

Australian Broadcasting Corporation Submission

**Senate Environment, Communications and the Arts  
Committee**

Inquiry into the reporting of sports news and the emergence of digital  
media



April 2009

## Introduction

The Australian Broadcasting Corporation (ABC) is pleased to provide brief comments on the inquiry's terms of reference. The Corporation looks forward to expanding on these comments at a public hearing.

The ABC provides a significant contribution to coverage of sport in Australia. The Corporation achieves this through its coverage of sport on all platforms, particularly local radio, television, and online.

The ABC Charter requires the ABC:

- a. to provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of national, commercial and community sectors and, without limiting the generality of the foregoing, to provide:
  - (i) broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community; and
  - (ii) broadcasting programs of an educational nature.

There is no doubt that sport is an integral part of Australian culture and plays a significant role in shaping the Australian national identity. The broadcasting of sport and reporting on sport is an important role for the national public broadcaster.

The ABC's strategic direction is to present a range of views and perspectives on Australian life – on television, radio, through its popular Internet site and most recently, on mobile platforms. Sports broadcasting is an integral part of this, and the ABC plays a particular role through its unrivalled presence in regional Australia.

The ABC:

- contributes to a sense of national identity, particularly by focusing on regional identification with local sports;
- reflects the experiences and diversity of local communities;
- engages audiences with distinctive content;
- contributes to diversity of output through an enhanced genre spread; and
- maximises the audience in communities around Australia for sporting programs.

## **What the ABC does**

The ABC believes strongly that sport is a communal activity and a shared experience. Ownership of sport rests not with its administrators alone, but with the community at large. Sports organisations are entitled to seek a financial return from the entertainment an elite competition provides. However, all Australians are entitled to receive adequate and independent information about the sports they are interested in.

As the media organisation with the largest geographic spread in Australia, the ABC is well equipped to bring Australians coverage of their favourite national and international competitions, but also to connect local communities through the coverage of local sports.

### **Sports News**

ABC News covers a wide range of sports in a variety of ways on radio, TV, online and on mobile devices, and as part of licensing agreements with third-party commercial clients.

Sports related news content includes previews, results, news conferences, matches, training sessions, analysis, personalities, the politics and economics of sport and the role of sport in contemporary Australian culture.

News content comes in the form of text, audio and video and is included in news bulletins, in daily current affairs programs, in documentaries and in online reports. Media are accredited by rights holders to attend sporting grounds for the purposes of gathering news. Video footage gathered is usually news-length only.

Through its 60 local radio stations, and the accompanying websites, the ABC is better equipped than any other Australian media organisation to also provide sports related news about local teams, competitions and matches. This is an integral part of community life in Australian towns and regions around the country.

### **Sports Broadcasting**

Beyond news reports, the ABC also produces its own sports content, both through the rights it holds over sporting events at a regional, national and international level and through ongoing general sports coverage and discussion.

ABC Television sports broadcasting is predicated on a strategy that seeks to promote the coverage of regional, women's and paralympic sport. The ABC holds rights for the W-League, Matildas matches, Women's Golf and Bowls. In addition, it is the only media organisation that has an ongoing commitment to state-based sporting

competitions such as Tasmanian Hockey, the Western Australian Football League and the Queensland Rugby League.

ABC Radio utilises its unrivalled reach into rural and regional Australia to provide coverage of major sports including the cricket, but also regional sport. The ABC currently has the rights to broadcasting on radio the NRL, AFL, Rugby Union, Australian Open Tennis, Ashes Cricket in England, the World 20/20 Cricket in England and the Cricket World Cup in India in 2011.

ABC Radio Grandstand ensures people across the country can access sports coverage, including commentary, reports and interviews. The Grandstand website is a major platform for the ABC's sports coverage, and complements the radio program.

The ABC is currently developing a new online sports portal, featuring more editorial content, podcasts, vodcasts and community interaction. The ABC is also making its free online content available for small mobile screens in a re-purposed "m-site".

## **Comments against the terms of reference**

### **(a) the balance of commercial and public interests in the reporting and broadcasting of sports news**

Where the ABC has been successful in gaining broadcast rights to various sports and events, like other media organisations, the Corporation would seek to protect those rights in order to ensure value for its investment.

For the national broadcaster, the value of rights is less in terms of commercial interest or financial return. Rather, the value of rights is about creating and developing an audience, and serving all Australian communities.

Developing an audience has been particularly relevant for large scale sporting events such as the Beijing Paralympic Games in 2008. The success of the Games lay in bringing a large number of people to know and understand paralympic sport. The ABC believes that it is part of its responsibility as the national broadcaster to create and build the value of rights to sports that may not initially attract commercial sponsorship. An example might be the 'graduation' of netball from the ABC to commercial broadcasters.

