



House of Commons
Culture, Media and Sport
Committee

Broadcasting Rights for Cricket

**Ashes to Ashes – the death
knell for live Test match cricket
on free-to-air TV?**

First Report of Session 2005–06

*Report, together with formal minutes, oral and
written evidence*

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The Culture, Media and Sport Committee

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Committee staff

The current staff of the Committee are Kenneth Fox (Clerk), Ian Cameron (Second Clerk), Grahame Danby (Inquiry Manager), Anita Fuki (Committee Assistant) Rowena Macdonald (Secretary), Jonathan Coe (Senior Office Clerk) and Luke Robinson (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Culture, Media and Sport Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6188; fax 020 7219 2031; the Committee's email address is cmscom@parliament.uk

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Summary

The resurgence of English cricket is to be welcomed by all with a passion for the sport. Watching the men's team as it has climbed from eighth in the world rankings to the top three today, and challenging hard for number one despite some recent disappointments, has been a thoroughly entertaining ride. The Ashes victories by the men's and women's teams last summer were the culmination of years of investment and modernisation in the sport.

The England and Wales Cricket Board (ECB) is, in some ways, a victim of its own success. The Ashes series captured the imagination of the public and catapulted the ECB's decision to award an exclusive contract to Sky for the 2006-09 seasons to the forefront of the sporting agenda. And many cricket fans have reacted with unbridled anger at the outcome which leaves no live Test cricket to be broadcast on free-to-air television.

We strongly support the idea that a substantial proportion of Test cricket should be available on free-to-air channels; cricket is too important to the nation for it to be otherwise. But we cannot recommend a return to the days when cricket was starved of the funds it urgently required by preventing the sport's governing body from negotiating with all broadcasters. Re-listing in Group A could have a harmful effect on the long-term future of cricket in England and Wales. None of the witnesses before our inquiry – including the 'Keep Cricket Free' Campaign – seriously maintained that a simple reversal of the decision, even if that were possible, might not have adverse consequences for the future funding of the national game.

The gentleman's agreement between Lord Smith and Lord MacLaurin – to maintain a substantial proportion of live Test cricket on free-to-air television – has sadly proved totally ineffectual. We are disappointed that the ECB clearly breached the terms of the agreement. Equally, it is clear that the Government gave its tacit consent to the breach. The gentleman's agreement, however, was non-binding in any legal sense and we recommend such informal arrangements should not be used by the Department in the future to give effect to its policies. Formal binding undertakings should instead be sought, not least to maintain public confidence, too, in government decision-making.

Ultimately, the decision as to what is best for cricket must rest with the ECB; it is they who are best qualified to judge what is in the long-term interests of the game, balancing considerations of income from broadcast rights, investment in grass-roots cricket and the national game and the effects of restricting the size of the television audience. We agree, however, that this must be balanced with the public interest and the Committee expresses its support for the general principle of listing.

Such has been the uproar about the ECB's decision, there is the potential misconception among cricket fans that re-listing in Group A would automatically lead to all live test matches being shown on free-to-air TV. It would not. Test series are, by their nature, difficult for broadcasters to schedule, whilst also being fair to the non-cricket audience. This was the fundamental reason for the decision to move Test matches to Group B and the reasoning, if not the execution, remains sound.

Free-to-air broadcasters also bear part of the responsibility for the loss of live Test cricket to BSkyB. Ultimately, during the negotiations, the ECB received no bids at all from the BBC or ITV for any televised cricket. Five was also the only broadcaster to bid for the highlights. By failing to bid, the BBC and ITV not only restricted the choice available to the ECB but significantly reduced the amount that could be obtained from the bidding process. However, we also believe that the ECB could have done more to encourage bids for the highlights package, particularly when it became clear that the live coverage was not going to be available free-to-air.

Without a renewed interest from terrestrial broadcasters and a commitment from the ECB to maintain a substantial proportion of live coverage on free-to-air television, the Committee is concerned that live Test cricket may never again be shown free-to-air. If the ECB truly believes that, in the current broadcasting and commercial climate, the future of cricket is best served by selling its rights to the highest bidder (which is always likely to be a pay-TV provider), irrespective of the lack of exposure which that decision will bring, then it is inconceivable that in years to come its conclusion could be any different. Unless a change of attitude by all interested parties is forthcoming, the incomparable Ashes series of 2005 could be the last of its kind.

1 Introduction

1. The stunning double Ashes victories over Australia last Summer were memorable moments in the 2005 sporting calendar. They served as yet further evidence of the renaissance in English cricket, for both the men's and women's game, which has taken place over the last few years. The Committee would like to put on record its warm congratulations on the historic achievements of both teams and looks forward to further successes which will see the national teams climb back to the pinnacle of the world rankings and remain there.

2. Without doubt the excitement of those Test series has placed the sport of cricket squarely at the forefront of the nation's sporting affection and viewing figures for the climax of the fourth Test, peaking at 8.4 million,¹ demonstrated its ability to unite the country. The jubilation witnessed across London as the winning teams paraded through the streets, culminating in the celebrations among vast crowds at Trafalgar Square, underlined that fact.

3. It is, perhaps, the direct consequence of that very success that the England and Wales Cricket Board (ECB) has faced such a public backlash over its decision to award the contract for cricket's live broadcasting rights for the 2006-09 seasons exclusively to BSkyB. The England teams' capturing of the Ashes, and their steady movement up the rankings, has led to cricket, once again, taking its place as a leading team sport which presents role models for the nation's youth and which fills the front and back pages of daily newspapers. The despair, felt by many, that the public would no longer be able to witness their heroes playing live Test cricket in England unless they subscribed to BSkyB came to the fore in late summer.

4. Adding to the controversy was the reported "agreement" between Lord Smith of Finsbury, the Secretary of State for Culture, Media and Sport when the decision was made to move Test matches played in England to Group B of the listed events categories in 1998, and Lord MacLaurin of Knebworth, the then Chairman of the ECB. That "agreement" was intended to ensure that some live Test cricket would remain on a free-to-air channel.

5. Contributions to the public debate have included: an Early Day Motion,² signed by, at the last count, 175 Members of Parliament; numerous written and oral parliamentary questions asked of the Department for Culture, Media and Sport; the instigation of a "Keep Cricket Free" Campaign, claiming the support of over 15,000 cricket fans;³ as well as an endless stream of newspaper articles. In response to a number of requests, the Committee felt that it had a responsibility to Parliament, and to the public, to hold an inquiry, thereby establishing a forum at which all sides could air their views.

6. We therefore announced a short, focused inquiry on 19 October 2005 inviting submissions from all interested parties. We received over 100 written pieces of evidence, the vast majority from individual members of the public of all ages. Virtually all responses

¹ Figures supplied by Channel 4

² EDM 696 of Session 2005-06, tabled by John Grogan MP

³ Q 93 Ev 45

from the public expressed disappointment that live Test cricket would no longer be available to terrestrial broadcasters over the next four seasons.

7. In addition to the receipt of written evidence, the Committee held one oral evidence session on Tuesday, 29 November 2005. Witnesses at that hearing were: representatives from the ECB and the Professional Cricketers' Association; terrestrial and non-terrestrial broadcasters; Lord Smith of Finsbury and Lord MacLaurin of Knebworth; the Keep Cricket Free Campaign; and the Minister for Sport, Department for Culture, Media and Sport, Rt Hon Richard Caborn MP. We wish to express our gratitude to all organisations and individuals who have contributed to our inquiry.

2 Statutory Framework

8. The Communications Act 2003, section 299, which modified Part IV of the Broadcasting Act 1996, gives the Secretary of State for Culture, Media and Sport the power to maintain a list of sporting and other events of national interest divided into two categories: Group A and Group B. The listing of an event does not mean that it must automatically be shown on television. Listing merely ensures that rights to these events, if they are offered at all, must be offered to the main free-to-air terrestrial broadcasters on “fair and reasonable terms”.⁴

9. For Group A events, full live coverage must be offered to generally available free-to-air channels which, for the purposes of the Television Broadcasting Regulations 2000, must be received “by at least 95 per cent of the population of the United Kingdom”.⁵ This has the effect of limiting the category to BBC1, BBC2, ITV and Channel 4/S4C. Those events listed in Group B may have live coverage on pay-TV provided that secondary, or “highlights”, coverage is offered to the free-to-air broadcasters.

10. In 1998, the Department for Culture, Media and Sport (DCMS), following strong lobbying from the ECB for cricket to be removed from the listed events, instructed an advisory group, chaired by Lord Gordon of Strathblane, to look at the issues surrounding listed events and to make recommendations to the Secretary of State. Prior to appointing Lord Gordon’s Advisory Group, the Government first consulted on the criteria for listing.

11. According to the criteria used by the Lord Gordon review, and repeated in evidence received from DCMS, a listed event is one which is generally felt to have special national resonance. It should contain an element which “serves to unite the nation”, be “a shared point on the national calendar”, “not solely of interest to those who follow the sport in question”.⁶ An event which satisfies this main criterion is not listed automatically, it should also command a large television audience and have a history of being broadcast live on free-to-air services.⁷ Even then the Secretary of State must have regard to other factors affecting the likely costs and benefits to the sport concerned, to the broadcasting industry and to viewers such as: the practicality of full live coverage on a general channel, the impact of listing in reducing income for the sport and the likely impact of listing on the broadcasting market. The criteria summarises as follows: “no single factor automatically commands listing as a response, nor does failure to meet an individual criterion disqualify an event from consideration”.⁸

12. When making its decision in March 1998, the Advisory Group recommended that cricket Test matches played in England should be placed in Group B, thereby enabling the sport’s governing body to negotiate a deal with any broadcaster provided that highlights were available to free-to-air broadcasters.⁹ In making its decision the Group singled out

⁴ Independent Television Commission Code on Sports and Other Listed and Designated Events, para 14

⁵ Television Broadcasting Regulations 2000 S.I., 2000/54, Schedule 1(2) (b)

⁶ The Advisory Group on Listed Events Report and Recommendations , March 1998 p.3 and Ev 48

⁷ The Advisory Group Report p.3

⁸ Ibid.

⁹ Ibid.

cricket for special treatment, commenting that “the Tests are the most problematic of the events under consideration”.¹⁰ It continued: “We consider that Test matches possess sufficient national resonance to merit some measure of protection for coverage...However, a Test series played over 30 days cannot be said to be a shared point on the national calendar. We believe that it is difficult for generally available terrestrial broadcasters to schedule the Tests in full without being unfair to viewers who do not take an interest in cricket. We also considered the likely effect of continued listing on the finances of the sport”.¹¹

13. In June 1998, following the publication of the Advisory Group’s recommendations the then Secretary of State, Chris (now Lord) Smith, announced a revised list. Cricket Test matches played in England were placed in Group B. The two groups of listed events, which have remained unaltered since 1998, are:

Group A	Group B
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	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.

Source: DCMS Press Notice 135/98, 25 June 1998

14. It is not within the remit of this inquiry to consider sports other than cricket, nor to evaluate the listing criteria in any detail, but **the Committee wishes to express its support for the general principle of listing. In a nation of sports lovers, it is imperative that some protection must exist for some sporting events.** The extent of that protection and to which sports it applies must depend upon the individual merits of an event, a debate we do not intend to have in this report.

¹⁰ Ibid.

¹¹ Ibid.

3 The bidding process

15. With Test match cricket sitting squarely in Group B of the listed events, the ECB were able to issue an invitation to tender to all broadcasters: they did so on 9 September 2004.¹² The contract in place at that time dated back to 2001 and was itself a renewal of the contract won in 1998 by a mix of terrestrial and non-terrestrial broadcasters, with Channel 4 and BSkyB sharing live coverage. Under that renewed agreement, the ECB received £150 million over the three years from 2003 to 2005, with £59 million representing Channel 4's contribution.¹³ That contract was due to expire at the end of 2005. Bids were invited for various packages of rights covering all of the ECB's broadcasting rights portfolio including live television and radio rights as well as highlights rights to all Test matches, One Day Internationals, Twenty20 matches and domestic competitions.

16. According to the ECB's written evidence, it divided the rights into 27 separate packages. They explained that: "The tender process was crafted in a non-discriminatory way so as to allow as many broadcasters as possible the opportunity to consider acquiring the rights to cricket coverage".¹⁴ Prior to issuing the tender the ECB also held a number of meetings with broadcasters to explain the bidding process and to hold a two-way dialogue about its content and structure in order to "create a competitive bidding process and realistic outcomes for both the ECB and broadcasters".¹⁵

17. The BBC, for example, met the ECB on a number of occasions in 2003 and 2004 to discuss the difficulties it had with scheduling clashes.¹⁶ The BBC took the "unprecedented step" of showing the ECB its forward sport schedule to explore "all possible permutations to deliver live cricket back onto the BBC".¹⁷ ITV met the ECB to discuss the tender process.¹⁸ Channel 4, too, had a number of discussions with the ECB to negotiate a deal.

18. Ultimately, the ECB received no bids whatsoever from the BBC or ITV for any televised cricket.¹⁹ Channel 4 submitted a bid for £54 million for the rights to the main home Test series from 2006-2009, namely eighteen matches over the four years of the contract: 4 matches versus Pakistan in 2006, 4 matches against India in 2007, 5 matches versus South Africa in 2008 and 5 matches against Australia in 2009.²⁰ This equated to roughly 65% of Test matches to be played in England over the period. BSkyB submitted a bid for the rights to cover all matches over the 2006-2009 cricket seasons. Unlike other broadcasters, BSkyB's bid for cricket involved comprehensive coverage by committing to broadcast "every ball of the Test and one day international series live".²¹ In addition, it intends to transmit live and

¹² Ev 3

¹³ Ev 24

¹⁴ Ev 3

¹⁵ Ibid.

¹⁶ Ev 19 - In oral evidence, the BBC claimed to have had at least a dozen meetings with the ECB; Q 39 Ev 31

¹⁷ Ev 19

¹⁸ Ev 22

¹⁹ Ev 19 and Ev 22

²⁰ Ev 25

²¹ Ev 29

in their entirety a minimum of ten Twenty20 matches plus one quarter final, both semi-finals and the final of the Twenty20 cup, no fewer than 30 forty-over League matches, the latter stages of the C&G Trophy and two County Championship matches.²² The Committee has agreed, for reasons of commercial confidentiality, not to release details of the precise monetary figure which constituted BSkyB's bid. Five was the only broadcaster to bid for a highlights package.

19. The outcome of the therefore somewhat limited bidding process was that BSkyB were awarded an exclusive contract for the broadcasting rights for the seasons 2006-2009. Ofcom issued a statement on 23 February 2005 confirming that it had granted consent for BSkyB's exclusive live coverage.²³ While acknowledging complaints that live coverage would thus no longer be available free-to-air, Ofcom stated that: "This is a matter for DCMS which decided in 1998 to place cricket on the Group B list".²⁴ Although it is not one of the generally available channels pursuant to the Television Broadcasting Regulations 2000, the highlights package obtained by Five was perfectly in order as none of the other terrestrial broadcasters had submitted a bid.

20. All free-to-air broadcasters set out their reasons for not making a bid or, in Channel 4's case, for not submitting a sufficiently high bid. It appears that the overriding problem with broadcasting live Test matches on non-specialist channels is scheduling. The BBC commented: "Each Test Match requires clearing the BBC's schedule for up to eight hours a day, five days in a row...In the past, when there were scheduling clashes such as Wimbledon or the Open, the BBC switched between sports, failing to fully satisfy fans of either sport".²⁵ ITV wrote in their submission that: "The broadcasting of cricket presents a particular challenge in this regard because the format of the game (long periods of quasi continuous coverage with short, frequent, natural 'breaks') does not allow advertising breaks to be scheduled optimally. The effect...is that it would not be possible to schedule the same number of advertising minutes per hour as other sports, or other types of programming. The current advertising rules...also demand that a certain period of time elapses between each successive internal advertising break".²⁶ ITV continued: "There are further commercial and scheduling issues with the unpredictability of cricket, in which there are frequent delays, over-runs and series not lasting the full number of days".²⁷ Andy Duncan, Chief Executive of Channel 4, echoed these sentiments about scheduling in oral evidence.²⁸ But he also added that as cricket is broadcast in the daytime, it tended to have lower audiences and proportionately older viewers, both of which factors were less attractive to advertisers.²⁹ Despite Channel 4's critically acclaimed coverage over recent years – acclaim with which this Committee wholeheartedly concurs – it made a loss of £16 million per annum on its cricket broadcasting.³⁰ Given these circumstances, Channel 4,

²² Ibid.

²³ www.ofcom.org.uk/consult/condocs/cricket/bsbcons

²⁴ Ibid.

²⁵ Ev 19

²⁶ Ev 21

²⁷ Ev 22

²⁸ Q37 Ev 31

²⁹ Ibid.

³⁰ Ev 25

although wanting to continue with coverage, felt that it “had to make a bid that reflected the increasingly competitive environment” in which it operated and “could not sustain the scale of coverage and resultant financial losses of recent years”.³¹ Hence the decision to scale back the scope of their bid.

21. **Whilst we note the difficulties faced by terrestrial broadcasters in terms of scheduling problems, we lament the fact that no terrestrial broadcaster (other than Channel 4) sought fit to bid for any television rights to live cricket; worse still, that no bid whatsoever was submitted for the highlights package by any terrestrial broadcaster received by 95% of the population and which therefore satisfied the criteria for universality. We believe that free-to-air broadcasters must shoulder some of the responsibility for the public outcry which followed the decision by severely limiting the options open to the ECB. Had the BBC, ITV and Channel 4 all made bids, the ECB could have insisted that they were not prepared to agree an exclusive deal with anyone.** As it was, the ECB were presented with only two bids. While we regret the positions adopted by both the BBC and ITV, we are particularly disappointed by the BBC. ITV has a commercial decision to take and it is hampered by the difficulties which cricket poses in terms of maximising revenue from advertisers. The BBC, by contrast, with its funding by licence fee, can ignore such concerns and taken together with its public service broadcasting responsibilities, can only lead us to conclude that it should have made a bid.

22. **Certainly we can find no compelling argument as to why no broadcaster, other than Five, was prepared to bid for highlights.** The explanation given by Roger Mosey, Director of Sport at the BBC, that the BBC did not bid as it had assumed that Channel 4 would win such a competition, even though they did not in fact submit a bid, does not inspire much confidence in the BBC’s commitment to cricket.³² The very fact that Five, which has less onerous public service broadcasting obligations, a smaller budget and is received by fewer viewers than its competitors, submitted a successful bid to show cricket highlights on prime-time television underlines our disappointment with other free-to-air broadcasters. We applaud Five’s commitment to cricket.

23. Some have argued that the ECB made its decision far too early and should have waited for the successful Ashes series to be concluded to maximise the number and financial level of bids. The Keep Cricket Free Campaign, for one, raised this as an issue.³³ The ECB, however, strongly rejected these criticisms and defended its negotiation stance in its evidence: “It was imperative that that deal was renegotiated at that time”.³⁴ Not only were sponsorship deals then being negotiated but leaving the contract renewal to the very last minute would have heavily constrained broadcasters who needed to finalise their schedules well in advance.³⁵ David Collier, Chief Executive of the ECB, responded in oral evidence that: “we have to strike the balance between being far enough ahead so that people are not constricting themselves with other contractual arrangements which means that cricket cannot be shown and knowing exactly how the England team are doing at the time”.³⁶ He

³¹ Ibid.

³² Q 43 Ev 32

³³ Ev 42 and Q 88 Ev 44

³⁴ Q34 Ev 18

³⁵ Ibid.

went on to state that, by the end of 2004, the England team had in fact won six series in a row.³⁷

24. We agree with the ECB's decision to enter discussions and conclude negotiations well in advance of the conclusion of the previous contract. It is not for this Committee to second guess when the rights holders to a particular sport should put in train the bidding process but, from the evidence we have received, it seems that the ECB were well within the parameters of reasonableness to begin the process when they did. **Delaying negotiations until after a potentially disastrous Ashes series might well have left the ECB in an intolerably weak bargaining position which, for all who care about the sport, would have been very damaging.**

³⁶ Q 34 Ev 19

³⁷ Ibid.

4 The Gentleman's Agreement

25. As stated above, DCMS accepted the advice of Lord Gordon and subsequently issued a press release on 25 June 1998³⁸ announcing the contents of Group A and Group B of the listed events. As the then Secretary of State, Chris Smith, added in the press release, knowing that the cricket decision was the “really controversial part”:³⁹

My decision to accept the Gordon recommendations on cricket allows the sport more freedom to negotiate a fair price for flagship events. This is something for which the ECB and County Cricket clubs have specifically asked. I expect to see that freedom used responsibly, with continued access for all viewers to a substantial proportion of live Test coverage and any new income derived for cricket devoted to improvements in the facilities needed to play the game and to raise our standards. If these expectations – especially the test of achieving substantial live coverage on free to air television – are not fulfilled, then I may of course need to review the listed criteria again.⁴⁰

26. That cricket needed more income was undeniable and the most obvious way to increase revenue was through some sort of de-listing, thereby allowing into the bidding process greater competition for the acquisition of broadcasting rights. However, there was clearly a sense that cricket was considered too important to the nation to be lost in its entirety to pay-TV; the Secretary of State instinctively felt that some Test match cricket should remain on terrestrial television. We surmise that DCMS looked at two options: either some Test matches had to be protected for the public and placed in Group A; or some form of understanding had to be reached that cricket would be de-listed but, in return, the sport's governing body would not be allowed complete freedom to dispose of the broadcasting rights to all Test matches.

27. The second option was, perhaps, the pragmatist's choice. Lord Smith explained to the Committee that it would have been problematic to opt for the first as the difficulties in determining which particular Tests should be placed in Group A were probably insurmountable.⁴¹ Therefore it was decided that the way forward, in 1998, was a form of “agreement” with Lord MacLaurin, the then Chairman of the ECB.

28. There has been much discussion in the press, and elsewhere, as to what exactly was agreed between these two main protagonists. The current Secretary of State for Culture, Media and Sport, Rt Hon Tessa Jowell MP, went so far as to say that the terms of the agreement were “somewhat unclear”.⁴² In a letter to Sir Peter Tapsell, Member for Louth and Horncastle, the Parliamentary Under-Secretary of State at DCMS, James Purnell MP, stated that: “We must be clear, there was no binding agreement between Chris Smith and Lord MacLaurin”.⁴³ We therefore considered it essential that the then Secretary of State for

³⁸ DCMS press notice 135/98, *New protection for football on television in revision of listed sporting events*, 25 June 1998

³⁹ Q 68 Ev 36

⁴⁰ DCMS press notice, 25 June 1998

⁴¹ Q 71 Ev 37

⁴² HC Deb, 24 October 2005, col 11 [Commons Chamber]

⁴³ Ev 43

Culture, Media and Sport and the then Chairman of the ECB appeared before the Committee. At the oral evidence session, the Committee asked each to set out what he believed had been agreed in 1998 and whether the terms of that agreement had subsequently been broken by the new contract.

29. Lord Smith informed us that one of his reasons for moving Test matches played in England to Group B was that he had: “been given a very clear assurance from Lord MacLaurin and also there were public statements from the ECB themselves that indicated that they would wish, in any circumstances, a substantial amount of live coverage to be available on free-to-air television”.⁴⁴ He later added: “If I had not been given the assurances that I had I would have thought very seriously, not necessarily of placing the entirety of Test cricket on the A list, but at least placing a proportion of Test cricket onto the A list. I was reluctant to make such a decision. I did consider it very carefully, but in the light of the assurances that I had been given I was able to achieve what I think was effectively a win-win in that cricket was able to negotiate a much better price than they would have otherwise been able to do and we were able to secure substantial free-to-air coverage”.⁴⁵

30. Lord MacLaurin said: “ I am absolutely quite clear that in the deal we did, Chris and I, we had to keep a substantial amount of cricket on free-to-air television”.⁴⁶ He also understood that before he announced a new broadcasting contract for cricket, he had first to clear the deal with the Secretary of State, a procedure which Lord MacLaurin followed in subsequent years.⁴⁷ He continued: “It was quite clear. I had a conversation with Chris which was very clear; he would not allow me to announce anything until he was satisfied with the deal that was on the table. So I phoned Chris and said ‘This is the deal’ and he said, ‘Okay, you can announce it’. In my letter it quite clearly says that a substantial amount of live coverage would be on free-to-air television. I do not have any doubt about that”.⁴⁸

31. In response to Tessa Jowell’s claims that the agreement between them was “somewhat unclear,” both were categorical in their rebuttal. Lord MacLaurin replied that: “From my point of view it is very clear indeed. I did the deal with Channel 4 and Sky and I had to confirm it with the Secretary of State before I was allowed to announce it. You could not have anything much clearer than that”.⁴⁹ Lord Smith responded: “I think the terms of my announcement on 25 June 1998 in public terms could not have been clearer”.⁵⁰ Furthermore, Lord MacLaurin confirmed to us that the details of this understanding were conveyed to his successor, David Morgan, as the BSkyB deal was going through.⁵¹

32. When asked whether James Purnell’s statement in his letter to Sir Peter Tapsell was a fair and accurate construction of events, Lord MacLaurin was unambiguous in rejecting

⁴⁴ Q 68 Ev 36

⁴⁵ Q 84 Ev 39

⁴⁶ Q 66 Ev 36

⁴⁷ Q 68 Ev 36

⁴⁸ Qq 77 and 78 Ev 38

⁴⁹ Q 70 Ev 37

⁵⁰ Ibid.

⁵¹ Q 74 Ev 38

that interpretation.⁵² Lord Smith did not consider it legally binding but went on: “it was a very strong agreement relating to that particular moment and that particular deal”.⁵³ It would, he added, have been inconceivable for the ECB to have reached an exclusive deal with BSkyB due to the very public nature of the assurances and statements to the contrary made by the ECB at the time.⁵⁴

33. Richard Caborn, the Minister for Sport, described the agreement as more of a personal assurance given by Lord MacLaurin in 1998 since when the world had moved on. He in no way accepted there was a written agreement.⁵⁵ He later added: “That was not an agreement between the Government and the ECB, that is a very genuine wish list and one that was genuine at the time”.⁵⁶

34. David Collier, Chief Executive of the ECB, in oral evidence, stated that: “it was not a binding contract”.⁵⁷ He went on: “As it happened, the next two broadcasting contracts reflected that balance, not only with the Channel 4 entry into the market and sharing the Tests with Sky, but also with our broader arrangements as well. That was six years ago. The new contract needs to be judged on what we now see as the prevailing circumstances”.⁵⁸

35. It is very evident to the Committee that no matter what description it is given and no matter how its precise ramifications are interpreted, the understanding between Lord Smith and Lord MacLaurin constituted an agreement. And the content of that agreement was unequivocal: live Test match cricket played in England was not to be removed completely from free-to-air TV. What is equally evident to this Committee is that the terms of that agreement have manifestly been breached by the ECB with the tacit approval of DCMS.

36. If, as is clear, the whole purpose of the agreement was to give the ECB the flexibility to raise funds for cricket while protecting the general public from having to pay a subscription to watch the majority of the sport, then the 1998 compromise has failed that latter aspiration in absolute terms. **Whatever the good intentions and pragmatism of the decision at the time, the gentleman’s agreement has sadly proved totally ineffectual.** Removing Test match cricket to Group B gave the ECB what they wanted but it meant that no lasting protection was afforded to the cricket fan. We do not wish to re-open the 1998 debate and the decision which was taken but if, as is clear from the evidence, that was not the intention then the compromise should have been made explicitly legally binding for the future, if necessary by singling out Test cricket as a special case. The compromise has all too clearly illustrated the inadequacies of a government proceeding by way of a gentleman’s agreement. The Government should have been very clear as to what outcome

⁵² Q 77 Ev 38

⁵³ Q 78 Ev 38

⁵⁴ Ibid.

