

26 April 2012

Ms Sophie Dunstone
Acting Committee Secretary
Senate Environment and Communications Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Sent by email: ec.sen@aph.gov.au

Dear Ms Dunstone

**Inquiry into the Broadcasting Services Amendment (Anti-siphoning) Bill 2012 –
Written Questions on Notice**

I refer to your email dated 23 April 2012 providing the ACMA with two written questions on notice from Senator McKenzie.

Please find the ACMA's responses below.

(1) In relation to the restrictions on STV and other content providers, how will ACMA determine whether the price offered to a free to air broadcaster for sports broadcast rights represented 'an objective market value'?

There is no requirement for the ACMA to determine the 'objective market value' of particular sports rights.

When determining whether an acquisition by a subscription television licensee or a conferral on a content service provider is part of a '*scheme to prevent*' free-to-air broadcasters acquiring the rights to an event, the ACMA will consider a range of relevant matters. One potentially relevant matter is the price offered to or paid by a free-to-air broadcaster to secure those rights. In considering the implications of the price, the ACMA is likely to have regard to historical information, changing circumstances and the submissions of the parties involved in the transaction.

(2) It has been suggested by some submitters that this new Bill represents an increase in the level of Ministerial discretion permitted. Do you agree? Why do you believe this would be their observation? Is an increased level of Ministerial discretion necessary?

The ACMA notes that the Bill allows the Minister to make a wider variety of notices than is the case under the current scheme. However, the Bill also includes many new elements and obligations as compared to the current scheme. For instance, the division of anti-siphoning events into either:

- Tier A,
- Tier B,
- Tier B Designated,
- Tier B Quota Group A,
- Tier B Quota Group B.

The ACMA does not have a view on whether the level of discretion is necessary or not.

If you require any further information or clarification, please contact Sue Gabor, A/g Manager, Broadcasting Standards Section on (02) 9334 7915 or Sue.Gabor@acma.gov.au.

Yours sincerely

Jennifer McNeill
A/g General Manager
Content, Consumer and Citizen Division