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ANNEX

BROADCASTING ACT 1996

Chapter PART IVSporting and other events of national interestListed events97.(1)

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For the purposes of this Part, a listed event is a sporting or other event of national interest which is for the time being included in a list drawn up by the Secretary of State for the purposes of this Part.

(2)The Secretary of State shall not at any time draw up, revise or cease to maintain such a list as is mentioned in subsection 1 unless he has first consulted:

- (a) the BBC;
- (b) the Welsh Authority;
- (c) the Commission; and
- (d) in relation to a relevant event, the person from whom the rights to televise that event may be acquired;

and for the purposes of this subsection a relevant event is a sporting or other event of national interest which the Secretary of State proposes to include in, or omit from, the list.

(3)As soon as he has drawn up or revised such a list as is mentioned in subsection 1, the Secretary of State shall publish the list in such manner as he considers appropriate for bringing it to the attention of:

- (a) the persons mentioned in subsection 2; and
- (b) every person who is the holder of a licence granted by the Commission under Part I of the 1990 Act or a digital programme licence granted by them under Part I of this Act.
- (4)

In this section ‘national interest’ includes interest within England, Scotland, Wales or Northern Ireland.

(5)The addition of any relevant event to such a list as is mentioned in subsection 1 shall not affect:

- (a) the validity of any contract entered into before the date on which the Secretary of State consulted the persons mentioned in subsection 2 in relation to the proposed addition; or
- (b) the exercise of any rights acquired under such a contract.
- (6)

The list drawn up by the Secretary of State for the purposes of section 182 of the 1990 Act, as that list is in force immediately before the commencement of this section, shall be taken to have been drawn up for the purposes of this Part.

Categories of service98.(1)For the purposes of this Part, television programme services shall be divided into two categories as follows:

- (a) such of the services specified in subsection 2 as are provided without any charge being made for the reception of programmes included in the service;
- (b) all television programme services not for the time being falling within paragraph (a).

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(2) The services referred to in subsection 1(a) are:

- (a) regional and national Channel 3 services;
 - (b) Channel 4; and
 - (c) the television broadcasting services provided by the BBC.
- (3)

The Secretary of State may by order amend subsection 2 so as to remove any service from, or add any service to, the services specified in it.

(4)

An order under subsection 3 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[...]

Restriction on televising of listed event 101.(1) A person providing a service falling within either of the categories set out in subsection 1 of section 98 (the first service) for reception in the United Kingdom or in any area of the United Kingdom shall not, without the previous consent of the Commission, include in that service live coverage of the whole or any part of a listed event unless:

- (a) another person, who is providing a service falling within the other category set out in that subsection (the second service), has acquired the right to include in the second service live coverage of the whole of the event or of that part of the event; and
- (b) the area for which the second service is provided consists of or includes the whole, or substantially the whole, of the area for which the first service is provided.

(2)

The Commission may revoke any consent given by them under subsection 1.

(3)

Failure to comply with subsection 1 shall not affect the validity of any contract.

(4)

Subsection 1 shall not have effect where the television programme provider providing the first service is exercising rights acquired before the commencement of this section.

Power of Commission to impose penalty 102.(1) If the Commission:

- (a) are satisfied that the holder of a licence under Part I of the 1990 Act or a digital programme licence under Part I of this Act has failed to comply with subsection 1 of section 101; and
- (b) are not satisfied that in all the circumstances it would be unreasonable to expect him to have complied with that subsection;

they may require him to pay, within a specified period, a specified financial penalty to the Commission.

(2) If the Commission are satisfied that, in connection with an application for consent under subsection 1 of section 101, the holder of a licence under Part I of the 1990 Act or a digital programme licence under Part I of this Act has:

- (a) provided them with information which was false in a material particular; or

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(b) withheld any material information with the intention of causing the Commission to be misled;

they may require him to pay, within a specified period, a specified financial penalty to the Commission.

(3)

The amount of any financial penalty imposed on any person under subsection 1 or 2 shall not exceed the amount produced by multiplying the relevant consideration by the prescribed multiplier.

(4) In subsection 3:

(a) 'the relevant consideration' means an amount determined by the Commission as representing so much of any consideration paid by the person on whom the penalty is being imposed as is attributable to the acquisition of the rights to televise the event in question; and

(b) 'the prescribed multiplier' means such number as the Secretary of State may from time to time by order prescribe.

(5)

An order under subsection 4(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6)

Where the Commission receive any amount payable to them by virtue of subsection 1 or 2, that amount shall not form part of the revenues of the Commission but shall be paid into the Consolidated Fund.

(7)

Any amount payable by any person to the Commission by virtue of subsection 1 or 2 shall be recoverable by them as a debt due to them from that person.

Report to Secretary of State 103.(1) If the Commission:

(a) are satisfied that a broadcasting body has failed to comply with subsection 1 of section 101; and

(b) are not satisfied that in all the circumstances it would be unreasonable to expect the body to have complied with that subsection,

they shall make a report on the matter to the Secretary of State.

(2) If the Commission are satisfied that, in connection with an application for consent under subsection 1 of section 101, a broadcasting body has:

(a) provided them with information which was false in a material particular: or

(b) withheld any material information with the intention of causing the Commission to be misled,

they shall make a report on the matter to the Secretary of State.

(3)

In this section 'broadcasting body' means the BBC or the Welsh Authority.

Code of guidance 104.(1) The Commission shall draw up, and may from time to time review, a code:

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- (a) specifying the circumstances in which the televising of listed events generally, or of a particular listed event, is, or is not, to be treated as live for the purposes of this Part; and
- (b) giving guidance as to the matters which they will take into account in determining:
 - (i) whether to give or revoke their consent under section 101(1), or
 - (ii) for the purposes of section 102(1) or 103(1), whether in all the circumstances it is unreasonable to expect a television programme provider to comply with section 101(1).
- (2)

In exercising their powers under this Part, the Commission shall have regard to the provisions of the code.

(3)

Before drawing up or revising the code the Commission shall consult such persons as appear to the Commission to be appropriate.

(4) As soon as the Commission have drawn up or revised such a code, the Commission shall publish the code in such manner as they consider appropriate for bringing it to the attention of:

- (a) the BBC;
- (b) the Welsh Authority;
- (c) every person from whom the rights to televise a listed event may be acquired; and
- (d) every person who is the holder of a licence granted by the Commission under Part I of the 1990 Act or a digital programme licence granted by them under Part I of this Act.

Interpretation of Part IV and supplementary provisions 105.(1) In this Part (unless the context otherwise requires):

- ‘Channel 4’ has the same meaning as in Part I of the 1990 Act;
- ‘the Commission’ means the Independent Television Commission;
- ‘listed event’ has the meaning given by section 97(1);
- ‘live’ shall be construed in accordance with the code drawn up under section 104;
- ‘national Channel 3 service’ and ‘regional Channel 3 service’ have the same meaning as in Part I of the 1990 Act;
- ‘television broadcasting service’ has the same meaning as in Part I of the 1990 Act;
- ‘television programme provider’ has the meaning given by section 99(2);
- ‘television programme service’ has the same meaning as in Part I of the 1990 Act.

(2)

Section 182 of the 1990 Act (certain events not to be shown on pay-per-view terms) shall cease to have effect.

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