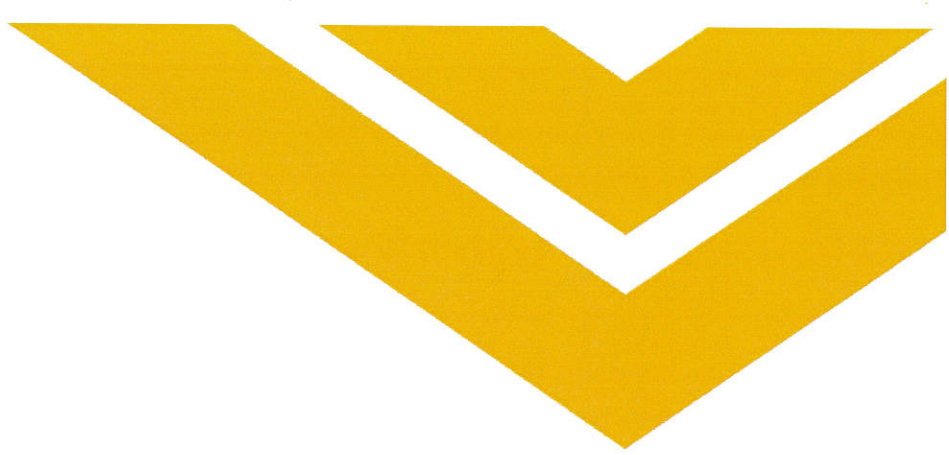


Australian Rugby League Commission



12 April 2012

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House ACT 2600

Dear Secretary

The Australian Rugby League Commission (ARLC) thanks the Environment and Communications Legislation Committee for the opportunity to provide a submission to its inquiry into the Broadcasting Services Amendment (Anti-Siphoning) Bill 2012.

The ARLC is the national sporting organisation for Rugby League. The ARLC is the owner of the National Rugby League (NRL) competition and each year provides 200 Premiership games and the Grand Final, three games in the State of Origin Series, the All Stars game and Australian Kangaroos games.

The ARLC supports the Government's philosophy that premium sporting events should be made available live (or near live) to the public, via free to air television and has always acted in accordance with this philosophy in the manner in which it grants its broadcasting rights.

In saying this it must be recognised that the anti-siphoning scheme is an artificial instrument which overrides natural market forces and thereby deflates the value of sporting broadcast rights. The ARLC is therefore concerned to ensure that the undoubted 'cost' to sporting organisations that is incurred by the anti-siphoning scheme is properly considered and balanced in the amendments that are made.

Free to air coverage, because of its audience size and reach, is always going to play a key role in broadcasting Rugby League. The ARLC is committed to continuing the provision of Rugby League content on free-to-air television. Last year Rugby League had 4 of the top 5 rating sports programs on free-to-air television and the most watched State of Origin series in its history.

However for as long as the professional Rugby League competition has been televised, and the anti-siphoning regime has been in place, no broadcaster has provided coverage of all regular season games each week. There is an argument to maximise accessibility to premium content, but not all content.

The ARLC welcomes the reforms by Minister Conroy in attempting to lessen the regulatory burden and assist in lifting the depressed market value of sports content on the list.

The ARLC welcomes the proposed delisting of the five weekly NRL games that have never been shown on free-to-air networks in the past. It is important to note that the changes provide more freedom to Rugby League in our broadcast negotiations and there is nothing stopping us from offering more free-to-air Matches and these changes (while still restrictive) would allow the NRL more negotiating opportunities.

There are however some matters in the Bill that the ARLC wishes to address and these are discussed in the following paragraphs.

Proposed Category B listing for NRL Matches

The Bill proposes that the Minister will make a legislative instrument de-listing 5 weekly NRL matches by declaring a quota group for the other 3 weekly matches. This quota group instrument may specify 'associated set conditions' to protect the quality of the matches in the quota group.

While this is ultimately a matter for the Minister when he makes the instrument any determination of the relevant 'associated set conditions' will need to have regard to a number of factors, including:

- the broadcasters that currently hold NRL free-to-air and subscription television rights have existing contractual rights that impact on the way in which the ARLC can grant rights for the period 2013 to 2018;
- legislating quality of matches is a complex thing given that it is inherently subjective and will often involve a tension between game quality and consumer interest as some teams have larger supporter bases. For this reason alone the ARLC will be submitting to the Minister that once the relevant criteria are set, actual game choice should be left to the broadcaster as it will act prudently to ensure that the game with the widest consumer appeal is chosen; and
- mandating particular time slots for the matches will be an unnecessary and an unwarranted intrusion into the match scheduling decisions of the ARLC and program scheduling decisions of broadcasters.

52 week de-listing period

The Bill allows for the de-listing of NRL matches if the ARLC is unable to agree on terms with free-to-air television broadcasters for the arrangements to broadcast the matches on free-to-air television. De-listing would allow the ARLC to enter into agreements with subscription television providers and content service providers on an exclusive basis. The ARLC believes that if a situation warranting de-listing arises, the NRL events should be removed from the list as early as possible to enable the ARLC to go to market for the sale of those rights.

In this respect the ARLC's preference is that NRL matches be removed from the antisiphoning list 52 weeks prior to the start of the relevant NRL Season. This change should be included in the Bill rather than leaving the extension of time to a legislative instrument. This amendment involves changes to section 145E(6) of the Bill. .

Conferral of rights on subscription television and online and mobile providers

The Bill (145ZN (2) & (3), 145ZO 2) & (3)) currently has the effect that Tier B NRL matches that are in a Category A or Category B quota group can be licensed by the ARLC to subscription television and content service providers at any time, provided that the licensing does not prevent the licensing of those matches to a free-to-air television licensee.

However, these provisions do not extend to NRL related anti-siphoning events that will not be in a Category A or Category B quota group, being the NRL Finals Series matches.

The ARLC has always licensed its broadcasting rights as a whole, and has not sought to have separate arrangements for regular season matches and for Finals Series matches. The ARLC wishes to continue to be able to deal with its rights in this way. As such it requests that the provisions of section 145ZN and 145ZO of the Bill be amended to apply the same restrictions to NRL Finals that apply to NRL matches in a Category A or Category B quota group, such that the ARLC would be able to license rights to those matches without the need for a free-to-air television broadcaster to have acquired the rights first, provided that the licensing does not prevent the licensing of those matches to a free-to-air television licensee.

We thank you again for the opportunity to provide comment on the Bill.

Yours sincerely

Shane Mattiske
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