



18 February 2005

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

Dear Secretary:

RE: PROPOSED ANT-SIPHONING CHANGES

As the Commissioner of Australia and New Zealand's top professional basketball league, the National Basketball League (NBL), it is an ongoing obligation of my office to ensure basketball is relevant and continues to generate widespread exposure for the good of the game and the member organizations involved. As such, I have an ongoing responsibility to grow and develop professional and participatory basketball in Australia.

Although the NBL did not make a submission to the Senate Environment, Communication, Information Technology and the Arts Committee relating to anti-siphoning, in light of the current debate I thought it important to provide the Committee with the following belated comments.

My comments relate specifically to the so-called loophole in the anti-siphoning legislation that free-to-air broadcasters have been vigorously promoting over the past couple of weeks.

1. The NBL final series is included in the current anti-siphoning list.
2. From 1999 to 2002 the NBL sold subscription broadcast rights to the NBL Finals series to FOX SPORTS. During this time, the NBL appeared on both the ABC and Channel Ten at various times, as well as on local regional free-to-air stations such as Channel Seven and TNQ.
3. In 2003 the NBL negotiated a new multi year subscription rights deal with FOX SPORTS (2003 to 2008), this deal included the NBL Finals series. The NBL retained the right to license free-to-air TV rights to a free-to-air broadcaster, in much the same way as we understand the ECB has retained the right to sell free-to-air TV rights to the Ashes.
4. For the record, no free-to-air broadcaster has ever raised a concern with us in relation to this deal even though the NBL Finals series is a listed event.

The reason the NBL structured our TV deal this way was because we always wanted the flexibility to obtain free-to-air TV coverage even after we completed our agreement with FOX SPORTS. However, at the time we did the deal with FOX SPORTS, none of the free-to-air broadcasters were prepared to invest in or commit to televising the NBL Finals. In fact, during a number of approaches by the NBL and its agents over the past few years, the free-to-air broadcasters all stated that their primary concern was audience numbers and none during that time was willing to commit to televising the NBL on a regular basis.

At the same time, like all sports bodies, it is critical for the NBL to have certainty about its television coverage and to get as much exposure as possible. As such, it would have been untenable for the NBL to only do short term television rights deals and have to go back to FOX SPORTS and negotiate television coverage at the start of every season. For this reason we were keen to do a multi-year deal.

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My reason for writing is to point out that from the NBL's perspective there is no loophole in the current anti-siphoning legislation. The NBL, and I would suggest all of the broadcasters, are fully aware of what is on the list and the requirements that have to be met. Over the past few years the NBL has been open to all reasonable opportunities to have our sport appear on free-to-air television and have in fact actively sort free-to-air exposure. Unfortunately, recent history demonstrates none of the free-to-air broadcasters were prepared to work with the NBL in promoting and televising our game, unlike our subscription television partner, Fox Sports.

In closing, I would also like to note that if the anti-siphoning scheme was operating in the way that has been suggested by the free-to-air broadcasters (namely that we would not be allowed to finalise our subscription television arrangements until after a free-to-air deal had been concluded) the NBL would have been placed in a disastrous position over the past few years. It is far less likely that we would have been able to negotiate a successful long-term arrangement with FOX SPORTS to ensure the level of television coverage we now receive and our sport would have likely suffered significant damage due to a total lack of any television coverage at all.

This would have caused a number of serious flow-on effects. The NBL's ability to negotiate with and obtain a naming rights sponsor (Philips) and other major sponsorship arrangements (NIKE, McDonald's, Virgin Blue) would have been severely hampered, and this could have had significant adverse financial implications for the NBL. In addition, NBL fans around the country would not have been able to watch the past few NBL Finals series on any form of television.

From the NBL's perspective, based on my experience in Australia, there is absolutely no merit in the proposal by the free-to-air broadcasters lobby group, Free TV, to change the legislation.

Although the Philips Championship NBL Finals series will no longer be included on the list from 2006, it is relevant for the committee to note that for a sports body which is licensing rights to events which are listed, all such a change would do, is further hamper its ability to negotiate television arrangements and make other strategic plans to assist in the development and growth of that sport in Australia. Matters of this nature should not be undertaken lightly.

Yours sincerely,



Rick Burton
Commissioner, National Basketball League

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