While we generally do not compete with the commercial and PayTV networks for rights to the major sports, we are aware of the cost involved in gaining television broadcast rights for sports such as the AFL. We understand media organisations and sporting bodies' desire to protect those rights and exclusivity.

This commercial interest, however, has to be balanced very carefully with the public interest of making information about sports available to all Australians.

What is sold in a deal between a sporting body and a media organisation is exclusive access to the venue for television and/or radio broadcast, as well as sometimes other rights such as online rights. Sporting bodies in Australia have been moving towards imposing restrictions on media coverage of sporting events in order to protect the rights holders' exclusivity to the events. Such restrictions (eg through refusal of accreditation) impede the reporting and dissemination of sports news.

A major priority for the ABC must be to present sports news content on a range of sport to as wide an audience as possible. Equally, the ABC must maintain the relationships and rights with our traditional broadcasts to fulfil Charter obligations.

As the national broadcaster, the ABC is committed to making sports news accessible to as many Australians as possible, especially those in regional areas and those without access to PayTV.

While respecting the access of rights holders (for example, through showing only news-length footage), it is crucial that media organisations such as the ABC have and retain reasonable access to sports content, including audio and video.

The ABC would be extremely concerned if Australia moved in the direction of a number of countries where, for example, sports news reports are accompanied by stills only because media organisations have no access to footage of the game.

For the public interest, therefore, the fair dealing provisions under the Copyright Act that are currently in place must be maintained for all existing platforms and delivery mechanisms, and be applicable for emerging platforms such as mobile.

The ABC believes strongly in the need to emphasise that the fair dealing provisions extend to other delivery platforms beside traditional radio and television. This is critical in the digital age.

**(b) the nature of sports news reporting in the digital age, and the effect of new technologies on the nature of sports news reporting**

Digital publishing has already had an extraordinary impact on the dissemination of news. Australians no longer wait until the evening television news bulletin for the news of the day. People expect access to news at a time that suits them, and on a platform that is convenient to them.

Digital technology provides new portals for sports reports, media conferences, interviews, or pre-recorded panels with highlights inserted (as per Bigpond TV).

Digital publishing requires immediacy first of all, which means a great volume of regularly refreshed content. To satisfy audience demands, this content needs to be both broad, but it also needs to meet specific niche markets.

Sport audiences are unique also, in the sense they are also interested in statistical detail of current and past matches and performances. Sports fans will visit certain websites repeatedly for this kind of detail. The ABC believes that there is a public interest argument to provide access to both immediate sports news and to the history of individual sports.

**(c) whether and why sporting organisations want digital reporting of sports regulated, and what should be protected by such regulation**

The ABC is sympathetic to the desire of sporting bodies to maximise financial returns for their product.

New technologies might well provide new ways for sporting organisations to increase the returns to their sport (eg. websites created by sporting bodies themselves specifically to attract their fans). At the same time, however, sporting bodies may feel that digital technologies threaten their ability to protect the rights of rights holders.

The ABC believes that it is appropriate for time or quantity limitations to be applied to material on websites or other digital platforms, to ensure that rights holders continue to get value for the rights fees they have paid. For instance, sporting bodies are probably entitled to guard against “semi-streaming” of live sport by non-rights holders. We would, however, be concerned by an erosion of fair dealing on digital platforms.

In order to inform and entertain the Australian public as per our Charter obligations, we would wish to protect access to live scores, the capacity to blog about sports events (including live events), the right to assemble reasonable news packages of video or audio highlights, and the capacity to write and present online feature stories about sports issues and personalities. This requires access to sporting events, and a reasonable access to sports news photography.

**(d) the appropriate balance between sporting and media organisations’ respective commercial interests in the issue**

The relationship between media commercial interests and those of a sporting body depend upon whether or not the media organisation is a rights holder.

While respecting rights holders' claim to exclusivity, if a media organisation is a monopoly rights holder, it is likely that that organisation would enforce those benefits. Similarly, it is rational for sporting organisations to favour exclusivity, as it maximises profit. However, in cases where a dominant media organisation and powerful sporting body share this interest in extending exclusive control over coverage, the public interest cannot said to be served.

Such arrangements would potentially freeze out other news organisations from providing basic news coverage. On a broader level, there is also the potential that controversial issues within in sport would not be reported, with the sporting body and the rights holder aiming to protect the image of the sport.

The more rights a media organisation holds, the more likely it is that those rights will be aggressively protected. If rights are held by a number of media organisations without any single player dominating, it is in the interests of all to allow some degree of fair dealing because each media entity will aim for comprehensive sports news in addition to in-depth coverage of its own exclusive events.

