

**COMMITTEE ON CULTURE, YOUTH, EDUCATION, THE MEDIA AND SPORT**

**PUBLIC HEARING 'SPORTS AND AUDIOVISUAL RIGHTS', 18 APRIL 2002**

**BACKGROUND NOTE**

**Subject: Sports and TV rights**

1. In the last twenty years, the value of TV broadcasting rights for sporting events has risen sharply. Broadcasters know that once viewers have switched on to one channel they are less likely to switch to another; and developments in broadcasting technology have multiplied the number of companies bidding for these rights. The sale of TV rights has replaced ticket sales as the prime source of finance for professional sport (especially football) and is essential for major sporting events such as the Olympic games or the football World Cup.

2. Thousands of sportsmen and women now earn far more than their predecessors and revenue from the sale of TV rights also pays for training facilities, modern stadiums, and full-time coaching. But does not the influx of money into sport also threaten its integrity and solidarity between clubs? Does not the sale of TV broadcast rights to the highest bidder threaten to reduce public access to broadcast sport?

3. At present, and from an EC perspective, there are two principal issues connected with sports and TV rights:

- central marketing of TV rights and EC competition policy
- listed events broadcasting

**CENTRAL MARKETING OF TV RIGHTS**

4. The "central marketing of TV rights" means **the sale of TV broadcasting rights for a fixed period by the organiser of a competition rather than the individual participating clubs**. For example, in 2001, ITV (a commercial broadcaster) paid about €300 million for the right for three years to broadcast highlights of matches played in the English football Premier League. But the best known case of central marketing is the sale by UEFA of TV rights to broadcast Champions League matches to a single broadcaster per Member State on an exclusive basis for periods of three or four years. UEFA imposes minimum broadcasting obligations on the TV companies that win the rights, but once the contract broadcaster has complied with its minimum broadcast obligations it may exploit any additional rights through free or pay TV.

5. The **argument for central marketing of TV rights** in football is that it allows a governing body to redistribute income in a fair and balanced way, helping to maintain healthy competition between professional clubs and to foster football at "grass roots" level beyond the small circle of rich and successful clubs. For example, the UEFA Champions League earns more than €30 million each year from sale of TV rights: of this, about 66% goes to the 72 participating clubs, 15% is redistributed between clubs through a solidarity mechanism, 13% is taken up by the costs of organising the championship and 6% is retained by UEFA. UEFA argues that income it has derived from the marketing of the Champions' League which enabled it to pay for financial and technical assistance to poorer countries in Eastern Europe through its East European Assistance Bureau.

6. The **argument against central marketing** is that it infringes Article 81 of the Treaty (prohibition of the prevention, restriction or distortion of competition). Football has long occupied a central place in free-TV broadcasting, but it has also been one of the driving forces behind the development of pay-TV. The joint sale of free-TV and pay-TV rights, on an exclusive basis to a single broadcaster in each country, distorts competition. Since the winner takes all, broadcasters compete fiercely for these rights. This pushes prices up to a level which only the largest broadcasters can afford. And this may promote media concentration and reduce competition by making it difficult for new broadcasters to establish themselves. If pay-TV rights and free-TV rights were sold separately, or for shorter periods, more broadcasters (smaller or regional channels, for example) could realistically bid for them. Finally, the issue of solidarity between clubs, invoked by UEFA and others in defence of central marketing, is a red herring: solidarity does not need central marketing - the profits of wealthy clubs could be taxed to help poorer clubs, for example.

#### BROADCASTING OF 'LISTED EVENTS'

7. The dramatic increase in the price of TV broadcasting rights raises the possibility that sports broadcasts will increasingly become the domain of subscription-based TV or pay-per-view TV and that wide public access will be threatened.

8. In 1997, Directive 97/36/EC of the European Parliament and Council amended the 1987 "Television without Frontiers" Directive to enable individual Member States to "**ensure wide access by the public to television coverage of national or non-national events of major importance for society**". Member States were invited to draw up a list of such events (the Directive set out a series of general criteria they should meet and the Commission ensures that the lists proposed meet these criteria and are consistent with EC law). Since, according to Article 3a(1) of the Directive, the Member State concerned may apply measures taken in this context only to broadcasters under its jurisdiction, Article 3a(3) requires other Member States to take steps to ensure that such measures are not circumvented by broadcasters under their jurisdiction.

9. So far, **Member States have made limited use of Article 3(a)1**. Only five Member States (Austria, Denmark, Germany, Italy and the UK) have ever given official notification of measures taken under Article 3(a)1 (and Denmark rescinded its list at the beginning of this year): a few others (Belgium, the Netherlands and France) have indicated that they intend to give notification in the near future. Moreover, since Article 3(a)1 is only an optional provision, it applies only to Member States which have chosen to draw up a list of events of this kind. Therefore, according to the Commission, Article 3(a)1 can "not be said to be a general principle which requires the Member States to ensure wide access by the general public to events of major importance at Community level".

10. A number of **questions** spring to mind, for example:

- Should the Parliament try to reinforce the provisions for "listed events" when it reviews the TVWF Directive?
- Spokesmen for some sports have argued that, by preventing broadcasters bidding for exclusive rights to broadcast their sport, listing effectively depresses their income and so handicaps their development. Is there evidence to support this claim?

- At present, there are different national definitions of what percentage constitutes a "substantial proportion of the public" whose viewing interests can legitimately be protected (5% in the UK, 10% in Denmark and Italy, 33% in Germany): should a single figure be written into the legislation?
- Is it desirable to distinguish - as the UK list does - between live broadcasts and secondary coverage (two separate lists have been drawn up)?

EP Culture Committee secretariat  
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