



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

Government Response to the
Culture, Media and Sport Select Committee
Report on Broadcasting Rights for Cricket
Session 2005-2006

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
March 2006*

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GOVERNMENT RESPONSE TO THE CULTURE, MEDIA AND SPORT SELECT COMMITTEE REPORT ON BROADCASTING RIGHTS FOR CRICKET (HC 720) SESSION 2005-2006

Introduction

The Government welcomes the Committee's First Report of the 2005-06 session, and is pleased to be able to present its response to the Committee and outline how we intend to take action, where appropriate, on the recommendations made.

Conclusions and Recommendations

- **(1) The Committee wishes to express its support for the general principle of listing. In a nation of sports lovers, it is imperative that some protection must exist for some sporting events. (Paragraph 14).**

1. The Government notes and welcomes the support of the Committee for the general principle of listing.

2. Intervention in the sports broadcasting market is to seek to ensure that broadcasters have the opportunity to offer all viewers, including the lower paid and the elderly, free-to-air access to major events.

3. However, intervention can have a significant impact on the income sporting bodies can receive for their rights and, therefore, on the amount which can be invested in the sport. That is why the listed events principle ensures that only those events with special national resonance are protected, but in a way that is flexible enough to ensure that the sporting bodies concerned can maximise their income within that constraint.

4. The importance of that flexibility is highlighted in this case. Income from broadcasting contributes 80% of cricket's total income. A drop in income would have meant cuts in investment programmes at all levels of the game, including grass roots cricket, the national cricket centre and the England team.

- **(2) Whilst we note the difficulties faced by terrestrial broadcasters in terms of scheduling problems, we lament the fact that no terrestrial broadcaster (other than Channel 4) sought fit to bid for any television rights to live cricket; worse still, that no bid whatsoever was submitted for the highlights package by any terrestrial broadcaster received by 95% of the population and which therefore satisfied the criteria for universality. We believe that free-to-air broadcasters must shoulder some of the responsibility for the public outcry which followed the decision by severely limiting the options open to the ECB. Had the BBC, ITV and Channel 4 all made bids, the ECB could have insisted that they were not prepared to agree an exclusive deal with anyone. (Paragraph 21).**

5. Government shares the Committee's disappointment that the universal terrestrial broadcasters did not secure any coverage of test match cricket, live or otherwise. However, the listing regime is not, nor is it intended to be, a mechanism aimed at forcing broadcasters to carry certain events. Ultimately broadcasters are best placed to balance the differing needs of their audiences.

6. Sky's commitment to sport has brought many benefits to other sports and we welcome its offer of uninterrupted coverage and the commitment of FIVE to peak time highlights, which at present will be available to 92% of viewers via all platforms.

- **(3) We can find no compelling argument as to why no broadcaster, other than Five, was prepared to bid for highlights. (Paragraph 22).**
7. It is a matter for individual broadcasters to decide what sporting events to bid for. It is for them to judge what audience they can achieve against what the costs would be of that broadcast in comparison with other programming. And it is for them to decide their bidding strategies. It would not be right for Government to speculate as to the reasons behind the decisions made by broadcasters.
- **(4) We agree with the ECB's decision to enter discussions and conclude negotiations well in advance of the conclusion of the previous contract. Delaying negotiations until after a potentially disastrous Ashes series might well have left the ECB in an intolerably weak bargaining position which, for all who care about the sport, would have been very damaging. (Paragraph 24).**
8. The Government agrees. Clearly, the ECB have to judge carefully the timing of tenders, given the importance of broadcasting to the financing of cricket.
- **(5) It is very evident to the Committee that no matter what description it is given and no matter how its precise ramifications are interpreted, the understanding between Lord Smith and Lord MacLaurin constituted an agreement. And the content of that agreement was unequivocal: live Test match cricket played in England was not to be removed completely from free-to-air TV. What is equally evident to this Committee is that the terms of that agreement have manifestly been breached by the ECB with the tacit approval of DCMS. (Paragraph 35).**
9. As Chairman of the ECB, Lord MacLaurin clearly saw himself committed in 1998 to delivering a substantial amount of live coverage on free-to-air television and that was delivered while he remained Chairman and up until the 2005 season. It was equally clear that this was not binding on the ECB, hence the reference in the DCMS Press Notice of 1998 to the possibility of reviewing the listing criteria if the expectations were not delivered.
10. But, however the arrangements in 1998 are described, the ECB have consistently made clear that the option of maintaining substantial live terrestrial cricket coverage and maintaining funding for cricket at all levels was not available when the decisions had to be taken on the 2004 tender round.
11. This view is supported by Lord MacLaurin in an article in The Times on Thursday 22 September 2005. In that article he stated *"The ECB renegotiated the TV contracts early this year. It was free to negotiate the rights with both terrestrial and satellite. As I understand it the BBC and ITV did not bid. Channel 4 made a bid that it could afford bearing in mind it stated that it was losing £20 million a year on televising cricket, Sky made a very substantial bid which was far and away the best financial deal for cricket. The ECB had no option but to accept it."* This clearly indicates Lord MacLaurin's acceptance that the circumstances found in 1998 were not those that existed in 2005. Of course everyone would have preferred a balance between terrestrial and satellite coverage. But, as the ECB have made clear, it was not possible.
- **(6) Whatever the good intentions and pragmatism of the decision at the time, the gentleman's agreement has sadly proved totally ineffectual. (Paragraph 36).**
 - **(7) Rather than remaining silent on the issue, DCMS should have made a clear decision as to whether they were content for the ECB to be released from the gentleman's agreement. The onus, therefore, was on the Department to confirm its acquiescence to the new contract and to make public its decision to change its policy by allowing the ECB to sell all live cricket to a pay-TV broadcaster. The ECB is entrusted with doing its best for cricket; DCMS have the wider public interest to consider. The Committee wishes to express its profound disappointment with the ECB and DCMS for failing to honour their commitments, albeit not legally binding ones. (Paragraph 37).**

