



*Independent Television Commission*

*ITC Code on Sports  
and Other  
Listed and Designated Events*

*Revised January 2002*

*33 Foley Street London W1P 7LB  
Telephone 020 7255 3000 Fax 020 7306 7800 web site [www.itc.org.uk](http://www.itc.org.uk)*

## **CODE ON SPORTS AND OTHER LISTED AND DESIGNATED EVENTS**

(Revised January 2002)

### **Foreword**

1. The Broadcasting Act 1996, (the 'Act') as amended by the Television Broadcasting Regulations 2000 (the 'Regulations'), requires the ITC to draw up, and from time to time review, a code giving guidance on certain matters relating to the televising of sports and other events of national interest which have been listed by the Secretary of State for Culture Media and Sport. This Code has been produced by the ITC, after consultation with broadcasters, sports bodies, the holders of sports rights and other interested parties, for the purpose of fulfilling this statutory duty, as defined under Section 104 of the Act. The Code has been updated to incorporate the requirements of directive 89/552/EC as amended by 97/36/EC (the 'European Broadcasting Directive').
2. The Act restricts the acquisition by television programme providers of exclusive rights to the whole or any part of live television coverage of listed events and the broadcasting on an exclusive basis of such coverage without the previous consent of the ITC (see Part IV of the Act). Under the Act the ITC has powers to impose a financial penalty on its licensees if the restrictions on broadcasting live coverage of listed events have not been observed, if the ITC has been given false information or if material information has been withheld. In the case of the BBC and S4C the ITC must report the matter to the Secretary of State. The ITC will have regard to the provisions of the Code in exercising these powers.
3. 'Listed events' are drawn up by the Secretary of State in accordance with the Act, and the current list is at Appendix 1. The Secretary of State may add events to and delete events from the list at any time, but only after consultation with the BBC, the Welsh Authority, the ITC and the holder of the rights for the event in question. In June 1998 the Secretary of State extended the list to include Group B events on the understanding that they would be treated differently from Group A events. Group A events are those events which may not be covered live on an exclusive basis unless certain criteria are met. The criteria and matters to be taken into account by the ITC are set out at paragraphs 13-17. Group B events are those events that may not be broadcast live on an exclusive basis unless adequate provision has been made for secondary coverage. The minimum standard of secondary coverage the ITC will regard as adequate provision is set out at paragraphs 18 and 19.
4. A separate voluntary code of conduct for sports events has been drawn up by the Major Spectator Sports Division of the Central Council of Physical Recreation in consultation with the Sports Council. The central principle of this voluntary code is to ensure that, assuming interest on the part of broadcasters, television coverage of major sporting events generally, i.e. not only the listed events, will be available to the general public in live, recorded and/or highlights programmes.

5. Certain requirements are also placed on broadcasters by Article 3a paragraph 3 of the European Broadcasting Directive as applied in the Regulations. These requirements, set out in paragraphs 23-28, are designed to ensure that broadcasters under the jurisdiction of the UK and broadcasting to other EEA states do not circumvent the rules on listed (or ‘designated’) events which apply in those states. Reciprocal arrangements exist for preventing broadcasters established in other EEA states from circumventing the UK listed events rules.

### **General provision and background relating to listed events**

6. For the purpose of the live broadcasting of listed events the Act defines two categories of television programme services: those television programme services and EEA satellite services which for the time being satisfy the qualifying conditions (‘the first category’) and all other television programme services and EEA satellite services (‘the second category’). The qualifying conditions are defined as (a) that the service is provided without any consideration being required for reception of the service and (b) that the service is received by at least 95 per cent of the population of the United Kingdom. Television programme services and EEA satellite services which fall within the first category will appear in a list published from time to time by the ITC (see Appendix 2). These requirements are set out in the Act as amended by the Regulations.
7. Any contract for televising live coverage of a listed event which is entered into by a broadcaster must state that the rights are available for showing the event on a service falling within only one of the two categories, i.e., separate contracts must exist for each category. A broadcaster providing a service in either category (‘the first service’) is prohibited from showing exclusively live coverage of the whole or any part of a Group A event without the previous consent of the Commission unless a broadcaster providing a service in the other category (‘the second service’) has acquired the right to show live coverage of the event or the same part of the event. The area served by the second service must consist of or include the whole, or substantially the whole, of the area served by the first service. The first and second services may be provided by licensees in the same ownership, but between them they must include a broadcaster in each of the two categories described above.
8. The restrictions apply only to rights acquired either after the commencement of Section 101 of the 1996 Act, i.e. 1 October 1996 or after the Secretary of State began to consult rights holders about changes to the list i.e. 25 November 1997 or 24 January 2001 as shown in Appendix 1.
9. An event may be listed because it is of ‘national’ interest within England, Scotland, Wales or Northern Ireland separately. This is the basis on which the Scottish FA Cup Final, for example, has been listed. The Act allows for those events to be shown only in the relevant part of the UK in which there is likely to be most viewer interest.