⁵⁵ Q 104 Ev 54

⁵⁶ Q 108 Ev 55

⁵⁷ Q 1 Ev 11

⁵⁸ Ibid.

it desired in 1998 and given legal effect to that decision. The resulting gentleman's agreement has instead proved unsatisfactory and unworkable.

37. Rather than remaining silent on the issue, DCMS should have made a clear decision as to whether they were content for the ECB to be released from the gentleman's agreement. The Minister for Sport has made it known that although the ECB did not seek the permission of DCMS for the new contract, it did keep the Department informed of the negotiations.⁵⁹ **The onus, therefore, was on the Department to confirm its acquiescence to the new contract and to make public its decision to change its policy by allowing the ECB to sell all live cricket to a pay-TV broadcaster. The ECB is entrusted with doing its best for cricket; DCMS have the wider public interest to consider. The Committee wishes to express its profound disappointment with the ECB and DCMS for failing to honour their commitments, albeit not legally binding ones.**

38. The breaching of the agreement has wider ramifications beyond cricket and beyond the auspices of the Department for Culture, Media and Sport. If decisions are made by Secretaries of State and government departments on the basis of understandings which are subsequently ignored by future incumbents then this Committee would wish to express its firm view that such informal arrangements should cease to be treated as an effective tool in the decision-making processes of government. Formal binding undertakings should instead be sought to make policy decisions effective and to maintain public confidence in government decision-making.

5 The ECB's decision

39. With Test match cricket no longer in Group A of the listed events, the decision about to whom the broadcasting rights for cricket were to be sold rested solely with the ECB as the governing body for cricket and the owner of the sport's media and broadcasting rights. All with an interest in cricket should recognise that the ECB had to balance a number of important and competing factors. Overriding everything, however, must have been the calculation as to what was best for the long-term interests of the sport.

40. The ECB drew our attention to the fact that few sports are as reliant on broadcasting income as cricket, with some 80% of its total income derived from broadcasting contracts.⁶⁰ It stated in evidence: "Being the lifeblood of the game's financial health, broadcasting income provides the funds necessary for ECB to invest in programmes, facilities and initiatives designed to safeguard the future of the game in England and Wales".⁶¹

41. In 2004 alone, cricket's domestic broadcasting income was £47.4 million.⁶² This compares to the £33 million, over four years, when cricket was restricted to Group A listing.⁶³ David Collier, Chief Executive of the ECB, directly attributed the recent successes of the England teams to the increased income which the sport had received from the sale of broadcasting rights under previous contracts: "the new income generated was reinvested not only in raising the standard of the English international side through the development of the National Academy and the network of county academies that we now have, but were also invested in the grass roots activities more than we had ever done before and that created a massive increase in participation. Because of that, we are now number two in the world".⁶⁴

42. The Committee would like to take this opportunity to congratulate warmly the ECB on its vital role in transforming the fortunes of English cricket over recent years. There can be little doubt that the investment in grass roots cricket, the introduction of central player contracts, the building of world class training facilities and the hiring of first class coaches has played a major role in achieving a resurgence in the fortunes of English cricket. The Committee wholeheartedly supports the ECB's assertion that the results over last summer "could not have been achieved without substantial investment by the ECB".⁶⁵ We also concur with its statement that: "this investment was only made possible through the income cricket receives from television",⁶⁶ although we note that this investment was made possible from a previous agreement when rights were shared between Channel 4 and BSkyB.

⁶⁰ Ev 1

⁶¹ Ev 2

⁶² Ev 1

⁶³ Q 1 Ev 11

⁶⁴ Ibid.

⁶⁵ Ev 1

⁶⁶ Ibid.

43. The gentleman's agreement reached by Lord Smith and Lord MacLaurin therefore appeared to deliver for everyone with a passion for the game, at least up until the end of 2005 when its intrinsic flaws made it unravel: it enabled cricket to increase its income streams, which in turn led to greater investment at all levels of the game, which in turn has led to the national teams' unrivalled climb through the world rankings. What is more, the gentleman's agreement managed all those changes while retaining a substantial proportion of Test match cricket on free-to-air television.

44. Both David Collier and Richard Caborn argued before us that times had changed since the last broadcasting rights contract was extended in 2003.⁶⁷ While admitting that it remained the aspiration of the ECB to obtain a mix of terrestrial and non-terrestrial broadcasters,⁶⁸ in the last round of negotiations, the ECB claimed that it was faced with little choice.⁶⁹ David Collier summarised the ECB's dilemma: "we are faced with a choice, a stark choice, of an £80 million reduction which would decimate grassroots cricket, which would significantly impact on the success of the England side...It was a very difficult choice to balance, but the choice was: were we going to go back to the bad old days of England probably slipping down the league table from two to eight, with grassroots cricket not being invested in or were we going to take a deal where we could invest at current levels?"⁷⁰

45. The over-arching question which can be distilled from the many competing arguments with which the ECB had to grapple is this: in the long term, how does one best balance the advantages of increased income from broadcasting contracts with all the disadvantages of a reduction in exposure which a non-universal broadcaster will bring?

46. When discussing this aspect of reduced exposure, it is important to consider the facts in terms of viewing figures. Channel 4 provided the Committee with a comparison of live audiences when, under the previous contract, both it and BSkyB had shared coverage of a series. Table 1, below, shows that when Test matches in one series have been shared between Channel 4 and Sky Sports, Channel 4 have achieved average ratings between 3 and 4 times larger than Sky Sports.⁷¹

⁶⁷ Qq 1 and 2 Ev 11; Q 104 Ev 54

⁶⁸ Q 2 Ev 12

⁶⁹ Q 18 Ev 16

⁷⁰ Q 20 Ev 16

⁷¹ Ev 26

Table 1: Comparison of viewing figures for Test series shared between Channel 4 and Sky Sports

Test	Broadcaster	Average ratings	Channel 4:Sky ratio
England v Bangladesh 2005			
First Test	Channel 4	688,000	
Second Test	Sky Sports	223,000	3.1:1
England v New Zealand 2004			
First Test	Channel 4	1,001,000	
Second Test	Sky Sports	240,000	4.2:1

Source: BARB, Channel 4 analysis (Broadcasters' Audience Research Board)

In addition, viewing figures for the 2005 Ashes on Channel 4 averaged between 1.5 million and 2.9 million per Test, peaking at 8.4 million during the final Tests last summer.⁷² When the BBC last broadcast live Test match cricket, in 1997 and 1998, viewing figures averaged about 1.8 million.⁷³

47. By comparison, the number of households which now subscribe to Sky is 8 million⁷⁴ out of a total number of households in the UK of approximately 25 million.⁷⁵ Of those 8 million, unfortunately it is not possible to determine how many subscribe to Sky Sports as, we are informed by BSkyB, this information is commercially sensitive material. However, this figure will inevitably be considerably less than 8 million.

48. Time and again the ECB explained, both in written and oral evidence, that the difference in the bids it received was £80 million over the 2006-2009 seasons.⁷⁶ We cannot verify this figure. What we do know is that its previous contract for the 2003-2005 seasons was worth around £50 million per annum and that, according to the ECB, its current deal is “of no greater value allowing for inflation than the last deal”.⁷⁷ If we accept those statements, then for the ECB to have accepted a non-exclusive deal with a mix of broadcasters would therefore have resulted in a substantial reduction and such a drop in income would have meant cutbacks in the grass roots programmes and reduced expenditure on the National Academy as well as on the county academies network.⁷⁸

49. The ECB also suggested that the most important factor in promoting interest in cricket generally and in inspiring the next generation of cricketers is the “success of the England team”⁷⁹ and without that no role models would be created.⁸⁰ David Collier told the

⁷² Figure from Channel 4

⁷³ BARB (via BBC Communications Department)

⁷⁴ http://media.corporate-ir.net/media_files/irol/10/104016/pr191205.pdf

⁷⁵ National Statistics (www.statistics.gov.uk)

⁷⁶ For example, Ev 3, Q 6 Ev 12, Q 16 Ev 15

⁷⁷ Q 13 Ev 14

⁷⁸ Q 14 Ev 14

⁷⁹ Q 7 Ev 13

Committee that after the announcement of the broadcasting contract with Sky, long-term sponsorship partners had been found and new agreements had been concluded, delivering a minimum of a 5% increase in income.⁸¹ He claimed that broadcasting exposure was important but “the front and back page coverage of the press is something else that is measured very closely by sponsors”.⁸² He concluded: “the fact is that sponsorship has gone up since the broadcasting deal was struck and...a lot of that is down to the success of the England team”.⁸³

50. The Keep Cricket Free Campaign argued, however, that the consequences of accepting the BSkyB bid put at risk the long-term financial security of the sport: “by condemning the game to vastly reduced audience exposure, the ECB will not be able to develop many other potential sources of revenue – through broadcast sponsorship, merchandising, endorsement revenues and so forth. With these sources of revenue dwindling, the game will become ever more dependent on broadcast revenue and, correspondingly, in an ever weaker bargaining position”.⁸⁴ The Campaign also referred, in its evidence, to one estimate which placed the potential value of the lost exposure on terrestrial television at just under £40 million per year.⁸⁵

51. The Campaign acknowledged that the result of their recommendations would lose some income in the short term but contended that: “there is a need to continually renew the sport...by attracting new people to the game and this is a primary consideration”.⁸⁶ Without free-to-air exposure they claimed that: “hundreds of thousands of young people will lose contact with our national game and local clubs will fail to recruit new players”.⁸⁷ They echoed the sentiments of a number of members of the public by summarising thus: “In taking the short-term money, the ECB has ensured cricket will be denied the oxygen of the widespread exposure that will attract a new generation to the game”.⁸⁸

52. Andy Duncan, Chief Executive of Channel 4, took the following view of the decision which the ECB had to make: “the ECB had a very simple trade-off, but from our point of view the trade-off was sufficient money and exposure for a lot more money and no exposure or much more limited exposure”.⁸⁹

53. Analogies with other sports in the UK and international comparisons with cricket governing bodies around the world suggest that the ECB is unique in the approach it has taken. The Keep Cricket Free Campaign argued that no other governing body responsible for a major sport believed that its sport could thrive without free-to-air television.⁹⁰ The

⁸⁰ Q 12 Ev 14

⁸¹ Q 11 Ev 13

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ev 40

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ev 41

⁸⁹ Q 47 Ev 32

⁹⁰ Ev 40

BBC sought to contrast what has happened in cricket with the diversity of supply found in football. They described football as a “good model” sharing as it does the rights to broadcast different competitions amongst many broadcasters: live Premier League on Sky with highlights on the BBC; live FA Cup and England internationals shared between Sky and the BBC; and the Champions League shared between ITV and Sky.⁹¹

54. Mr John Grogan, Member for Selby, whose widely-supported Early Day Motion raised parliamentary awareness of the whole issue, submitted that: “cricket will now occupy a unique position in this country as the only major national sport to have sold all rights for all competitions exclusively to a pay-to-view broadcaster”.⁹² He contrasted cricket with the position of football in the Republic of Ireland where, in 2002, the Irish Government retrospectively created a protected list which included the national team’s competitive matches thereby forcing a renegotiation of contracts to allow RTE to show live matches.⁹³

55. The Keep Cricket Free Campaign also noted that all other national governing bodies of cricket, or national governments, had taken action to ensure cricket remained free-to-air.⁹⁴ One such example cited by the Campaign was the Indian Government which, on 21 October 2005, insisted that pay-TV channels could only broadcast Test cricket involving the Indian team if they shared the feed with the national free-to-air state channel.⁹⁵

56. John Grogan, too, drew the Committee’s attention to experience from other countries: in Australia, all cricket Test matches are protected for free-to-air television; and in New Zealand, Sky Sports, despite having the primary rights to all domestic cricket, reached a deal with a free-to-air partner to show live a selection of the main home international matches.⁹⁶

57. As we have mentioned, nearly 100 submissions were received from members of the public, all of which complained about the ECB’s decision. The submission we received from the Keep Cricket Free Campaign also included a selection of messages they had received on their website from members of the public aggrieved by the removal of cricket from free-to-air television. Some simply cannot afford a subscription to Sky (the cheapest option by which to obtain Sky Sports currently stands at over £400 per annum⁹⁷); others refuse to subscribe on principle.⁹⁸

58. Sky has introduced offers to assist cricket clubs and their members: a promotional offer exists for members of County and Minor County clubs; and a special reduced rate is in place for cricket clubs to install Sky’s services.⁹⁹

⁹¹ Ev 20

⁹² Ev 59

⁹³ Ev 61

⁹⁴ Ev 40

⁹⁵ Ibid.

⁹⁶ Ev 61

⁹⁷ www.sky.com

⁹⁸ Ev 41

⁹⁹ Ev 29

59. We acknowledge that the ECB had an extremely difficult decision to make for the future of cricket over the next four years. On the one hand, the Committee agrees that the objective, sought by Lord Smith and Lord MacLaurin, of a mix between free-to-air and pay-TV broadcasters remains attractive today. **The Committee strongly supports the notion that a substantial proportion of Test match cricket should be available on free-to-air TV for the benefit of the whole country regardless of a fan's ability to pay. However, the Committee believes that, ultimately, in the debate as to who should decide what is in the best interests of cricket, the judgement has to be left to that sport's governing body.** Neither the Government nor this Committee is equipped to make that decision. The ECB should be best placed to weigh what is best for the long-term interests of the sport and to decide on the balance between substantial broadcasting revenue and reduced exposure. **It is the ECB, too, who must take the blame for any decline in interest in the game. The duty rests on it to ensure that the potential adverse effects on cricket, referred to in this report, are minimised, if not eliminated, over the years of the exclusive Sky contract. Time will tell if it has made the correct decision and if a new generation of youngsters, enthused by successful English teams, comes forward to emulate their heroes.**

60. We have received no compelling evidence in support of cricket returning to Group A of the listed events. Even the Keep Cricket Free Campaign were equivocal in suggesting such a move.¹⁰⁰ **The potential damage that re-listing in Group A would do to cricket would be too big a risk to take; the vast sums of money poured into the sport and the achievements of the England teams in recent years would all be put in jeopardy.** Having the right to watch Test match cricket on free-to-air television would be of questionable worth if England languished at the bottom of the world rankings, regularly being beaten by the minor cricketing nations.

61. All this said, **the Committee takes the firm view that the ECB did not do enough to ensure that a non-exclusive deal was brokered. The Committee believes that a more pro-active approach should have been taken by the ECB to maximise broadcasting revenue while ensuring some cricket remained on terrestrial TV. The ECB should have had more, and placed greater emphasis on obtaining successful outcomes from, discussions with free-to-air broadcasters before the bidding process was put in train and at the outset of, and throughout, negotiations.** By allowing BSkyB to think they could obtain an exclusive deal, it is self-evident that the broadcaster would reduce any offer for shared rights and ramp up dramatically its bid for exclusive rights. We do not blame Sky in any way; far from it, that approach makes perfect commercial sense. **What we are concerned about is the ECB's timidity in not insisting upon a non-exclusive deal.** We acknowledge that they were hampered towards the end of the bidding process by the lack of interest from the BBC and ITV but **a clear signal from the outset that an exclusive deal was not on the table may have substantially altered negotiating positions in the ECB's favour.**

62. We recommend that the ECB enters discussions at an early stage with all broadcasters to ensure that at the time of the next contract negotiation, there are numerous bids from a variety of broadcasters all of whom will have had ample

¹⁰⁰ Q 95 Ev 46

opportunity to deal effectively with scheduling problems. It is the ECB's stated aim to have a mix of broadcasters wherever possible and we sincerely hope that the next deal manages to meet their aspirations and, perhaps more importantly, the commitments they gave to the Secretary of State for Culture, Media and Sport in 1998. Much of the onus will be on the ECB to ensure that is the case but free-to-air broadcasters too must take up the challenge to help restore live coverage of the game to universally received channels.

63. The Committee received evidence about the suitability of the ECB management board to make decisions in the best interests of cricket. The argument was advanced that the Board contains ten county representatives out of 12 and that as the counties were heavily dependent upon broadcasting income, they would be less inclined to consider arguments regarding exposure.¹⁰¹ While the Committee notes the evidence it has received, it is outside the scope of this inquiry to consider these arguments in any detail.

¹⁰¹ Qq 89 and 90 Ev 44

6 A voluntary meeting?

64. The Keep Cricket Free Campaign urged the Committee, in its written evidence, to recommend that the Secretary of State convene a meeting of the ECB and all interested commercial interests in order to broker an arrangement whereby the major domestic Test series be broadcast simultaneously on Sky and a free-to-air channel.¹⁰² During the oral evidence session on 29 November 2005, the prospect of a voluntary meeting between all interested parties was raised with the Minister for Sport.¹⁰³ He responded positively to chairing such a meeting but doubted its worth: “If people want to come round the table with goodwill then fine, I will convene a meeting. If you are asking me honestly whether a deal can be done, I do not think it can”.¹⁰⁴

65. Convening such a round table meeting would be futile if no terrestrial broadcaster were willing to argue for a slice of the broadcasting action and pay Sky a substantial sum in compensation. Channel 4 indicated that they had already accepted Sky’s contract and had since put in place alternative plans for their schedules and used the funds to increase investment in peak-time drama.¹⁰⁵ They stated in their submission that: “we would not advocate any attempt to turn back the clock, and in particular we would not propose overturning the 2004 decision”.¹⁰⁶ We gained the impression that ITV would not wish to re-open negotiations either and, therefore, the only reasonable prospect of a successful meeting rests on the BBC, or possibly Five, being willing to think afresh of investing in cricket. Certainly David Brook had the BBC in mind when he outlined the suggestion of a voluntary solution to this Committee by encouraging “Mr Wakeling to talk to Mr Mosey”, adding that “perhaps the BBC with licence-funded payment might consider that England’s national cricket team is worthy of BBC coverage”.¹⁰⁷

66. We have no evidence to indicate that the BBC would be in favour of such a meeting. **If the BBC, or any other broadcaster, were to indicate a willingness seriously to consider negotiating with Sky for rights to broadcast live Test cricket, then the Committee would have no hesitation in recommending that the Minister of Sport convene a meeting as a matter of urgency. However, we, like the Minister of Sport, are not optimistic.**

¹⁰² Ev 42

¹⁰³ Q 105 Ev 54

¹⁰⁴ Ibid.

¹⁰⁵ Ev 26

¹⁰⁶ Ibid.

¹⁰⁷ Q 96 Ev 46

7 Review of listing in 2008/09

67. We note the Secretary of State's decision to review the listed criteria in line with digital switchover: "I intend to review all listed sporting events, including cricket, around 2008-09. At that time, which will be 10 years after the last review, we will be in a position to take account of changes in the broadcasting of sport and of broadcasting in general, in the run-up to digital switchover".¹⁰⁸ The Government is supported by the ECB who contended that the availability of a digital platform in every household will make all channels more accessible.¹⁰⁹

68. The BBC referred in its evidence to the suggestion that the listing of events may lose its relevance when the UK becomes fully digital. However, they stated that: "We do not believe this is the case because there will still be a fundamental divide between free-to-air broadcasters and pay-TV operators. BBC One will be universally accessible in the digital era as it is now. By contrast many dedicated sports channels will still be funded to a significant degree by subscriptions".¹¹⁰ The Keep Cricket Free Campaign made the same point: "the digital divide between pay-TV and free-to-air is much the same as the divide between pay-TV and free-to-air in the analogue world".¹¹¹

69. We are unclear as to why the review of listed events should depend on the roll-out of digital switchover and are unconvinced of the link between the two. We would also remind the Secretary of State that the ECB may well have negotiated a new deal or renewed their existing contract with BSkyB well before that review takes place. The Committee sees no reason why a comprehensive review of the listed events criteria, and the events themselves, cannot be undertaken earlier than 2008-09 and certainly well ahead of the next contract decision.

70. In undertaking any review of the listed events, DCMS must be aware that it can no longer proceed on the basis of entering into a gentleman's agreement with any sports governing body. That approach has proved ineffective and unsatisfactory. If the Department concludes, following any future review of listed events, that a proportion of an event, or category of event, should remain on free-to-air television then it must consider carefully the creation of a separate category as a sub-group to Group A. In terms of cricket, for example, should DCMS seek to give legal effect to Lord Smith's ambition to maintain a substantial amount of live Test cricket free-to-air then a "Group A2" could be created in which a specified proportion of Test cricket could be placed. It would then be left to the ECB's discretion as to which individual matches were offered on fair and reasonable terms to universally received broadcasters.

71. In its evidence, Orange UK called for the distribution of sports rights to be unbundled "so as to offer maximum choice of media platform to consumers".¹¹² Over the coming

¹⁰⁸ HC Deb, 24 October 2005, col 11 [Commons Chamber]

¹⁰⁹ Ev 6

¹¹⁰ Ev 20

¹¹¹ Ev 42

¹¹² Ev 61

years, watching cricket via a mobile handset and over the internet will become ever more popular. The ECB mentioned in evidence that Vodafone had secured the rights to “six new ‘incidents’ per hour per international match”¹¹³ which shows movement in the right direction but far greater opportunities appear to have been left untapped. We shall consider this issue in more detail in our forthcoming inquiry into new media and the creative industries; but, in the meantime, **we recommend that any review of listing should have as one of its priorities the broader issue of the distribution of sports rights. DCMS, in conjunction with Ofcom and the Office of Fair Trading, should examine ways of encouraging flexibility and competition in the broadcasting of sports rights using new media platforms.** By securing further revenue from selling the rights to new media platforms separately, the ECB may have been able to make up much of the £80 million shortfall they so often talked about to help maintain some live Test cricket on free-to-air channels.

¹¹³ Q 17 Ev 15. David Collier explained that if there were more than six wickets in an hour, then Vodafone had the right to show all the wickets.

Conclusions and recommendations

1. The Committee wishes to express its support for the general principle of listing. In a nation of sports lovers, it is imperative that some protection must exist for some sporting events. (Paragraph 14)
2. Whilst we note the difficulties faced by terrestrial broadcasters in terms of scheduling problems, we lament the fact that no terrestrial broadcaster (other than Channel 4) sought fit to bid for any television rights to live cricket; worse still, that no bid whatsoever was submitted for the highlights package by any terrestrial broadcaster received by 95% of the population and which therefore satisfied the criteria for universality. We believe that free-to-air broadcasters must shoulder some of the responsibility for the public outcry which followed the decision by severely limiting the options open to the ECB. Had the BBC, ITV and Channel 4 all made bids, the ECB could have insisted that they were not prepared to agree an exclusive deal with anyone. (Paragraph 21)
3. We can find no compelling argument as to why no broadcaster, other than Five, was prepared to bid for highlights. (Paragraph 22)
4. We agree with the ECB's decision to enter discussions and conclude negotiations well in advance of the conclusion of the previous contract. Delaying negotiations until after a potentially disastrous Ashes series might well have left the ECB in an intolerably weak bargaining position which, for all who care about the sport, would have been very damaging. (Paragraph 24)
5. It is very evident to the Committee that no matter what description it is given and no matter how its precise ramifications are interpreted, the understanding between Lord Smith and Lord MacLaurin constituted an agreement. And the content of that agreement was unequivocal: live Test match cricket played in England was not to be removed completely from free-to-air TV. What is equally evident to this Committee is that the terms of that agreement have manifestly been breached by the ECB with the tacit approval of DCMS. (Paragraph 35)
6. Whatever the good intentions and pragmatism of the decision at the time, the gentleman's agreement has sadly proved totally ineffectual. (Paragraph 36)
7. Rather than remaining silent on the issue, DCMS should have made a clear decision as to whether they were content for the ECB to be released from the gentleman's agreement. The onus, therefore, was on the Department to confirm its acquiescence to the new contract and to make public its decision to change its policy by allowing the ECB to sell all live cricket to a pay-TV broadcaster. The ECB is entrusted with doing its best for cricket; DCMS have the wider public interest to consider. The Committee wishes to express its profound disappointment with the ECB and DCMS for failing to honour their commitments, albeit not legally binding ones. (Paragraph 37)
8. The breaching of the agreement has wider ramifications beyond cricket and beyond the auspices of the Department for Culture, Media and Sport. If decisions are made

by Secretaries of State and government departments on the basis of understandings which are subsequently ignored by future incumbents then this Committee would wish to express its firm view that such informal arrangements should cease to be treated as an effective tool in the decision-making processes of government. Formal binding undertakings should instead be sought to make policy decisions effective and to maintain public confidence in government decision-making. (Paragraph 38)

9. The Committee strongly supports the notion that a substantial proportion of Test match cricket should be available on free-to-air TV for the benefit of the whole country regardless of a fan's ability to pay. However, the Committee believes that, ultimately, in the debate as to who should decide what is in the best interests of cricket, the judgement has to be left to that sport's governing body. It is the ECB, too, who must take the blame for any decline in interest in the game. The duty rests on it to ensure that the potential adverse effects on cricket, referred to in this report, are minimised, if not eliminated, over the years of the exclusive Sky contract. Time will tell if it has made the correct decision and if a new generation of youngsters, enthused by successful English teams, comes forward to emulate their heroes. (Paragraph 59)
10. We have received no compelling evidence in support of cricket returning to Group A of the listed events. The potential damage that re-listing in Group A would do to cricket would be too big a risk to take; the vast sums of money poured into the sport and the achievements of the England teams in recent years would all be put in jeopardy. (Paragraph 60)
11. The Committee takes the firm view that the ECB did not do enough to ensure that a non-exclusive deal was brokered. The Committee believes that a more pro-active approach should have been taken by the ECB to maximise broadcasting revenue while ensuring some cricket remained on terrestrial TV. The ECB should have had more, and placed greater emphasis on obtaining successful outcomes from, discussions with free-to-air broadcasters before the bidding process was put in train and at the outset of, and throughout, negotiations. What we are concerned about is the ECB's timidity in not insisting upon a non-exclusive deal. A clear signal from the outset that an exclusive deal was not on the table may have substantially altered negotiating positions in the ECB's favour. (Paragraph 61)
12. We recommend that the ECB enters discussions at an early stage with all broadcasters to ensure that at the time of the next contract negotiation, there are numerous bids from a variety of broadcasters all of whom will have had ample opportunity to deal effectively with scheduling problems. It is the ECB's stated aim to have a mix of broadcasters wherever possible and we sincerely hope that the next deal manages to meet their aspirations and, perhaps more importantly, the commitments they gave to the Secretary of State for Culture, Media and Sport in 1998. Much of the onus will be on the ECB to ensure that is the case but free-to-air broadcasters too must take up the challenge to help restore live coverage of the game to universally received channels. (Paragraph 62)
13. If the BBC, or any other broadcaster, were to indicate a willingness seriously to consider negotiating with Sky for rights to broadcast live Test cricket, then the

Committee would have no hesitation in recommending that the Minister of Sport convene a meeting as a matter of urgency. However, we, like the Minister of Sport, are not optimistic. (Paragraph 66)

14. We are unclear as to why the review of listed events should depend on the roll-out of digital switchover and are unconvinced of the link between the two. We would also remind the Secretary of State that the ECB may well have negotiated a new deal or renewed their existing contract with BSkyB well before that review takes place. The Committee sees no reason why a comprehensive review of the listed events criteria, and the events themselves, cannot be undertaken earlier than 2008-09 and certainly well ahead of the next contract decision. (Paragraph 69)
15. We recommend that any review of listing should have as one of its priorities the broader issue of the distribution of sports rights. DCMS, in conjunction with Ofcom and the Office of Fair Trading, should examine ways of encouraging flexibility and competition in the broadcasting of sports rights using new media platforms. (Paragraph 71)

Formal minutes

Tuesday 24 January 2006

Members present:

Mr John Whittingdale, in the Chair

Janet Anderson
Paul Farrelly
Mr Mike Hall
Alan Keen

Adam Price
Mr Adrian Sanders
Helen Southworth

Draft Report (Broadcasting rights for cricket), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 71 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chairman do make the report to the House.

