

**Inquiry into the provisions of the  
Broadcasting Services Amendment  
(Anti-Siphoning) Bill 2004**

**Submission from  
Premier Media Group**

**3 February 2005**

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Committee Secretary  
Senate Environment, Communications,  
Information Technology and the Arts Committee  
Department of the Senate  
Parliament House Canberra ACT 2600

By email: [ecita.sen@aph.gov.au](mailto:ecita.sen@aph.gov.au)

**PMG SUBMISSION TO INQUIRY INTO PROVISIONS OF THE BROADCASTING SERVICES AMENDMENT (ANTI-SIPHONING) BILL 2004**

Premier Media Group (**PMG**) creates and distributes four television channels for subscription television distribution throughout Australia. These channels are FOX SPORTS 1, FOX SPORTS 2, Fuel and the HOW-TO channel. The two Fox Sports channels are comprised exclusively of sports content. PMG is very familiar with the anti-siphoning scheme and the way it operates to restrict the amount of live sport televised because of the protection the scheme gives to the free-to-air television networks.

In recent years, PMG has made a number of detailed submissions relating to the anti-competitive nature of the current scheme and would be happy to elaborate on these if required.

PMG has seen the submission made by the subscription television industry's representative body ASTRA relating to this Inquiry and endorses that submission. In addition, PMG wishes to address a number of specific matters relating to the current Inquiry to demonstrate why further reform to the anti-siphoning scheme is needed.

**The automatic de-listing extension from six to twelve weeks**

PMG and other organisations have regularly had to approach the government to have events formally removed from the anti-siphoning list over the past few years. Not only does this demonstrate that the list is too broad, an issue which is dealt with below, but also that the current six week automatic de-listing window is too narrow and should be considerably lengthened.

Since 2000, PMG and other third parties have formally requested the government to remove a considerable number of events listed under the anti-siphoning scheme. Events which have been de-listed following a formal application include:

	Date	Event
1.	February – March 2005	The Australian Cricket Team's 3 Test Matches to be played against New Zealand

2.	February – March 2005	The Australian Cricket Team's 5 One-Day-Internationals to be played against New Zealand
3.	October – November 2004	The Australian Cricket Team's 4 Test Match Series against India
4.	September 2004	The Australian Cricket Team's One-Day-International series (ICC Champions Trophy) in England
5.	May – June 2004	The Australian Cricket Team's scheduled 2 Test match series against Zimbabwe
6.	May 2004	The Australian Cricket Team's 3 One-Day-Internationals against Zimbabwe
7.	October – November 2003	The Australian Cricket Team's One-Day-International Triangular Series against India and New Zealand
8.	May – June 2003	The French Open Tennis tournament 2003
9.	April – June 2003	The Australian Cricket Team's 4 Test Match series against the West Indies
10.	April – June 2003	The Australian Cricket Team's 7 One-Day-Internationals against the West Indies
11.	February – March 2002	The Australian Cricket Team's 3 Test Match series against South Africa
12.	February – March 2002	The Australian Cricket Team's 7 One-Day-Internationals against South Africa
13.	April – May 2002	The Australian Cricket Team's scheduled test series against Zimbabwe
14.	April – May 2002	The Australian Cricket Team's scheduled One-Day-International series against Zimbabwe
15.	September 2002	The Australian Cricket Team's One-Day-International series (ICC Champions 'Knockout' Trophy) in Sri Lanka
16.	October 2002	The Australian Cricket Team's 3 Test Match series against Pakistan
17.	February – April 2001	The Australian Cricket Team's 3 Test Match Series against India
18.	February – April 2001	The Australian Cricket Team's 5 One-Day-Internationals against India
19.	February – April 2000	The Australian Cricket Team's 3 Test Match Series against New Zealand
20.	February – April 2000	The Australian Cricket Team's 5 One-Day-Internationals against New Zealand
21.	October 2000	The Australian Cricket Team's One Day-International series (ICC Champions 'Knockout' Trophy) in Kenya
22.	March 2000	The Hong Kong Rugby Sevens Tournament

These events which were removed are additional to the events that have been “informally” removed from the list under the six week automatic de-listing process.

