The Code was further amended in January 2000 to implement certain European Broadcasting Directive requirements, giving the ITC responsibility to protect events listed by other EEA states in relation to broadcasters established in the UK and transmitting to those states.

One such broadcaster, TV Danmark, applied to the ITC in July 2000 for consent to show five Danish World Cup (football) qualifying matches, and was refused because the ITC felt that the free-to-air public broadcasters in Denmark had not been provided with a sufficient opportunity to acquire the rights to broadcast these matches. TV Danmark challenged the ITC's decision and lost the judicial review but the ruling was overturned in favour of TV Danmark on appeal. The ITC appealed against this decision to the House of Lords who decided in favour of the ITC's original decision therefore supporting the procedures which the ITC originally applied, and the ITC's interpretation of the relevant jurisdictions. The code was amended in January 2002 in the light of the TV Danmark case."<sup>8</sup>

**Consistent with our remit to develop all aspects of screen industry and culture across Scotland, Scottish Screen would like to see much greater coverage of Scottish cultural output on screen.** We believe that a strong case may be made for this even within the current Scottish and UK-wide public broadcasting ecology, particularly where such output has UK-wide and/or international reputation. For example, we agree with the SBC that:

"The Edinburgh Festivals are arguably the UK's biggest arts event of the year, of global and not just UK significance, and unquestionably deserving of more national and international exposure and coverage than is currently afforded by the UK's public service broadcasters."<sup>9</sup>

**However, we recognise that the intention of the code is not to coerce free-to-air broadcasters into screening specific events, but rather to allow them to do so in situations where the broadcasting rights for these events would be attractive to other broadcasters. We would therefore urge a further review of the listed events code once there is greater clarity over the future Scottish broadcasting landscape, which we trust will include the establishment of a dedicated Scottish digital network, as recommended by the SBC and unanimously supported by the Scottish Parliament.**

**MK/KH**

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<sup>8</sup> *Sport on Television*, ITC Notes, June 2003, at: [http://www.ofcom.org.uk/static/archive/itc/itc\\_publications/itc\\_notes/view\\_note76.html](http://www.ofcom.org.uk/static/archive/itc/itc_publications/itc_notes/view_note76.html) .

<sup>9</sup> Scottish Broadcasting Commission, *Platform for Success*, September 2008, p. 33, paragraph 4.5, at <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000481.pdf> .