

Listed Events: Call for Evidence

**Response from the Association for
Commercial Broadcasters and On-Demand
Services to Ofcom**

September 2024

Introduction

1. COBA is the Association for Commercial Broadcasters and On-Demand Services. It represents multichannel broadcasters in the digital, cable and satellite television sector and on-demand services.
2. COBA members operate a wide variety of services, offering news, factual, children's, drama, music, arts, entertainment, sports and comedy. Their content is available on free-to-air and pay-TV platforms, as well as on-demand.
3. COBA members are arguably the fastest growing part of the UK television industry, and are increasing their investment in jobs, UK content and infrastructure. They make this investment without support from the licence fee or indirect support from statutory prominence.
 - Scale: In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is rapidly approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the UK as a leading global television hub.¹
 - Employment: As part of this growth, the multichannel sector has doubled direct employment over the last decade.²
 - UK production: In addition, the sector has increased investment in UK television content to a record £1.1 billion per annum, up nearly 75% on 2011 levels.³

¹ Ofcom International Broadcasting Market Report 2013

² Skillset, Television Sector – Labour Market Intelligence Profile

³ COBA 2019 Content Report, Oliver & Ohlbaum Associates for COBA

Response

The value of non PSB broadcasters and SVoDs as major investors in sport

1. COBA members are significant investors in sports, including listed events, and have worked with PSBs on specific sports. Non-PSBs have also made non listed events available with PSBs, suggesting that the “partnership” model works well both for listed events and, on ad hoc basis, other sports. In so doing, non PSBs can play an important role in bringing sporting events to a wide audience. Warner Bros. Discovery, Sky, Amazon Prime Video, BT and others have often made major non-listed events free at point of access, including partnering with PSBs themselves. For example, Prime Video partnered with Channel 4 for the US Open Final to offer a simulcast.
2. These events have attracted significant audiences, even when PSBs were not involved - Sky’s coverage of the Scotland vs Serbia Euros qualifier, made available free to air via its Pick TV channel, attracted 63% of the viewing share in Scotland that evening. The ability to create a ‘national moment’ is clearly not the sole preserve of the PSBs. For example, Sky Sports Youtube channels - all available for free - have ten times the number of subscribers as BBC Sport, and 50 times the number of subscribers of ITV Sport.
3. Healthy competition for rights provides sport with important investment, from promoting grassroots activities to ensuring facilities for the public and for athletes are world-class. Prime Video recently donated £1m to women’s tennis, while Sky’s long-term partnership with the England and Wales Cricket Board (ECB) has helped double grassroots investment in the sport over the last decade. This also has benefits for elite sport. Asked if England would not have been able to win the cricket World Cup without Sky’s financial backing, Ashley Giles, the director of cricket for the England men’s team, said:

“[M]ake no mistake, the investment Sky has put into the game has helped us get to the point where we were at yesterday...The investment in the game from grassroots to professional has allowed us to do what we’ve done.”⁴

4. Rights spend by pay TV and premium channels has grown from 25% of total spend on listed events by broadcasters in 2012 to a combined 39% in 2021.⁵ In this way, sport has been able to benefit from the growth in innovation and new services arising from developments in technology.

The ongoing importance of live rights

5. There remains a huge appetite for watching a sports event live, thereby limiting the appeal of catch-up services in a way that is different to other genres, such as drama. Digital rights are an important part of a package of rights for a sporting event, but a live broadcast remains the core right, both in terms of viewer appeal and commercial importance.

Ensuring successful partnerships between PSBs and non PSB services, and the impact of the Media Act

6. Partnership between PSB and non PSB broadcasters on listed events has enabled investment from non PSBs to grow, while protecting free to air audiences. In 2012, the only listed event to be shared by broadcasters was the UEFA European Championship; in 2021, five events were shared.⁶ These collaborations have typically been successful, such as Eurosport and the BBC’s

⁴ <https://www.independent.co.uk/sport/wimbledon-cricket-world-cup-tv-viewing-figures-bbc-channel-4-sky-sports-online-a9005371.html>

⁵ <https://www.ampereanalysis.com/insight/uk-sports-rights-pay-tv-and-premium-channels-grow-their-share-of-listed-events>

⁶ Ibid

partnership on the Winter Olympics, and Sky's numerous arrangements with PSBs.

7. It is therefore vital to understand the complex relationship between PSBs and non PSB services on shared events. COBA members were concerned that certain changes in the Media Bill could have limited the ability for PSBs and non-PSBs to cooperate, and therefore inadvertently dampened investment in sports rights by non PSBs, especially where listed events were shared between PSBs and non PSBs and contained multiple events within them.
8. Following Government amendments to the Bill, this has been addressed, and partnerships are encouraged on condition that "adequate live coverage" must be available on PSBs for events where the non PSB has full rights. Defining adequate live coverage will therefore require detailed understanding of such relationships, based on consultation with industry.
9. Given the clear intent of the partnerships clause in the Act, and indicators as to what is adequate live coverage, we would caution against Ofcom unduly narrowing or complicating the effectiveness of this provision. In particular, more onerous obligations would seem inappropriate to reflect any concerns around the Olympic Games, given that these obligations would not take effect until after the current IOC/WBD/EBU deal expires, i.e. in 2032 , in what will obviously be a very different media landscape.
10. In general, the level of detail in the Act is correct. We understand that the partnerships model during the 2024 Paris Olympics allowed the BBC to show every British medal live [insert ref: to public statement], while more in-depth coverage for the dedicated sports fan was available via Discovery+.

Catch-up and other digital rights

11. While outside the scope of the Media Act and Ofcom's current consultation, we recognise catch-up and other digital rights may form part of a wider

discussion. As the Government's recent consultation document on this matter stated, policy in this area must balance investment with availability. Speaking generally, making digital rights explicitly the preserve of PSBs would curtail this, damaging investment and failing to deliver a balanced approach. But in any case it is important that any additional detail around adequate live coverage does not inadvertently stray into digital rights.

12. Events taking place in dramatically different time zones are still well protected by "adequate live coverage" given the listed events regime primarily centers around live broadcast – as such its primary goal is served. In addition, there is typically contractual flexibility to show catch-up viewing of events a PSB has broadcast live, meaning there is in any case no need for regulatory intervention.
13. Finally, clips and highlights should be out of scope of any future intervention. These are typically sold separately to catch-up rights and extend beyond live viewing, which is the core focus of the listed events regime.