



4 June 2001

The Secretary
Senate Environment, Communications, Information Technology
and the Arts Legislation Committee
S1.57 Parliament House
CANBERRA 2600

Dear Secretary,

ECITA Inquiry into Broadcasting Legislation Amendment Bill (No 2) 2001

The ABC appreciates the opportunity to comment on the proposed amendments to the Broadcasting Services Act detailed in the Broadcasting Legislation Amendment Bill (No 2) 2001.

The ABC has some concerns about proposed changes to the de-listing of events from the anti-siphoning list. The original anti-siphoning list was put in place to provide "the maximum public benefit from broadcasting listed events, in terms of audience" and determined that this was best achieved "when free-to-air broadcasters provide coverage". Currently the onus is on Pay television operators to apply to the Minister to have events de-listed when free-to-air broadcasters, having had a real opportunity to acquire rights, have not done so in a reasonable time.

The proposed amendments effectively reverse the current practice and place the onus of proof on free-to-air broadcasters to apply to the Minister to have events remain on the list if they believe rights have not genuinely been made available. Events may be automatically delisted without free-to-air television being aware that rights were available.

The ABC is of the opinion that the amendment allowing automatic de-listing six weeks prior to an event would put pressure on potential rights purchaser and encourage sporting rights holders to play one group off against the other drawing out negotiations.

As other broadcasters have commented, if negotiations with one free-to-air broadcasters fail, there is no incentive to attempt negotiations with another free-to-air broadcaster, and there is no provision for de-listing to be halted if free-to-air broadcasters believe they have not had a genuine opportunity to acquire rights.

The ABC considers the suggested alternative solution by FACTS addresses these concerns and the Corporation supports the proposed "Alternate Regime" as set out in the FACTS submission.

With regard to the proposed amendments to allow broadcasters to "time-shift" HDTV programs, and issue of additional commercial television licences in 2-station markets, the ABC has no comment.

Yours sincerely

Michael Ward
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ABC Television