

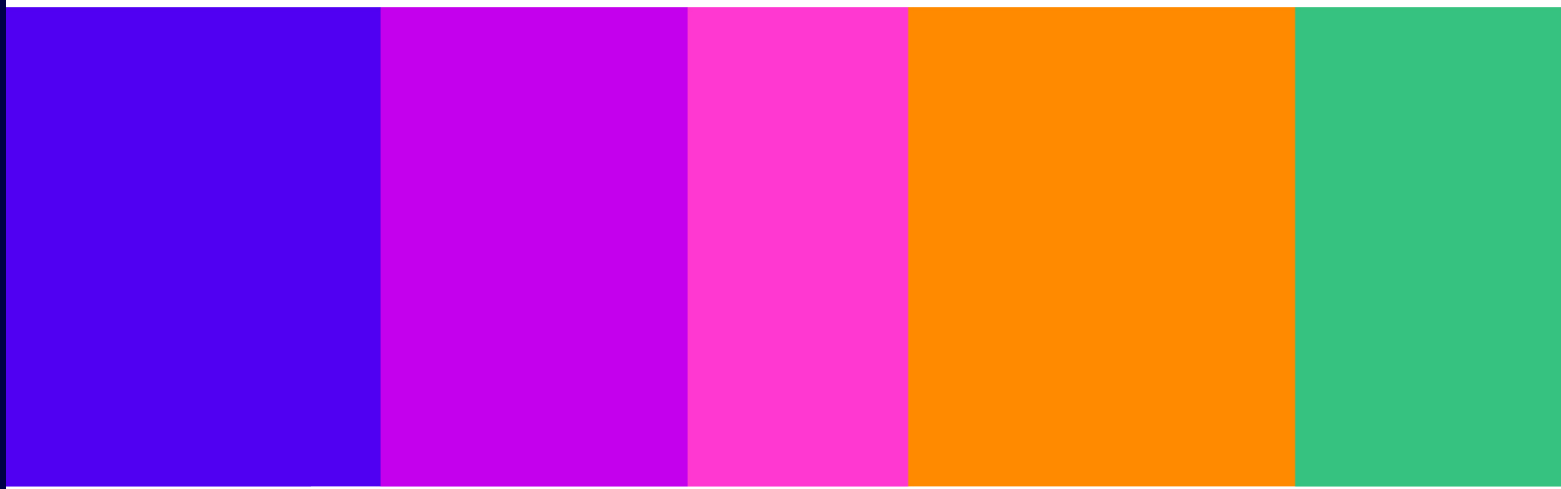
Listed Events

Implementing the Media Act

Call for Evidence

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1. Overview

What we are calling for evidence on – in brief

The Media Act 2024 represents the first major update to UK media legislation for 20 years. It sets out to make sure people across the country continue to have access to a wide range of high-quality live and on-demand TV, ensuring that audiences are protected from harm and that regulatory structures are reformed to enable the media industry in the UK to thrive.

One change introduced by the Media Act is to the listed events regime, which applies to broadcast coverage of specific events of national interest, such as the Olympic Games, the men's and women's World Cup and European Championship football tournaments, and the Grand National. The listed events regime aims to ensure that coverage of these events remains widely available to audiences. However, it does not guarantee that listed events will be broadcast live or on a free-to-air channel, as rights holders are not required to sell live rights and broadcasters are not obliged to purchase them or show the events.

The Media Act amends the listed events regime, so that “qualifying services” which benefit from the regime can only be provided by public service broadcasters (PSBs), like the BBC and ITV. It aims to ensure that rights to live coverage of listed events are offered to PSBs, as well as to other services which are termed “non-qualifying services”. The Media Act also broadens the scope of the regime so that a range of new providers, including streaming services, will in future be subject to the rules. It does not change which events are, or are not, listed events (which is a matter for the Secretary of State).

As part of implementing these changes, Ofcom is required to define a number of terms used in the regime and to revise our Code on listed events.

In this call for evidence, we are seeking input to help us carry out this work. We would particularly welcome evidence about how viewing of listed events has been impacted by changes in audiences' viewing preferences, and by changes in technology and in the wider media landscape. We are also interested in how rights for listed events are packaged and sold.

Ofcom would like to receive responses by 5pm on 26 September 2024.

We plan to consult on proposals in 2025.

2. The changes to the listed events regime

What are listed events?

