Australian Broadcasting Corporation Submission

Inquiry by the Senate Environment, Communications, Information Technology and the Arts Committee into

The provisions of the Broadcasting Services
Amendment (Anti-Siphoning) Bill 2004



Senate Environment Communications, Information Technology and the Arts Inquiry into the provisions of the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004

The ABC seeks to provide comment on the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004.

The ABC has concerns regarding proposed changes to extend the automatic delisting period from six to twelve weeks. It is the Corporation's opinion that the amendment extending automatic de-listing of a designated event from six weeks to twelve weeks would put pressure on rights negotiations.

The ABC believes that the original anti-siphoning legislation 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.

In addition, the ABC believes that the current community concern about live, free-to-air television broadcasts of the 2005 Ashes Test Cricket series between Australia and England highlights an inadequacy in the current legislation. Paragraph 10(1)(e) of Schedule 2 of the *Broadcasting Services Act 1992* places a condition on subscription television licences which prevents them from acquiring rights to televise an event on the "anti-siphoning" list unless a free-to-air broadcaster has already acquired rights to the same event. However, this condition does not prevent entities related to subscription licensees, such as channel providers, from acquiring such rights. As such, the legislation is unable to ensure community access to significant events via free-to-air television as intended.

In the case of the 2005 Ashes series, it is a matter of public record now that the Australian subscription rights were sold prior to offers to free-to-air broadcasters. While this circumstance has a different impact on the ABC compared to commercial free-to-air, it nonetheless does have an impact on the Corporation's consideration of the rights offer. The cost of acquiring rights and the disruption to ABC audiences' regular viewing schedule has to be weighed against the potential alternative audience to whom the ABC would be offering cricket broadcasts. In the case of a non-exclusive broadcasting right, this audience is considerably diminished.

The ABC recommends that this inadequacy in the legislation be addressed to ensure the spirit of the original legislative intention can be delivered for the benefit of the Australian community.

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