The reference to Channel 3 in Appendix 2, therefore, means individual or groups of regional Channel 3 services, or Channel 3 as a whole.

10. The Act is concerned with providing an opportunity for live coverage to be made available. It is important to emphasise that the Act does not require or guarantee live coverage of listed events, including coverage on Channel 3, Channel 4 and the BBC. Nor does the Act prohibit exclusive live coverage of listed events on these or other services subject to the ITC being satisfied that certain criteria have been met (see paragraphs 13-20).
11. The specific guidance which the ITC is required to give is set out below. The ITC will keep this guidance under review and may amend it in the light of experience.

Note: This code is for guidance only. It should not be interpreted in any way that would produce a result contrary to the requirements and objectives of the relevant parts of the 1990 and 1996 Broadcasting Acts or the European Broadcasting Directive. Broadcasters and other interested parties are advised to read carefully the relevant parts of the Acts and Directive, together with this code, and to obtain their own professional advice as necessary.

### **Definition of 'live**

12. Section 104 of the Act requires the ITC to specify 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. In considering this matter the ITC has taken the view that the interests of viewers lie in allowing them to participate in the event as it happens, as far as possible. This suggests that live television coverage of most sports events, including those taking place in different time zones, should be defined as coverage which is simultaneous with the event (i.e. as the event is happening). However, given the different nature and length of events, no single definition is possible. The following interpretation should allow for necessary flexibility:
  - 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.
  - 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.

## **Matters to be taken into account in giving or revoking consent for exclusive coverage**

13. Under Section 104(1)(b) of the Act the ITC is required to provide guidance as to the matters it will take into account in determining whether to grant its consent to a broadcaster providing a service in one category (the first service) to provide exclusive live coverage of an event (or part of an event) where no broadcaster providing a service in the other category (the second service) has acquired the same rights, or where the area for which the second service is to be provided does not consist of or include the whole, or substantially the whole, of the area for which the first service is provided.
14. In deciding whether to give its consent it may be sufficient for the ITC to establish that the availability of the rights was generally known and no broadcaster providing a service in the other category had expressed an interest in their acquisition to the rights holder, or had not bid for the rights. However, the ITC will wish to be satisfied that broadcasters have had a genuine opportunity to acquire the rights on fair and reasonable terms and, in reaching a view, will take account of some or all of the following criteria:
- any invitation to express interest, whether in the form of public advertisement or closed tender, in the acquisition of the rights must have been communicated openly and simultaneously to broadcasters providing services in both categories;
  - at the beginning of any negotiation the documentation and/or marketing literature must set out in all material respects the process for negotiating and acquiring the rights and all material terms and conditions, including what rights were available;
  - if the rights to the listed event were included in a package of rights, the package must not have been more attractive to broadcasters providing services in one of the two categories. Preferably, the rights should be capable of being purchased independently of other rights, e.g. to highlights, delayed transmissions, other events;
  - the conditions or costs attached to the acquisition of the rights (for example, production costs) must have been clearly stated and must not be preferential to one category of service;
  - the price sought for the rights must have been fair, reasonable and non-discriminatory as between the two categories of programme service. What is a fair price will depend upon the rights being offered and the value of those rights to broadcasters. A wide range of prices is likely to be regarded as fair but when required to make

its own judgement on the matter the ITC will have regard to, inter alia:

- previous fees for the event or similar events;
  - time of day for live coverage of the event;
  - the revenue or audience potential associated with the live transmission of the event (e.g., the opportunity to sell advertising and sponsorship; the prospects for subscription income);
  - the period for which rights are offered; and
  - competition in the market place.
- such other facts and matters as appear to the ITC to be relevant, in the particular circumstances that have arisen.
15. A genuine opportunity to acquire the rights also requires that broadcasters are given a reasonable time in which to do so. What constitutes a reasonable time will depend upon the circumstances of each case, including the complexity of the negotiations and the production and transmission of the programme surrounding the event, and the proximity of the event to the date on which the rights are offered. The time allowed should give all parties a realistic opportunity to negotiate and reach agreement, but should not be unduly protracted, thereby preventing or restricting broadcasters from complying with this Code.
16. The ITC's consent is also required where the area for which the service is to be provided does not consist of or include the whole, or substantially the whole, of the area for which the other service is to be provided. In considering whether to give its consent the ITC will take account of the interests of the viewers in the different areas and the transmission coverage areas of the different broadcasters.
17. Consent will normally be given for the full period for which rights are acquired in recognition of the fact that the price paid will, inter alia, reflect the duration of the rights. However, the ITC will revoke its consent if the broadcaster to whom the consent has been given requests it, or if the consent has been given on the basis of false or misleading information. Additionally, the ITC will consider revoking its consent if it appears that rights have been acquired for an extended period in order to circumvent the spirit of the Act. In determining what is an extended period the ITC will have regard to precedents for this and similar events, including the periods for which rights are granted to non-UK broadcasters for overseas transmissions.
18. For those events listed in Group B in Appendix 1, the ITC will give its consent to exclusive live coverage of an event by a broadcaster providing a service in one

category (the first service) if adequate provision has been made for secondary coverage by a broadcaster providing a service in the other category (the second service). The minimum which the ITC will consider to be adequate is where 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 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 the greater. For these purposes, 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. 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 period which may be set is as follows:

**For an event scheduled to finish:**

**Maximum delay:**

After midnight and up to 8.00am

Edited highlights or delayed coverage to start not later than 10.00am.

Between 8.00am and 8.30pm

Up to 2 hours.

Between 8.30pm and 10.00pm

Edited highlights or delayed coverage to start not later than 10.30pm.

Between 10.00pm and midnight

Up to 30 minutes.

19. In addition to the above, the right to provide live radio commentary on the event must 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.
20. The situation may arise where a second service is unable or unwilling to provide adequate secondary coverage or any secondary coverage at all. The ITC will then consider whether to give its consent to exclusive live coverage without secondary coverage and the same or similar criteria as set out in paragraphs 13-17 will apply.
21. Broadcasters should note that under the Act ITC consent is needed for exclusive live coverage of Group B events even if the minimum requirements set out in paragraphs 18 and 19 are met. However, in these circumstances consent will be given automatically.

### **Circumstances in which sanctions might not be imposed**

22. Section 104 also requires the ITC to give guidance on the matters which it will take into account in deciding whether it is unreasonable to expect a television programme provider to comply with the restrictions on broadcasting live coverage of listed events and therefore whether sanctions should be imposed if the restrictions are not observed. Given the long lead times which are generally available for offering, selling and acquiring the rights, the ITC believes that there are very few circumstances in which it would be reasonable for a broadcaster to proceed with exclusive coverage without the ITC's consent. A broadcaster who proceeds to broadcast a listed event live without the ITC's consent and where this is not in compliance with Section 101(1) will need to convince the ITC that for legitimate reasons the period between the rights becoming available and the event taking place was too short for this consent to be obtained or that he believed he had complied but that belief was based on false information. In the latter situation, however, the ITC will need to be convinced that the broadcaster had taken all reasonable steps to satisfy himself that another broadcaster providing a service in the other category had acquired the rights.

### **Requirements relating to designated events arising from the Broadcasting Directive**

23. ITC consent is also required in certain circumstances before a broadcaster transmits coverage of an event to another EEA state and the event in question has been designated in that state.
24. In this section of the Code, a “designated event” has the meaning ascribed to it under s101A of the Broadcasting Act 1996 (as amended by the Regulations). The events which have been designated so far by other EEA states are shown in Appendix 3. However, it is the responsibility of broadcasters to check, in advance of acquiring the rights and in any event prior to transmission, whether the event in question has been designated and if so, in what terms. It is important to emphasise that the terms of designation may relate either to live or deferred coverage, or both. Broadcasters should inform the ITC that they have acquired the rights to an event designated by another EEA state as soon as this happens.
25. The ITC’s consent to the exercise of the right to broadcast a designated event is required in the circumstances set out in s101B of Broadcasting Act 1996. In summary, consent is required where a substantial proportion of the public of the EEA State in question is deprived of the possibility of following that event by live or deferred coverage on free television, as determined by that State. This applies to any rights acquired on or after the day on which the event became a designated event. This requirement should be read in conjunction with Article 3a paragraph 3 of the European Broadcasting Directive.

