

Question	Your response
<p>Question 1: What matters should Ofcom take into account in defining “live’ coverage”? We’d particularly welcome views on:</p> <ul style="list-style-type: none"> • The existing approach treating coverage shown while the event is in progress as “live”; • Where live coverage of an event begins and ends; and • How the definition may need to reflect new functionalities, e.g. ‘watch from the start’ 	<p>Confidential? – N</p> <p>Overall, we would agree with maintaining the existing approach to defining “live’ coverage’. That is, based on the principle that the interests of viewers lie in allowing them to participate in the event as it happens, as far as possible, and that live television coverage is more or less simultaneous with the event. Moreover, the current Code is sufficiently flexible in defining “live’ coverage’, and deals proportionately with the differing nature of various listed events e.g. in the case of multi-day events or multi-event tournaments.</p> <p>It is fair to say that since the listed events regime was put in place almost three decades ago, technology and the means of packaging live coverage of events – and with it audience expectation and means of participation – have changed. Ofcom should therefore conduct regular reviews of the Code, as per the statutory requirement, to ensure that the Code adequately reflects audiences’ interest, and their viewing and participation habits. Ofcom should consider publishing a timeline of periodic reviews of the Code to provide a degree of predictability given the multi-year nature of many contracts.</p> <p>For the purposes of reviewing the listed events regime’s definition of ‘live’ coverage, there are two particular aspects we wish to comment further on.</p> <p>Firstly, we would maintain that audience expectation remains that ‘live coverage’ of big sporting moments which allows them to participate as far as possible includes actual, audiovisual footage of play which is simultaneous with the event taking place; in other words, what is still broadly understood as ‘live television coverage’. This is reflected in the relatively high value attributed to contracts for live broadcasting (and/or streaming) rights to popular sporting events.</p> <p>Coverage which does not include actual footage, such as website live text or social media commentary, has undoubtedly added to viewers’ overall experience of big sporting events. Nevertheless, it would be difficult to include such coverage within the scope of the listed events regime and it is unclear how doing so would deliver benefits for audiences. Currently, rights contracts do not include or</p>

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	<p>restrict such coverage of events. Were that to change in the future, then in due course Ofcom may wish to revisit this issue as part of its regular review of the Code.</p> <p>Meanwhile, as the Media Act 2024 recognises, the means of distributing what is broadly understood to be ‘live television coverage’ has changed and as such the regime will now include services delivered online and through designated internet programme services, for instance, by S4C through its player S4C Clic. Online delivery via different platforms and devices can improve viewers’ ability to participate in events given the additional functionalities of online platforms e.g. the option of multiple live streams. This is particularly true in the case of multi-event games like the Paralympics, where viewers may be able to switch between streams of different competitions occurring at the same time.</p> <p>Although Ofcom may wish to revise the Code’s definition of live coverage of events with defined separate parts overlapping in time – which can now in theory be streamed simultaneously in full – the substance of that interpretation should remain. That is, to treat each separate match/competition within events such as the Olympics or FIFA World Cup as if it were a single event for the purposes of applying the regime’s restrictions.</p> <p>Turning to the second aspect we wish to comment on, we would strongly contend that the duration for ‘live coverage’ of an event should be interpreted as being from the starting whistle to the final whistle (or the start of the day’s play to the end, sport depending). Our reasoning for this is twofold:</p> <p>1) Whilst pre-, mid- and post-event punditry form an important part of S4C’s comprehensive and entertaining sports offering, our viewing data clearly shows that the majority of our sports audiences do not begin watching at the top of the programme and do not remain with the programme until the very end. Rather, the noticeable pattern for sport is that the viewing figures will significantly and then gradually increase once the event has started (i.e. after the starting whistle), before dipping slightly at any pause (e.g. at half time), and will significantly dip after the event has finished (i.e. after the final whistle). This is true of terrestrial and online viewing.</p> <p>2) The inclusion of pre- and post-event punditry, or additional wrap-around content such as opening and medal ceremonies, in</p>

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	<p>Ofcom’s interpretation of ‘live coverage’ also risks greatly diluting the value and relevance of acquiring non-live broadcasting rights. In other words, if ‘live coverage’ included post-event content, a broadcaster/streaming service could in theory extend its coverage to deliberately prolong the delay period for secondary coverage of an event to the detriment of another service. This is also true in the case of pre-event content, particularly with multi-day or multi-part events. As such, there is a strong reason to clarify that ‘live coverage’ of an event is interpreted under the Code as ‘the starting whistle to the final whistle’ (or the start of the day’s play to the end, depending on the sport).</p> <p>Finally, we would also add that whilst the ‘watch from start’ functionality of online players has also changed the way audiences watch ‘linear’ content online, in S4C’s experience there is currently insufficiently reliable data to establish the nature and frequency of its use during live coverage of events. Moreover, the inclusion of the ‘watch from start’ window in Ofcom’s definition of ‘live coverage’ could prolong the delay period for secondary coverage by several hours in some cases, thereby diluting its value and relevance.</p>
<p>Question 2: What factors should Ofcom take into account in defining adequate live coverage? We’d particularly welcome views and evidence on:</p> <ul style="list-style-type: none"> • The ways in which audiences engage with coverage of multi-sport events and how this has changed over time, and • The considerations that underpin arrangements where both PSBs and providers of non-qualifying services acquire live rights (including from rightsholders). 	<p>Confidential? – N</p> <p>As noted in the Media Act’s Explanatory Notes, the aim of revising the listed events regime is “to ensure partnership arrangements between qualifying and non-qualifying broadcasters may continue as they do now”. Increasing competition from global services and increasing cost mean that it has become harder for public service broadcasters generally to acquire rights to big sporting events. We therefore welcome measures which encourage arrangements that make significant rights deals easier to reach whilst also ensuring that coverage of these events are still likely to satisfy the interests of audiences.</p> <p>In assessing what factors it ought to take into account in defining ‘adequate live coverage’ Ofcom may wish to consider the following:</p> <ul style="list-style-type: none"> - That given the limited number of relevant events currently listed, and the cyclical nature of those events, it may be helpful if Ofcom were to introduce requirements on the