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 31 January at 10.15 am

Witnesses

Tuesday 29 November 2005

Mr David Collier, Chief Executive, England and Wales Cricket Board, and **Mr Richard Bevan**, Chief Executive, Professional Cricketers' Association **Ev 11**

Mr Roger Mosey, Director of Sport, BBC, **Mr Mark Sharman**, Controller of Sport, ITV, **Mr Andy Duncan**, Chief Executive, Channel 4, **Mr Colin Campbell**, Director of Legal and Business Affairs, Five, and **Mr Vic Wakeling**, Managing Director, Sky Sports **Ev 30**

Lord Smith of Finsbury and **Lord MacLaurin of Knebworth** **Ev 36**

Mr David Brook, **Mr Anthony Wreford** and **Mr Stedford Wallen**, Keep Cricket Free Campaign **Ev 44**

Rt Hon Richard Caborn MP, Minister for Sport, Department for Culture, Media and Sport **Ev 53**

List of written evidence

1	England and Wales Cricket Board	Ev 1
2	Professional Cricketers' Association	Ev 9
3	BBC	Ev 19
4	ITV	Ev 21
5	Channel 4	Ev 22
6	Five	Ev 27
7	BSkyB	Ev 28
8	Keep Cricket Free	Ev 39
9	Department for Culture, Media and Sport	Ev 47
10	John Grogan MP	Ev 59
11	Orange UK	Ev 61
12	Central Council of Physical Recreation	Ev 62

List of unprinted written evidence

Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Brian McCullough
Lesley Evans
HT Kitchen
Norman Hoyle
Simon Zimble
Jason Barry
Huw Davidson
Nairn Kennedy
Roger Judd
Avril Bowe
Richard McFarland
Phil Rowbotham
John Gilbert
William Franklin
Christopher Cox
Peter McCaig
Karin Silk
Thames Valley Housing
Harry Beresford
Daniel White
Richard Ralph
Barry Ellis
Geoff Shingles
Andrew Turner
Dyll Davies
John McDonald
Patrick Mills
Dave Drinkwater
Jean Thompson
Jeremy Veitch
Martin Wright
Barik Chowdury
Tim Kilsby
Ian Fortune
Alan Joseph
George-Anne Slater

Ian Jarrett
Ronald Fry
Andrew Lund-Yates
Rob Devereux
Robert Cureton
Nick Kavanagh
Liam Embliss
Stuart Rogerson
Martin Cripps
Mark Bermingham
Ian Woolf
John Clay
Richard Parslow
Kai van Farnhill
Jeff Hobson
Keith Rogers
Josh Kerley
Ted Haines
Simon Adams
Laurence Weeks
Tony Hodgson
Diana Cooper
Chris Hurst
Dan deBuriatte
Mike Robertson
James Livingstone
Elizabeth Restall
Sheila Allcock
Tamsin Davison
Matthew Cragoe
Lynn Lakner
John Hurst
Brian Garside
Trevor Stevens
Keith McGuinness
Nigel Knott
Peter Munday
Kim Thompson
Adam Higazi
Mike Platten
Duncan Leggat
VG Miles
Chintal Barot
William Le Breton
Irene Joel

Anthony Pickerill
Paul Raven
RG Chalet
Bridget Khursheed
Professor Steve Barnett
Samuel Rowlands
Chris Cocker
Andy White
Christopher Wain

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Session 2005-06

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Third Report	Broadcasting in transition	HC 380
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Session 2002–03		
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Oral evidence

Taken before the Culture, Media and Sport Committee

on Tuesday 29 November 2005

Members present:

Mr John Whittingdale, in the Chair

Paul Farrelly
Mr Mike Hall
Alan Keen
Adam Price

Mr Adrian Sanders
Helen Southworth
Mr Tim Yeo

Memorandum submitted by the England and Wales Cricket Board

1. FROM PLAYGROUND TO TEST ARENA

The England and Wales Cricket Board Limited (ECB) is the governing body for the sport of cricket in England and Wales. Our remit is to develop and nurture cricket from the Playground to Test Arena.

In recent years the ECB has invested a great deal of expertise and resources into modernising and streamlining our structures so that we can effectively support and develop cricket at all levels. As a result, English cricket is enjoying an international and domestic resurgence. This ranges from the introduction of the exciting new Twenty20 format through to the initiative to reintroduce cricket to schools in partnership with the Cricket Foundation through the *Chance to Shine* appeal.

ECB recently published *Building Partnerships*, cricket's strategic plan for 2005–09. A full copy of the strategy and more information on our activities is available at www.ecb.co.uk

Building Partnerships sets out our plans for the future and the governance changes we have made to ensure they can be delivered. This includes reducing the number of committees we have to just three; Cricket; Financial; and Commercial; and streamlining our Board of Directors from 18 to 12.

Our Strategic Plan commits increased percentages of our resources to both the grass roots and the England Teams. Performance related fee payments will be made to the Counties and we are working closely as a partner with the Government in supporting community initiatives such as the “Five-a-Day” fruit and vegetable health programme.

Most importantly, we have ensured that all of our national teams are given the support and resources they need to compete with the best in the world. This includes the introduction of central player contracts and investing in world class training facilities such as the National Cricket Centre at Loughborough. We have also ensured that Duncan Fletcher has been given all the specialist coaches and back-office support that is needed to succeed in modern professional sport.

ECB is also committed to investing over £1 million a year in player education programmes including retraining, insurance support and drug awareness and doping control measures. All are important components of a viable and sustainable cricket structure.

The wonderful results this summer for both our men's and women's team in the Ashes could not have been achieved without substantial investment by the ECB.

As Lord MacLaurin pointed out in a recent letter to “*The Times*”, attached with this submission as Annex 1, this investment was only made possible through the income cricket receives from television.

2. INVESTMENT IN CRICKET—THE VITAL IMPORTANCE OF BROADCAST INCOME

Broadcasting revenue is vital to cricket

Few sports are as reliant on broadcasting income as cricket. Eighty per cent of our income comes from our broadcasting contracts. This revenue funds the majority of our grass roots and England Team programmes.

To put this in context, our broadcasting income is more than 10 times the sum we receive from Sport England (Lottery and Government investment), more than 10 times the figure we receive from sponsorship income, and 20 times the income we receive from the surplus on staging major matches.

In 2004 our UK domestic broadcasting income was £47.4 million and overseas TV licence revenues were \$2.7 million. However, to keep matters in perspective, cricket's total income is less than half the turnover of Manchester United so we have to target carefully all our investment.

Being the lifeblood of the game's financial health, broadcasting income provides the funds necessary for ECB to invest in programmes, facilities and initiatives designed to safeguard the future of the game in England and Wales. The following is a snapshot of the benefits we hope our investment will bring by 2009:

- our England teams (men, women and disability) to be ranked in the top two places in the world in Test cricket and the World Cup;
- 7,500 coaches and 85,000 volunteers registered nationwide to help teach the game to a new generation;
- a cricket centre of excellence within 30 miles of 85% of the population;
- an expansion in the number of ECB focus clubs from 165 to 1,000;
- 20,000 school and club coaching sessions, delivered by working alongside the Cricket Foundation and the Lord's Taverners to reintroduce competitive cricket into state schools and forge strong links between schools and local clubs;
- £5 million of ECB interest-free loans to clubs for investment in developing the game; and
- *Chance to Shine*—a project led by Mervyn King, the Governor of the Bank of England, which aims to raise £25 million, to be matched by Government funding to regenerate cricket in 30% of state schools. This project involves a total of 6,700 primary and secondary schools linked to 800 clubs.

Cricket currently invests 18.5% of our total income into the grass roots game, and it is critical that Lottery and Sport England investment continues to support this area. There is a substantial deficit of facilities for cricket in this country and we are doing our best to provide assistance to clubs and local communities in this area. An independent survey demonstrated that there was a shortfall of £50 million required in facilities development in cricket to achieve our minimum standards and this comes at a time when lottery support for sport has fallen.

We are working closely with the Department for Culture, Media and Sport to utilise the projected sources of income for ECB between 2006–09 with funding from the new National Sports Foundation which is much needed to support our Community and *Chance to Shine* projects.

We are proud at ECB that compared with Cricket Australia which invests 8% of its income in grass roots programmes, and set against the 5% target we set ourselves in 2000, that cricket in England and Wales invested 16% of its income in grass roots in 2004. This will rise to 18.5% in 2005 and we aim to raise that figure further to 21% by 2009. This demonstrates the level of investment made by cricket in grass roots activity over the past four years and that scarce resources have been invested wisely.

3. EXPLANATION OF OUR BROADCAST TENDERING PROCESS FOR 2006–09

The ECB owns the media and broadcast rights around the following international and domestic competitions and events:

International Cricket

- International Test Match cricket (7 x 5 day matches per year) all featuring England against an ICC full member touring nation;
- International One Day matches (10 x 1 day matches) all featuring England against an ICC full member touring nation;
- International Twenty20 (a maximum of 4 x Twenty20 matches featuring England and both ICC full member touring nations);
- Women's International ODI and Test cricket;
- England Under-19 Test and ODI cricket.

Domestic cricket

- Liverpool Victoria County Championship (144 x 4 day matches played in two divisions featuring the 18 First Class Counties);
- The C&G Trophy (73 x 50 over matches played in two conferences (North and South) featuring the 18 First Class Counties, Ireland and Scotland culminating in a final to be played at Lord's between the highest placed team in both divisions);
- The Twenty20 Cup (79 x 20 over matches to be played by the First Class Counties split into three regional conferences of six teams. Quarter-finals, semi-finals and a final.) The group stages of these matches are played in a three week window in mid-summer;
- The 40 Over League (73 x 40 over matches played by the First Class Counties split into two performance based divisions).

The Tender Process

On 9 September 2004, the ECB issued an Invitation to Tender (ITT) by which it invited bids for various packages of rights to commence from May 2006 for four cricket seasons. The ITT covered all of the ECB's broadcasting rights including live television and radio broadcast rights and television broadcast highlights rights to Test Matches, One Day Internationals, International Twenty20 matches and many domestic competitions controlled by the ECB.

Prior to issuing the tender, the ECB had held many meetings with broadcasters to explain the processes that would apply to our ITT and to begin a two-way dialogue as to the content and structure of an ITT that would create a competitive bidding process and realistic outcomes for both the ECB and broadcasters.

The ITT reflected the following strategic objectives of the ECB:

- to optimise revenues for the benefit of the game as a whole;
- to provide support and exposure for the ECB's commercial partners;
- to increase active participation in all forms of cricket and at all levels;
- to raise the level of exposure of cricket and reinforce the ECB's brands; and
- for cricket to continue to lead television innovation.

The ECB recognised that most television broadcasters would not have the scheduling capacity to bid for all matches (either domestic or international) which were covered by the ITT. The tender process was crafted in a non-discriminatory way so as to allow as many broadcasters as possible the opportunity to consider acquiring the rights to cricket coverage.

The rights were therefore divided into 27 packages consisting of live and highlights rights for each competition, both international and domestic. The different packages of live and highlights rights as set out in our ITT are attached as Annex 2 to this submission.

Broadcasters were not expected to bid for all matches of a particular competition, for example all seven Test Matches, but could bid for some (for example only three or five Test Matches).

A broadcaster could bid for part or the whole of a package or packages. A description of the 27 different packages is attached as Annex 2 of this submission.

The procedure adopted by the ECB gave television broadcasters a genuine opportunity to acquire the highlights package on fair and reasonable terms. The availability of the rights was generally known and yet no Category One broadcaster made a bid for highlights rights or for all Test Matches, for the first series of Test matches in a home season, for domestic cricket or for Women's or Under-19 International cricket.

4. THE ECB'S BROADCAST PARTNERS FOR 2006–09 (BBC, BSKYB AND FIVE)

Following the tender process, the ECB announced the following broadcast partners:

Radio: The BBC's radio coverage of cricket is rightly famous the world over, with Test Match Special recognised for its dedicated, thoughtful and entertaining broadcasting of cricket. There is also detailed coverage and reporting of cricket on Radio5Live. BBC radio also streams audio coverage worldwide by agreement with ECB. Our radio rights for 2006–09 are contracted with the BBC.

The Wireless Group Plc (TalkSport) secured the radio rights to broadcast Twenty20 matches as well as news access rights for the period 2006–09.

Television: The successful bidder for the package of live television broadcast rights to the Test Matches was BSKYB. The ECB received only one other bid from a terrestrial broadcaster in respect of the Test Matches, however this bid was for only the second series of Test Matches in each year, being four or five matches each season only and not all seven matches. To have accepted this bid for a selected few Test Matches, would have meant a reduction in cricket's income (in comparison to 2005) of £80 million over four years, 2006–09.

As confirmed publicly by the broadcasters, neither the BBC nor ITV bid for any of ECB's television rights in the period 2006–09 despite the rights being divided into 27 different packages, specifically to make the process accessible to all broadcasters.

Sky also secured the exclusive rights to live television coverage of the ECB's remaining domestic and international events. No other broadcaster showed any interest in televising any of the other cricket that was available.

Channel 5 was the only bidder for the package of television highlights to the Test Matches and was awarded these rights. A key component of the new arrangements is the agreement we have reached with Five that they will broadcast highlights of all major matches (except floodlit matches which will still be in progress) on terrestrial television between 7.15 pm and 8 pm.

This is a first for cricket. Children, families and working parents will be able to watch cricket in a guaranteed early evening slot meaning that those who have been at work and school can catch up on the day's play.

Extending a 16-year partnership with BSkyB

The ECB is delighted to continue and extend our relationship with BSkyB which has consistently demonstrated excellence in its cricket coverage. BSkyB has shown a real commitment to cricket through the 16 year relationship with the governing body for the game.

It was Sky who first introduced coverage of overseas Test Matches in 1989–90 and it is Sky who currently make available Test and One Day International cricket from around the world. Sky regularly cover Women’s International cricket, domestic competitions and Under-19 matches. Were it not for Sky’s commitment to global cricket, there is little question that cricket fans would not be able to enjoy this range of cricket on TV.

As part of our negotiations with BSkyB, the ECB was delighted to secure a range of special offers on Sky digital subscriptions exclusively for ECB affiliated cricket clubs and members of first class and minor County clubs. Full details on this package are attached as Appendix 3 of this submission.

5. GOVERNMENT AND REGULATORY APPROVAL RECEIVED

During its tender process the ECB was in regular dialogue with the Government and appropriate regulators to ensure that our arrangements fully complied with all relevant legislation.

The ECB’s broadcast arrangements for 2006–09 fully comply with existing Government broadcasting legislation (known as the “listed events”) and have been approved by the broadcast regulator Ofcom.

In response to calls to review the ECB/BSkyB contract, the Government has stated “It would be wholly wrong for the Government to prevent Sky’s contract with the ECB going ahead—and on what grounds? This is a contract that was won fair and square, by open competition”. The ECB concurs. An article written by Rt Hon Tessa Jowell MP in the Daily Telegraph on this subject is attached as Annex 4 to this submission.

The Listed Events

The broadcasting of major sporting events is subject to Government control through “the Code of Listed Events”. This legislation places restrictions on the type of broadcaster sports governing bodies can sell live and recorded highlights to, as well as certain specific events of “national importance”.

Domestic Test Matches are currently placed in the “B” list of events. This means that the live rights can be sold to any broadcaster, provided highlights are broadcast by a suitable terrestrial broadcaster (for 2006–09 this will be Five).

The decision to place domestic Test matches on the “B” list was made to the Government by an Independent Advisory Group on Listed Events in 1998. The Group was chaired by Lord Gordon of Strathblane CBE (Chairman) and its members included Kate Hoey MP, Alistair Burt MP, Michael Parkinson, Steve Cram, Clive Sherling, Jack Charlton OBE and Professor Sir David Wallace. They took the view that it was not appropriate for both financial reasons for the sport, and in recognition of the specific scheduling requirements of cricket, that Test matches should remain on the “A” list.

The Advisory Group’s recommendation was accepted by the then Secretary of State the Rt Hon Chris Smith MP, who stated, “My decision to accept the Gordon recommendations on cricket allows the sport more freedom to negotiate a fair price for flagship events”.

The ECB supports this policy position. It provides us with the flexibility to negotiate a fair value for our rights in the market place while ensuring all audiences have access to cricket. If Test Match cricket were to be placed on the “A” list meaning that the rights could only be sold to a terrestrial broadcaster it would greatly increase the risk of anti-competitive activity, and in all likelihood greatly reduce the amount the ECB has to reinvest in the game, thereby making the sport a less attractive television proposition.

In the case of our present deal, the cost to cricket of such regulatory intervention can accurately be judged to be in the region of at least £80 million over four years. The ECB would be interested to know if those who would support a return of cricket Test matches to the “A” list do so on the basis that the Government should make good this shortfall.

The CCPR Code of Conduct

In 1996, a number of rights-owning sports governing bodies came together to create a “Voluntary Code of Conduct for the Broadcasting of Sports Events”. This work was facilitated by the Central Council for Physical Recreation (CCPR), an umbrella trade association for some 270 organisations involved in the organisation of sport and recreation in the UK.

The intention of the Code was to establish the right of sports governing bodies to negotiate their broadcast rights free from legislative restrictions. The code therefore set out a number of principles that the signatories agreed to adhere to during the sales process of TV rights in return for limited legislative intervention.

The ECB were one of the founding signatories of the Code, along with the following domestic organisations—the Football Association and the FA Premier League, UK Athletics, the Lawn Tennis Association, the Rugby Football Union and the Rugby Football League, the Racecourse Association and the Royal and Ancient Golf Club of St Andrews.

Signatories to the Code recognise the key objective that coverage of major sporting events should be available to the general public through either live viewing, or recorded highlights programmes.

The Code also sets out that the objective of the sports rights holders is to ensure that they generate as much revenue as possible from their broadcasting rights for subsequent reinvestment in the development of their sports. Signatories to the Code agree to make every reasonable effort to strike a balance between these potentially opposing objectives.

Importantly, the signatories to the Code commit to reinvest into the “grass roots” at community level not less than 5% of the UK broadcast fees received from the sale of rights for events covered by the Code.

The ECB made sure it fully complied with this code during our recent negotiations, indeed we well exceeded the 5% commitment, reaching up to 18% of our revenues.

The Code has been referred to, and endorsed, on many occasions by important figures in the political debate about listed events. Perhaps most significantly, the then Secretary of State for Culture Media and Sport, Chris Smith, specifically recognised the link between the television broadcast sales process and investment in grass roots sport. In 2001 he said:

“Governing bodies are sometimes criticised for their dealings with broadcasters. Television deals often involve large sums, after all. But those who love sport find this more acceptable if it can be seen that substantial proportions are being invested for the good of sport at all levels. The Government will continue to work with governing bodies towards ensuring that television brings access to all sport.”

6. LOOKING FORWARD: A VIBRANT TELEVISION MARKET FOR CRICKET

The ECB wishes to see a vibrant broadcasting market with many channels interested in televising cricket. We hope that the success in the Ashes and the national interest this has created will increase interest and value in our future rights; indeed this surge of interest in cricket following the England men’s and women’s teams’ success can be put down to the level of investment which ECB has dedicated to identifying, nurturing, and supporting talent.

ECB has already offered to meet with a range of broadcasters to ensure that schedules and new opportunities can be identified to maximise the number of broadcasters which will express an interest in televising and transmitting cricket from 2009.

It has recently been announced that the BBC has agreed the rights to screen highlights of the Cricket World Cup in 2007. We are delighted that cricket is returning to the BBC in this way and that there will be highlights of England’s attempt to win this prestigious tournament.

Sport is an issue of immense national importance—not just in terms of its contribution to keeping the nation healthier and reducing crime but more fundamentally because it instils a set of core values especially amongst our young people and can bind communities.

The ECB would like to suggest that as part of the Charter Review of the BBC, that it is given an enhanced responsibility, and generates a new opportunity, to support the coverage and development of sport across the country.

Cricket poses very specific challenges to terrestrial broadcasters in terms of the longevity of some of its formats and the associated scheduling issues it carries with it. It is also not acceptable to viewers of live Test cricket or One Day International cricket to “dip in and out” of matches. It is important for the credibility of the event and the value to our commercial partners that matches are broadcast in their entirety. More than any other sport, a cricket match is a narrative in which the value can be attributed to many exciting events within the framework of a five day or one day time period.

The establishment of a dedicated BBC sports channel would create a platform that would mean not only more space available to schedule top-level sport, but also more capacity for the broadcasting of minor and developing sports, such as junior and women’s cricket. It would also allow the broadcast of coaching and training programmes plus other initiatives which BBC now successfully publishes online at www.bbc.co.uk.

The BBC has a long and proud history in covering sport. Recent statements expressing renewed interest in televising cricket are greatly welcomed by the ECB and cricket supporters. ECB further welcomes the statement that the BBC will be seeking to acquire rights at a fair market value. This policy is both enlightened and would not only protect the core revenue for the game of cricket but would also provide an opportunity for terrestrial television to transmit live matches of domestic and international importance. The ECB does not believe that a fair market price is one that has been rigged by cricket having been placed back on the A list. It is hardly a fair market if only certain channels are permitted to bid.

The Government has announced that it intends to review the listed events in 2008, with the advent of digital television. The ECB welcomes this decision. It is our belief that the availability of a digital platform in every home will make all channels more accessible to people, and that the general policy impetus for listed events would be a further relaxation rather than strengthening of the list.

Annex 1

LETTER FROM LORD MACLAURIN OF KNEBWORTH TO THE *TIMES*, 22 SEPTEMBER 2005

SKY MONEY AND FINANCING OF ENGLISH CRICKET

When I became the first chairman of the England and Wales Cricket Board (ECB) in 1996 the BBC had the television rights (letters, 17 September, etc) for a very small fee, English cricket was at a low ebb and there was little money to invest in the game.

My colleagues and I set about bringing more money into the game with the ambition of both our men's and our women's teams being the best in the world by 2007. The major step in bringing this about was negotiating to remove Test cricket from the "A" list, where terrestrial channels have exclusive broadcasting rights, to the "B" list, where we were able also to consider satellite channels.

We were able to broker a deal with Channel 4 and Sky, which helped to transform the game. We invested at all levels—the England teams being the priority.

England contracted players, we built the academy at Loughborough, we engaged Duncan Fletcher and his staff as well as introducing the two-division championship, divisional limited-over competitions and the Twenty20 competition.

None of this could have happened without the Channel 4 and Sky money.

The ECB renegotiated the TV contracts early this year. It was free to negotiate the rights with both terrestrial and satellite. As I understand it the BBC and ITV did not bid. Channel 4 made a bid that it could afford bearing in mind it stated that it was losing £20 million a year on televising cricket. Sky made a very substantial bid which was far and away the best financial deal for cricket. The ECB had no option but to accept it.

All cricket followers, I believe, would rather have had a balance between terrestrial and satellite. But it was not possible—the gap between the bids was far too great.

Sky has a great record in bringing Test cricket to our screens though I would hope that we can get back to a balance the next time round. But to put Test cricket back on the "A" list would be a financial disaster for the game. All cricket followers are thrilled with our "joint Ashes" win. But we need money to keep up the momentum.

Annex 2

SCHEDULE 1

ECB INVITATION TO TENDER (ITT)

The Packages of Rights—per season

International Matches

1. Test Matches (seven)—Live.
2. Test Matches (seven)—Highlights.
3. ODIs (10 all involving England team)—Live.
4. ODIs (10 all involving England team)—Highlights.
5. Twenty20 internationals (four)—Live.
6. Twenty20 internationals (four)—Highlights.
7. Radio rights to 1 above.
8. Web radio rights to 1 above.
9. Radio rights to 3 above.
10. Web radio rights to 3 above.
11. Radio rights to 5 above.
12. Web radio rights to 5 above.

Other Matches

13. totesport League—Live—minimum broadcast commitment of 30 Matches.
14. totesport League—Highlights—minimum broadcast commitment of 30 Matches.
15. C&G Trophy—Live—minimum broadcast commitment of one quarter final, both semi-finals and final.
16. C&G Trophy—Highlights—minimum broadcast commitment of one quarter final, both semi-finals and final.
17. Twenty20 Cup—Live—minimum broadcast commitment of 10 Matches plus one quarter final, both semi-finals and final.
18. Twenty20 Cup—Highlights—minimum broadcast commitment of 10 Matches plus one quarter final, both semi-finals and final.
19. Other—County Championship/Tourist Challenge/Under 19 ODI/Women’s International Matches/Cockspur Cup—Live/Highlights—minimum broadcast commitment of two County Championship Matches.
20. Radio rights to 13 above.
21. Web radio rights to 13 above.
22. Radio rights to 15 above.
23. Web radio rights to 15 above.
24. Radio rights to 17 above.
25. Web radio rights to 17 above.
26. Radio rights to 19 above.
27. Web radio rights to 19 above.

Annex 3

ECB MEMBERS AGREEMENT WITH BSKYB

SKY DIGITAL OFFER TO MEMBERS AND CLUBS

BSkyB and the ECB today announced special offers on Sky digital subscriptions exclusively for ECB affiliated cricket clubs and members of first class and minor County clubs.

The offers follow the award to Sky Sports of exclusive live rights to international and domestic county cricket in England and Wales, for seasons 2006 to 2009.

These special offers are:

- Members—All members of first class counties, minor counties, and the MCC will be eligible for special offers. New subscribers can get Sky Sports free for 12 months when they subscribe to any Sky digital package; paying as little as £15 per month for all five Sky Sports channels. Existing subscribers to Sky digital can upgrade their set-top box to Sky + for free when they take a Multi-room subscription for £10 per month. The set-top box, mini-dish and standard installation are free and the offers are open until the end of April 2006.
- Clubs—Sky are offering a special offer to all ECB affiliated clubs. The offer allows affiliated clubs to show the full range of Sky Sports programming in their clubhouses and pavilions for the reduced rate of just £90 per calendar month. The set-top box, mini-dish and standard installation are free.

ECB Chief Executive David Collier said: “I think this is an outstanding deal for clubs and county members and one that could also form part of a membership drive by counties. We are extremely pleased with the offer from Sky which will enable cricket followers to subscribe to Sky Sports for £15 per month. We are also grateful for Sky’s continued and loyal support of cricket.”

Robert Tansey, Sky’s Director of Sports Marketing, said: “These are special deals purely for the clubs and their members. When we were awarded a new contract for live cricket last year we promised a good offer to clubs and their members. We are sure they will be pleased with the deal we have delivered and delighted with our live coverage over the next four years.”

Sky Sports have exclusive live rights to all international and domestic cricket in England and Wales from 2006–09. Coverage will include exclusively live coverage of every Test and One-Day International and exclusively live coverage from each of the domestic competitions.

Sky Sports have also followed England live every winter and will show each of the five One-Day Internationals and 3 Test matches exclusively live from Pakistan this winter. Next winter the Ashes tour will also be exclusively live on Sky Sports.