- 2.1 Listed events are sporting or other events of “national interest” designated by the Secretary of State. The listed events regime, established under Part 4 of the Broadcasting Act 1996, aims to ensure that coverage of these events is widely available to audiences.
- 2.2 The list of events is split into two groups – “Group A” and “Group B” – and the regime sets out different rules for Group A and Group B events. The events currently on the list¹ are:

Group A

- The Olympic Games
- The Paralympic Games
- The FIFA World Cup Finals Tournament
- The FIFA Women’s World Cup Finals Tournament
- The European Football Championship Finals Tournament
- The European Women’s Football Championship Finals Tournament
- The FA Cup Final
- The Scottish FA Cup Final (in Scotland)
- The Grand National
- The Wimbledon Tennis Finals
- The Rugby World Cup Final
- The Derby
- The Rugby League Challenge Cup Final

Group B

- Cricket Test Matches played in England
- Non-Finals play in the Wimbledon Tournament
- All Other Matches in the Rugby World Cup Finals Tournament
- Six Nations Rugby Tournament Matches Involving Home Countries
- The Commonwealth Games

¹ This reflects the [latest version of the list](#) published on 25 April 2022 by the Department for Digital, Culture, Media and Sport (as it then was). Under section 25(2) of the Media Act 2024, the Secretary of State is required to revise and republish the list on the date on which section 21’s amendments to the listed events regime are commenced (but this does not require changes to be made to which events are listed).

- The World Athletics Championship
 - The Cricket World Cup - the Final, Semi-finals and Matches Involving Home Nations' Teams
 - The Ryder Cup
 - The Open Golf Championship
- 2.3 The current listed events regime works by prohibiting in some circumstances the live coverage of a listed event without prior consent from Ofcom.² It seeks to ensure that rights to live coverage of listed events are offered to broadcasters which meet certain criteria, known as “qualifying services”. At present, the regime designates certain broadcast channels – those free-to-air channels which are receivable by at least 95% of the population – as qualifying services, and all other services as “non-qualifying services”.

The Media Act will change the listed events regime

- 2.4 Since the listed events regime was devised, the media landscape has changed considerably. Though live broadcast TV and radio services continue to be widely used and valued, the expanded choice, which has been enabled by technological change and embraced by audiences, has gone hand-in-hand with declines in broadcast viewing and listening. In 2023, people in the UK watched on average 51% less broadcast TV than in 2014.³ Audiences now access content through a wide range of services and on a variety of devices. This means that broadcasters must compete with global media platforms both for audiences' time and attention, and to acquire the rights for programmes, including sporting events.
- 2.5 Nonetheless, public service broadcasting still has the power and mass reach to bring people together to create shared national experiences. For example, an average of 6.2 million people watched Scotland's opening match at this year's Men's European Championship on ITV/STV/UTV, either live or later that same day - the equivalent of 44% of those watching broadcast TV at the time. England kicked off their Euros campaign against Serbia on 16 June with an average audience on the day of 10.5 million, which was 60% of people watching broadcast TV at the time.⁴
- 2.6 Given the changes in the media landscape, Parliament has enacted significant changes to the listed events regime through the Media Act. Among other things, the Media Act will change the definition of “qualifying services” so that only services provided by a PSB may now qualify, including on PSBs' on-demand services, such as BBC iPlayer or ITVX, where “designated” for the purpose of new rules on prominence created by the Media Act. It also broadens the scope of the regime to capture a range of new providers, including streaming services.

How the new listed events regime will work

- 2.7 The new listed events regime will continue to apply to “live coverage” of listed events. Instead of being restricted to traditional broadcast channels, it will now include any services

² Our criteria for giving consent is explained in our [Code on sports and other listed and designated events](#). We will update this Code in implementing the changes to the listed events regime.

³ Barb 28-day consolidated on TV sets only, individuals (4+).

⁴ Barb live + VOSDAL on TV sets only, individuals (4+). ITV1 includes ITV +1.

which can be used to show live coverage of listed events to audiences in the UK, including the PSBs' on-demand players, global media platforms and other internet-based streaming services.

- 2.8 As before, these services are split into two categories, which we term “qualifying” and “non-qualifying services”. Qualifying services are now those provided by a PSB, which are available to audiences for free, and which make a significant contribution to the public service remit. All other services are non-qualifying. The regime aims to ensure that, where live rights to a listed event are being sold, they are offered to both a qualifying and non-qualifying service.
- 2.9 To show a listed event on a service within scope of the regime, that coverage needs to be authorised. In certain circumstances, authorisation will be automatic, or otherwise consent from Ofcom will be required.
- 2.10 The regime also regulates contracts granting rights to show live coverage of listed events. Any contract granting such rights must specify whether it allows the live coverage to be shown only on a qualifying service, or only on a non-qualifying service. For contracts for Group A events, the regime provides that contracts purporting to grant exclusive rights to show live coverage of such events are void. This means that providers of non-qualifying services are effectively prohibited from acquiring exclusive rights to a Group A event that would preclude rights to show live coverage from being granted to PSBs (and vice versa).