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	<p>duration of live coverage it considers to be 'adequate'. It would be particularly helpful given the possibility of automatic authorisation in these cases under the revised regime. However, any forms of measurement introduced to define adequate coverage, such as through a set minimum number of minutes or percentage of the listed event, should be subject to regular review by Ofcom to ensure they continue to meet the interests of audiences. Ofcom should consider publishing a timeline of periodic reviews to provide a degree of predictability. Those reviews should include public consultation.</p> <ul style="list-style-type: none"> - It would be helpful were Ofcom to provide clarity in the Code that, in assessing 'adequate live coverage' 'taken as a whole', it considers that Welsh-language coverage may contribute to the provision of 'adequate' coverage. The Code ought to recognise that events of significant cultural importance to the people of Wales may also be provided through the medium of Welsh. S4C has a long tradition of collaborating with both PSBs and pay-TV providers to ensure significant sporting events are offered on television in the Welsh language. S4C has a key role in supporting and encouraging the use of the Welsh language and we use high-profile events, not only to draw viewers in to watch that particular transmission, but also to draw attention to other programming available, with subtitles and secondary audio feeds, on S4C. - Ofcom should provide clarity as to whether, by virtue of section 101(4E), S4C may provide a secondary or further service for an area that consists of or includes all or almost all of the area for which a first service is provided, which is likely in most cases to be the UK. S4C is not available on Freeview outside of Wales, yet it is accessible online via S4C Clic and the BBC iPlayer, on IPTV, as well as on Sky, Freesat, and Virgin TV. Moreover, we anticipate the increased availability of S4C Clic on IPTV and other platforms as the Media Act's 'must offer/must carry' provisions are implemented in due course. - In terms of assessing contractual restrictions which might be imposed on the provider with more limited rights,

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	<p>Ofcom should strive to ensure a balance between guaranteeing adequate live coverage which meets the interests of viewers on the one hand, and allowing providers to reach mutually beneficial partnership agreements on the other. There are some contractual restrictions – such as on online platform functionalities – which could be considered too burdensome on providers and as failing to serve viewers’ interests. For example, disabling a ‘watch from start’ functionality to show live coverage of a particular event would be difficult.</p> <ul style="list-style-type: none"> - It is generally recognised that placing contractual restrictions on content is likely to dilute the value of those rights. However, in some cases, and provided that they are proportionate, this may make acquiring the rights affordable to a service provider. As an example, S4C has often acquired rights to sporting events restricted by language. Providing Welsh-only live coverage of many sporting events has enabled us to acquire rights which would otherwise be beyond our reach. Again, there is a balance to be struck between facilitating negotiation between providers and promoting viewers’ interest. In this regard, the principle that live coverage of multi-sport events where the additional coverage ‘<i>taken as a whole</i>’ constitutes adequate live coverage may prove useful.
<p>Question 3: What factors should Ofcom take into account in defining adequate alternative coverage for Group B events? We’d particularly welcome views and evidence on:</p> <ul style="list-style-type: none"> • The minimum duration and maximum delay provisions; • The requirement for live radio commentary for Group B events; and • The ways in which audiences engage with highlights and radio coverage for Group B 	<p>Confidential? – N</p> <p>We consider that the existing provisions in the Code, and the levels they are set at, remain appropriate for the time being.</p> <p>Live coverage of events remains demonstrably more valuable and attractive than non-live coverage. As an illustration, during the 2023/24 season twice as many viewers watched S4C’s live coverage of URC matches as did the delayed ‘as live’ coverage.</p> <p>However, the online world has changed audiences’ consumption of content, and they increasingly expect to be able to access highlights of events at their fingertips rather than necessarily await a traditional evening highlights programme. We would therefore always encourage that highlights be made available to secondary providers within a reasonable duration of time and whilst the</p>

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<p>events and how this has changed over time.</p>	<p>event is still relevant to viewers.</p> <p>Needless to say, any increases to the current maximum delays permitted for highlights would clearly make them less relevant and less valuable – to both viewers and service providers.</p> <p>In terms of the format in which highlights must be delivered, the new regime should allow for sufficient flexibility given the ways audiences now consume non-live sports coverage.</p> <p>Ofcom should periodically review whether the Code’s provisions, including the levels they are set at, to ensure they continue to reflect audiences’ interests. Ofcom should consider publishing a timeline of periodic reviews to provide a degree of predictability given the complex, multi-year nature of contracts.</p>
<p>Question 4: What matters should Ofcom consider when revising the listed events Code? We’d particularly welcome views on:</p> <ul style="list-style-type: none"> • Ofcom’s approach and process for giving and revoking consent; • Ofcom’s approach and process for giving and revoking consent to televise an event designated by an EEA State or other CTT State; • Ofcom’s approach to enforcing compliance with restrictions on showing live coverage of a listed event without authorisation; and • Any additional comments on revising the Code. 	<p>Confidential? – N</p> <p>We note that the current Code lays out the criteria upon which Ofcom decides whether it is satisfied that broadcasters have had a genuine opportunity to acquire the rights on fair and reasonable terms before it gives or revokes its consent. Such guidance is helpful and ought to be included in the revised Code.</p> <p>Given that under the new regime, automatic authorisation will be granted in many cases, we would encourage Ofcom to ensure the Code lays out its interpretation of key terms, such as ‘adequate coverage’ and ‘live coverage’, as clear as possible.</p>