Sky Sports also features live coverage of: Barclays Premiership, UEFA Champions League and Coca-Cola League football; international, European and domestic Rugby Union; Super League and tri Nations Rugby League and live golf from the PGA European Tour, US PGA Tour, US Open, PGA Championship and Ryder Cup.

To take up one of these offers, new domestic subscribers should call 08701 942 074, existing domestic subscribers should call 08702 403 479, and Clubs should call Sky Business on 08702 40 40 30—quoting “Company offers/ECB”.

NOTES

Members

Standard prices—The standard price for subscription to the five Sky Sports channels, and a range of other programming, through Sky digital is £34 per calendar month.

Sky Multi-room—Enjoy all the same great channels you get with your main Sky TV subscription on another TV in the same home; you can watch cricket in one room whilst another family member watches Sky News, for example, in another room.

Sky+ is a digital video recorder and receiver in one; it lets you record and store your favourite programmes so you can watch them whenever you like. You can even pause and rewind live TV and with over 40 hours of recording time you will always have something you want to watch.

Clubs

The channel packages available from Sky Business for clubs are:

1. Sky Entertainment Package with Sky Sports 1 and Sky Sports 2, plus Sky Sports 3 as a bonus channel and Sky Sports Xtra as an additional channel—£90.
2. Sky Entertainment Package with Sky Sports 1, Sky Sports 2 & Sky Movies 1, plus Sky Sports 3 as bonus channel and Sky Sports Xtra as additional channel—£95.
3. Sky Entertainment Package with Sky Sports 1, Sky Sports 2 and Sky Movies 2, plus Sky Sports 3 as a bonus channel and Sky Sports Xtra as an additional channel—£95.
4. Sky Entertainment Package with Sky Sports 1, Sky Sports 2, Sky Movies 1 and Sky Movies 2, plus these bonus channels: Sky Cinema, The Disney Channel, The Disney Channel + 1, Playhouse Disney, Toon Disney, Sky Sports 3 and Sky Sports Xtra as an additional channel—£100.

For more information, media should contact the ECB communications department on 0207 4321 200 or Sky Sports publicity on 0207 800 4254.

Annex 4

ARTICLE BY RT HON TESSA JOWELL MP, SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT THE DAILY TELEGRAPH, 14 SEPTEMBER 2005

ECB WERE IN AN IMPOSSIBLE POSITION OVER TV RIGHTS

It has almost been possible to touch the fervour and the sense of excitement over England’s Ashes win. It was, as the Telegraph said, a glorious end to a summer that began with our success in bringing the Olympic Games to London.

I saw that champagne mood building up at the Oval on Sunday and uncorked in Trafalgar Square yesterday. But I know that—as well as the joy—there is concern among some *Daily Telegraph* readers that there will not be live Test cricket on terrestrial television for the next four years.

It is important to be clear how this happened and what will happen next. In 1998 Test cricket was removed from the list of sporting events that have to be made available to all viewers—at the specific request of the England and Wales Cricket Board.

They sought this freedom so they could maximise their income from selling broadcasting rights to the highest bidder: crucial, since 80% of the ECB’s income comes from that source.

It is a matter of public record that the BBC did not bid for the new television contract. Not for live cricket, nor recorded highlights, not for five-day games, not for county cricket, nor Twenty20.

ITV did not bid either and the offer involving Channel 4 was too low. Had it been accepted—instead of Sky’s offer for all the action—the sport would have lost almost £100 million over four years—money vital to the future not just of the national team, but also to cricket at grassroots level and among our young

people. The cricket authorities have been in an impossible position: between a rock and a hard place. As W F Deedes recognised in this newspaper last week, cricket needs this money to build a brighter future. If cricket did not have this income because ministers tied its hands we would rightly be criticised.

It would be wholly wrong for the Government to intervene to prevent Sky's contract with the ECB going ahead—and on what grounds? This is a contract that was won fair and square, by open competition. I am confident Sky's coverage next season will be first class and their enterprise and imagination will help spread cricket's message.

When it comes to the future, I announced yesterday that it was my intention that there should be a review of the list of events that should be accessible to all viewers. This will happen around 2008 or 2009, as Britain begins the switch-over to digital television—a move which will transform TV in this country. This is the right time to weigh up these complex issues as the new shape of British TV starts to emerge.

Government has a role: to protect the public interest and the availability of treasured national sporting events in the new digital world. However, the challenge for all of us is to think not just what cricket has done for us in the last two months, but to think what we can do for cricket.

That means people getting back to old habits and actually going and watching cricket—supporting England in big numbers again next summer and developing something of the same affinity for county teams that football engenders.

That is a big challenge to cricket to build on what has been achieved at Test level and with Twenty20. To make the likes of Vaughan and Flintoff, Pietersen and Jones role models for new generations, not just one-summer wonders.

To take the game to our town and cities, using the big screen idea developed so successfully with "Cricket in the Park".

So in four years' time, when Australia return, I hope the cricket authorities will be wondering if grounds like the Oval are big enough to satisfy all the public demand.

So that parents will encourage their sons and daughters to watch the highlights on Five from next year, but also—and much more importantly—to watch their heroes in the flesh and play themselves. That means schools having a big role and I am delighted at the work the Chance to Shine campaign to get cricket back into state schools.

This summer could be the moment when cricket is re-born as our national summer sport—not just on television, but in playgrounds, sports fields and indoor centres the length of our country.

16 November 2005

Memorandum submitted by the Professional Cricketers' Association

INTRODUCTION

The PCA is the trade union for and representative voice of all professional cricketers in the first class game in England and Wales, including the Team England Player Partnership which protects the commercial and cricketing interests of the current England squad. We have been asked to provide the player's perspective on the 2006–09 broadcasting deal with BskyB and Five (and BBC for Radio).

THE PLAYER'S PERSPECTIVE

Professional cricketers are the primary stakeholders in the game as a whole. They are the product commercially and the group most reliant on the commercial viability and success of cricket and it is obviously of great and compelling interest to them how the game generates its revenues and sustains itself. The vast majority of our members play county cricket and, consequently, have enjoyed television exposure only on Sky Sports for the past six years except if they've been fortunate enough to reach a C&G final at Lords. All of them have the highest regard, therefore, for the excellent coverage given by Sky without which their exploits would not have been enjoyed by any sort of broadcast audience.

In the international context, Channel 4 has been a fantastic broadcaster and have pioneered coverage that has taken the broadcast of Test cricket to levels we could not have envisaged before their involvement. We are hugely grateful to them for six years of outstanding coverage. Similarly, BBC's Test Match Special programming rightly holds iconic status worldwide and their TV coverage of the first year of the Twenty20 competition made a massive contribution to the exponential success of that new format. Nevertheless, cricket's relationship with its broadcasters is ultimately a commercially driven symbiosis. We and our members have never been under any misapprehension that the primary consideration for a broadcast deal has been revenue, because it generates 80% of our central income. This meant that the value of the deal has, at least since 1998, taken overwhelming precedence over the other considerations such as reach, quality, scheduling and accessibility. This is not to say that these things are not important and that they would not be valid points of comparison between bids that were close in commercial terms, but that is in an ideal world and that was certainly not the case in the 2004 process currently being reviewed.

In recent months there has been a huge amount of debate on this subject and we expect the committee will receive many different views. The PCA can testify to the awesome difference the increased revenue that has come into cricket since the list B free bid in 1998 has made to our members and the fortunes of English cricket. Since 1998, the increase in central revenues has allowed the ECB the resources to:

1. Centrally contract England players with the result that England have risen four places in the Test rankings to become the second best team in the world.
2. Make unprecedented investment into National and County academies to ensure a vibrant and successful future for our game and provide outstanding opportunities at all levels to young players and aspiring professionals.
3. Increase insurance cover for players injured during their careers.
4. Massively increase investment in Community Cricket through Chance to Shine and other initiatives that expose many youngsters to our game, provide a positive influence in often deprived areas, provide our members with opportunities to coach and contribute positively to the lives and sporting aspirations of young people and employ past professionals.
5. Increase our funding to enable us to provide benevolent and charitable aid to past professionals who have fallen on hard times.
6. Fund an excellent education programme for professionals preparing them for a second career after cricket.
7. Ensure through judicious deployment of resources that the England teams (including youth and women's cricket) at all levels are properly supported and developed for sustainable success.
8. Ensure a robust anti-doping programme and drugs education programme that addresses and drives our efforts to be a drug free sport and provide role models to the wider community.
9. Fund and drive the reintroduction of cricket to schools with all of its health and welfare benefits.

A reversion to survival on considerably lower central revenues would be disastrous in both the short and medium term and would negate so much of the great work and advances we have outlined above. Our primary concern would be that many of our members would lose their jobs (County payrolls and budgets are already strained), the professional game would become less attractive as a career choice for young athletes (tempted by many different sports with more money and better benefits) and our ability to support our members in their post cricket career options would be severely limited. Opponents of the Sky deal predict many bad outcomes to the removal of cricket from free to air TV. Our belief is that these predictions are far more likely to be achieved by an outcome to this review that forces our game to take lower revenues for our broadcast rights. Opponents of the Sky deal would unfortunately, if successful, cause the opposite effect to that which they predict except that they would be able to watch the inevitable decline on free to air television.

The motivation and interest of the Free To Air campaigners is beyond question and we recognise their valuable contribution to the public debate. We have every sympathy for those people who will not be able to watch England on TV from next season for whatever reason, but the esoteric and commercially unsustainable reasoning put forward by opponents of the Sky deal seeking review of it do not attract the sympathy of our members because they do not address how our members and the game are supposed to cope in the interim. It is all very well to point to long term (and perfectly laudable) aims, but it has little value if those aims are fundamentally undermined in the short term by cutbacks, redundancies and scrimping because central revenues are cut.

CONCLUSION

The PCA and its members are grateful to Sky for bidding generously for the rights to broadcast our game. We are confident they will do an outstanding job of it and that they will work closely with ECB, as they have for many years already, to expand the reach of our game. It is of course, ultimately, in Sky's best interests for cricket to grow and remain attractive and they will no doubt be as innovative in ensuring this happens as they have been in their coverage of the game. Of course our members would love to play in front of the larger free to air audiences, but most of them outside the national team set up have not done so for many years and most of them recognise the commercial reality of cricket's situation and support the excellent deal done by ECB on their behalf. We are also grateful to the Culture, Media and Sport Select Committee for the opportunity to make these submissions. Our final point is that the real opportunity offered by this review is to address early the issues that will undoubtedly arise in 2008 and 2009 when the next broadcast deal is negotiated. In our view the inevitable sea changes that will occur in the broadcast landscape between now and then will give rise to serious challenges for cricket and all sports. For example, it will be crucial to understand the differences between different methods of digital content delivery; television, the internet, 3G and new mobile technology and cater to these different markets in innovative ways. The PCA/TEPP receives 8% of the rights and will monitor closely how matters are dealt with towards the end of this decade and this

Committee should rest assured that we will do all we can, as proactive shareholders in the broadcast scenario, to ensure that the interests of our great sport, its supporters, players and other stakeholders are protected and enhanced by any decisions made.

23 November 2005

Witnesses: **Mr David Collier**, Chief Executive, England and Wales Cricket Board, and **Mr Richard Bevan**, Chief Executive, Professional Cricketers' Association, examined.

Q1 Chairman: Good morning, everybody. This is a half day special hearing of the Select Committee into the issue of the sale of broadcasting rights for cricket specifically. It is perhaps a consequence of the remarkable success of the English team in regaining the Ashes, and I think the Committee would like to begin by reiterating our congratulations to the England team on that success, but it has made the whole issue of the sale of broadcast rights much more controversial, as you will be aware, and therefore we felt it appropriate that we should have a look both at the issue of whether or not cricket should be on the A list, and also specifically what happened when it was moved to the B list in 1998 and the contractual negotiation which took place for the future broadcast. Can I begin by welcoming David Collier, the Chief Executive of the ECB, and Richard Bevan, the Chief Executive of the Professional Cricketers' Association. Your agreement that future live coverage of Test matches should be available on Sky, but no longer on free-to-air, means that obviously those who are not subscribers to a pay channel will not have the opportunity in future to watch live coverage of test cricket. There will be none, let alone the substantial coverage which Chris Smith envisaged when he originally moved Test matches from the A list to the B list. Whilst that has been approved by Ofcom as being within the terms of the legislation, would you accept that many people feel that the ECB has broken what was a gentleman's agreement between the ECB and the Government at the time that decision was made?

Mr Collier: Thank you, Chairman. If I could take that question first of all. In 1998 Lord MacLaurin and the ECB were very keen to persuade the Government to remove Test match cricket from the listed events list. We believe that being listed not only restricted competition but it artificially reduced competition during that period. You just have to go back to the period pre-1998 to look at what happened. The value of our broadcasting deal for cricket in the period when cricket was restricted to the A list was £33 million over four years. In real terms that is at least five times less than where we are at present. As a result, at that time cricket was in decline, there is no doubt about that. Pre-1998 we were eighth in the world rankings and there were only two of what we could call the more minor nations below us. We did not have the resource to invest in our grass roots programmes. The Independent Advisory Group recommended that cricket be moved to the B list and the Government agreed. I think it is thanks to the leadership of Lord MacLaurin and the sound judgment of the board at that time, I believe, that the new income generated was reinvested not only in raising the standard of the

England international side through the development of the National Academy and the network of county academies that we now have, but were also invested in the grass roots activities more than we had ever done before and that created a massive increase in participation. Because of that, we are now number two in the world and, as you kindly said in your introductory remarks, Chairman, to win the Ashes back this summer was a summer of success. As I understand it, Lord MacLaurin stated that the ECB would treat the new position in the round, would seek a mix of broadcast partners, and that was, and it remains, our aspiration. It was not a binding contract, as I think we have seen in the submissions. As it happened, the next two broadcasting contracts reflected that balance, not only with the Channel 4 entry into the market and sharing the Test with Sky, but also with our broader broadcasting arrangements as well. That was six years ago. The new contract needs to be judged on what we now see as the prevailing circumstances. If we take the situation now, what are the changes over that six-year period? We have now got multi-channel television far more available than it was at that time and terrestrial broadcasters either did not bid a year ago or had to determine to put in lower bids. There is a different balance in the financial strength of the different broadcasters, who I know you will be hearing from later this morning. Also, because of contracts, the scheduling for some broadcasters did make it very difficult to cover Test match cricket. We play seven Test matches a year, that is 35 days cricket of eight hours a day. We do recognise that does create some scheduling difficulties for some broadcasters. The summary was, as Lord MacLaurin said in his letter to *The Times* on 22 September of this year, the ECB had no choice but to accept the current deal, and we concur with that. I am sure we will come on later to what the impact would have been had we gone for a different arrangement.

Q2 Chairman: Can I just clarify that. You believe there was a sort of understanding at the time that the agreement was made in 1998 that there was a strong case for at least some of the Test matches to continue to be shown live on free-to-air television, but that the change in the broadcasting mix means that understanding is no longer a requirement and you now feel you have greater freedom to move to a pay channel?

Mr Collier: I think there has been a substantive change. Those factors that we went through really do determine that there has been a massive change in the marketplace. I am sure we will come on to why

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people were not able to bid and what scheduling constraints there were. As I said, it was, and remains, our aspiration to get a mix wherever possible.

Q3 Alan Keen: Can I say first of all I am joint secretary of the Lords and Commons Cricket Club and cannot wait for the nets to start in February. I am a real enthusiast. I am in a genuine dilemma over this. I did not sign John Grogan's EDM because I wanted the thing to be discussed openly. I think this is an ideal example of where a Select Committee can be of great value because it gives everyone the opportunity to bring their views forward and feel at least that their views have been considered. I have got to be very vague on this because it was private casework, but I was approached by the mother of a well known cricketer a few years ago with a housing problem and I said to her, "If he had been a footballer he could have bought you a new house". He was really quite young then but if he was a footballer his family would have been paid a lot of money for him to be signed to a professional club. I saw that dilemma straight away at a very early stage with that excellent example. What efforts did you make to try to get a good spread of cricket with other broadcasters rather than it all going to Sky?

Mr Collier: I think the answer to that is when the tenders were produced there was extensive discussion with a whole range of broadcasters about how the tender could be made available to as many broadcasters as possible. As we have submitted in our written evidence, that ended up with 27 packages but really those 27 packages were only the tip of the iceberg. If you look at the case where people had taken all or part of each of those packages, the number of combinations that could have been bid for was many, many millions. What we tried to do was to create a whole range of options that people could bid for. I think one of the things that came out of the process was that there were issues with scheduling, we recognised that, and there were issues with the amounts of money that could be paid for those rights. I think one of the great benefits that has come out of the current agreement is that cricket will be shown on Five on highlights between 7.15 and 8 o'clock. Everything that we understand and have learned from our research and the comments we get from spectators and great supporters of cricket is that is the time when children are home from school, that is the time when mum and dad are home from work, and it is very, very important that in the peak evening hours people can see cricket. We made strenuous efforts to make sure that cricket was on at a peak time. We believe 7.15 to 8 o'clock is the right time to show cricket for both children and mum and dad home from work throughout the whole of the cricketing summer. We can paint a picture then of the summer and the summer of success of British cricket.

Q4 Alan Keen: Did you feel it was impossible to get a better bid from other broadcasters? What comments did they make about it when you were trying to get a competitive bid? What sorts of problems did they raise with you?

Mr Collier: I am sure the broadcasters will outline their own concerns later in terms of why they could not bid. Certainly from a very early stage it was clear that scheduling was going to be an issue. Clearly cricket is almost unique in that we are talking about for just Test matches 280 hours of coverage and then you add on to that 12 One Day Internationals and you are talking about another 100 hours. To try and free up that amount of time throughout the whole of the summer, we recognise is not easy for some schedulers. I think that was the main issue that we hit time and time and time again. In our submission we talk about whether dedicated sports channels are going to be able to help that in the future and we believe they possibly could. We also believe that the mix that we have got, particularly having the highlights on at a peak time, is very, very important.

Q5 Mr Sanders: Can I just establish, Mr Collier, that you were not actually Chief Executive at the time of the deal.

Mr Collier: I was not. I have only been Chief Executive since January of this year, but I have been a director of the board for a number of years, so although I was not directly involved in those negotiations obviously I was aware of the developments as they were going forward.

Q6 Mr Sanders: Did any of those involved in the negotiations from the ECB side at that time stand to gain from the deal that was struck?

Mr Collier: Not in a personal capacity, no. Clearly the game of cricket stood to gain from the deal. I think one of the things that we were very anxious about was that we did not go back to the bad old days. There was an £80 million differential between the two bids, the mixed bid and the bid that was accepted. If you allow for inflation over the three or four year period, the deal that has been accepted only maintains the current level of investment from broadcasting that we receive. Seeing as that is 80% of our total income, it was absolutely critical to the game. We cannot invest in grass roots activity, we cannot invest in a successful England team without some flow of income. We did an independent survey as part of a major strategic plan that we did earlier this year called *Building Partnerships* where there was more than a £50 million shortfall in just base facilities for cricket. Children need practice facilities, they need artificial turf pitches and they need clubhouses being renovated. We determined that it was particularly important to address those facilities issues. I think you have got to put that against the backdrop of a substantial fall in Lottery income over the last few years. We have not been getting the levels of investment that we probably need to be able to put into grass roots. It is something we have worked very hard on with the Department for Culture, Media and Sport and I think the Minister and the Secretary of State have been most helpful in trying to identify new sources that we can tap into. We are not as well off as we were a few years ago from Lottery income. We have got to invest in the future through facilities and that is particularly important for young children. It is no good us creating a huge amount of

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interest in the game and then not being able to deliver participation for those children, that is only going to create a huge frustration level. What we have done is safeguard the current income streams. We have allowed not only children to receive some facilities from grass roots investment—in 2004 that was 16.1% of our income; this year it is 18.5% of our income; our strategic plan takes that to 21% of our income—but I am sure Richard could talk about the impact it has had on the England team with the England central contracts, with the National Academy and the county academies throughout the country.

Q7 Mr Sanders: Can I just ask this question: which is better for promoting interest in cricket, attracting external sponsorship, revenue streams and inspiring the next generation of cricketers, is it less than 200,000 people watching on pay-per-view or seven to eight million watching through universal access?
Mr Collier: I can answer that very simply. I think the honest answer to that is the success of the England team is what drives that interest. We have seen that in the last three or four years.

Q8 Mr Sanders: Was that not achieved in a period when there was universal access? None of that success came after that deal, all of that came before this deal.

Mr Collier: What you have got to recognise is that the changeover from listed events created that platform. We had £33.5 million, as I said earlier, in terms of four years of investment from broadcasting income and that has now risen to a figure of £220 million for the next four years. That has allowed us to invest in the England side. That is what has created the National Academy, that is what has created the county academies, that is what has created the investments in club and school links and that is what has created the next generation of cricket coaches. We cannot survive without any income within the game. I think what has happened is that investment has been used very wisely, it has created the next level. We have got highlights on from 7.15 to 8 o'clock in the evening so children can watch that regularly, and I think it is wonderful that you can see it.

Q9 Mr Sanders: Highlights on what?

Mr Collier: Five.

Q10 Mr Sanders: Which 25% of the population cannot receive.

Mr Collier: Ninety-two per cent of the population receive Five now. I am sure Five will answer that for themselves in the later evidence in terms of how they do it. Our figure, that we have gone through with Five, is that currently 92% of the population can receive Channel Five.

Mr Bevan: I think on that point, the Twenty20 Sky coverage and the 500,000-plus people who have seen the Twenty20 games has been a massive, massive surge. We have seen that commercially on and off the pitch. We have seen more interest in the game. That is down to Sky and the coverage. I totally agree

with David's point that once you have a successful product and once you have got winning on the pitch then a lot of other things will follow, but you must have short-term revenue to build that platform to deliver in the first place.

Q11 Mr Yeo: I start from the same position as Alan, I am a lifelong cricket enthusiast and I sympathise with the difficulty of the decision you have made. I rather thought, given the subject matter, we might have the monitors switched on to Lahore so we could keep in touch with what is going on there. Did you try to make any assessment of the monetary value of the much larger audience that Adrian has just been talking about? Clearly there must be a value to reaching a huge number of extra people and, indeed, sponsors. I entirely understand the point about success being crucial but, equally, if your name is there on the screen because it is on the pitch and you are reaching five or ten times as many people, that does have a value, does it not?

Mr Collier: I think one of the reasons why the broadcasting arrangements had to be finalised this time last year was that our main sponsorship properties, and for us that is the Test Series, Team England sponsorship, were due to be renegotiated at that time. Clearly the sponsor wants to know what platform they are looking at. After the announcement of the broadcasting contract was entered into, we entered into those discussions with our long-term sponsorship partners and new agreements have been concluded with Vodafone and with NPower to cover both the Team England sponsorship and the Test match sponsorship, and they will deliver a minimum of a 5% increase in income. That is in our sponsorship revenues. That could rise to 15% dependent upon performance. The fact is that whilst broadcasting is a very, very important element in sponsorship, the success of the England Team is equally crucial. The front and back page coverage of the press is something else that is measured very closely by sponsors. You ask if we had taken any advice on that, yes, we did, we employed one of the top agencies in the world, Octagon CSI, who advised us on broadcasting deals and all elements of the deal were looked at at the time. I think the fact is that sponsorship has gone up since the broadcasting deal was struck and I would agree with what Richard said earlier, a lot of that is down to the success of the England team and the investment that has been made over the last five or six years.

Q12 Mr Yeo: Looking at the comparison with golf where the Open Championship is not an A listed event but the R&A have chosen to keep it with BBC, although no doubt they could also multiply the fee they charge for it if they chose to move to Sky, is it not the case that in golf, and perhaps in other sports as well, reaching a large audience—Nick Faldo, for example, attributes his taking up golf to watching the Masters on the BBC when he was 12 years old, and I think Andy Flintoff may be in a similar position of saying he watched television. Is there a

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concern that you will lose the ability to inspire some potential cricketers because they will not see it on television in real time?

Mr Collier: I think I would have a huge concern about inspiring young children if we were not successful. We get back to what we believe is a critical point: if we could not invest in England central contracts, if we could not have a National Academy, if we could not have county academies or facilities around the country, we believe that the role models would not be created. Certainly Flintoff, Vaughan, Pietersen, have all created new role models. Kevin Pietersen is probably a very interesting case in that Kevin had never been seen on any channel apart from Sky before the series started and yet he was suddenly a major role model and major personality in English sport. He has become a role model and a lot of that is due to the media coverage, the press coverage. I do believe that the success of the England side is what drove that interest. I do not know if you want to add to that, Richard.

Mr Bevan: Certainly from the players' perspective over the last three or four years the investment that has gone into the whole structure of Team England has been immense, right from basic things such as permanent and temporary disablement insurance, healthcare products, down to the winning on the pitch. The academies and the backroom staff, the specialist coaches, the investment that has gone in saw the success of England in the Cricket World Cup. I think the whole package that has gone into Team England and the investment has taken us from eighth place to second place. It is that continued investment that will need to be there if we are going to continue to try and strive for that number one place.

Q13 Mr Sanders: You raised the fact that these personalities—Flintoff, Pietersen and others—have become personalities because of universal access. They would not have become personalities if that Test series had only been restricted to pay-per-view. Can I also say, the investment that is taking place in grass roots, coaching and all the rest of it, is laudable but that came not out of this deal but before this deal, out of previous television deals that included universal access.

Mr Collier: The interesting point you raise is the previous television deal. We said right at the outset that the new deal going forward is of no greater value allowing for inflation than the last deal. Let us say we had taken another option and had an £80 million reduction in our income, those facilities would not have been there, that would have changed. The other point to make about Kevin Pietersen is Kevin was on billboards around the country, the BBC used Kevin to promote the Ashes series prior to the series. He was a major personality. He had not been on terrestrial television at that time. There were other avenues. What is wonderful with a broadcasting media and a media that is getting broader and broader is there is a whole range of opportunities for people to access. That can be

mobile, it can be broadband, television, terrestrial, satellite, the written media. There is a much broader range than we have enjoyed in previous years.

Q14 Chairman: Can you just say a little more about the consequences had you not gone for the Sky deal? You say that it would have resulted in a fall in income of around £80 million over four years but what would that have meant for the game? How would you have made the cuts necessary?

Mr Collier: Cricket is not a wealthy sport. Let us put it into context: our annual turnover for English cricket is about half the turnover of Manchester United, yet we have got a responsibility for the game throughout England and Wales. We have got fairly scarce resources to be able to invest in the game. A reduction of 40%, so going down from an annual turnover of something like £70 million to below £50 million, would be dramatic. Any company that reduces its investment by 40% is bound to suffer as a consequence of that. It would have meant that certainly the whole of our grass roots programmes would have been in severe difficulty. Clearly our National Academy and county academies network could not have been funded to the same level as it is today. We are proud of Loughborough and we believe it is a world leading National Academy, but could we have had the sport infrastructure below that? What could have happened to the counties around the country? We have got an infrastructure which operates quite well as our marketing arm for its national team. We are one of the only countries in the world that gets very, very large Test audiences on a regular basis. Part of that is because that game has been promoted at all of the different centres. I would venture to suggest that a number of those counties could not survive. I think that was a point Lord MacLaurin made in 1998, that the game was struggling financially. We have taken the game up much more positively, we have invested in the grass roots, we have managed to sustain what we believe is the right infrastructure and we are investing in England teams and could not have done that without this income.