Automatic authorisation

- 2.11 For both Group A and Group B events, live coverage will be automatically authorised where services in both categories have identical rights. For example, if rights to show live coverage of the Wimbledon finals are held by both a provider of a qualifying service (e.g., the BBC) and a provider of a non-qualifying service (e.g., Warner Bros Discovery ('WBD')), coverage on both services will be automatically authorised.
- 2.12 Other automatic authorisations include:
- For events which involve more than one sport (e.g., the Olympic Games), live coverage will also be authorised provided that rights to show “adequate live coverage” are held by provider(s) in the other category. This would allow full live coverage of an event such as the Olympic Games to be shown on non-qualifying services (e.g., services provided by WBD) provided that “adequate live coverage” is available on a PSB's qualifying services (e.g., services provided by the BBC) – or vice versa.
 - For Group B events, such as the Ryder Cup, live coverage will also be authorised where rights to show “adequate alternative coverage” are held by a person (or persons) in addition to the provider of the first service.⁵

Ofcom consent

- 2.13 Ofcom can also give consent to show live coverage of a listed event. This is typically when only a provider in one of the two categories has rights. For cases such as these, Ofcom is required to draw up a code giving guidance about its approach to giving consent.

⁵ Ofcom is required to set out the detail of how this authorisation will work, as set out further below. This authorisation reflects the existing practice for Group B events as set out in Ofcom's Code on sports and other listed and designated events, where the principal form of alternative coverage is highlights or delayed coverage.

Coverage levels of listed events

- 2.14 The level of coverage that the regime aims to secure is shown on qualifying services differs:
- For Group A events, the regime aims to secure that the same level of live coverage is available on both qualifying and non-qualifying services, other than for Group A events involving more than one sport, where it aims to secure that at least an adequate level of live coverage on qualifying services is available.
 - For Group B events, it aims to secure that an adequate level of alternative coverage (including coverage on qualifying services) is available.

Implementation of the new regime

- 2.15 Our expectation is that the new listed events regime will not take effect until 2026. This is because some of the changes depend on other changes to the regulatory framework for media services in the Media Act which will take time to implement. Ofcom's plans for implementing the Media Act more broadly are set out in our [roadmap to regulation](#).
- 2.16 The Media Act provides that the new listed events regime will not apply to contracts entered into before it takes effect.

Ofcom has a role in implementing the changes to the regime

- 2.17 Ofcom is required to make further provision in secondary legislation to define certain terms used in the listed events regime. These are:
- “live coverage”;
 - “adequate live coverage” (for the purposes of the authorisation applicable to events that involve different sports, such as the Olympic Games); and
 - “adequate alternative coverage” (for the purposes of the authorisation applicable to Group B events).
- 2.18 Ofcom is also required to draw up a code giving guidance about certain matters relating to the regime. These are the matters we will take into account in determining:
- whether to give consent to show live coverage of listed events, where a provider requires this;
 - whether to give consent to televise an event designated by an EEA State⁶ or other CTT state⁷, where a broadcaster requires this;
 - whether to revoke consent given for those purposes; and
 - whether it was unreasonable to expect a person to comply with the restrictions on showing live coverage of listed events or on televising an event designated by an

⁶ A member state of the European Union or any other state which is party to the European Economic Area agreement.

⁷ A state, other than an EEA State or the United Kingdom, which is party to the European Convention on Transfrontier Television.

EEA State or other CTT state, for the purposes of deciding whether to take enforcement action.

2.19 We turn to these in the next two sections.

3. Terms to define

- 3.1 This section explains the terms that Ofcom is required to define in the listed events regime. It sets out the relevant requirements introduced by the Media Act and any relevant provisions in our current [Code on sports and other listed events and designated events](#) (the ‘Code’). This Code was drawn up by the Independent Television Commission (a forerunner to Ofcom) and was continued in effect by the Communications Act 2003. Ofcom has only made limited technical amendments to it to reflect changes in the law over the years.
- 3.2 We invite evidence from stakeholders to inform our work in defining these terms, ahead of consulting on proposals in 2025.

Live coverage

The listed events regime restricts providers of qualifying and non-qualifying services from showing live coverage of listed events without authorisation. It also regulates contracts granting rights to show such coverage.

