

Rt Hon Damian Green MP
House of Commons
London
SW1A 0AA

30 July 2021

Dear Damian,

Thank you for your email about BBC coverage of the Olympics, the deal with Discovery, and how these arrangements fit with our code on listed events. There has been significant press coverage of the issues, and the BBC have commented on them too, so I thought it would be helpful to outline the current arrangements, how the code applies in this case and some of the implications for the future.

As you may know, the broadcasting arrangements applying to the Tokyo Games are the result of deals done some years ago. In 2012 the BBC acquired the exclusive UK broadcast rights for live coverage of both summer and winter Olympics up to and including the current Games. However, in 2015 Discovery reached an agreement with the IOC for a multimedia rights package encompassing fifty countries in Europe. That deal included the UK broadcast and on-demand rights for live coverage of the 2022 and 2024 Games. Subsequently, in 2016, the BBC agreed to sub-licence pay-TV rights to the current Games, in return for free-to-air rights to the 2022 and 2024 Games. As part of this sub-licencing deal, during the current Games the BBC is allowed to show two live streams at any one time from whichever events it chooses.

The reason for concentrating on the rights is that they, rather than the actual coverage provided by a broadcaster of a listed event, are the focus of the current legislative regime. This dates back to the Broadcasting Act 1996, which was of course designed long before it was possible for viewers to choose between multiple streams of different Olympic sports through their TV sets.

Under the 1996 Act, the listing of an event by the Secretary of State means any broadcast rights must be made available on “fair and reasonable terms” to free-to-air channels which are receivable by at least 95% of the population. This currently means the UK public service broadcasters. Although rights must be ‘made available’, there is no requirement for any of the PSBs to bid for them, either in full or in part. However, the 1996 Act does require any broadcaster (qualifying or otherwise) who has acquired *exclusive* live rights to a listed event, such as the Olympics or the recent European football championships, to seek consent from Ofcom. In this case, the BBC acquired exclusive rights to show live coverage of the 2020 Olympics and sought and obtained Ofcom’s consent in 2013. The subsequent deal between the BBC and Discovery does not give the latter exclusive rights, and because of this there was no requirement for Discovery to seek consent from us.

Of course, as you point out, the underlying purpose of the listed events rules is to ensure that certain events of national interest are available to view live, and for free, by the widest possible

audience. Under current rules, Ofcom must be satisfied that qualifying broadcasters have had the opportunity to acquire the rights on “fair and reasonable terms”. The lack of availability on free-to-air television would be a factor for us to take into account in deciding whether or not to give consent to a commercial broadcaster who had acquired exclusive rights. However, it is important to emphasise that, while the Olympics as a whole have been listed, the current framework does not require every sport to be shown in full.

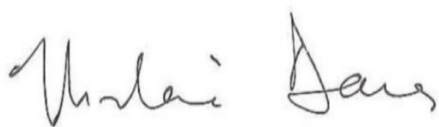
This means that although free-to-air viewers in the UK do not have the same ability to access all of the live action from the Tokyo games as was available from London and Rio, the BBC’s current partial rights package is entirely compliant with the legislation.

In our recent *Small Screen: Big Debate* statement on the future of public service media, we said that one of the aspects of public service programming most valued by audiences was its ability to connect people from different backgrounds and build a sense of national identity and belonging. Although major sporting events like the Olympics will generally be covered by pay-TV broadcasters, we said the high cost of rights means they are unlikely to be available on public service channels and on-demand services without regulatory intervention. We recommended that the Government consider whether it was now time to update the rules, including whether to change the regime in ways that could strengthen PSM benefits.

As you will know, the Government will be considering Ofcom’s recommendations as part of its strategic review of public sector broadcasting and has stated that it intends to bring forward a white paper this autumn to ensure that UK audiences continue to be well served in a changing media landscape.

I hope this response clarifies the current arrangements. We would be very happy to arrange a session to talk through the technical aspects of the legislation if it would be helpful to you or any member of the Select Committee, and I am copying Julian Knight into this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Melanie Dawes', written in a cursive style.

MELANIE DAWES