Q15 Adam Price: Presumably it is the position of the board that you do not want cricket restored to List A come the revision by the Secretary of State in 2008-09. Is not implicit in that position the idea that home Test matches played in England, or Wales, are somehow less significant sporting events in the life of the two nations than the Scottish FA Cup Final is in Scotland or any of the listed events? Is not implicit in your position that cricket is somehow a minority sport, therefore fit to barter away and leave it in the position of having a minority audience? Are you not undermining the position of cricket as an important part of the sporting culture of this country?

Mr Collier: Absolutely not. In fact, just the opposite: we think being on the B list promotes the game and creates investment. Where there is a difference to other sports is the 1998 Lord Gordon report, the Independent Advisory Group hit the nail on the head in that for events such as golf, which we talked about earlier, and cricket are played over a much

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broader period of time. Let us just take that back to where the FA are with football: just 90 minutes is on the A list with the FA Cup Final of the FA's products. With tennis it is just the Finals at Wimbledon, possibly five hours' coverage. Rugby League is 90 minutes, the Challenge Cup Final. Earlier we talked about the Test Series being 280 hours. To me, that is a very, very, substantive difference. We believe that the impact on cricket, were we on the A list receiving £33 million a year, would be severe. We believe it was an enlightened decision to move Test matches to list B and because of that cricket has flourished. We have had six consecutive series wins. It is not just the Ashes Series. It is not just the men's side. It is the men's side that hits the headline but our women's side has been hugely successful because of the investment side. Our blind side has just won the Ashes. Our learning disability side are out in South Africa at the moment. Our deaf side are going to the World Cup. It is a massive range of activity. Our under-19 side were unbeaten last summer. All of that shows that it is not just the very top level, it is the whole layer that has been invested in that is proving a success and a successful foundation for English cricket.

Q16 Adam Price: Does not being on the B list put you on the B team in terms of the sport? Surely there should be at least a kind of crown jewel within cricket that should be available? Why is it that we are told Australia, New Zealand and India have all kept their cricket on free TV? We are told Sky Sports have agreed that primary rights to all domestic cricket in New Zealand should be available on free-to-air television. Is it seen as more important in those countries than it is now in England and Wales?

Mr Collier: Not at all. Australia is quite an interesting example because obviously there was a major change in Australia when World Series cricket commenced and Channel 9 became a long-term broadcast partner. Channel 9 pay substantively more in rights fees as a terrestrial broadcaster than we have enjoyed in this country. Every country is different, every country has a different mix. If our income was reduced by £80 million, we do not understand who is going to fund that shortfall. Discussions we have had with DCMS in terms of the amount of funding that is likely to come forward for the sport does not indicate that there is going to be very large sums of money available for public sector support of sport. We have expanded our commercial income hugely. We have just launched a very ambitious project called "Chance to Shine" to raise £50 million to bring cricket to, or rejuvenate cricket in, state schools, we are raising £25 million through the Cricket Foundation from private sector funding to be hopefully matched by government and we have currently raised £7 million of that £25 million from the private sector and government has so far committed £2 million through the Football Foundation towards that project and we hope that there will be, and we have had some very good discussions with the Secretary of State regarding a National Sports Foundation and whether that can help bridge some of the gap in terms of the matched

funding from government. We still come back to the same basic question: where is the £80 million shortfall going to come from?

Q17 Adam Price: With new opportunities, and there are new digital platforms developing which will become increasingly important over the next few years for TV via the Internet, but also TV by mobile telephony, have you bundled those rights in the existing view or have you kept them separate as a new lucrative market for the Board?

Mr Collier: There were a number of rights packages, as mentioned earlier, 27 different rights packages. We do believe that other markets are emerging and I think the Secretary of State has said that in the lead-up to the switchover from analogue to digital, that is the time to have a look at rights. Certainly I think that we would be only too pleased to contribute to a review of digital technology as it goes forward. That market is not mature at the moment, we know it is not mature yet, but I think that there are opportunities that are going to be out there and I think that that is recognised in some of the EU opportunities that are coming forward and some of the reviews they have been taken forward, and particularly with TV Without Frontiers I think there will be a review of digital technology. Clearly we have taken our mobile wireless rights, Vodafone have taken those on board for us, and they will be delivering six new, what we call, "incidents" per hour per international match and if there are more than six wickets, they can actually show all the wickets. There will also be Internet day clip highlights and ECB retains the rights to deliver highlights via the official website, that is ecb.co.uk, so we shall show highlights on that platform and that will be three minutes per session of all international matches, so we are embracing those new technologies and we do believe that that is something that will come forward and, by the time of the next broadcasting agreements, I am sure will be far more prevalent than they are today.

Q18 Paul Farrelly: Mr Collier, are there not essentially two issues here? The first is: what is best for the development of cricket? The extra money that you can put in is clearly going to be a conflict with the ability of television to enthuse particularly younger players and that is a similar issue faced by, for example, the rugby authorities following England's World Cup success in Australia. However, is the second point that, irrespective of what you think about the merits of listing, you have wriggled out of a commitment which Chris Smith, the then Secretary of State, thought he had, and Lord MacLaurin, to show a majority of live Test matches on free-to-air television and have you not wriggled out of that commitment because you found that actually, when you looked at it and the conditions, it was not really worth the candle?

Mr Collier: No, I do not believe that is a fair summary. I think, and we mentioned this earlier, that the independent advisory group recommended that cricket move to the B list. There have been a number of circumstances which have changed very

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substantially since that agreement was brokered, the contract for the last television and broadcasting deal, the fact that multi-channel television is far more available, and the fact that terrestrial broadcasters did not bid, I think, is very significant in that environment, and we cannot force people to bid in those environments, nor would we think that that is our role. I think there has been this different strength of financial broadcasting and I think that what we have done is make sure that we have safeguarded the future of the industry. We just could not, as a fiduciary duty of the Board, accept a deal that would reduce the income of the game by £80 million. If we reduced the income of the game by some 30 or 40%, how do I explain if I go to Duncan Fletcher and say, "By the way, we are going to close the national academy. By the way, we can't have central contracts"? If I go to local clubs, and we have thousands of clubs desperate for cash, we know we want to put more into them and we know that we probably would like to put in a lot more than we do today, but we cannot do that in an environment where our income is going down by 40%. I think Lord MacLaurin himself summed it up very well in his letter to *The Times* and the fact that the ECB had no choice, except for the current deal, and most experts or many experts who have looked at the deal, whether that be Ofcom from a regulatory and legislative point of view, whether it be the Secretary of State in the comments that she made in the press or whether it be Lord MacLaurin, they have all come to the same conclusion: we had no option.

Q19 Adam Price: You talk about a fiduciary duty and that summons a scene of scores of lawyers. You presumably then took legal advice about your fiduciary duties to the game as against any commitments that were given to the Government at the time of Lord MacLaurin negotiating a deal with the Secretary of State?

Mr Collier: No, we took legal advice in four key areas. There was the law of tender, there was competition law both for the European Community and the UK and that was tested in both of those areas, there was the regulatory area, there was the whole law of contract, there were the fiduciary duties, and the lawyers advised the Board in great detail on all of those areas. We made sure that all of the regulatory and legislative areas were fully covered. It is important when you go into tender processes of this magnitude and with this amount of public interest that that amount of due diligence is carried out. I think we are very fortunate; we have top-class, both inhouse and external advice and that was taken all the way through the process.

Q20 Adam Price: What legal advice did you receive then on the understanding of your commitments to the Secretary of State?

Mr Collier: What we did was that we entered into the whole of those agreements and I think the Secretary of State herself has clarified that and I am sure that Richard Caborn will clarify that in his evidence later today. All of the advice that we received and all of the evidence that has been written into the

programme here has said that it was a non-binding agreement, albeit it is our aspiration, and we must reiterate, it remains our aspiration as a Board to have the best possible mix where at all possible. However, if we are faced with a choice, a stark choice, of an £80 million reduction which would decimate grassroots cricket, which would significantly impact on the success of the England side, I think Members here have been very kind and very perceptive in stating that that is a difficult choice. It was a very difficult choice to balance, but the choice was: were we going to go back to the bad old days of England probably slipping down the league table from two to eight with grassroots cricket not being invested in or were we going to take a deal where we could invest at current levels? That was a very stark choice for the Board to have to make.

Q21 Mr Hall: You have said in evidence that it was a change in circumstances in the marketplace that dictated to the ECB that they needed to do the deal with Sky. Is it not true to say that Sky wanted an exclusive deal with the ECB and that was the end of it?

Mr Collier: No, I think the fact was that we would not have gone to the extent of creating 27 different packages with millions of different options within those packages if that were to be the case. Everybody had the opportunity to bid for all or part of the game of cricket. Now, clearly we totally—

Q22 Mr Hall: Let me stop you there because the deal with Sky was exclusive. You could actually have said, "We don't want an exclusive deal with anybody. We want to do a partnership deal with Sky and Channel 4", for example.

Mr Collier: The option, as we are all aware, was on the table of a limited partnership, but that was £80 million less. I think the question that we have all got to get back to the heart of is: where would that £80 million come from to enable the game to survive, to continue to flourish, to have its current status? I think that is the key.

Q23 Mr Hall: You have put that evidence to the Committee in numerous answers and I think we have grasped the point that you were worried about the £80 million, but in all of this I do not think you have mentioned once the point of view of the actual viewer. What do you say to somebody who cannot afford Sky, but wants to watch cricket live on TV? All you are saying to him is, "You're going to get 45 minutes at quarter past seven".

Mr Bevan: The earlier point you made about Sky wanting an exclusive deal, I was not party to the package, but I am sure that a lot of broadcasters would have liked an exclusive deal. The bottom line is there were few bidders.

Q24 Mr Hall: I accept that, but that does not stop the ECB from turning round and trying to negotiate a deal to get more people involved, say, Channel 4.

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Mr Bevan: I am sure that whatever sport or business, they would be trying hard to negotiate, but at the end of the day if the figures are £80 million less, it would have a critical impact on the running of the business, on the stakeholders in the game of cricket, we would have no investment in the number of counties, the academies would be devastated—

Q25 Mr Hall: Well, that is just a repetition of what has been said before and we have grasped that.

Mr Bevan: But it is the answer to your question.

Q26 Mr Hall: I do not think it is the answer to my question.

Mr Collier: If I may pick up on the actual point about viewers, the Government has an agenda where we are trying to increase the participation in sport wherever possible, and we have to address issues, such as obesity, we have to address community issues and that is where sport can play a major role. We cannot increase participation levels without facilities, without coaches and without volunteers and we have to invest in those areas—

Q27 Mr Hall: I actually think you have ploughed that furrow so often at this meeting that we understand that. I am not disputing the fact that the ECB wants to increase the participation and if you had a reduction in your revenue, that would not be effective. I think that is a given, we accept that. What I am saying is that you could have actually done a deal which would have brought in the money without you actually having to have an exclusive deal with Sky.

Mr Collier: Well, the fact is that there were not the bids there. The fact is, as Richard said, the agreements were not there or the offers were not there, so it was very, very clear to us that that could not have been achieved. The only option to achieve that balance was an £80 million reduction, and I know we keep on coming back to that, but that is the stark truth of it.

Q28 Mr Yeo: A significant amount of the money then goes to prop up the county structure, does it not?

Mr Collier: I would not say “prop up the county structure”. The county structure has an investment in it undoubtedly, but that invests in not only players, but the counties invest in their own grassroots development in each of those counties and they provide the opportunities for the spectators to watch county cricket. One of the things we should be very proud of in cricket is that senior citizens and juniors can watch county cricket for less than 40p per day, and I think 40p per day—

Q29 Mr Yeo: For those who do, it is very good value, but go to a county match and you do not see a lot of people even at 40p. The truth is that quite a lot of counties are now completely dependent on the income from broadcasting and they would not survive in their present form. That seems to me essentially unhealthy and they have become sort of

addicted to the broadcasting income. It is also the case, is it not, that the counties have quite a strong representation on the ECB?

Mr Collier: I think that one of the things we have to do is we have to create a development area for future England players. Now, we have heard that 80% of our income comes from broadcasting and a lot of that, as I am sure Richard will testify to, comes from the success of the England team. The counties are our delivery structure for the next level of players and one of the things we have been very successful at in recent years is starting to develop a conveyor belt of players coming through. I think we are seeing it today in Lahore with Liam Plunkett making his debut for England, another of the youngsters coming through that county system and playing international cricket. I also believe that it is very important to the marketing of our Test match games, that people are introduced to cricket and then go on. I think though we can be slightly jovial about the county cricket system in maybe some of the championship match crowds, but the honest answer is that for the Twenty20 game this year, the crowds were up another 70%. We have created a whole new audience of families and children and they are watching county cricket.

Q30 Mr Yeo: Do you think that the Twenty20 game is going to be a good breeding ground for people playing five-day Test matches?

Mr Collier: I think it is going to be a great breeding ground for bringing children into the game, bringing families into the game and creating the connect between the recreational game and the professional game and that is what it has done. So many people, so many club players play that type of cricket. We have a lot of 20-over competitions in the evening, knock-out competitions around the country. Club cricketers can connect to that and they can understand that. It has proved remarkably popular. I have just been out in Dubai with the ICC and we had to make a presentation to the rest of world cricket about Twenty20 because it has been recognised that this is a phenomenon that was brought in by the England and Wales Cricket Board which has been tremendously successful and which is rejuvenating cricket not only in England and Wales, but other countries around the world, and those countries it is played in, New Zealand, South Africa, they have had exactly the same experience where it is bringing new families, new youngsters, people can come after work, people can come after school to watch cricket and it is a wonderful opportunity for us.

Mr Bevan: With Twenty20 as well, it has given the counties an opportunity to look at new business techniques to try and build their commercial revenues and probably for the first time in many years to start thinking about how they can actually be less reliant on the Board going forward.

Q31 Helen Southworth: I would like to express a dilemma as well in that I have got clubs who are working in absolutely awful circumstances. We have got kids coming in from schools, we have got

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coaches who are giving a lot of their free time, and the facilities are beyond inadequate, but, on the other hand, I am also very conscious of the access into sport and I know that the networks do tend to be that, they tend to be networks, and young people come into the sport because they meet an enthusiast on the grounds or they have a teacher who is keen or a parent who is a volunteer coach or a friend's parent is a volunteer coach. What are we going to do about getting access for the people who do not have those contacts and who do not have those networks and who see it on the television, get inspired and get into it?

Mr Collier: What we have done is a number of quite major initiatives which are addressing exactly the issue you have raised which is very, very valid. We have 38 county boards around the country and each of those has at least one county development officer who works with not only clubs, but also schools as well, so we create what we call "club-school clusters". That is the whole essence of the Chance to Shine project, not only to rejuvenate cricket in state schools, but to create the connect between people leaving school and going into clubs, so it creates a much more balanced and a much more direct programme and people can understand how they get through into that programme. We clearly need to expand that. We would love that programme to be expanded time and time again. Again it takes a lot of investment. We have 50 county development officers around the country and there is £2 million of investment just in personnel before you start. We know there is a £50 million shortfall in base practice facilities, base artificial turf pitches, base renovation of clubhouses, so what have we done? We are bringing in a £5 million loan scheme from ECB to help those clubs with interest-free loans. We have the grant programmes and when we were before this Committee in April we were talking about community funding and we were talking about how we needed to get community funding through. The CCDP programme, I am delighted to say, has now been funded, albeit at about a 40% less level than it has been in previous years, but at least there is some funding coming into those programmes. What we do, have to do, is to expand those networks so that people do have a clear path and a clear ladder. What we have done, I think, which is starting to gather momentum and gain effect is create these club-school links because what we have to do in all sport in this country, not just cricket, is we have to make sure that children that leave school actually connect into clubs and remain in sport. The drop-off figures are far too high in all sport in this country and it is an area we have to invest in.

Q32 Helen Southworth: What about the kids whose families cannot afford Sky?

Mr Collier: Where we are at the moment is that we have come up with a programme with Sky where they have offered a very, very much reduced subscription which I think is helpful. I think that we are working with children on a whole variety of programmes. We run a lot of inner-city programmes

now, we had some pilots two years ago, and the Chance to Shine project is primarily inner-city led and that is helping children in the less advantaged areas of the country to actually be introduced to cricket and to play cricket. I think that participation is so important to us, we have to get people participating and by creating these schemes, by investing in these schemes, we are giving children in those areas the opportunity to play and I think the Chance to Shine project is a wonderful opportunity for cricket to really stamp its mark in this country on investment in sport.

Q33 Helen Southworth: How are you going to be measuring that?

Mr Collier: We are measuring it by the number of clubs, the number of participants both in the short term and the long term. There are 100 projects being rolled out in 2006. We have just finished the pilot scheme through the Cricket Foundation and the reports back from both schools and clubs have been wonderful. Each of those 100 clusters has a number of clubs and a number of schools. There was a very good debate in the House of Lords the other day about Chance to Shine. I think it is an exemplar of how we can move forward. I hope it is a project the Government will get fully behind in terms of funding and I think if we do get matched funding on that, it could be the way forward for sport in this country; it is a fantastic project.

Q34 Mr Sanders: Is not actually the bottom line here the fact that when this deal was done, the England team were not doing relatively well in comparison to how they are doing today? You were concerned about the future and, rather than having faith in English cricket, you took the money, the sure deal. You could have made more than £80 million a year on the back of the England team's success in the Australian Ashes and you could make even more over the next few years. You will actually lose money in the long term because you have not reached the full potential of your income stream because you lacked the confidence when you did this deal. That is the bottom line, is it not?

Mr Collier: Sadly, it is not true. Let me explain exactly why that is the case. The England team, before the Ashes series, had actually won five consecutive series and we ended up winning six consecutive series which is a record for English cricket. England has never won six consecutive series before, so we were on a roll in terms of the deal that was struck. It was imperative that that deal was renegotiated at that time not only, as I outlined earlier, in terms of the sponsorship agreements that had to go forward, but let's just take the situation that we hit with certainly the BBC and with a number of other broadcasters in terms of scheduling. If people enter into other sports rights contracts, that limits that choice even further. If you leave that contract renewal until the very last minute, those people are going to have even further constraints of being able to fit cricket into the schedule, so you have to negotiate some distance out. Maybe there is an argument that says that

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cricket should negotiate even further out than it did in this deal. That is why I am on record in the press and a number of places, saying that we have a continual dialogue with the broadcasters already in terms of when is the right time to look into new agreements. The simple answer is that we have to strike the balance between being far enough ahead so that people are not constricting themselves with other contractual arrangements which means that

cricket cannot be shown and knowing exactly how the England team are doing at the time. The fact is that we are totally confident in the England team, we have won six series on the trot, there has never been a more successful England side even before the Ashes series started and we were negotiating from a point of view where the England team was on the up.

Chairman: Gentlemen, we need now to move on to the broadcasters, so thank you very much.

Memorandum submitted by the BBC

THE BBC'S COMMITMENT TO CRICKET

The BBC has been firmly committed to covering cricket for 78 years. Our radio coverage began in 1927, television in 1938 and online coverage in 1998. Indeed, it is only by weighing our output across all three platforms that the BBC's support and promotion of cricket can be fully understood.

This summer 12 million adults used BBC services to follow the Ashes:

- Our radio coverage included Test Match Special (TMS), one of the most iconic broadcasting brands in the UK (broadcast on Radio 4 LW, Five Live Sports Extra and via bbc.co.uk/cricket) and live score updates on Radio Five Live with more extensive coverage of the final Test. These networks also cover overseas tours, and non-England coverage from the Indian subcontinent is covered by the BBC's Asian Network.
- bbc.co.uk/cricket provided ball-by-ball text coverage and audio-visual news and interviews through to scorecards, statistics and fixture lists.
- BBC News output, both on Television and Radio, nationally and locally, gave the series greater exposure than any other broadcaster.
- The BBC Sport Action programme aims to work hand in hand with the English and Wales Cricket Board (ECB) in promoting grassroots cricket through our Sport Academy website, as well and specific initiatives such as in the past using our TMS contract to fund cricket helmets for schools across the country.

Despite this extensive coverage, televised cricket remains in the spotlight. Since losing the rights in 1999 to a joint Channel 4/BSkyB bid, and then not being given an opportunity by the ECB to bid in 2001 when the existing contract was extended, the BBC has received criticism.

However, we believe this contract indirectly damaged exposure of televised cricket over the long term. Previously, all Test Matches were category A listed events, and therefore were required to be offered to one or more of the BBC, ITV or Channel 4. In order to grant BSkyB one exclusive Test Match, the ECB persuaded the DCMS to downgrade the listed status for all seven Test Matches to category B, thereby requiring only highlights to be offered to the terrestrial channels. The BBC opposed this move at the time given the damage we felt a loss of exposure would do to the grassroots health of the sport.

THE 2006–09 CONTRACT

As has been widely publicised, the BBC did not bid for the next ECB television contract. This was not due to lack of interest. Each Test Match requires clearing the BBC's schedule for up to eight hours a day, five days in a row. When the BBC lost TV cricket in 1999, the significant blanks in our schedule were filled with other sport output.

In the past, when there were scheduling clashes such as Wimbledon or The Open, the BBC switched between sports, failing to fully satisfy fans of either sport. To avoid this in the future, we met with the ECB on a number of occasions in 2003 and 2004, taking the unprecedented step of showing the ECB our forward sport schedule in an attempt to find a solution. Because the long term nature of sport contracts makes it impossible for us to unwind deals over the short to medium term, we sought a creative package of rights to fit around these commitments. The most significant include Royal Ascot and our wider racing portfolio, the French Open Tennis, Queens, Wimbledon, four PGA golf events, The Open, UK Athletics, the World or European Athletics Championships, the Olympics, and the World Cup or European Football Championships. Additionally, the BBC values its support for summer minority Olympic sports, even more so now that we have the 2012 Olympics in London to look forward to.

Having worked closely and constructively with the ECB, exploring all possible permutations to deliver live cricket back onto the BBC (including one day internationals and international Twenty20), ultimately the ECB was unable to agree to an alternative structuring of the packages.

Although we can understand why the ECB chose to sign an agreement with BSKyB, we still believe it is in the longer term interests of the sport for a balance to be struck between rights income and exposure. The BBC believes cricket broadcasting and grassroots development can and should form a healthy virtuous circle. High quality cricket and successful teams and players draw in audiences. In turn high level exposure and the creation of heroes inspires the next generation to take up the game. The recent success of the England team, broadcast nationally and free-to-air by Channel 4 and the BBC, will no doubt boost the game.

Whilst pay TV may offer rights holders greater income in the short term, their lower audiences may affect its profile. The Listed Events list was introduced precisely to ensure live national sports are available free to the whole population.

THE 2010–13 CONTRACT

The BBC took its first step back into televised cricket with its recent acquisition of the 2007 Cricket World Cup highlights. This involves up to 39 days of highlights coverage from the West Indies. We remain keen to return to Test Match cricket in 2010.

Such a return faces two main obstacles:

1. *Scheduling*

As outlined above, this is a significant issue. By 2010 there may be other scheduling outlets for the BBC. The expansion of digital reach (with the Government target of 100% by 2012) may make interactive television, or indeed broadband, coverage a more acceptable proposition. However, only mainstream BBC One or Two scheduling will ensure cricket is exposed to the widest possible audience. It will therefore require much more work with the ECB in identifying (and solving) scheduling conflicts.

The BBC welcomes diversity of supply with the rights, and therefore the scheduling obligations, shared between broadcasters. We believe football provides a good model with live Premier League on Sky and highlights on BBC, live FA Cup and England internationals shared between Sky and the BBC, and the Champions League shared between ITV and Sky. A mix between Pay and Free TV serves the public well, with the biggest international moments such as the World Cup and the European Football Championships A-listed and broadcast live on free television. This model, however, does not marry with the new cricket contract where the entire live output of the sport is now on Pay TV.

2. *Price*

A Pay TV company, funded through subscription, can outbid the BBC or any other terrestrial broadcaster for most rights, should it choose. It is only Listed Events legislation which protects our major sports events from being kept off the majority of the country's television screens. Without the return of some cricket to the Category A list, or unless the ECB changes the way it values the sport attaining the widest possible exposure, it will be difficult for the BBC to bid successfully. The BBC believes there should be a debate about the listing of events. It is our view that cricket and other sports are more likely to be widely accessible to audiences and represent value for money for licence fee payers if there is an element of A-listing.

There have been suggestions that the listing of events will lose its relevance when the UK becomes fully digital. We do not believe this is the case because there will still be a fundamental divide between free-to-air broadcasters and pay TV operators. BBC One will be universally accessible in the digital era as it is now. By contrast many dedicated sports channels will still be funded to a significant degree by subscriptions, which currently cost, in BSKyB's case, over £400 per annum. This has the effect of deterring casual viewers from tuning in to major events. It also, of course, discriminates against those who can't afford an array of subscription services.

VALUE FOR MONEY

As a public service broadcaster funded by licence fee, our sports rights budget is fixed. While very important, cricket is only one of the many sports the BBC covers and its cost must be balanced against the rights fees for our wider sports portfolio. To put this into context, during 2004 the BBC covered 41 different sports through the following media:

- 1,500 hours of televised sport each year, including many of the sporting events audiences value such as; the FA Cup, England home internationals, Premier League football on Match of the Day, the Grand National, World Snooker Championships, The Open Championship, the Six Nations, and Wimbledon. In addition, every four years we cover the major international events such as the Olympics, The World Cup, the European Football Championships and Commonwealth Games.
- As well as coverage of stand-alone live events, BBC television also broadcasts Grandstand. This provides live and highlights coverage of both major and minor sports and in particular provides context around Olympic sports.

- 4,000 hours of sport on national radio including all the above plus Formula 1, live Premier League, Champions League, Scottish and England Football League football (plus a further 30,000 hours of coverage on local radio).
- Over a million pages of content on bbc.co.uk/sport offering separate detailed homepages for 15 individual sports, plus special sections for disability sport and the grassroots Sport Academy.
- A comprehensive sports news service is provided on both BBC One, BBC News 24, BBC Regional News, BBC Network and Local Radio, as well as on Ceefax and Digital Text, the BBC's television text services.
- The BBC also produces and broadcasts documentaries and entertainment programmes featuring sports issues or personalities.

In determining the amount to bid for a specific sports right, the BBC values sports rights uses a number of criteria to ensure that it delivers value for money to the Licence Fee Payer. Each rights acquisition must follow a set investment approval process which requires (depending on the overall value) approval by BBC Sport's own investment committee, the Director General's Finance Committee, and in some cases the Board of Governors.

CONCLUSION

The BBC remains committed to cricket—on radio, online and when the opportunity arises on television. We are keen to work with the ECB and with broadcasting partners to make sure that cricket has healthy audiences and that it thrives as a sport. We welcome the chance to debate how this might be achieved, and we will play our part in fulfilling the expectations of UK viewers and listeners that cricket remains one of our major national broadcast sports.

14 November 2005

Memorandum submitted by ITV

INTRODUCTION

1. ITV welcomes the opportunity to input into the Committee's inquiry into broadcasting rights for cricket.
2. As the Committee will be aware, ITV has only ever had minimal involvement with cricket over the years and our current sports rights portfolio does not include any cricket coverage. However, we were involved in a limited sense in the 2004 ECB tender process and have views on the role and application of Listed Events legislation. As such, ITV may be able to offer a modest degree of practical input into the Committee's inquiry.
3. ITV has invested heavily in sports rights throughout its 50-year history. Our current free-to-air portfolio includes rights to the UEFA Champions League, the Formula 1 World Championship, the Rugby World Cup, the FIFA World Cup, the Football League Championship and League Cup, UEFA Cup, the Boat Race, boxing and the Tour de France.
4. Two of these events, the FIFA World Cup and the Rugby World Cup, have been "listed" by the UK Government as "events of major importance to society" in line with the Communications Act and the EU's Television Without Frontiers Directive.
5. Listed Events legislation enables free-to-air, universally-available channels like ITV1 to bring top quality sporting events to millions of people each year, free of charge. The current rules work in the best interests of UK viewers and it is vital that they are retained in the run up to digital switchover and beyond.