Ofcom’s function

- 3.3 Ofcom has power to make provision determining “the circumstances in which the coverage of listed events generally, or of a particular listed event, is or is not to be treated as live coverage”.⁸
- 3.4 The definition of “live coverage” is important to the regime. It affects both the scope of the restriction on showing live coverage (without authorisation) and how the provisions regulating contracts granting rights to show live coverage of listed events apply.
- 3.5 The Media Act permits Ofcom to either define ‘live’ “generally” or “for a particular listed event” (i.e., enabling different definitions for different events).

Relevant provision in the current Code

- 3.6 Our current Code states that, in specifying the circumstances in which coverage is, or is not, to be treated as live, the interests of viewers lie in allowing them to participate in the event as it happens, as far as possible. It also states that live television coverage should be defined as coverage which is simultaneous with the event. However, the Code states no single definition is possible and offers the following interpretation:
- the restrictions on live coverage will apply while the event concerned is in progress;
 - if the event involves separate games or matches, the restrictions will apply while each game or match is in progress;
 - in the case of a single event which is scheduled to last over several days, the restrictions will apply to each day’s play, while it is in progress;

⁸ But this does not include power to define “live coverage” for the purposes of section 101B of the Broadcasting Act 1996 (restriction on televising of an event designated by EEA State or other CTT State): section 104ZA(2).

- in the case of an event which consists of defined separate parts which overlap in time (e.g., the Olympic Games or the FIFA World Cup Finals) and cannot therefore be televised simultaneously in full, the restrictions will apply to each match or competition as if it was a single event.

Areas for consideration

- 3.7 Since the listed events regime was put in place, the ways in which audiences engage with key events in the sporting calendar, and how broadcasters have packaged and delivered coverage of them, has changed. It is no longer the case that ‘appointment-viewing’ sporting events require audiences to sit down in front of their television screen. People can view matches and competitions via different devices and platforms, delivered terrestrially and online, and often track progress on multiple screens using social media commentary, website live text, and other content that surrounds big sporting moments. In defining what “live coverage” means for the purposes of the new listed events regime, we wish to consider the relevance of these technological changes in how listed events are shown.
- 3.8 The guidance in the current Code essentially treats coverage shown while the event is in progress as “live” – depending on the sport, this could mean from the start of the day’s play to the end, or from the starting whistle to the final whistle. The current Code makes no reference to how the coverage is presented or packaged, and does not clearly address whether pre-, mid-, and post-match coverage is included.
- 3.9 However, new technologies, accessible to an ever-increasing number of viewers, are changing the ways audiences watch content. For example, it is now possible for audiences to begin viewing an event after it starts, but to experience it ‘as live’, using ‘watch from the start’ functionality. Some providers now also offer curated feeds, and other coverage which tailors coverage of live events (especially multi-part events like the Olympics) to the individual user, such as multi-view screens. If these forms of coverage and functionality are to be captured in the definition of ‘live’, it will need to be sufficiently broad.
- 3.10 The definition of ‘live’ may also need to be clearer about what constitutes the ‘event’ and whether additional content surrounding the sport itself is also relevant. For example, broadcasters showing listed events typically also provide coverage of opening/closing ceremonies and trophy/medal ceremonies, as well as providing pre-, mid-, and post-event punditry.
- 3.11 We invite input from stakeholders on the questions set out below and encourage stakeholders to submit any evidence to support their views.

Question 1

What matters should Ofcom take into account in defining “live’ coverage”? We’d particularly welcome views on:

- 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’.

Adequate live coverage

The Media Act's changes will mean that live coverage of 'multi-sport' events, such as the Olympic Games, by a provider of non-qualifying services is authorised if "adequate live coverage" is also provided by qualifying services with limited rights (and vice versa). Ofcom must determine what constitutes adequate live coverage.

Ofcom's function

- 3.12 Ofcom is required to make provision for determining "what (whether generally or in relation to particular circumstances) is to be taken to represent the provision of adequate live coverage".
- 3.13 The legislation provides an authorisation for live coverage which applies to listed events which are "sporting events which involve different sports". We consider that the relevant events would currently be the Olympic Games and the Paralympic Games (from Group A) and the Commonwealth Games (from Group B).⁹
- 3.14 Live coverage of one of these 'multi-sport' events on a service will be authorised where:
- rights to include live coverage of that event in two or more additional services other than the first service have been acquired;
 - that additional coverage, taken as a whole, is adequate live coverage of the event;
 - at least two of the additional services are "television programme services"¹⁰; and
 - each of the additional services is provided by a different person to the provider of the first service, is provided for an area that includes all or almost all of the area for which the first service is provided, and falls into a different category to the first service.¹¹ (In other words, if the first service is a non-qualifying service, the additional services must be qualifying services.)
- 3.15 The definition of adequate live coverage will therefore determine the level of coverage it is necessary for additional services to have acquired for the live coverage to be considered 'adequate' and the authorisation to apply.
- 3.16 In defining adequate live coverage, Ofcom is also required to have regard to the forms of live coverage that are likely to satisfy the interests of audiences, as well as the desirability of facilitating arrangements resulting in providers in both categories having live rights. In this respect, the [Explanatory Notes](#) published alongside the Media Act set out that "the aim is to ensure that partnership arrangements between qualifying and non-qualifying broadcasters