- **(8) The breaching of the agreement has wider ramifications beyond cricket and beyond the auspices of the Department for Culture, Media and Sport. If decisions are made by Secretaries of State and government departments on the basis of understandings which are subsequently ignored by future incumbents then this Committee would wish to express its firm view that such informal arrangements should cease to be treated as an effective tool in the decision-making processes of government. Formal binding undertakings should instead be sought to make policy decisions effective and to maintain public confidence in government decision-making. (Paragraph 38).**

12. We note the Committee's views. The decision on whether to place test cricket on the 'B' list in 1998 was recognised as being the most difficult of all events considered in the review by Lord Gordon's Committee, as well as by Government. Placing test cricket on the 'B' list allowed the ECB to secure a fully competitive market for the live rights and no other solution would have delivered that.

13. Enormous benefits to cricket have resulted from that decision to accept the recommendations made by Lord Gordon's advisory group to move cricket from the 'A' to the 'B' list in 1998. The value of the broadcasting deal for cricket in the period it was restricted to the A list was £33m over four years. In real terms that is at least five times less than where the ECB are at present. Of course, the move was not just to do with terrestrial television. For example, last summer 30,000 volunteers supported the Natwest Cricket Force programme prior to the start of the season. There was a 70% increase in domestic crowds at Twenty20 matches, more than 3500 clubs and 2 million children were playing cricket and there was great success for our National Teams at all levels – Men's, Women's and under 19's all winning their series last summer. This success did not come about by chance but by design.

14. We accept that, sadly, during the last contract round, the ECB were faced with the stark choice of accepting the deal offered by Sky or a drop in income of 80%. No terrestrial broadcasting channel bid for any of the overseas international matches; no terrestrial broadcasting channel bid for any home international One Day matches; 35% of home international matches failed to attract a bidder from terrestrial television and no terrestrial channel bid for any live domestic cricket. The majority of people agree, therefore, that the ECB had no option but to accept this deal.

15. If the understanding is examined in the context of the situation that existed in 1998 and alongside the benefits that flowed from it then its impact on the recent successes of cricket in this country is clear.

- **(9) The Committee strongly supports the notion that a substantial proportion of Test match cricket should be available on free-to-air TV for the benefit of the whole country regardless of a fan's ability to pay. However, the Committee believes that, ultimately, in the debate as to who should decide what is in the best interests of cricket, the judgement has to be left to that sport's governing body. It is the ECB, too, who must take the blame for any decline in interest in the game. The duty rests on it to ensure that the potential adverse effects on cricket, referred to in this report, are minimised, if not eliminated, over the years of the exclusive Sky contract. Time will tell if it has made the correct decision and if a new generation of youngsters, enthused by successful English teams, comes forward to emulate their heroes. (Paragraph 59).**

16. The Government is in complete agreement with the Committee. It is ultimately the responsibility of the ECB to ensure that the interest in the game is maintained and it must therefore take responsibility if that interest declines. That is why they are best placed to balance the benefits of media exposure against income.