ITV AND CRICKET

6. Over the last decade the outcome of sports rights negotiations has become the subject of intense public interest. However, today's rights costs mean that the pressure to make sport programming a commercial success, and not just simply to win the contract, is greater than it has ever been. For commercial broadcasters at least, the days of acquiring sports rights at any price are gone forever.
7. Like all other free-to-air commercial broadcasters, ITV has to ensure that its sports rights acquisitions work for both viewers and advertisers/sponsors. The broadcasting of cricket presents a particular challenge in this regard because the format of the game (long periods of quasi continuous coverage with short, frequent, natural "breaks") does not allow advertising breaks to be scheduled optimally. The effect—as Channel 4 may have experienced—is that it would not be possible to schedule the same number of advertising minutes per hour as other sports, or other types of programming. The current advertising rules (which derive from EU legislation and are implemented by Ofcom) also demand that a certain period of time elapses between each successive internal advertising break. This further hampers commercial broadcasters' ability to effectively schedule advertising and would mean, for example, that a broadcaster could not simply

take a short advertising break every over or every two overs. There are further commercial and scheduling issues with the unpredictability of cricket, in which there are frequent delays, over-runs and series not lasting the full number of days.

8. Nevertheless, ITV studied the ECB's tender document for England Test Matches, One Day Internationals and Twenty20 games when it was issued in September 2004. We also met with the ECB to understand more about the tender process and what was on offer. However, despite careful consideration, we concluded that—for the reasons set out above—it would not make commercial sense for us to bid for any of the rights on offer.

9. Following our decision not to bid, we had no further involvement in the process and cannot therefore comment on the overall fairness or otherwise of that process. However, as far as we were involved, we were satisfied that we had a fair and reasonable opportunity to bid for the rights on offer.

THE IMPORTANCE OF LISTED EVENTS

10. There are some who doubt the need for Listed Events legislation. However, the controversy surrounding the sale of the TV rights to the 2002 and 2006 FIFA World Cup finals proved beyond doubt that Listed Events rules are needed to protect the public.

11. If the UK Government had not listed the World Cup, it is very likely that the world's most-watched sporting spectacle would not have been available to UK viewers on free TV. The rights holder, Kirch Media, would simply have sold the tournament to the highest bidder, likely to have been a Pay TV company.

12. The BBC and ITV were willing to pay Kirch a fair and reasonable price for the rights and ultimately agreed to pay a sum which was 15 times the price paid for the 1998 tournament. However, Kirch's initial request (for the 2002 finals alone) was £175 million—around 40 times the 1998 figure.

13. The House of Lords ruling from July 2001 on the TV Danmark case provides important guidance on the pricing of Listed Events. The judgment made it clear that it is not enough simply to offer free-to-air broadcasters the opportunity to acquire the rights on fair and reasonable terms, rather that they have to be offered on the basis of what that category of broadcaster "could reasonably be expected to pay for them".

14. Whilst retaining Listed Events rules is vital, ITV also considers that thought should be given to how the current provisions can be strengthened to ensure that they cannot be circumvented by rightsholders in future, be it for football, cricket or any other sports rights.

21 November 2005

Memorandum submitted by Channel 4

INTRODUCTION

Channel 4 is a not-for-profit publicly-owned broadcaster funded by advertising and sponsorship, with a public service remit to be innovative and distinctive, to cater to diverse audiences and to provide programming of an educative nature. It was established in 1982 as a publisher-broadcaster, and commissions its programming solely from external production companies. Its digital services include E4, More4, pay-TV film service FilmFour, and broadband service FourDocs.

We welcome the opportunity to respond to the Culture, Media and Sport Select Committee inquiry into broadcasting rights for cricket. Since 1999, Channel 4 has provided exclusive live coverage of the summer Test match series, the only live cricket coverage available free-to-air to all homes in the UK. In the last tender process, Channel 4 lost the cricket rights to BSkyB, as a result of which live Test match coverage will be restricted to Sky Sports subscribers from 2006.

Given Channel 4's role in covering live Test cricket in recent years, our response focuses on the following four issues, which we hope will inform the Select Committee's deliberations:

- Background to 1998 tender process.
- Channel 4's contribution to broadening access to cricket.
- Background to 2004 tender process.
- Importance of the availability of cricket to wide audiences throughout the UK.

BACKGROUND TO 1998 TENDER PROCESS

In 1998, Chris Smith, then Secretary of State for Culture, Media and Sport, agreed to remove cricket coverage (specifically cricket Test Matches played in England and the cricket World Cup) from the Group A list of events which are required to be shown on free-to-air television in the UK. This decision followed lobbying from the ECB, who wanted to create a true market for their rights, including the ability to sell them to pay television in order to maximise the revenues available for investment in the sport.

At the time that cricket was delisted, Chris Smith said: “This is something for which the ECB and county cricket clubs have specifically asked. I expect to see their freedom used responsibly, with continued access for all viewers to a substantial proportion of live Test coverage.”¹

In October 1998, Channel 4 won the subsequent tender process to become the principal broadcaster of England home Test matches from 1999 to 2002, exclusively covering all but one match, with Sky Sports covering the remaining game each summer (Sky also acquired the rights to all home one-day internationals, crucial stages of the County Championship and a slew of other cricket tournaments). Channel 4 had originally bid to show all Test series each year, and won the tender process on that basis. But the ECB then asked if we could make one match available each year to Sky, which we agreed to (the cost of the rights was reduced accordingly).

Channel 4’s final bid was for £52 million over four years for the rights to show a total of 21 matches (Channel 4 and Sky’s total bid was £103 million). While our package included a range of other rights, which enabled us to offer highlights and magazine programmes, the vast majority of the value of the package resided in the rights to the live Test matches. For purposes of comparison with later bids, it is worth noting that our offer was equivalent to an average of £2.5 million for each of the 21 live matches in the package.

By 1998, the BBC, which had provided cricket coverage since 1938, had become somewhat complacent: its coverage was perceived to be staid and unenticing, partly as a result of which the sport was appealing to an increasingly narrow and elderly fan base. With this deal, Channel 4 kept live Test match cricket on free-to-air television. A crucial part of our bid was a promise to revolutionise television coverage of cricket and to increase the sport’s appeal to a wider audience, and our bid also included significant commitments to marketing and to grassroots support (see below). The Channel’s then Chief Executive Michael Jackson said that Channel 4’s coverage would seek to reflect “the younger multi-cultural audience of the game”.

CHANNEL 4’S CONTRIBUTION TO BROADENING ACCESS TO CRICKET

The “revolution” promised by Channel 4 when it acquired the cricket rights in 1998 consisted of two equally important elements: coverage of the games themselves, and marketing of the sport.

Coverage

Channel 4’s coverage of cricket matches was innovative in a variety of ways. First, in terms of presentation, it introduced fresh new young and multi-ethnic presenting talent, to create a much livelier feel to the game, while retaining well-respected commentator Richie Benaud (who had previously worked at the BBC) to provide the necessary gravitas and experience. This approach was intended to help attract new younger viewers without alienating the existing fan base.

Second, the scale of Channel 4’s investment in production (almost £5 million per annum on average over seven years) ensured a much greater depth of coverage than the BBC had previously provided. The use of more than 20 cameras allowed for a wealth of new angles to be shown, while slow-motion replays and long lenses brought viewers closer to the action than ever before. New camera angles enabled the presenters to provide better analysis of the game: by describing the nuances of cricket, and using a range of new camera angles to illustrate their points, they were able to draw more audiences to the game, making it accessible to people who had previously not understood its subtleties.

Third, Channel 4 was at the forefront of bringing new technologies to television audiences in its cricket coverage. Much-loved innovations included:

- Hawk-Eye. This revolutionary ball-tracking system enabled viewers to get the most information about how players were performing against each other.
- The Snickometer. This device tracked the ball’s passage past the batsman by picking up sounds from pitch and stump microphones.
- The Red Zone. This was a red graphics strip superimposed between the stumps to show where the ball pitched, and on which line the ball was travelling when it struck the batsman.

Marketing

To complement its coverage, Channel 4 invested heavily in both on- and off-air marketing to help attract a new young and multicultural audience to cricket (our marketing initiatives were worth over £4 million per annum on average between 1999 and 2005). The scale and originality of our initiatives took promotion of the sport to a new level. For example, the Caribbean and Indian Summers packaged those year’s Test series around a range of multicultural programmes, concerts and other events, thus linking cricket with the cultures of the main cricketing nations around the world. Channel 4 also supported a range of grassroots initiatives to bring cricket to inner city areas, such as the Kennington Community Cricket Ground, a new community cricket ground that opened in Lambeth in 2002 as part of a major initiative to give local people the chance to play the game.

¹ Source: “Television coverage at the point of no return”, Steve Barnett, *The Times*, 6 April 2005.

In the cricket grounds themselves, Channel 4 replaced traditional brass bands with live music from new artists, again helping to broaden the appeal of the sport by turning it into a more attractive event with wide appeal to young multiethnic audiences.

BACKGROUND TO 2004 TENDER PROCESS

This summer's cricket Test series marked a high point for both the game and Channel 4's cricket coverage over the last seven years. It was a tremendous success in ratings terms, helping us achieve our highest single-day audience share (23.2%) in the Channel's history on the last day of the final Test. While this provided a fitting testament to Channel 4's excellent coverage over the last seven years, we are disappointed that 2005 is the last year for which Channel 4 will be covering live Test cricket. As we explain below, we were determined to retain cricket coverage on Channel 4, and submitted a full and fair bid, despite the financial losses generated by our coverage and the uncertainties the Channel faces over its long-term future. Before we describe the details of the 2004 tender process, we first consider the context in which Channel 4 renewed its rights in 2001, and then examine the performance of Channel 4's cricket coverage since 1999.

Rights renewal in 2001

In 2001, the advertising cycle was at its peak, and ad-funded broadcasters were enjoying significant increases in their revenues, while the media industry in general was buoyant as the dot-com boom led to a wave of (over-) optimism about future revenue potential. In particular, there was rampant inflation for sports rights, typified by ITV Digital's bid of £400 million over three years for live Football League games. While only attracting modest audiences (see below), Channel 4's cricket coverage had proved to be successful, attracting favourable press coverage and critical acclaim, and had become one of the key brand-defining programmes for us.

In this environment, Channel 4's management at the time attempted to retain the cricket rights by pre-empting the tender process with an enhanced bid. Our proposal was supported by BSkyB, and the two broadcasters offered the ECB the opportunity to renew their contract for around £150 million over three years, around 50% more than their original bid. Channel 4 bid £59 million for 18 live Test matches, equivalent to an average of £3.3 million per match. This offer was accepted by the ECB without a tender process, and a new contract was put in place running from 2003 to 2005.

Audience and financial performance

Table 1 illustrates that 2005 was an exceptional year, and that average ratings over the last seven years have been much more modest.

Table 1

RATINGS FOR CRICKET ON CHANNEL 4

<i>Year</i>	<i>Average ratings for live Test cricket</i>
1999	1.31 million
2000	1.32 million
2001	1.21 million
2002	1.05 million
2003	1.18 million
2004	1.13 million
2005	2.16 million

Source: BARB

The demographic mix of cricket viewers is striking. In crude financial terms, older audiences are less valuable to advertisers than younger viewers, and thus generate lower revenues for Channel 4. Consistently over the last seven years, over 50% of the cricket audience for live Test matches has been aged 55 or over. If we compare this to Channel 4's overall demographic mix, just 33% of our total all-day audience is aged 55 plus. Cricket coverage mostly occurs during the day, when television audiences comprise a larger proportion of older people. But the skew in cricket coverage towards people aged 55 and older is even more marked than the average for Channel 4 daytime viewing generally, when 48% of viewers fall into this age category.² Thus, because of the type of audience that predominantly watches cricket, the sport is not lucrative for commercially-funded free-to-air broadcasters such as Channel 4.

Moreover, Channel 4's cricket coverage has generated substantial financial losses in each of the last seven years. Total expenditure on cricket (including rights, production, talent and marketing costs) was £25 million each year on average. However, we estimate that the advertising and sponsorship revenues

² 10am–6pm. *Source: BARB. Overall Channel 4 data for 2005 year to date.*

generated by cricket each year averaged only around £9 million per annum. Channel 4 thus made significant financial losses of around £16 million per annum on cricket, as Table 2 shows. And given that we could have shown much cheaper programming in its place that would have generated positive margins, the opportunity cost of our coverage was even greater.

Table 2

FINANCIAL PERFORMANCE OF CRICKET ON CHANNEL 4 (1999–2005)

<i>Cricket-related costs and revenues</i>	<i>Average per annum (£ million)</i>
Rights costs	15.9
Production costs (including talent)	4.9
Marketing spend	4.3
Total expenditure	25.1
Advertising and sponsorship income	8.9
Average margin	– 16.2

Source: Channel 4

Given our status as a not-for-profit broadcaster, we were able to justify these financial losses as part of our investment to innovate, to widen our programming mix, and to broaden access to new (young and multicultural) audiences. Nonetheless, it is hard to dispute the argument that we probably overbid for the rights in 2001 in purely commercial terms.

2004 tender process

By 2004, the prevailing mood was far more sober. In the intervening years, broadcasters had suffered a severe advertising recession and the dotcom bubble had burst. ITV Digital had gone bankrupt, in the process renegeing on its sports rights contracts. Channel 4's losses on its cricket coverage were increasing over time, due to the rights deal agreed in 2001, at a time when increasing competitive pressure from the proliferation of digital channels meant that we had to focus harder than ever before to attract audiences in all slots in the schedule. We also recognised that we would face increasing financial pressures in the years ahead, due to the impact of digital switchover, increasing take-up of personal video recorders, and new audiovisual services delivered via broadband. (These pressures have also been recognised by Ofcom in its PSB Review and by the Government in the Green Paper on the BBC Charter.)

Given this context, while Channel 4 wished to continue to cover cricket, we felt that we had to make a bid that reflected the increasingly competitive environment in which we operated, and that we could not sustain the scale of coverage and resultant financial losses of recent years. Indeed, it would have been irresponsible of us to have overpaid for the rights in 2004. As a result, we restricted the scope of our bid to live coverage of the main (second or longer) Test series from 2006–09, which corresponded to fewer matches each year. The final bid submitted by the Channel was for £54 million for 18 matches over four years: four matches v Pakistan in 2006, four matches v India in 2007, five matches v South Africa in 2008 and five matches v Australia (the Ashes) in 2009. This bid equated to an average of £3 million per match. While this amount was a little less than that bid in 2001, it was still significantly more than the per-match figure in our bid in 1998.

To sum up, we would like to stress our commitment to cricket and desire to win the rights in 2004. Channel 4 submitted a sensible and credible bid and, in terms of the final outcome, we were disappointed not to have retained the cricket rights. At the same time, we accept that we would almost certainly have been unable to match the proportion of Sky's £220 million offer relating to the main live home Test matches between 2006 and 2009. As a pay-TV operator, Sky was able to include in its bid an exclusivity premium, which made sense for a broadcaster operating a premium subscription service such as Sky Sports but not, as the figures above illustrate, for a free-to-air advertising-funded service such as Channel 4.

IMPORTANCE OF THE AVAILABILITY OF CRICKET TO WIDE AUDIENCES THROUGHOUT THE UK

In awarding the cricket Test rights exclusively to Sky in 2004, the ECB was forced to make a difficult trade-off between maximising the value of the rights and ensuring the widest possible access to the sport. Our understanding is that Sky bid around £15–20 million more per annum for the rights to the games that Channel 4 had also bid for. This is a significant amount, and will potentially enable the ECB to invest more in facilities, developing talent, etc, and thus to raise standards in the game.

We do not doubt that these extra funds will provide a welcome boost to the sport, nor that Sky's coverage of the sport will be exemplary. But we would nonetheless question whether the lack of availability of cricket on free-to-air television to audiences throughout the UK will ultimately prove highly damaging to the sport, potentially undoing much of the good work done by Channel 4 to broaden access.

The ECB's decision restricts access to live Test matches to subscribers of Sky Sports, to which less than one quarter of all UK homes currently subscribe (around 5.7 million homes subscribe to Sky Sports³). As an illustration of the value of free-to-air TV to the sport, if we consider the Test match series in 2004 and 2005 for which Channel 4 and Sky Sports shared live coverage, Channel 4 achieved average ratings that were 3–4 times larger than those for Sky Sports, as Table 3 shows.

Table 3

COMPARISON OF LIVE CRICKET AUDIENCES: CHANNEL 4 AND SKY SPORTS

<i>Test</i>	<i>Broadcaster</i>	<i>Average ratings (000s)</i>	<i>Channel 4 rating/Sky rating</i>
<i>2005 Bangladesh Test Series</i>			
First Test	Channel 4	688	
Second Test	Sky Sports	223	3.1
<i>2004 New Zealand Test Series</i>			
First and Third Tests	Channel 4	1001	
Second Test	Sky Sports	240	4.2

Source: BARB, Channel 4 analysis

From next year, the only cricket on terrestrial TV will be a highlights package on Five. Sky's dominance of live cricket coverage will be much greater than that of other sports such as football, for example, for which the BBC, ITV and Five all show a range of live games each season. Without ready access to live Test matches each year, interest in cricket could dwindle. Given that Sky's contract will run until 2009, live domestic Test match cricket could not return to free-to-air television until 2010 at the earliest. Even if Sky meets its ambitious target of 10 million homes by 2010, and if the number of subscribers to Sky Sports grows by the same rate over this period, the Sky Sports subscriber base would still only reach around 30% of all UK homes. So most of the UK population will have to wait at least another five years before they get to see any live English cricket, and may never get to see Vaughan, Flintoff or any of their colleagues in action again.

To sum up, we would argue that the high levels of interest generated by this year's extraordinary Test series were due in large part to the availability of live free-to-air coverage of these games to the entire population, and would not have been achieved had access been restricted to the 25% of homes that subscribe to Sky Sports. This also reflects Chris Smith's view, when live Test match series were delisted, that a substantial proportion of live coverage should remain available to all viewers.

CONCLUSION

To conclude, Channel 4 would like to restate its commitment to cricket, and determination to retain the rights in 2004. For the seven years that we held the live Test rights, we did an enormous amount to revitalise the sport, and our efforts were widely appreciated. During this period, while cricket became an important and brand-enhancing part of our schedule, we made significant financial losses relating to our coverage of the sport. As a result, and given the increasing competitive pressures in the television market, it was appropriate for us to focus on the main Test series in our 2004 bid. We submitted a full and fair bid in which we only slightly reduced the amount we were offering on a per-match basis compared to the amount agreed in 2001, despite the fact that we would have continued to make significant financial losses relating to our cricket coverage. We strongly believe that this was a fair bid, and are disappointed that the ECB did not attempt to broker a joint partnership between itself, Channel 4 and BSkyB.

Ultimately, the outcome of the 2004 bidding process reflected the increasingly competitive environment in which we operate—which precluded us from overbidding—and the different economic models of free-to-air and pay-TV channels.

While the Sky deal will undoubtedly provide valuable funds to the ECB in the short term, the lack of access of live cricket to the entire UK population may have a greater damaging effect on the sport in the long-term.

Nonetheless, Channel 4 accepts the legitimacy of Sky's contract, and we have since put alternative plans in place. We have used a significant amount of the funds freed up to increase substantially our investment in peak-time drama, and to fund direct programming replacements for cricket in the daytime schedules. As such, we would not advocate any attempt to turn back the clock, and in particular we would not propose overturning the 2004 decision to award the cricket rights to Sky.

18 November 2005

³ *Source:* UBS Investment Research: BSkyB, 17 August 2005.

Memorandum submitted by Five

Five is pleased to contribute to the Select Committee's short inquiry into the broadcasting rights for cricket.

From next summer Five will be showing highlights of each day's play in all the home Test matches and One Day Internationals at a time that suits the cricket audience. We are excited at adding cricket to our already sizeable sports portfolio at a time of renewed interest in the game, and are determined to do the game justice with first class programming.

FIVE'S CONTRIBUTION TO CRICKET

Five was delighted that the England and Wales Cricket Board (ECB) decided to award Five the highlights rights for international cricket from next summer. This allows us to add cricket coverage to our growing sports portfolio and further expand the range of what viewers can expect from Five. We will provide attractive and high quality coverage that is available at a time when demand to watch cricket highlights is at its greatest.

We see the acquisition of exclusive rights to the highlights of a major sport as a further example of Five's continuing growth as a mainstream broadcaster.

In our eight years on air Five has gained a considerable reputation as a sports broadcaster. We have shown over 180 live football games, including qualifying England matches for major tournaments and major UEFA Cup matches. And we have been praised for our diverse and eclectic range of sports broadcasting—over 1,400 hours each year, devoted to such sports as American football, baseball, ice hockey, golf and extreme sports.

Five is committed to showing highlights of each day's play in Test and One Day International cricket that evening between 7.15 and 8.00. We believe this is the best possible time for highlights to be screened—sufficiently soon after the close of play for the story of the day to be fresh and recent; but late enough for viewers to get home from their work or other activities and watch how that day's play unfolded. We also believe there will be increased interest in early highlights from those with an interest in cricket who do not subscribe to pay TV.

Scheduling highlights in the early evening is particularly important in making cricket attractive to a younger audience. Opinion poll research conducted by Five in preparing our bid for the rights found that 50% of 18–34 year olds favoured cricket highlights shown between seven and eight o'clock. This is also the time of day when most children are watching; youngsters who are important to the future of the game are unlikely to be available to view highlights if they are shown a lot later in the evening.

THE AWARDING OF THE RIGHTS FOR 2006–09

Test cricket matches played in England are Group B Listed Events. This means that for them to be shown exclusively live on a channel other than the four channels specified in the Television Broadcasting Regulations 2000—ITV1, BBC1, BBC2, and Channel 4 and S4C taken together—the right to broadcast highlights of the games had to be offered to those channels.

In 2004 the ECB invited all broadcasters to bid for the live and highlights television rights for Test cricket for the four summers starting in 2006. The ECB's tender process made the availability of the packages of live and highlights rights known generally to broadcasters, so that television broadcasters were given a genuine opportunity to acquire the highlights rights on fair and reasonable terms.

None of the other terrestrial broadcasters took up the invitation to tender for the Test match highlights. As a result the requirements of the legislation were met and the ECB was able to entertain bids from other broadcasters including Five.

THE LISTED EVENTS RULES

Five is supportive of the principle behind the listed events regime: that the great majority of people ought to be able to watch major sporting events free of charge.

But in recent years we have felt aggrieved that the hurdle that needs to be reached by television channels to be able to bid for such listed events—"that the service is received by at least 95% of the population of the United Kingdom"—has been set at a level that is just high enough to exclude Five.

Although Five's coverage was limited in some parts of the country when we first began broadcasting in 1997, subsequent expansion of our analogue coverage and the strong growth in digital take-up means that over 93% of the population now lives in homes with televisions on which Five can be watched.

We are confident that by the time of the 2006 cricket season we will be received by 95% of the population—and thus qualify in practice as one of the channels able to bid for exclusive live coverage of listed events.

However, Five will not be categorised formally as such a channel until Parliament amends the Television Broadcasting Regulations 2000 to include us. We recognise that the Secretary of State has indicated that there will be a review of the listed events rules at the start of the digital switchover process. But we believe that a change should be made much sooner in order to add Five to the list of specified channels. Only then will Five be able to bid for listed events on the same basis as its terrestrial competitors.

Five's ability to grow and develop its reputation as a major sports broadcaster is linked directly to our inclusion on the list of specified channels. We believe that now we are within a few months of reaching the hurdle for inclusion on this list that Parliament itself has set, it is appropriate that the rules be changed forthwith.

CONCLUSION

Five looks forward to providing viewers with high quality and regular highlights programmes of international cricket next summer and in ensuing years. We are delighted at the opportunity this gives us to expand our range and reputation both among sports fans and viewers generally. But we believe the listed events rules must be changed in the very near future to reflect the reality of Five's coverage.

14 November 2005

Memorandum submitted by BSkyB

INTRODUCTION

Sky notes the intention of the Committee to hold a one-day hearing into cricket broadcasting rights, covering:

- The availability of cricket coverage to television and radio audiences throughout the United Kingdom.
- The commercial procedures governing the acquisition of broadcasting rights, and constraints imposed by the statutory framework within which they operate.
- The importance of the income and exposure associated with broadcasting rights in fostering excellence and participation in cricket.

We are happy to provide the Committee with the following information which may assist it in its work.

SKY AND SPORT

Sky has been covering sport since 1989 and launched its first dedicated sports channel, Sky Sports, in 1991. We now have five dedicated sports channels, which in 2004 broadcast over 38,000 hours of sport.

Sky broadcasts a wide range of sports content on its channels, with football, cricket, rugby union, rugby league, golf and boxing being shown in greater depth than ever before. However, over 30% of our sports programming in 2004 was devoted to sports from outside this group, including athletics, tennis, sailing, motorsport, and equestrianism. Over 100 different sports were featured on Sky in 2004.

Sky covers a variety of different sports in depth and at a grass-roots level, rather than cherry-picking only the most prestigious fixtures and events. In the case of football, for example, this includes coverage at all levels: international, European, Premiership, Football League, non-league, women's football and youth.

Sky has maintained its outstanding track record of innovation in sports broadcasting and has developed and invested in many production technologies since it started broadcasting sport, many of which are unique to the relevant sport. In comparison with viewing in the past, sports broadcasting on Sky offers a much richer experience. For example, up to 30 different camera positions and 20 directional microphones can be used to cover a Barclays Premiership football match.

In cricket, we introduced innovations such as super slow motion replays, stump cameras and stump microphones in the early 1990s. This was followed in the mid-1990s with "Skyline", the first virtual LBW technology. In 2004 we introduced the super Ultra Motion camera. From 2000 we have offered coverage with interactive features which include different camera angles, highlights and statistics which considerably enhance viewer experience.

In 2006 we plan to launch an HD television service which will bring another dimension to the viewing of sport and transform the quality of pictures and sound. In addition, Sky is shortly to include content for the mobile phone and PC as an integral part of its monthly subscription for Sky Sports. The current England v Pakistan test series is also available free of charge to all Vodafone 3G customers as part of a launch promotion for Sky Mobile TV Service.

Sky's achievement in sport has been recognised by other broadcasters. Peter Salmon, until recently BBC Director of Sport, has said: "Sky Sports raised the bar, and raised expectations, because of the breadth and depth of their sports coverage. They have driven everyone in the pursuit of excellence . . ."

Enclosed with this submission are copies of Sky Sports' publication "*Sport for All*", which contains more detail on Sky's sports coverage (*not printed*).

SKY AND CRICKET

The income derived from the cricket broadcasting deals will enable the England and Wales Cricket Board (ECB) to fulfil its strategic plan "Building Partnerships, from playground to Test Arena", an ambitious initiative which aims to nurture talent and to focus on community cricket.

Sky's coverage will be comprehensive: we are able to broadcast every ball of the test and one day international series live—a commitment that other broadcasters are unwilling to match—and happy to see the traditional starting time of 11.00 am restored for every Test. Alongside our coverage, Five will show highlights at peak viewing time.