⁹ While the legislation does not define a "sport", Ofcom considers that where a national governing body has been recognised by one or more Sports Councils in the UK (i.e. UK Sport, Sport England, Sport Wales, Sport Scotland and Sport Northern Ireland) for particular sporting activity, that sporting activity can be considered to be one sport. On this basis, the World Athletics Championship would not be considered to involve different sports, as the relevant sporting activity is governed by individual governing bodies (e.g. UK Athletics).

¹⁰ A "television programme service" means a television broadcasting service, a television licensable content service, a digital television programme service, or a restricted television service.

¹¹ An additional service will not be treated as different to the first service where the services are (or form part of) a designated internet programme service and such part of the service as includes programmes that may be accessed free of charge and the remainder of the service are regarded as separate services by virtue of section 98(2B).

may continue as they do now, acknowledging that the regime now covers a wider range of services”. The current deal between WBD and the BBC for the Olympic Games is indicative of this, and is explored further in the case study below.

- 3.17 This authorisation can be seen to recognise that the landscape of sports media rights is changing. The cost of rights is increasing, and traditional broadcasters have been competing with global media outlets for rights to listed events. It may become harder for PSBs to afford full rights to the major sporting events and more commercial broadcasters may acquire rights, as well as the potential for more arrangements between PSBs and non-qualifying services to show listed events.¹²

Case study: the Olympic Games

The [2024 Olympic Games](#) act as a useful case study for the authorisation relating to “adequate live coverage”.

WBD holds multimedia rights to the 2024 Olympics across 50 European countries, including the UK. Live coverage of the Olympics will be shown in the UK on its two main sports channels, Eurosport 1 and Eurosport 2, as well as through its ‘discovery+’ streaming platform, enabling it to offer coverage of “*every moment of the Olympics – all 3,800 hours of live action*”.¹³

The BBC has acquired more limited rights which enable it to show live coverage on BBC One or BBC Two and one further stream (accessed through the BBC Red Button or BBC iPlayer) at any one time.

If the changes to the listed events regime were in force and applicable, WBD’s live coverage on each of its relevant services would be authorised if the additional coverage on the BBC’s services (taken together) provided “adequate live coverage”.

The other conditions set out in the legislation would be met: the BBC’s rights include rights to include live coverage in two or more services, including at least two television programme services, those services are provided throughout the UK, and will be qualifying services (in contrast to WBD’s non-qualifying services).

Areas for consideration

Measuring adequate live coverage

- 3.18 In defining adequate live coverage, we must decide whether to increase the minimum number of streams above the statutory minimum of two. We must also decide whether to introduce requirements on the duration of the live coverage (such as a set number of minutes or percentage of the listed event). We can include requirements generally or “for particular circumstances” (i.e., different requirements for different events). We may also

¹² In its [Trends and Dynamics in the Sports Broadcasting Sector report](#), carried out for Ofcom in 2022, Ampere Analysis set out that streaming services and other modern commercial broadcasters are slowly increasing their market share of sports rights, the majority of which are held by Pay TV outlets and PSBs. The latest figures at the time showed that rights for major sporting events had become increasingly more fragmented since 2012, with £641 million worth of listed events rights held by more than one broadcaster in co-exclusivity agreements.

¹³ Eurosport, 17 April 2024, [Warner Bros. Discovery marks key milestone by offering first look at its Paris 2024 production plan](#).

need to consider whether the approach we propose would need to be regularly reviewed (for example, as the events evolve) and, if so, how this should be done.

- 3.19 Any approach would need to recognise that the multi-sport events to which the concept of “adequate live coverage” is relevant vary significantly. For example, the 2024 Summer Olympics will feature around 10,500 athletes competing in 329 events across 32 sports. By contrast, the 2022 Winter Olympics featured around 2,900 athletes competing in 109 events across 7 sports. We note that when Discovery secured exclusive multimedia rights to the 2022 Winter Olympics in Beijing and the 2024 Summer Olympics in Paris across 50 European countries, it committed to make at least 100 hours of coverage of the 2022 Winter Olympics, and at least 200 hours of the Summer Olympics, available free-to-air in each of these territories. It is also possible that new events are added to the list in future.