**(e) the appropriate balance between regulation and commercial negotiation in ensuring that competing organisations get fair access to sporting events for reporting purposes**

The ABC would generally argue for a maintenance of the existing arrangements, whereby exclusivity is respected, but reasonable access is granted for other media organisations to allow comprehensive news coverage (eg. access to match footage, post-match conferences etc) as per fair dealing.

Any further regulation should focus on preventing anti-competitive behaviour and any monopoly of media sporting rights.

It should also be noted that online coverage by non-online rights holders is often not in practice regulated by fair dealing provisions of the Copyright Act, but by online news access rules issued by the event organiser. These are usually unilaterally imposed, and enforced by way of withdrawal of accreditations if breached by a media organisation. While the event organiser would argue that such news access rules set the benchmark for what constitutes fair dealing, those rules can potentially be more restrictive than fair dealing would allow.

**(f) the appropriate balance between the public's right to access alternative sources of information using new types of digital media, and the rights of sporting organisations to control or limit access to ensure a fair commercial return or for other reasons**

The ABC holds the view that the platform by which sports news is delivered should not impact on the access that is granted by sporting organisations and rights holders. Arrangements under fair dealing for news packages would include rights-holder vision online and on mobile platforms. With the increasing penetration of the internet and other digital platforms, there is a clear public interest in the national broadcaster being able to provide sports coverage on digital platforms.

At present, the rules regarding access to content on a range of platforms are inconsistent. Mobile phone platforms especially allow for very little sports material to be used, unless the organisation owns the phone rights.

The ABC does not believe that separate and more constrained sports rights should apply where existing internet content is accessed by a 3G enabled mobile phone. This wireless access is simply another way of viewing internet content which is covered by existing online rights arrangements. The ABC would resist attempts by sporting organisations to further control such wireless access to online sports news, footage and data.

Rules for news access coverage online by non-rights holders are often vague, because they are adapted from rules used for more traditional media, and/or simply meaningless. For example, the Beijing Olympics internet rules permitted audiovisual packages only; there was no provision for use of audio only (radio) material. Similarly, a rule requiring that news packages online be limited to 3 per day and not less than 3 hours apart has no real practical application for online, where a single news 'program' is not simply a one-off broadcast but can be accessed by users for as long as it remains up on the site. When the sanction for breach of these rules can be withdrawal of accreditation, it is important that the rules are clear and adapted to the way online media works.

There is also an issue about whether broadcast rights holders should be permitted greater rights for online coverage than fair dealing or news access rules would ordinarily permit. This is currently a matter for negotiation between the rights holder and the event organiser. The issue in terms of public interest is that there can be an audience expectation that a broadcaster's online service will complement its broadcast coverage. For instance, a listener who is used to accessing ABC Radio via internet streaming would have a reasonable expectation that the ABC's radio Olympics coverage could be accessed this way as well. This was not possible with the Beijing Olympics, for example.



**(g) should sporting organisations be able to apply frequency limitations to news reports in the digital media**

The ABC is committed to the principles of the current access and fair dealing arrangements whereby the Corporation is able to gather news-length video and audio content for use in sports news segments.

This submission has already made reference to audience demands in the digital age. Users expect to access information whenever they want, using a platform that is convenient for them.

Given that, with digital platforms, users have the opportunity (and even demand) to replay video and audio whenever they like, it is unreasonable to limit how often such small segments can be used.

**(h) the current accreditation processes for journalists and media representatives at sporting events, and the use of accreditation for controlling reporting on events**

The ABC believes it appropriate to control media access to events, provided that such accreditation processes and requirements are reasonable, and include access to venues and post match media conferences.

Accreditation is appropriate for security purposes in the first instance, and to protect against the risk that access might be abused for the purpose of pirating coverage.

However, accreditation should never be used to manage or limit news. Such danger exists in particular in cases where sporting bodies and rights holders may wish to control negative publicity or controversy within a sport.

In addition, rules of access for content and accreditation need to be the same across all sports.

**(i) options other than regulation or commercial negotiation (such as industry guidelines for sports and news agencies in sports reporting, dispute resolution mechanisms and codes of practice) to manage sports news to balance commercial interests and public interests”.**

The national broadcaster owns very limited sports broadcasting rights. Fair dealing provisions allow the ABC to gather sufficient information about sporting events to provide Australians with reasonable amounts of sports news.

While the Corporation values the few rights it holds, serving the public interest by making news available to all Australians regardless of location and regardless of platform provides the starting point for the ABC's commitment to sports coverage.

The ABC's sports news coverage is underpinned by fair dealing and public interest provisions. The Corporation would consider it unlikely that industry self-regulation would preserve these provisions.