The reason PMG and other entities have had to use the formal de-listing process on so many occasions is because of the necessity to have the events removed so that PMG can confirm both publicly and with its distributors that it will include these events on the FOX SPORTS channels and provide them to AUSTAR, FOXTEL and OPTUS.

Each of the subscription television distributors and PMG itself needs sufficient time to ensure that appropriate coverage plans for the relevant events are in place, time to finalise program schedules, and sufficient time to market these events to existing and potential subscription television subscribers. There have been a number of occasions when we have to delay our programming, marketing and coverage plans because the de-listing process has not been completed.

Although the proposed amendment is only a minor administrative change, it is common sense that compared to six weeks, twelve weeks provides PMG and these entities with greater opportunities to finalise all these arrangements. As a result, PMG supports the proposed amendment to the anti-siphoning scheme as set out in the Bill.

PMG also notes that this administrative reform will have a positive efficiency effect because once the twelve week automatic window is in place, it is likely that there will be fewer requests made of government and far more use of the automatic de-listing procedure. This will reduce the resource strain on and time spent by the Department of Communications Information Technology & the Arts and the Australian Broadcasting Authority in responding to formal requests to de-list events.

### **The number of events included on the list is still too large**

In 2004 the government announced some changes to the anti-siphoning scheme which are due to come into effect from 2006. While any change to the list is welcome, the reforms unfortunately did not go far enough and did not deal with one of the major problems with the current scheme, which is that it does not deal with the hoarding of events included on the list by free-to-air networks.

The anti-siphoning list which is due to operate from 2006-2010 is still too broad and covers far too many events. PMG submits that the list should be amended to include only those events which are actually televised in full on free-to-air television and that in all cases, whole tournaments or events should not be listed. Instead, only parts of tournaments should be listed.

PMG notes that in the examples referred to above where events have had to be removed from the list, PMG has ensured that Australian sports fans can see these events on television because they have been ignored by free-to-air networks. For example, without coverage on FOX SPORTS, cricket fans around the country would have missed out on seeing each of the events when they were played. This follows a long pattern of Australian overseas cricket tours being ignored by the free-to-air networks, despite the protection they get through anti-siphoning.

Cricket tours covered exclusively by FOX SPORTS in the last three years include the recent record breaking tour to India in 2004 as well as the Indian tour in 2001, the ICC Championship Trophy in 2004 and 2002, the tour to Sri Lanka in 2004, the tests and one day international against Pakistan in 2002, the one day series against Zimbabwe, and the test and one-day series against South Africa in 2002 and the West Indies in 2003. All of these tours were on the anti-siphoning scheme, but all had to be removed because there was no FTA interest in televising them.

In light of the ongoing neglect by the free-to-air networks of Australian sport fans, PMG submits that the government should take the opportunity to re-assess the list and to remove those events which have not been televised in full. As an ongoing matter, the rules should also be changed so that if a free-to-air network does not televise a listed event in full in the future, it should be permanently removed from the list.

PMG submits that such a use-it-or-lose-it system would actively encourage the free-to-air networks to televise listed sporting events. This is because they know that if they elected not to cover an event, it would not be included on the list in the future and when the rights were re-negotiated the free-to-air networks would be negotiating in an open marketplace.

This scenario would be welcomed by the sporting public as they would get full sporting coverage of nationally significant events rather than the patchy coverage that they currently receive. As recently as January 2005, the free-to-air networks were continuing to treat sport fans with disdain. As an example, the Seven Network elected to leave coverage of the Australian Open women's semi-final in NSW, Victoria and Tasmania midway through the second set so that it could televise Home & Away, Today Tonight and the news. There is no basis to continue to protect the free-to air networks if they are not going to actually televise the events which are included on the list in full.

PMG would welcome the opportunity to give evidence on these matters and the need for further reform at the proposed public hearings in February 2005.

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Thursday, February 03, 2005