Other considerations

- 3.20 Ofcom has the power to include other requirements – beyond the number of streams or duration/percentage of an event – which coverage would need to meet to be “adequate live coverage”. This could include a requirement that broadcasters have the rights to provide streams throughout the entire duration of an event, or that there be no restrictions placed on the content of the streams being broadcast.
- 3.21 We may also want to consider what other contractual restrictions might be imposed on the provider with more limited rights (and the effect of these on viewers). For example, we may want to consider if it would be appropriate to ensure that rights enable specific viewing mechanism – like ‘watch from the start’ functionality – to be included, or that the provider is free to show streams on any of its services without restriction.

Question 2

What factors should Ofcom take into account in defining adequate live coverage? We’d particularly welcome views and evidence on:

- 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 views from rightsholders).

Adequate alternative coverage of Group B events

Live coverage of Group B events is authorised and does not require consent from Ofcom if “adequate alternative coverage” is provided. In Ofcom’s current Code, such alternative coverage refers principally to highlights or delayed coverage. Ofcom must determine what constitutes adequate alternative coverage, as well as the requirements that must be met by services who have acquired the rights to provide adequate alternative coverage.

Ofcom’s function

- 3.22 The Media Act creates a new basis on which live coverage of Group B events can be authorised. Live coverage of a Group B event on a service will be authorised where:
- rights to provide coverage of the event have also been acquired by one or more other persons (in addition to the provider of the first service);

- that additional coverage constitutes adequate alternative coverage of the event, and
 - the person or persons who have acquired rights to provide the additional coverage satisfy any requirements in relation to that coverage set out in regulations made by Ofcom.
- 3.23 Ofcom must determine what constitutes adequate alternative coverage (whether generally or in relation to particular circumstances, e.g. for particular Group B events). We must also determine any requirements related to that coverage that must be met by the person(s) who have acquired the rights to it, in order for live coverage of Group B events to be authorised and not require consent from Ofcom. This authorisation therefore enables the provider of a non-qualifying service to provide exclusive live coverage of a Group B event, provided that adequate alternative forms of coverage are also available (and vice versa).

Case study: the Ryder Cup

The Ryder Cup can be used as an example to illustrate the authorisation for adequate alternative coverage of Group B events.

Sky holds the live rights to show the Ryder Cup until 2025. For the 2023 event, it broadcast live coverage on its Sky Sports channels. The BBC also acquired secondary coverage rights and showed daily highlights of the Ryder Cup on BBC Two (and on BBC iPlayer and the BBC Sport website and app), as well as having rights to provide live national radio coverage. Under the current regime, Ofcom's consent was required but given automatically under provision in the existing Code as there was adequate provision for secondary coverage (as defined in the Code) – Sky as the provider of “non-qualifying services” and the BBC as the provider of “qualifying services”.

Under the new regime, live coverage of the Ryder Cup will be authorised and not require consent from Ofcom if:

- The rights to provide coverage have been acquired by one or more other persons other than the provider of the first service, e.g., Sky holding rights to show live coverage and the BBC holding rights to show secondary coverage; and
- The secondary coverage meets any requirements set by Ofcom in deciding what constitutes “adequate alternative coverage” of a Group B event, and the BBC (for example) satisfies any requirements specified in relation to that coverage.

Relevant provision in the current Code

- 3.24 The creation of an authorisation for adequate alternative coverage reflects existing practice for Group B events. The current Code states that Ofcom will give consent for exclusive live coverage of Group B events by a broadcaster providing a service in one category if “adequate provision” has been made for secondary coverage by a broadcaster in the other category.¹⁴
- 3.25 The current Code sets out that “adequate provision” requires that:
- *“the second service has acquired rights for the provision of edited highlights or delayed coverage amounting to at least 10% of the scheduled duration of the event (or the play in the*

¹⁴ Paragraph 1.18 of the Code.

event taking place on any day), subject to a minimum of 30 minutes for an event (or the play in the event on any day) lasting an hour or more, whichever is greater”.¹⁵

- “the second service must have editorial control over the content and scheduling of the edited highlights or delayed coverage except that a restriction may be imposed that the second service shall not begin broadcasting the edited highlights or delayed coverage until a period has elapsed following the scheduled conclusion of the event (or the play in the event on any day)”. The maximum delay that may be set is shown in Figure 1 below.
- In addition, the right to provide live radio commentary on the event must also have been acquired by a radio station with national coverage or an organisation providing a sports service to radio stations which form a national (or near national) network.