17. It is important to balance the benefits to the game of live terrestrial coverage against the benefits of investing in grass roots cricket. Here, the ECB's recent track record has been impressive. In 2005 the ECB invested 16.1% of its overall income in grass roots cricket, in 2006 it was 18.5% and by 2009 it will be 21%.

18. As stated previously, the success of these investments is clear, there has been a 70% increase in domestic crowds at Twenty20 games and 2 million children are currently playing cricket. Over this period we also saw the England side, at all levels, achieve great success and the importance of investment in initiatives, such as central contracts, cannot be discounted.

- **(10) We have received no compelling evidence in support of cricket returning to Group A of the listed events. The potential damage that re-listing in Group A would do to cricket would be too big a risk to take; the vast sums of money poured into the sport and the achievements of the England teams in recent years would all be put in jeopardy. (Paragraph 60).**

19. The Government agrees that the benefits for cricket of the 1998 decision have been profound. Nonetheless, it is right that the list is reviewed periodically and the Secretary of State has indicated that such a review should take place around 2008-2009.

- **(11) The Committee takes the firm view that the ECB did not do enough to ensure that a non-exclusive deal was brokered. The Committee believes that a more pro-active approach should have been taken by the ECB to maximise broadcasting revenue while ensuring some cricket remained on terrestrial TV. The ECB should have had more, and placed greater emphasis on obtaining successful outcomes from, discussions with free-to-air broadcasters before the bidding process was put in train and at the outset of, and throughout, negotiations. What we are concerned about is the ECB's timidity in not insisting upon a non-exclusive deal. A clear signal from the outset that an exclusive deal was not on the table may have substantially altered negotiating positions in the ECB's favour. (Paragraph 61).**

20. It is for the ECB to determine the optimal tendering and negotiating strategy for the good of the game.

- **(12) We recommend that the ECB enters discussions at an early stage with all broadcasters to ensure that at the time of the next contract negotiation, there are numerous bids from a variety of broadcasters all of whom will have had ample opportunity to deal effectively with scheduling problems. It is the ECB's stated aim to have a mix of broadcasters wherever possible and we sincerely hope that the next deal manages to meet their aspirations and, perhaps more importantly, the commitments they gave to the Secretary of State for Culture, Media and Sport in 1998. Much of the onus will be on the ECB to ensure that is the case but free-to-air broadcasters too must take up the challenge to help restore live coverage of the game to universally received channels. (Paragraph 62).**

21. The Government agrees with the recommendation.

- **(13) If the BBC, or any other broadcaster, were to indicate a willingness seriously to consider negotiating with Sky for rights to broadcast live Test cricket, then the Committee would have no hesitation in recommending that the Minister of Sport convene a meeting as a matter of urgency. However, we, like the Minister of Sport, are not optimistic. (Paragraph 66).**

22. As made clear at the Committee hearing on 29 November we are willing to convene such a meeting, especially if we believed that there was the possibility of a deal being struck.

- **(14) We are unclear as to why the review of listed events should depend on the roll-out of digital switchover and are unconvinced of the link between the two. We would also remind the Secretary of State that the ECB may well have negotiated a new deal or renewed their existing contract with BSkyB well before that review takes place. The Committee sees no reason why a comprehensive review of the listed events criteria, and the events themselves, cannot be undertaken earlier than 2008-09 and certainly well ahead of the next contract decision. (Paragraph 69).**

23. The Secretary of State has indicated that she intends to review all listed sporting events, including cricket, around 2008-09. However, no fixed date has been set and a Review could take place earlier, if it were felt appropriate.

24. The timing of any review has never depended solely on the roll-out of digital switchover it is just one of a number of factors that will be taken into account before a decision is made but clearly there are more options in a multi-channel environment available to all.

25. 2008-09 would also be 10 years after the last review and would allow us to take account of the changes in the broadcasting of sport, and in broadcasting generally, in the run up to digital switchover. And the timing of the review will need to take account of the positions of other sports.

- **(15) We recommend that any review of listing should have as one of its priorities the broader issue of the distribution of sports rights. DCMS, in conjunction with Ofcom and the Office of Fair Trading, should examine ways of encouraging flexibility and competition in the broadcasting of sports rights using new media platforms. (Paragraph 71).**

26. The Government agrees that flexibility and competition in the market for providing sports coverage across the media will be important considerations in any review. These will be important issues in considering the nature and extent of intervention in the market for live broadcasting rights subject to the listing regime.



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