Sky has also committed to transmit live and in their entirety at minimum 10 Twenty20 matches plus one quarter-final, both semi-finals and the final of the Twenty20 cup; no fewer than 30 Forty-over League matches; the final, both semi-finals and one-quarter-final of the C&G Trophy; and two County Championship matches.

Sky will also cover the various competition draws that will make the competitions and information about them more accessible to the viewer. To support our live coverage we will develop new and innovative support programming to broaden the viewer's interest in and knowledge of the game.

From the beginning of the 2006 season, Sky will be transmitting the ECB cricket support programme "Extra Cover" to be broadcast every day on which an international match takes place and on certain other days. Sky will also be endeavouring to provide a monthly debate and/or chat show; include a series of coaching tips in Sky's cricket programming; and develop other support programming in consultation with the ECB.

That reflects Sky's long-term commitment to cricket. We were the first to offer cricket fans the opportunity to see live ball-by-ball coverage of an overseas England tour in 1990. Sky Sports has since followed England live every winter, and has covered 94 live England tests to date. We support every level of the game: alongside the Tests and One-Day Internationals is coverage of every form of the County game and live women's and youth internationals. We offered 182 days of cricket in 2004.

Sky's coverage can capture public imagination. Twenty20 cricket has been live on Sky Sports since its inception (with just one game shown on terrestrial television) and it attracted 500,000 spectators to the grounds last season, many of them new and young fans.

Sky has also introduced two new offers to help cricket clubs and their members: a promotional offer for members of County and Minor County clubs, and a special reduced rate for cricket clubs to install Sky's services.

TELEVISION VIEWING DATA

Sky has nearly 8 million subscribers, and 40% of people aged between 15 and 25 have access to Sky. Among young people, a recent Guardian/ICM survey indicated that one in five of those who had access to satellite nominated Sky Sports as their favourite viewing.

There are about 45,000 non-domestic Sky subscribers, including leisure centres, sports clubs, pubs and clubs. These venues attract 5.3 million viewers for televised sport in the average week, according to Continental Research estimates.

The growth of multi-channel television has been rapid in recent years. According to BARB, 82% of children (aged 4–15) now live in multi-channel homes, and 75% of adults aged 16–34 are in the same category. In 2004 multi-channel viewing overtook both BBC1 and ITV1 for the first time with an aggregate 26.3% share (BBC1's share was 24.7% and ITV1's 22.8%).

THE DEVELOPMENT OF SPORTS BROADCASTING

The impact of Sky in providing greater choice for sports viewers is clear from the broader development of sports broadcasting.

In 1989, there were only 2,200 hours of sport on terrestrial television. Since the launch of Sky Sports the availability of sport on terrestrial channels has more than doubled, with 5,747 hours being broadcast in 2004.

On the BBC, for example, football viewers are able to watch the FA Cup, the UEFA Cup, England home internationals, the FIFA World Cup and European Championships. In addition the BBC carries Six Nation's Rugby, Wimbledon, the Grand National, the Olympics, the Open and Masters Tournaments, and the World Darts Championship—over 40 sports in all. ITV carries live UEFA Champions League (shared with Sky), live World Cup and European Championship football (both shared with the BBC), Formula 1 motor-racing and boxing. C4 has a strong presence in horse-racing, including the Cheltenham Festival and three classics.

In 2004–05 the BBC increased its hours of televised sport on BBC1 and BBC2 by some 6% (1,447 hours compared to 1,359 hours in 2003–04), figures which exclude the extensive coverage of the Olympics, Paralympics and the European Football Championships as well as sports news coverage on BBC News 24 (BBC Annual Reports and Accounts 2003–04 and 2004–05).

In total BBC1 and BBC2 offered 2,465 hours of sport in calendar year 2004. According to Peter Salmon in 2004, the BBC had “the best sports rights portfolio in modern times”.

SPORTS RIGHTS

Sports broadcasting rights are now a significant part of the funding of many sports. In the case of cricket, for example, the ECB has stated that 80% of the game’s income derives from television revenues.

Sky believes that, unless there are overwhelming public interest reasons, both sport and the public are best served by the holders of sports rights having unrestricted freedom to market their rights as they think best. It is the governing bodies of individual sports that are best-placed to determine the right balance of income, exposure and coverage for their sports, rather than broadcasters or third parties.

In the UK, the principal restriction on the freedom to market sports rights is the listed events system, which ensures that certain universally available free-to-air television broadcasters (BBC1, BBC2, ITV1 and Channel Four/S4C) have a reasonable opportunity to acquire and televise live rights to certain events. In practice this means that such events will remain on free-to-air television and the value of those rights to the owner is sharply reduced, as there is less competition for the rights than otherwise.

The Government has announced that there will be a review of the listed events system in 2008–09. We welcome that review and will contribute to it at that time.

23 November 2005

Witnesses: **Mr Roger Mosey**, Director of Sport, BBC, **Mr Mark Sharman**, Controller of Sport, ITV, **Mr Andy Duncan**, Chief Executive, Channel 4, **Mr Colin Campbell**, Director of Legal and Business Affairs, Five, and **Mr Vic Wakeling**, Managing Director, Sky Sports, examined.

Chairman: Can I welcome Roger Mosey, Director of Sport at the BBC, Mark Sharman, the Controller of Sport at ITV, Andy Duncan, the Chief Executive of Channel 4, Colin Campbell, Director of Legal and Business Affairs at Five, and Mr Wakeling, the Managing Director of Sky Sports. Since we are running slightly behind schedule, can I suggest that you need not all feel it necessary to answer every single question.

Q35 Mr Yeo: Can I start by saying that one of the many reasons why cricket fans regret the passing of Channel 4 was the fantastic quality of the coverage and the innovative achievements that Channel 4 cricket coverage has recorded over the last six years, I think.

Mr Duncan: Seven.

Q36 Mr Yeo: I think that has really taken the whole coverage of cricket up to a completely new level and, in my mind, shows the benefits of competition. However, is it now the case that given the requirement for hours that we have been hearing about in the previous session, 280 hours of Test cricket alone, is it really impossible for a terrestrial broadcaster with perhaps only one or two outlets to actually do a Test match series?

Mr Duncan: We obviously put what we regard as a full bid on the table to keep the main Test series this summer. I think, as you say, and thank you for that comment, Channel 4 has really helped transform cricket’s coverage in this country and actually, as a result of that, it also triggered an improvement in sports broadcasting more generally, most notably in some of the technology

developments that Channel 4 innovated which were taken on in Wimbledon, for example. We obviously have put a very, very full investment over seven years of coverage and it cost us, on average, over £16 million a year because we are spending a significant amount on rights, we were spending a record amount in terms of production and we were pumping about another £5 million in terms of marketing and very innovative marketing at that. I think we have really helped transform the coverage of Test cricket in this country and it cost us over £100 million over a seven-year period. We put in what we thought was a very full bid and were very keen and seriously interested in obtaining the main Test series of the summer. The one adjustment we made relative to what we had been doing up to that point was that we originally won the tender for all home Test matches and the ECB had requested that we share the junior Test series with Sky, so it pointed to the way we actually ended up sharing, for example, the Bangladeshi series, one each. We decided, on balance, in view of the costs and the losses we were making, not to make a bid for the earlier Test series in the summer, but, in our view, we were happy to carry on covering cricket and were able, in scheduling terms, to cope with that.

Q37 Mr Yeo: Clearly the fact that you made a bid indicated that, but would you have been able to make a higher bid if the losses that you incurred through cricket had not been likely to be incurred again and are those not in part attributable to the very high demand for hours, but also the unpredictable scheduling of most interesting times

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and indeed some matches finishing early, so you have nothing at all for the last day or so? Do those circumstances, unique to cricket, add to the losses which you incurred?

Mr Duncan: Yes, the key drivers, to be honest, are that it is obviously on in the daytime which tends to have lower audiences and also you tend to have an older audience watching cricket and again, in terms of what the advertiser is prepared to pay a premium for, there are obviously those scheduling difficulties around matches finishing early and so on as well that contribute, but the main issue is that certainly for the first six years we had an average audience of just over one million and this summer was exceptional when we had an average audience of over two million obviously peaking at times at over seven million, but you do get real low points during the course of a Test match as well as high points in terms of numbers of viewers.

Q38 Mr Yeo: So, looking ahead, and you have made a bid this time, do you think that in four years' time or whenever it comes up again that actually the disparity which we have seen between what the satellite broadcaster can bid and what the terrestrial broadcaster can bid, is that going to remain at this kind of gap and, if it does, it appears, from what the ECB said, that it is, "Bye-bye" to terrestrial?

Mr Duncan: I think the BBC is obviously in a different position with the privilege of licensing funding, and I am sure Roger Mosey might comment in a moment on their position. I think if you are looking to fund commercially, as far as I can see, in four years' time some of the commercial pressures we have been under in the last seven years will be even worse, so the sorts of losses involved in covering cricket would be the same. As I have said, we prepared and put a very full offer on the table of £3 million a Test which was substantially more than what we paid for the first four years we covered and not far behind what we paid for the subsequent three years. We were prepared to go on incurring significant losses partly because Channel 4, although it is commercially funded, is effectively a public corporation with a public remit and we felt it was part of our duty to bring the sort of innovation that we had, but at the end of the day we had to balance that with our other requirements to deliver drama or current affairs and so on, so in the round we bid as much as we thought we could. We possibly could have moved a bit more and the ECB never came back to us for a final push-up, but we could not have gone substantially above what we bid.

Q39 Adam Price: We have just heard David Collier explaining that there were 27 different packages, I think, with millions of permutations. This is a question to the BBC and ITV: is there anything that the Board could have done to make the rights offer more flexible or more attractive and why did you end up deciding not to make any bid?

Mr Mosey: Well, first of all, there are difficult scheduling issues and, if I take next summer as an example, the first Test against Sri Lanka clashes with the FA Cup Final, the third Test clashes with the Derby and the one-day internationals clash with the World Cup and Royal Ascot, so there were scheduling difficulties. We did have at least a dozen meetings of colleagues who were involved at the time with the ECB to try to resolve those scheduling difficulties and it was disappointing for us that we were not able to do that. I should just say actually that on the question of the 27 packages, looking at the list submitted to this Committee, we did actually of course bid for some of those packages because they are radio packages or web packages, and in terms of Test match packages, it does on the list appear to be only the two and at the top of it they are listed as all seven Test matches, so we had genuine scheduling difficulties and we would have liked to resolve those.

Q40 Adam Price: I think your colleague Dominic Halls described the discussions as being very fruitful at one stage. What happened?

Mr Mosey: Well, they were fruitful, except that in the end the ECB was not able to reschedule any of the programme in a way which would have allowed us to get value for money out of bidding for them, so it was in the end an outcome where we did not feel able to make a bid.

Q41 Adam Price: So it was their inflexibility which prevented you?

Mr Mosey: I would not go so far. I think it is something where nationally, as rights-holders, you want to have a partnership and agree about scheduling and we just were not able to come to that. It is probably worth saying as well, just picking up from Andy's point, that if we had bid, it seems on the information we now know as if we would not have won any live Test cricket anyway because the whole point about free-to-air terrestrial broadcasters is they cannot match the premium for paid television, so if we had bid, I think the outcome would most likely have been the one we actually ended up with anyway.

Q42 Adam Price: ITV, is it a similar story as well in terms of your decision not to bid?

Mr Sharman: Yes, it is a combination of the difficulty in scheduling on a general entertainment channel and the simple fact that it was commercially unviable because of the difficulties in placing enough commercial breaks, getting the right sort of audience and the unpredictability of early finishes, days missing and rain delays and everything else. I should say I was not at ITV at the time of this, but they did receive the invitation to tender, they did have a meeting with the ECB, but, after internal discussions, decided that it was not commercially viable.

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Q43 Chairman: You both talked about the difficulty because of the unique nature of cricket, the length of time a Test takes, the scheduling problems and the difficulties with inserting commercial breaks and that explains why you did not, either of you, put in any bids for live coverage, but, on the other hand, you did not bid for the highlights either and your much smaller rival, Five, decided to do so. Why did you not bid for the highlights?

Mr Mosey: Well, going forward, we have bid for the highlights for the cricket World Cup. Like Mark, I was not there either at the time, but I think at times there was an assumption that Channel 4 would most likely win the bid and that Channel 4 would have the highlights, as they have done before. I think if we had known the information we now know, in retrospect, we probably should have bid for the highlights, yes.

Q44 Chairman: So you did not bid because you thought somebody, who also was not bidding, was actually going to win?

Mr Mosey: Channel 4 did bid and, I agree, I think Channel 4's coverage was terrifically strong and the assumption, I think, in the broadcasting industry was that Channel 4 would still have a measure of Test cricket going forward.

Q45 Chairman: Had ITV just taken the view that you would just cover lots of other sports and you would not do cricket?

Mr Sharman: There was a declining interest in the highlights of any sport. In the last decade or more, all the value is in live sports and the audience is used to live events and big events, and, for a channel like ours, we need major events.

Q46 Mr Hall: Andy, if the package that was put forward by the ECB had actually split the Test matches up into four and three, would that have made it easier for Channel 4 to put in a higher-value bid?

Mr Duncan: Just to be clear, we made the bid for the second Test series, so there are four next year, four the year after against Pakistan and India and then in the subsequent years, five each against South Africa and Australia. For the reasons I have mentioned, we decided that if we were going pull back at all, it was the shared junior series, for example, the two Tests against Bangladesh. The reduction in money for us would have equated, depending on which year you are talking about, to around £5 or £6 million per year. What I find—

Q47 Mr Hall: Where does the £80 million come from?

Mr Duncan: Well, what I find strange, and I overheard some of the earlier conversation, but there is a difference and, quite rightly, I think Sky did what was a very sensible deal for them and I think Five probably did what was a very sensible deal for them, but, from the ECB point of view, I think they had a very simple choice. They had the choice to go for yet more money, so, let's be clear, the £80 million

is more money in total than they have been surviving on up to now to create a very successful English cricket team who have won more Test series on the trot than any previous English cricket team, so they had sufficient money. What we proposed was equal commitment in production quality, equal commitment in terms of marketing, real exposure and awareness behind those main Test series, but something like £5 or £6 million less, depending on which year you are talking about. Of course the remaining rights are growing, and there are more Twenty20 games, there are more one-day internationals, so my own view, which I find puzzling in the whole process, is that had the ECB set out to keep some sort of balanced equation, and the point was raised earlier, I do believe that they could have got sufficient money, maybe not as much of it as they actually got because obviously Sky paid a premium for exclusivity, but they could have got sufficient money. I think the shame of it, and I think from our point of view it is a real shame that we are losing cricket, but I think the shame of it for cricket as a whole is that effectively there will be no live cricket of any form because it is not like football where it is shared amongst certain broadcasters, there will be no live cricket of any form available to about three-quarters of the audience in this country and even in a few years' time probably at least two-thirds of the audience in this country for many more years. The next Ashes, the next time you might see a live Ashes series could be seven, eight or nine years away, if indeed we ever see a live Ashes series again on a terrestrial platform or, by then, a fully available digital platform. I think that the ECB had a very simple trade-off, but from our point of view the trade-off was between sufficient money and exposure and (on the other hand) a lot more money and no exposure or much more limited exposure.

Q48 Alan Keen: First of all, my constituency has at least 25% people from the Punjab, either the Pakistan side of the border or the Indian side of the border and I tend to guess that those from the Indian side support Pakistan. I went to the mosque last Sunday afternoon and I already knew the first phase of the second Test and I conceded that they were only going to beat us two-one, but they said, "No, three-nothing", so we both lost. It is important to realise that there are lots of people who have different loyalties than England. Could I ask Vic, and Vic is looking the least happy, so whether he is hiding his pleasure at having got the cricket or whether it is to do with something else, I do not know, but, Vic, is it possible for Sky to sell cricket as a separate channel so that people who have plenty of time to watch all day long could pay money for that, but not have to pay for the football and films? Would that help the situation?

Mr Wakeling: Alan, as you know, Sky Sports is sold in various packages, but can I just clear up one point straightaway. Pay-per-view has been mentioned here today and there is no intention of doing any cricket pay-per-view at any time in the future. It will be part of the subscription service and pay-per-view

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cricket will not happen. As you know, Alan, also, we have been covering cricket for a long time now, since the winter of 1989/90 when we were the first people to bring in live cricket from overseas, England's tour of the West Indies. In fact we have covered 96 Test matches in the period since then. We have covered more cricket than anyone else and, as your constituents would probably realise, we have brought it from everywhere, from Pakistan, from India, from Sri Lanka, Bangladesh, et cetera, we have covered it from everywhere. We have had this long-term commitment to cricket. Now, in agreeing this deal with the ECB, we are working with them to widen the audience and that is why, as part of the negotiations, over 12 months ago we were asked by the ECB to make a special offer to all first-class county members and that has now been extended to minor counties. We think we can help them actually at that level as well. If you are packaging Sky Sports and the county membership together, again it makes county membership much more attractive and again it encourages cricket and involvement in cricket and in the same way as we work with the youngsters. I think that in our written submission we have talked about the age groups in multi-channel homes where we do have a much younger audience and I think that reaching children, young children, is not a problem. If you look at Channel 4's own audiences for Test matches in 2004, where I think over the period of the Test matches they covered, they averaged 1.3 million before they added the extra million for the Ashes series, only 4.5% of that audience were in the 16 to 24 age group. In the same year, of Sky's cricket audience, 8% of the audience watching were in that age group. I think that we do appeal to younger people, I think we have brought some marvellous cricket in over the years and I think that the packages that we make available are attractive.

Q49 Alan Keen: May I say, I think that the presentation of sport right across the channels is magnificent, but could I ask Roger, if the BBC had had a separate sports channel, would that have made a difference to your decision?

Mr Mosey: Well, I think the question of a sports channel is something we keep under review. As you know, the formal BBC position is that we will not, we do not have any proposals to bring any more linear channels and, interestingly, digital technology of course does actually in a way offer you more choice than simply one channel, so often on a Saturday afternoon we will have two or three sports running through our interactive or broadband services. Yes, it would have made scheduling easier, I have no doubt about that. On the other hand, the really big audiences come into sports through BBC One and BBC Two and in the end I think cricket fans would have wanted us to make cricket available on terrestrial television free to everybody. We were doing some audience research in Newcastle last week with a number of people who watched a variety of sports, sports fans, and a simple question to one of them was, "Why don't you have Sky Sports?", and

he said, "I'd love to have it, but I simply can't justify the amount of money, as a PE teacher with two kids of my own. I haven't got the money to be able to do that". I think it is a problem. I think Sky made a completely rational decision, as a business, and it is absolutely a decision I would take if I were Vic, but I think the problem is that cricket, as an entire live sport, is now not available at all free to air on terrestrial.

Q50 Alan Keen: What was ironic about the last Test was that there were times when I dared not even watch it and I switched it off, like I was hiding under the seat when there was a horror film on. Because we are looking forward, so can we forget about the next contract which is tied up now, and because we are looking forward quite a few years, what difference will the increased digital channels make to cricket?

Mr Duncan: I think, picking up the earlier point, at some level it will make free-to-air terrestrial coverage funded by advertising even harder because you have got fragmenting channels and fragmenting audiences. Clearly it does give an opportunity to stream certain forms of sport, including cricket, on specialist digital channels. My own view is that clearly the contract has been done for the next four years and that is sorted and ultimately it comes down to the sporting authority. I think for any sporting authority to put entire output for the four years, winter and summer, all versions of the game, out of reach of three-quarters of the population is a strange decision. Hopefully, cricket will survive that or hopefully not just survive it, but hopefully it will come through that in good shape, but I think an awful lot really depends on the situation ECB face in four years' time. If they have a will to get back to a situation where at least some cricket is made available to all homes, then I think either the BBC or a Channel 4 or an ITV or somebody else could come along and make that available. If they want to maximise money for the point that Roger made earlier, because of the way that sport drives Sky's business model, Sky or possibly another pay-driven cable channel or somebody probably will have the whip hand, so it has really got to be driven by the sporting authority and whether they want to maximise money or have a balance of money and exposure.

Q51 Alan Keen: Mark, do you feel that increased digital channels will make a difference to the next bids?

Mr Sharman: It would certainly solve the scheduling issue. If there was an ITV multi-channel, we could certainly schedule it. It probably would not solve the financial issue because the multi-channels tend not to get the audiences that the main mother channels get.

Mr Campbell: Fragmentation of the audience clearly poses problems in terms of the financial model, but, as has been said, in terms of scheduling, additional channels should help that.

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Q52 Mr Sanders: Could I ask Sky, you claim that this is not pay-per-view and I understand what you mean, but the reality is that, in order to view, you have to pay a subscription. Now, is there any way that Sky could actually make live Test cricket available on one of your free-to-view channels

Mr Wakeling: On the pay-per-view issue, by the way, to be clear, we do do pay-per-view sports. We do pay-per-view football, we do 50 matches a season, and we do pay-per-view boxing, but, you are quite right, the difference is subscription TV. In doing this deal, in agreeing this agreement, we believe that Sky Sports can deliver a good audience for cricket short term and long term. Again if you look at those audiences for cricket in 2004 when the deal was done, the average of 1.3 million on Channel 4, we believe that that is achievable next year, certainly the following year. In making any claims of audiences of course, you always must bear in mind competing programmes and of course the football World Cup is happening in the early part of next year which will take some audience away from Sky, from cricket and from all other sports broadcasts, but I think that what we are offering, the way we have worked with the ECB and the offer to all their members and the offers to affiliated clubs, et cetera, I think that we will deliver significant audiences on Sky Sports next year and beyond.

Q53 Mr Sanders: But no chance of you using one of your free-to-air channels then to show some live cricket? For example, say, with the final day of an exciting Test, you could actually use your free-to-air channel to try and be a taster to promote subscription surely?

Mr Wakeling: We would sit down and consider any sort of proposal and work with the ECB on anything that will benefit cricket and deliver higher audiences, but again if you look at the commercial problems, and you heard the commercial problems spelled out here today by Channel 4 and ITV where they could not make it work and I sympathise with Channel 4 again and I think they did a marvellous job, but when you look at the commercial impact they had over those years, and remember again that average of 1.3 million, if you look back to the last Ashes series in 2001, their average then was only 1.21 million, so it becomes terribly difficult for any commercial broadcaster to make cricket work for them which is why of course ITV did not bid and Channel 4 reduced their bid for a reduced amount of cricket.

Q54 Mr Sanders: That does not answer the question. You have free-to-view platforms through Sky where you could show—

Mr Wakeling: I said that we would consider anything in conjunction with the ECB.

Q55 Mr Sanders: Well, why would you need to consult the ECB? Surely it is—

Mr Wakeling: Well, it is a partnership and we work with the ECB, and we are working with them on marketing initiatives. This deal was actually

announced 11 months ago, I think it was December 15 last year, and since then we have spent a lot of time and effort in planning for the year ahead. In the same way as the ECB have made their plans to get sponsorship deals and in agreeing their funding at whatever level, we again have been making our plans for the past 12 months. We are planning high-definition coverage for all cricket next year, we are planning new programmes and a lot of those programmes will be aimed at the younger end of the market, we are planning new interactive technology and we have worked on the development of new cameras and we have invested in new people. This has all been going on for the past 12 months. We have worked with them as to how we make the offer to the counties and again we have been to see certain counties to see how we can help them with the further investment which has not been agreed, but we are working on it, on how we can help them with the coaching schemes which were mentioned earlier. I was speaking to one county last month who have three coaching schemes in the community. They send coaches in to work with what they call the “elite” youngsters coming through, they send them to work with clubs and women’s cricket and they send another one in to work with inner-city areas. Now, if we can help them at that level as well, again we will do so. There is no commitment there, but we are speaking to all first-class counties about that type of thing to see how we can help, so there is a lot of work, apart from the initial investment in the rights, in the production, in the marketing that we are going to put into it, and there is a tremendous amount of work going on over the last 12 months since this deal was agreed to make sure that this agreement works for the benefit of the game.

Q56 Chairman: If I can just quickly ask Colin Campbell two points, firstly, my colleague Adrian Sanders earlier raised the question of the extent of your coverage and I understand it is now increased beyond what it was before and I think in your submission you now said that you should be regarded as a category 1 broadcaster, so perhaps you would like to say a word on that. Secondly, Andy Duncan has explained how it was actually costing Channel 4 quite a lot of money to screen live cricket, ITV did not bid and the BBC have explained the difficulties, so why does Five think that it is right that they should bid and do you think that you can make a profit from showing highlights?

Mr Campbell: Firstly, in terms of our coverage, yes, I think going back in history certainly when Five started, it was very poor and there were lots of jokes about it, but since then, with improvements in analogue coverage and also more especially through the roll-out of Freeview, that position has improved dramatically. At the time we showed interest in these rights and it was indeed, as was stated by Mr Collier, 92%, it is now over 93% and by the time we start coverage of the highlights, it will be up to 95% and we are very confident about that. In terms of why we think it is right for us to have the highlight rights, certainly we feel that there is going to be a good

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audience for highlights and we are going to show it at exactly the right time. We carried out an opinion poll before we bid for the rights and over 50% of 18- to 34-year-olds felt that that was the right time to show highlights. We are very satisfied that that programme will be very well received, it will be a top-quality programme with good coverage of the day's play and we expect it to be very well received by the audience and to do very well for us. We are not making any particular projections in terms of the size of audience, but we think it will be very good. We know how the highlights package fared when Sky were showing the live and Channel 4 were showing the highlights and we are going to put it out consistently at the early evening slot when it is available, as I said, to young people, children, families and working parents, and we are very happy to be showing it.

Q57 Chairman: When you bid for it, did you know that none of the terrestrial broadcasters would be carrying it live?

Mr Campbell: No, we did not know that, no.

Q58 Chairman: So that must have come as an additional bonus to you.

Mr Campbell: Well, we bid on the basis that we would only like the highlights, as Sky were the carrier of the live rights, because that is clearly when they would be most valuable to us.

Q59 Paul Farrelly: Just on the highlights, which are as important as the live cricket to many people coming home from work, are the other broadcasters satisfied one by one that you were offered a full, equal and proper opportunity to bid for the highlights package?

Mr Duncan: Speaking on behalf of Channel 4, I think we took a view that we made a serious bid for the main Test series, as I said. I am encouraged to hear that Vic thinks they will get the same audience as we did when they are about a fifth of our size on like-for-like Tests with New Zealand or Bangladesh over the last couple of years, so that is encouraging. I think we took the view that if the ECB were prepared to drop us after seven years' investment we had put into the game, we were not just simply going to put up with the highlights as a consolation prize. For us, I think it was heavily linked to putting in a full and fair bid to keep live Tests on a free-to-air basis and if the ECB decided not to go that route, then we were out of it.

Q60 Mr Farrelly: So what about ITV and BBC—were you given a full and proper opportunity to bid for the highlights package or were you just not interested?

Mr Sharman: Given that ITV pulled out of the bidding process early, they were happy with events as they unfolded, yes.

Mr Mosey: Mr Whittingdale correctly pulled me up on constructing a series of hypotheses, but the actual detail on that I would need to let you know or write separately about the people involved in the

negotiations at the time, but, as I said, the assumption was that Channel 4 would retain live rights and, therefore, highlights associated with them.¹

Q61 Mr Farrelly: If you could come back and say if you were happy with the way the bidding process worked, we would appreciate it.

Mr Mosey: I will let you know.

Q62 Helen Southworth: Vic Wakeling, your response earlier, am I interpreting this correctly and are you going to be looking perhaps at programmes around developing skills and techniques and analysis of performance?