Figure 1: The maximum delays permitted for highlights for events scheduled at different times

For an event scheduled to finish:	The maximum delay is:
After midnight and up to 08:00	To start not later than 10:00
Between 08:00 and 20:30	Up to two hours
Between 20:30 and 22:00	To start not later than 22:30
Between 22:00 and midnight	Up to 30 minutes

Areas for consideration

The provision of highlights for Group B events

- 3.26 Currently, for Group B events, the broadcaster that has acquired rights to secondary coverage must have control over scheduling (other than any delay permitted, as set out above) and must have rights to provide coverage of at least the minimum duration. There is no provision in the current Code on the format in which highlights must be delivered.
- 3.27 Broadcasters typically deliver Group B highlights by showing as a single programme at the end of each day of the event on a broadcast TV service, and on the on-demand service. However, the way audiences consume non-live sports coverage has evolved since the Code was drawn up. For example, it is now possible to access highlights or similar content online during or very quickly after an event, including in different programme formats, for example highlight reels of best shots shared on social media or short curated match summaries uploaded on YouTube.
- 3.28 The new listed events regime recognises these shifts. We note that the Code currently requires that the highlights or delayed coverage be on a service in scope of the regime, i.e. a linear television service. As a wider range of services are in scope of the new regime, a similar approach could mean that highlights or delayed coverage are accessible only through on-demand services (meaning, for instance, that Group B highlights might be shown only on BBC iPlayer and not on a broadcast channel).
- 3.29 We welcome input from stakeholders on whether the existing provisions in the Code, and the levels they are set at, remain appropriate - balancing both audience needs in accessing highlights in a timely way and commercial interests in preserving the value of live rights. We also invite evidence on how changes in the media landscape have impacted the delivery and

¹⁵ The current Code provides that, where an event has a number of different components taking place concurrently, the scheduled duration of the event is defined as the time elapsed between the scheduled beginning of the first component of the event taking place on any day and the scheduled finish of the last component of the event on that day.

consumption of highlights, and how this might be reflected in the provisions for adequate alternative coverage.

Live radio commentary of Group B events

- 3.30 As outlined above, for alternative coverage of Group B events to be considered adequate under the current Code, the right to provide live radio commentary on the event must also have been acquired by a radio station with national coverage or an organisation providing a sports service to radio stations which form a national (or near national) network. The Media Act provides sufficient flexibility for Ofcom to keep, update or remove this requirement in revising the Code.
- 3.31 Since the Code was issued, although listening through a radio set is still the most common way to listen (DAB accounts for 43% of weekly listening time and AM/FM accounts for 27%), listening through online platforms has seen some growth with smart speakers now accounting for 17% of listening time and other online devices for 11%.¹⁶ We invite stakeholder views and evidence on whether the Code should be updated to reflect shifts in listening behaviour, as well as views more broadly on whether this provision continues to meet audience needs.

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:

- 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 events and how this has changed over time.

¹⁶ RAJAR Q1 2024.

4.Revising the Code

The current Code on listed events has not been updated for some time, with only limited technical amendments made to reflect changes in the law over the years. Ofcom is required to draw up an updated Code as part of implementing the Media Act's changes to the listed events regime. We welcome stakeholder views on the various aspects of drawing up this Code.

- 4.1 In the Code, Ofcom must give guidance about the matters we will take into account in determining:
- whether to give to show live coverage of listed events, where a provider requires this;
 - whether to give to televise an event designated by an EEA State¹⁷ or other CTT State¹⁸, where a broadcaster requires this;
 - whether to revoke consent given for those purposes; and
 - whether it was unreasonable to expect a person to comply with the restrictions on showing live coverage of listed events or on televising an event designated by an EEA State or other CTT State, for the purposes of deciding whether to take enforcement action.

Areas for consideration

Giving and revoking consent

- 4.2 The current Code sets out the matters Ofcom takes into account in deciding whether to give consent. This includes our consideration of whether broadcasters in both categories have had a genuine opportunity to acquire rights to a listed event on fair and reasonable terms.
- 4.3 The Media Act amends the listed events regime to introduce a number of 'automatic' authorisations for live coverage. These are set out in paragraphs 2.11 and 2.12. Where one of these authorisations applies, inclusion of live coverage in a relevant service will be authorised without the need for Ofcom's consent. We therefore expect that far fewer applications for Ofcom's consent will be made under the new regime.
- 4.4 In particular, the current Code makes provision about when Ofcom will give consent for exclusive live coverage of Group B events. The authorisation for cases where there is "adequate alternative coverage" of Group B events will mean that Ofcom's consent is no longer required in these circumstances.
- 4.5 Ofcom's Code is also required to give guidance about the matters we will take into account when deciding whether to revoke any consent given. This is likely to include, for example, where Ofcom's consent was given on the basis of false or misleading information.