26. In deciding whether or not to grant consent to the exercise of rights to broadcast a designated event, the ITC shall have regard to the following:-
- a) The circumstances in which the rights were acquired, for example whether other broadcasters were given an opportunity to acquire the rights on fair and reasonable terms, and did in fact try to do so. For example even if the rights were acquired in an auction process in which free broadcasters reaching a substantial proportion of the population were able to take part, it may be appropriate for these free broadcasters to be given a further opportunity to acquire the rights;
  - b) The manner in which the broadcaster proposes to exercise the rights acquired and the steps taken to try to ensure that a substantial proportion of the population is not deprived of the possibility of following the event;
  - c) The legislation of the EEA State in question and the extent to which (if at all) the rights holder has sought to comply with that legislation. The ITC considers it desirable that the protection afforded to a designated event should, as far as possible, take account of the system of regulation applying in the EEA State which actually designated the event;
  - d) The practicality of steps that would enable the rights holder to comply with the objectives of the European Broadcasting Directive, namely achieving the transmission of the event on free television so that it can be received by a substantial proportion of the population of the EEA State in question;
  - e) Such other facts and matters as appear to the ITC to be relevant, in the particular circumstances that have arisen, including the facts and matters set out in paragraph 14 above to the extent applicable to designated events.
27. The ITC shall consult on the request for consent in such manner as it considers appropriate. The ITC may seek, and have regard to, the views of the broadcasting authorities, economic regulators and other television service providers in the EEA State which designated the event.
28. Although authorities in other EEA states are not required to consult the ITC when one of their broadcasters has acquired exclusive rights to a UK listed event, the Regulations confer a power on the ITC to provide information relating to rights to televise UK listed events which it considers appropriate to competent authorities in other EEA states in order to enable the authorities to exercise their obligations under the European Broadcasting Directive to prevent broadcasters under their jurisdiction from circumventing the UK listed events rules. The ITC is conscious of the need to respect the confidentiality of certain information which may be provided by broadcasters, for example about the acquisition of rights and the scheduling of programmes. However, it is also important to prevent the circumvention of the UK listed events rules. As much information as possible will therefore be made available

to the relevant authorities including whether consent has already been given by the ITC for exclusive live coverage of the event, whether complaints have been received from broadcasters that they were not given a reasonable opportunity to acquire the rights and an estimate of the value of the rights, together with information about how this estimate was calculated.

### **Procedures for seeking consent in relation to both listed and designated events**

29. A request for the ITC's consent for exclusive live coverage of a listed event or a designated event must be made in writing to the ITC's Secretary by the broadcaster wishing to transmit the event and be accompanied by full reasons and justification for the request and all relevant supporting information. Requests should be made not less than three months prior to the date of the event. In circumstances where the broadcaster requesting consent only acquires the rights to the event within three months of proposed transmission, the request for consent shall be made within seven days of the rights being acquired. In any event, a broadcaster who is unable to meet the three month deadline should keep the ITC informed about the progress of negotiations. Broadcasters should be aware that the ITC may not be able to consider applications for consent which are received very close to the date when the event takes place and in exceptional circumstances this may mean that consent cannot be given.
30. As a first step in considering the request the ITC will normally issue a public notice inviting broadcasters, rights holders and other interested parties to comment on the request. Depending on the response to this and any other consultations and on the ITC's own investigations into the matter, the applicant may be asked to supply additional information in writing and/or to attend a meeting with ITC staff.
31. The ITC will respond as quickly as possible to any request. The ITC will normally publish its decisions and its reasons, but, in doing so, will have regard to the legitimate interest of the parties in the protection of confidentiality.

**UK LISTED SPORTING EVENTS****GROUP A**

The Olympic Games  
 The FIFA World Cup Finals Tournament  
 The FA Cup Final  
 The Scottish FA Cup Final (in Scotland)  
 The Grand National  
 The Derby  
 The Wimbledon Tennis Finals  
 The European Football Championship Finals Tournament  
 The Rugby League Challenge Cup Final \*  
 The Rugby World 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 \*  
 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 \*

\* Restrictions apply to rights acquired after 1 October 1996 except for those events marked by an asterisk where the relevant date is 25 November 1997.

\*\* The list was amended in 2001 following the change of name of this event to the Six Nations Rugby Tournament. The relevant date for this event is therefore 24 January 2001

**APPENDIX 2**

**LIST OF SERVICES MEETING THE 'QUALIFYING CONDITIONS' AS SET  
OUT IN THE TELEVISION REGULATIONS 2000**

CHANNEL 3 (ITV1)

CHANNEL 4

BBC 1

BBC 2

**APPENDIX 3****EVENTS DESIGNATED IN OTHER EEA STATES UNDER ARTICLE 3a OF  
THE BROADCASTING DIRECTIVE****GERMANY**

The summer and winter Olympic Games.

All European Championship and World Cup matches involving the German national football team, as well as the opening match, the semi-finals and final, irrespective of whether the German team is involved.

The semi-finals and final of the German FA Cup.

The German national football team's home and away matches.

The final of any European club competition (Champions League, Cup Winners' Cup, UEFA Cup) involving a German club.

**ITALY**

The summer and winter Olympic Games.

The football World Cup final and all matches involving the Italian national team.

The European football Championship final and all matches involving the Italian national team.

All matches involving the Italian national football team, at home and away, in official competitions.

The final and the semi-finals of the Champions League and the UEFA Cup where an Italian team is involved.

The Tour of Italy (Giro d'Italia) cycling competition.

The Formula One Italian Grand Prix.

The San Remo Italian music festival.

**NOTE:** This information is correct as at 15 January 2002. Germany and Italy are at present the only countries to have drawn up lists of designated events which have been verified by the European Commission. Denmark had previously drawn up a list but this was rescinded at the beginning of 2002.