Events designated by an EEA State or other CTT State

- 4.6 This relates to Ofcom's function of giving consent to broadcasters of services which are regulated in the United Kingdom to televise an event designated by an EEA State or another

¹⁷ A member state of the European Union or any other state which is party to the European Economic Area agreement.

¹⁸ A state, other than an EEA State or the United Kingdom, which is party to the European Convention on Transfrontier Television.

country which is party to the European Convention on Transfrontier Television (“the ECTT”), for reception in that country.

- 4.7 Such broadcasters are prohibited from televising a designated event for reception in an EEA State or other CTT State “*where a substantial proportion of the public in that State is deprived of the possibility of following that event by live or deferred coverage on free television as determined by that State*” (in accordance with the relevant law) without Ofcom’s consent.
- 4.8 The Media Act did not make any changes to these provisions. However, the current Code has not been amended to reflect changes to the legislation made as a result of the UK’s departure from the EU.¹⁹ In particular, these changes extended the relevant provisions to apply to countries which are party to the ECTT but which are not EEA States. We will reflect these changes in the revised Code.

Enforcing compliance with restrictions

- 4.9 Ofcom may only take enforcement action for a failure to comply with the restrictions on showing live coverage of a listed event without authorisation, or on televising a designated event without Ofcom’s consent, where we are “*not satisfied that in all the circumstances it would be unreasonable to expect the person to have complied*” with the restriction. Further guidance on this is offered in the current Code.

Other parts of the Code

- 4.10 We also anticipate including within the code guidance about how the listed events regime works and on the procedure for applying for consent from Ofcom, and would welcome views on these matters.
- 4.11 We would also welcome views on any other matters stakeholders suggest should be included in the Code. For example, the accessibility of coverage of listed events for disabled people.

Question 4

What matters should Ofcom consider when revising the listed events Code? We’d particularly welcome views on:

- 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.

¹⁹ These amendments were made by the Broadcasting (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/224) (as amended).

5. Next steps

- 5.1 We welcome responses to this call for evidence by 26 September 2024.
- 5.2 We plan to consult on proposals, including a draft Code and draft regulations, in 2025.

A1. Responding to this call for evidence

How to respond

- A1.1 Ofcom would like to receive responses by 5pm on 26 September 2024.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/tv-radio-and-on-demand/listed-sporting-events/implementing-the-media-act-2024/>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to listedevents@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the call for evidence:
- Listed events team
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A1.8 You do not have to answer all the questions in the call for evidence if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in this call for evidence. The questions are listed at Annex 3. It would also help if you could explain why you hold your views.
- A1.10 If you want to discuss the issues and questions raised in this document, please contact the listed events team by email at listedevents@ofcom.org.uk.

Confidentiality

- A1.11 Calls for evidence are more effective if we publish the responses before the call for evidence period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the call for evidence period.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A1.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

Next steps

- A1.16 Following this call for evidence, Ofcom plans to consult on proposals in 2025.
- A1.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

Ofcom's processes

- A1.18 Ofcom aims to make responding to a call for evidence as easy as possible.
- A1.19 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A2. Call for evidence coversheet

Basic details

Call for evidence title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

Confidentiality

Please tick below what part of your response you consider is confidential, giving your reasons why

- Nothing ☐
- Name/contact details/job title ☐
- Whole response ☐
- Organisation ☐
- Part of the response ☐

If you selected 'Part of the response', please specify which parts:

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes ☐ No ☐

Declaration

I confirm that the correspondence supplied with this cover sheet is a formal call for evidence response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the call for evidence period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the call for evidence has ended, please tick here.

Name

Signed (if hard copy)

A3. Call for evidence questions

Question 1: What matters should Ofcom take into account in defining “live’ coverage”?

We’d particularly welcome views on:

- 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’.

Question 2: What factors should Ofcom take into account in defining adequate live coverage? We’d particularly welcome views and evidence on:

- 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).

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:

- 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 events and how this has changed over time.

Question 4: What matters should Ofcom consider when revising the listed events Code? We’d particularly welcome views on:

- 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.