Mr Wakeling: We are talking at the moment to the first-class counties only, not to the minor counties, so to the 18 first-class counties, about what they do at grassroots level and if we can get involved. Now, we are not going to work, we do not have the expertise to develop skills, et cetera, but whatever they do when they send their coaches into schools, into clubs, into the community, we are talking to them to see if we can come up with a scheme where we can fund that or help them to fund it.

Q63 Helen Southworth: Are you going to give coverage to it? Is it going to be broadcast?

Mr Wakeling: We would certainly report on anything we would get involved in, yes.

Q64 Helen Southworth: I am sorry, I was thinking specifically rather than promoting the fact that you are doing this. In terms of broadcasting, would you be broadcasting opportunities for people, young people to see how the top-quality counties are—

Mr Wakeling: I am sorry, I misunderstood the question. Yes, of course. In the new programmes we are developing, we are developing new programmes which will go to air next year of course. Some of those will be, what I call, “on the front channel” and they will be aimed at the younger audience. It will be coaching skills and it will help them to get involved. Again on the interactive streams behind the live broadcasts, there will be coaching explanations, et cetera. We already do it in fact, that type of thing you are suggesting, where we run a series called “You Can Do It” of seven-minute programmes scheduled on a Saturday morning which covers all sports. It takes a sample of a cricketer, Nasser Hussain, how he came through and how he was helped by his father, helped by his local club, et cetera, and, “If you want to get involved, here is the web address to go to”, and we have been running those programmes now for about six months, covering 41 different sports.

Q65 Mr Yeo: Is it fair to say in the light, Andy, of what you have just said that you feel a bit disappointed that the quality of the coverage, widely acclaimed, which Channel 4 has given over the last

¹ *Footnote by witness:* Having reviewed the tender process for the ECB cricket rights, I am satisfied the BBC was given a fair opportunity to bid for Test Match highlights.

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seven years was not really taken into account significantly by the ECB when they made their decision?

Mr Duncan: No, not particularly. I think the quality of the Sky coverage is also absolutely excellent, but, at the risk of repeating myself, I think we were disappointed that the ECB did not feel that the balance that they really needed to help build up the success of the Test team over the last several years by

having a combination of exposure on a free-to-air window via Channel 4 and the very good specialist coverage that Sky was able to offer, that balanced ecology, in our view, they could have continued to have sufficient money and I think we were disappointed with that decision. I do not think it was actually about the quality of coverage and at the end of the day they had to take a tough decision, we appreciate that, but time will tell.

Chairman: Thank you very much indeed.

Witnesses: Lord Smith of Finsbury and Lord MacLaurin of Knebworth, Members of the House of Lords, examined.

Q66 Chairman: Lord Smith and Lord MacLaurin, can I begin by thanking you both very much for agreeing to come and give evidence to us this morning. Obviously our interest relates to the precise events which occurred in 1998 leading to your decision, Lord Smith, as the then Secretary of State, to move Test matches from category A to category B. Now, obviously the actual decision to put Test matches on the category list B meant that it enabled the sale of the broadcast rights to Sky to take place, but at the same time there has been much reporting that there was an understanding between you and Lord MacLaurin that nevertheless, despite that decision, at least some live coverage would remain free to air. Can you tell us, each of you, what your view is of that understanding and whether or not you think that the deal that has been made breaches it?

Lord MacLaurin of Knebworth: I wrote to Chris on 23 June 1998 when it was agreed that Test cricket would go from the A list to the B list and on the second page of my letter to Chris, I said, "As you will recall, I have given my personal reassurances to you and the Prime Minister that in such an environment, the ECB would wish to keep a substantial amount of live coverage on the BBC". We did not know that Channel 4 was going to get involved in those days and we were obviously talking to the BBC, so I am absolutely quite clear that in the deal that we did, Chris and I, we had to keep a substantial amount of cricket on free-to-air television.

Q67 Chairman: So the ECB breached it?

Lord MacLaurin of Knebworth: I do not know whether the ECB breached it because I ceased to be Chairman in 2002.

Q68 Chairman: But if it was your understanding that the ECB would maintain a substantial proportion and they have not, then clearly the deal has been breached.

Lord MacLaurin of Knebworth: I do not know what discussions they had with the Department, so I cannot say that. All I can say is I am very clear on my negotiations and understanding with Chris. In fact Chris said to me, "Ian, go ahead and do your deals, but before you announce anything at all, you've got to confirm it with me". We did the deal

with Channel 4, we did the deal with Sky, I confirmed it with Chris and he said, "Yes, you can announce it".

Lord Smith of Finsbury: The decision that I made at the time to move Test matches played in England from category A to category B was taken really for three reasons. The first was that Lord Gordon's Committee, you will recall, had deliberated, taken a lot of evidence and had reported with its recommendations for the category A/category B structure, a very important report and I took it very seriously. It was their recommendation that Test cricket should be moved into a category B position. Their principal reason for recommending that was the scheduling issue in that if you have 30 days of Test cricket potentially to cover it is very difficult for a terrestrial broadcaster to cover that comprehensively. I took their report very seriously. The Lord Gordon Committee was composed of a number of very distinguished people, including Jack Charlton, Steve Cram, Michael Parkinson and Parliamentary colleagues Kate Hoey and Alistair Burt. The second reason was that the ECB and the county clubs had made very strong representations to me that they needed the freedom to negotiate with a range of different broadcasters in order to enable them to derive the best possible income for cricket. Their aim was to enable cricket to develop, to grow and to put in place a lot of new cricketing activity, particularly for young people. They wanted to use the broadcasting income that they believed they could derive from having a broader marketplace to go out and trawl in order to develop the game. As well as strong representations from them, I should also say I had very strong representations from the former Prime Minister, Sir John Major, who was also extremely strongly of the view that this was a move that was necessary. The third reason was that I had indeed been given a very clear reassurance from Lord MacLaurin and also there were public statements from the ECB themselves that indicated that they would wish, in any circumstances, a substantial amount of live coverage to be available on terrestrial free-to-air television. I checked back on this in preparation for this morning. When I announced my decision on 25 June 1998, knowing that the cricket decision was the really controversial part of the decision that I was announcing, I said the

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following. “My decision to accept the Gordon recommendations on cricket allows the sport more freedom to negotiate a fair price for its flagship events. This is something for which the ECB and county cricket clubs have specifically asked. I expect to see that freedom used responsibly, with continued access for all viewers to a substantial proportion of live Test coverage and any new income derived for cricket devoted to improvements in the facilities needed to play the game and to raise our standards. If these expectations, especially the test of achieving substantial live coverage on free-to-air television, are not fulfilled then I may, of course, need to review the listed criteria again.”

Q69 Chairman: So you allowed the ECB to legally sell all live rights to a subscription channel in the expectation that that would not happen and, given that it now has happened, if you were Secretary of State you might move it back to List A.

Lord Smith of Finsbury: As to the first part of your question, the answer is yes. On the second part of your question, I obviously would not wish to comment on decisions made more recently because I am not privy to all the discussions and debate which may have gone on. However, I am aware that it is always possible for the Secretary of State to initiate a review of the listed criteria.

Q70 Chairman: The Secretary of State has said that the status of the agreement between the two of you is “somewhat unclear”. Is that a surprise to you? Do you think in the records of the DCMS there is a very clear record of the understanding that you had?

Lord MacLaurin of Knebworth: From my point of view it is very clear indeed. I did the deal with Channel 4 and Sky and I had to confirm it with the Secretary of State before I was allowed to announce it. You could not have anything much clearer than that.

Lord Smith of Finsbury: I think the terms of my announcement on 25 June 1998 in public terms could not have been clearer.

Q71 Paul Farrelly: Chris, some people might say that your decision to move cricket to Group B at the time was very pragmatic because Group A is one-off events and you simply could not, because of the serious nature of cricket and notwithstanding the Ashes success, specify the Ashes under Group A because we would have lots of members of other communities, for example Indian and Pakistani, up in arms about that. It is a very pragmatic decision. Clearly we have explored the issues of what is best in terms of the money or coverage for the long-term development of cricket. Is there not another important issue for public interest here as to what message is sent when assurances that have been seen to have been given to a Secretary of State appear to have been broken in a subsequent deal? Is the message that Government should not take verbal assurances in the future but should have binding legal agreements?

Lord Smith of Finsbury: It is an interesting question. I would, however, say that because it is always possible for a Secretary of State to review the criteria, to have another look at the listing arrangements for the so-called ‘Crown Jewels’ of sport, it does place considerable weight and authority in the hands of any Secretary of State. You are right, however, to draw attention to the fact that Test cricket was different from the other items which were previously on the A list. When I launched the whole process of the Gordon Inquiry and the subsequent decisions I put in place what I viewed as the principal criteria for judging something to be an A list event and the two most important of those criteria were, firstly, that something should have a national resonance, that it should be something not just of interest and engagement to the followers of that particular sport but to the broader population of the country as a whole, and, secondly, that it should be a shared point in the national calendar, something that people grouped around. With 30 days of Test cricket in a normal year it is actually difficult to describe that as a shared point in the national calendar. However, what we do know is that there come moments in the life of cricket when you do get that shared national interest, but it is very difficult to predict in advance where that shared interest is going to lie. We did consider, for example in the course of our discussions and debates leading up to my decision, whether A listing the Ashes Tests was something that ought to be considered and the immediate and obvious point was made that there are many communities in this country for whom the other Tests are far more interesting and important than even the Ashes. We considered and rejected that as an option.

Q72 Paul Farrelly: Chris, you have said that the assurances that were given can have weight but only if there is a sanction and clearly if there is a reasonable prospect of that sanction being used. In this instance what message do you think will be sent out if a sanction is not used about the deal that has just been done which seems to break the assurances that you both gave each other?

Lord Smith of Finsbury: What I do not know is what decisions and discussions were undertaken in conversations between the Secretary of State and the ECB in the run up to the deal that took place at the end of last year; you will need to ask them about that. If I had been approaching this, I imagine I would have been in fairly close discussion with the ECB in the run up to any new deal that was taking place or I would have had a sense of what the likely approach was going to be, but I am afraid you will have to ask others about the detail.

Q73 Paul Farrelly: And that would have been important to you because of the nature of the deal that you did.

Lord Smith of Finsbury: Partly because of the nature of the assurances that I had been given seven and a half years ago but, more importantly, because there is a twin objective that has to be achieved here, you have to both secure the maximum possible income

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for cricket and you also have to ensure the maximum possible engagement from a broad audience with the excitement of cricket on television. Balancing those two objectives is something that Government can assist in, although ultimately it is up to the broadcasters and the ECB to do the deal.

Q74 Mr Yeo: You have both made the point that obviously you are not privy to the discussions that take place and different people have been doing your respective jobs but, equally, it is clear that what has happened is very substantially different from what would have happened if you had both still been in the jobs and had been trying to honour the agreement you reached. What do you think could have occurred that has enabled your successor to take such a different view?

Lord MacLaurin of Knebworth: I think we can only surmise. I presume that the ECB was talking to the Department and getting clearance that they could deal with any broadcaster exclusively. I know that when the deal was going through I spoke to my successor, David Morgan, the Chairman of the ECB, and reminded him of our conversation and I reminded him of the deal that I had done, so he knew exactly what that was. I would add that English cricket at that time was in a pretty poor state, we were eighth in the world and we did not have any money at all. To get this deal up and running was very important and subsequently during my time we actually increased that deal with Sky and Channel 4. What we have in cricket at the moment, which is very encouraging, through all levels is due to Chris's decision and the money we were able to generate. It would be very sad in my view if any consideration was given to put cricket back on the A list because I am afraid then it would put us right back in the dark ages.

Q75 Mr Yeo: Nevertheless, what you have described is a situation where cricket was benefiting significantly from the arrangement that you reached and the income was rising and so on. There is now obviously a lot of concern that, although more money is immediately coming in, that progress might now be jeopardised for other reasons, with the disappearance of cricket from freely available television.

Lord MacLaurin of Knebworth: Everybody I have spoken to is not happy with the deal that has been announced. Even the top executives in the ECB would rather have a deal that maintained the balance. I certainly would rather have maintained that balance and if I had been chairman I would have worked very, very hard to see if I could have done that.

Q76 Mr Yeo: The implication of what you said is that you think there must have been at least a tacit approval from the Secretary of State before this deal was announced. It would only be with that tacit approval that it could have gone ahead.

Lord MacLaurin of Knebworth: I would surmise that by going back to my letter to the Secretary of State in June of 1998.

Lord Smith of Finsbury: One of the things that will never be put into black-and-white documents is the regular process of discussion which goes on between any Secretary of State or Minister of Sport on the one hand and the senior figures in the major sporting organisations on the other. I think I am right in saying that even prior to the now famous letter of 23 June 1998 I had been at Lords and had had quite a lengthy discussion with Ian at the time in which the same assurances that he then subsequently put into writing were given to me. This is a process of constant discussion and conversation.

Q77 Adam Price: In a letter to Sir Peter Tapsell, James Purnell, the junior minister in the Department, said that we must be clear, "there was no binding agreement between Chris Smith and Lord MacLaurin". Is that a fair and accurate construction given what you have told the Committee?

Lord MacLaurin of Knebworth: No.

Q78 Adam Price: Would you like to elaborate on that?

Lord MacLaurin of Knebworth: It was quite clear. I had a conversation with Chris which was very clear; he would not allow me to announce anything until he was satisfied with the deal that was on the table. So I phoned Chris and said "This is the deal", and he said, "Okay, you can announce it". In my letter it quite clearly says that a substantial amount of live coverage would be on free-to-air television. I do not have any doubt about that.

Lord Smith of Finsbury: My answer would be slightly different in that the agreement that we had was in no way legally binding. It would have been perfectly possible for the ECB back in 1998 to have said, "We're going to sell to Sky because it is now a B list event and we are tearing up any sort of commitment that we have given to you". The assurances were so public and the statements that I made when I made my announcement were so clear that it would have been inconceivable for that to happen. Whilst it is fair to say it was not a binding agreement, it was a very strong agreement relating to that particular moment and that particular deal.

Q79 Adam Price: And it was a clear deal with specific undertakings in which, if the ECB had actually broken those undertakings, there would be clear consequences, ie the Secretary of State would then have the opportunity to revisit the decision.

Lord Smith of Finsbury: I would then have wished to review the criteria that were put in place on the list.

Adam Price: It sounds like a binding agreement to me.

Q80 Alan Keen: Do you think that everything should be done to change the contract? Should the Department step in and look at the legal implications?

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Lord MacLaurin of Knebworth: I think it is very difficult for Government because I have no doubt at all that they have got a legally binding contract and I think it might be quite difficult for the Government to pull out of that now.

Q81 Alan Keen: Should they look at it and make sure it is what it is?

Lord MacLaurin of Knebworth: I think we are all here to air our views about it. My open view is that I am really very sad that we are not seeing any Test cricket for the next three years on free-to-air television; I think that is unfortunate. I think David Collier said that as well in his evidence that I listened to this morning. I think everybody would rather have seen a balance between satellite and free-to-air.

Q82 Chairman: You said in a report by Mihir Bose, “The Government could intervene, there is no doubt about that. The Government could say, ‘Look, we’re sorry we’ve made a mistake or this was the deal done with the ECB, would you please negotiate?’”

Lord MacLaurin of Knebworth: Yes, the Government could, that is the Government’s decision. They are hearing the evidence, they know these letters and they have seen it. If they wished to I presume they could.

Q83 Chairman: Do you think they should?

Lord MacLaurin of Knebworth: I think it would be difficult for them.

Q84 Mr Hall: Chris, you said that this was not a legally binding agreement, but clearly the decisions that took place with Lord MacLaurin and the assurance that you were given that there would be free-to-air view for cricket were paramount in your decision making. If you had not been given that assurance you would not have placed them on the B list.

Lord Smith of Finsbury: If I had not been given the assurances that I had I would have thought very seriously, not necessarily of placing the entirety of Test cricket on the A list, but at least placing a proportion of Test cricket onto the A list. I was reluctant to make such a decision. I did consider it very carefully, but in the light of the assurances that I had been given I was able to achieve what I think was effectively a win-win in that cricket was able to negotiate a much better price than they would have otherwise been able to do and we were able to secure substantial free-to-air coverage.

Q85 Mr Hall: We are now in a position where for three years we are not going to have any free-to-air live cricket.

Lord Smith of Finsbury: And that is why I think it is very sensible for the Secretary of State now to have said that she will want to review the position again for any future deal.

Q86 Chairman: But not for another three years.

Lord Smith of Finsbury: I suspect that the die is cast for the next three years.

Q87 Paul Farrelly: There is really no discrepancy in your answers as to what you feel constitutes a binding or non-binding agreement and also clearly we are where we are and now it would be very difficult for the Government to step in and try and break a legally binding deal. Lord MacLaurin, from your answer I gain the impression that what you felt binding on you, whether or not it was legally binding, would be something you would feel your success is to be bound by and therefore to consult the Department on the terms of any deal that was negotiated and then what the Department did subsequently is up to the Department.

Lord MacLaurin of Knebworth: I presume that happened, I do not know. Certainly David Morgan, the Chairman, knew of the deal. As to what has happened over the last negotiations, I really do not know.

Chairman: Thank you very much indeed.

Memorandum submitted by Keep Cricket Free

KeepCricketFree.com was set up by cricket fans David Brook, Mike Sainsbury, Ben Ferns and John Grogan, MP for Selby, in September of this year. Within four weeks, over 14,000 members of the public had registered their support and thousands have written to the DCMS to register the strength of their feelings about the loss of Test cricket coverage from free-to-air TV.

A. THE ISSUE OF BROADCASTING

1. England’s historic Ashes victory has, in the words of the Prime Minister, “lit up the summer”. England captain Michael Vaughan was “amazed” at the level of public interest in the Ashes series. This enthusiasm is particularly high amongst the young. There are ten thousand Freddie Flintoffs playing cricket at the end of this summer and they are all under 10. Does anyone really believe this interest would have been generated, however compelling the cricket, without the widespread exposure that free-to-air TV provides? The current mix of free-to-air coverage for the new and casual viewer together with the comprehensive Sky Sports pay-TV coverage of One Day Internationals and domestic cricket for the committed fan has ensured that cricket has achieved the optimum mix of exposure and income and has contributed to the sport’s remarkable resurgence. This is now under threat from the withdrawal of all free-to-air coverage.

2. When the Gordon Advisory Group recommended taking cricket off the protected A-list of Sporting events and putting it on a B-list, the special status of Test Cricket was recognized. A balance was sought that offered cricket the opportunity to generate greater income from pay-TV whilst protecting the exposure to test cricket that free-to-air coverage provides. At the time, as Lord MacLaurin has repeatedly acknowledged, the then Secretary of State Chris Smith was extremely reluctant to concede all domestic Test cricket whilst he recognised the need for the game to attract more money.

3. A compromise solution was arrived at whereby a minor series was introduced into the domestic schedule. Smith accepted the financial situation could be improved by making this series available to open tender whilst the major series of the domestic season would remain free-to-air. This arrangement formed the basis of the agreement between the ECB and the DCMS that did, indeed, result in extra funding and investment in the game.

B. THE DELISTING ARGUMENT

4. The status and interpretation of this agreement between Smith on behalf of the Government and Lord MacLaurin on behalf of the ECB has been called into question. The DCMS states “there was no binding agreement between Chris Smith and Lord MacLaurin. The policy ‘gave the ECB the responsibility for balancing media exposure and income, whilst protecting highlights coverage’” (see Annex). In fact, the nature of the Agreement is no different to the thousands of self-regulatory agreements that are characteristic of UK governance. Smith made clear to Parliament at the time the nature of the arrangement and that he expected that most domestic Test Matches would be shown live and free to air. He also indicated that he reserved the right to review the situation if the ECB failed to exercise the responsibility it had been given. (See Appendix 1—DCMS 135/98 25 June 1998 (*not printed here*)). His statement could not be clearer. “If these expectations—especially the test of achieving substantial live coverage on free-to-air television—are not fulfilled, then I may of course need to review the listed criteria again.”

5. The extra funds made available are important as broadcast revenues represent 80% of money coming into the game at the present time. The Smith/MacLaurin agreement expressly acknowledges this and, as the ECB accepts, the mixed funding model (of free-to-air and pay-TV) that has operated since 1998 has worked and allowed for additional funds and investment. It is difficult to see how the ECB was suddenly going to be so much worse off at this time. In fact, one of the consequences of ignoring the existing agreement is that it puts the long-term financial security of the game at risk. By condemning the game to vastly reduced audience exposure, the ECB will not be able to develop many other potential sources of revenue—through broadcast sponsorship, merchandising, endorsement revenues and so forth. With these sources of revenue dwindling, the game will become ever more dependent on broadcast revenue and, correspondingly, in an ever weaker bargaining position. This vicious circle will have disastrous consequences for grass roots cricket.

6. The value of this lost exposure on terrestrial TV has been estimated by Walker Media (leading UK independent media buyers) as just under £40 million per year.

7. The ECB considers that full, uninterrupted coverage on Sky together with the highlights on Channel Five (and ball-by-ball coverage on BBC radio) will be enough to sustain interest in the game and inspire interest in “fans of the future”. The ECB claims this will also be furthered by the grass roots initiatives funded by broadcasting incomes. The people at the grassroots of the game (largely unrepresented within the ECB) disagree with this profoundly.

C. AN INTERNATIONAL ACCORD

8. No other governing body responsible for a major sport anywhere in the world believes the national sport for which they have responsibility can be without free-to-air television. Whilst some revenue may be lost in the short term, there is a need to continually renew the sport that the governing body represents by attracting new people to the game and this is a primary consideration. It is difficult to see why cricket should be treated differently. Indeed, all other national governing authorities of cricket do not believe it is different. The Australian government has recently taken action to ensure that free-to-air coverage of Test Cricket is protected for the next ten years, recognizing the importance of maintaining interest in the longer form game. When, on 21 October of this year, the Indian Government insisted that pay-TV broadcasters could only broadcast Test cricket involving the Indian team if they shared the feed with the national free-to-air state channel, the UK became the only cricket-playing nation that will have no Test cricket shown free-to-air.

D. THE THREAT TO THE FUTURE OF THE NATIONAL SPORT

9. Deprived of the opportunity to see the best cricketers in the country competing at the highest level, hundreds of thousands of young people will remain unaware of our national game and local clubs will fail to recruit new players. The first duty of any sport’s governing body is to preserve the future well-being of their sport and the ECB has failed cricket utterly. Furthermore, those retired and on fixed incomes, many of whom have been watching cricket for more than 50 years, will no longer be able to watch their national

team compete. The same is also true of many disabled people and people who simply cannot afford more than £400 to watch England play. Victories like England's historic Ashes triumph belong to the whole nation, not just the privileged few who can afford to pay.

10. Lack of vision from the ECB threatens the future of cricket. The perceived need for more money will be of little or no benefit to the grassroots game as most of the revenue goes to support the anachronistic structure of the county game. Whereas most sports have undergone radical re-structuring in recent years, county cricket has essentially retained the same structure since 1864. It is getting increasingly difficult and expensive to sustain. The National Cricket Association, the body that represented the grassroots amateur game, was subsumed into the ECB when the ECB was established. Although charged with acting in the best interests of the game from playground to Test arena, it is instructive to note that the Governing Body of the ECB is entirely dominated by senior County officers. As a consequence, the grassroots game is institutionally excluded and, of course, financially excluded too.

11. In taking the short-term money, the ECB has ensured cricket will be denied the oxygen of the widespread exposure that will attract a new generation to the game. A game that has contributed so much to cultural life in the UK has had its very future threatened by the body set up to ensure its future well-being.

12. Cricket is also the most multi-cultural and ethnically diverse of sports. Next summer sees the visit of the Pakistan national team for a four test series and 2007 welcomes the West Indies and India national teams. At a time when events that foster a sense of national cohesion are all too few, to deny the British Pakistani, Indian and West Indian citizens the ability to watch their national side is to deny cricket its time-honoured role of integration.

E. A DAMAGING CONTRACT

13. The ECB contract will prove disastrous for the future of the game given the difficulty many schools have in offering any serious commitment to cricket. Our cricketing facilities continue to be threatened by a shortage of resources and young enthusiasts are denied access to the game. Only two of the Ashes winning team played any cricket at school. The other players, like Andrew Flintoff, were inspired by watching their national team on television, and were fostered and developed by local clubs. The vast majority of local clubs receive absolutely nothing by way of financial support from the ECB and inner city needs have been virtually abandoned. Many local clubs fear the huge amount of enthusiasm drawing youngsters into the game after this summer will disappear as quickly as their heroes have done from their screens.

14. Twenty per cent of the population in the UK cannot receive Channel Five, so very many people will be unable to see any Test cricket at all. This important point of deprived signal areas was recognized in the original Staging Agreements between the ECB/TMG's (April 2000) yet seems to have been ignored. Furthermore, very many people will be deprived of the opportunity to watch by virtue of where they live. There are often restrictions on housing association and council tenants getting cable installed or having satellite dishes either because of damage to the fabric of the building or because of planning restrictions on multiple dishes on blocks of flats. According to the census of 2001, just under 5 million people live in council properties or housing association properties. In exactly the same way, a huge number are not able to have a satellite dish, because of planning and listed building laws. Many of these areas are also not passed by cable.

F. THE MISLEADING BIDDING PROCESS OF THE ECB

15. The ECB claim that if they had been precluded from considering exclusive bids from "subscription broadcasters", competition for the rights would have been limited. It is claimed that there was no terrestrial broadcaster bid for overseas tours, one day internationals, women's internationals or domestic cricket. The ECB claim that had it not been able "to consider exclusive bids from subscription broadcasters" £80 millions over four years would have been lost. There would have been massive cuts in investment (see Annex).

16. It is ironic that twice in outlining this argument the DCMS refers to satellite broadcasters in the plural. No doubt the irony will not be lost on either the BBC or Channel 4 as they not only have to compete with a subscription broadcaster determined to secure exclusive rights, but a monopoly subscription broadcaster to boot. The Secretary of State continually asserts that a commercial contract has been signed and entered into after a free and fair bidding process. The bidding process was neither free nor fair. Once exclusive rights are offered to a pay-TV platform, no terrestrial or free-to-air company can compete, because the premium is obtained by denying the coverage to the rest of the nation.

17. Furthermore, in a letter of the 15 September to a KCF supporter, the Chief Executive of the ECB, David Collier, stated "No terrestrial channel bid for more than 35% of home International Test Matches". KCF got in touch with Andy Duncan, the Chief Executive of Channel 4 and asked him whether this was the case. His reply was "We bid for the main Test series each summer—ie clearly much more than 35% of Home International Test Matches." The fact that the terrestrial broadcasters did not bid for 'the whole of domestic Test cricket next season' would suggest both the BBC and Channel 4 respected the self-regulatory

agreement they believed to be in place. For the same reason they did not bid for the overseas tours, the one-day internationals, the women's cricket or domestic cricket. For reasons already stated, other revenue opportunities will now be denied to the ECB because of the minimal exposure the game will receive. The suggestion that the game would have lost £20 million annually is wildly inaccurate.

G. MINISTERIAL CONFUSION

18. The Secretary of State has stated on a number of occasions that the Government will “need to review the list of protected events as digital take-up increases” and has suggested the appropriate time to do this would be at the end of the forthcoming BSkyB contract. She suggested that it would be inappropriate before then because that was nearing the time when the Government planned to switch off analogue broadcasts. In an article in the *Guardian* on 13 September she stated “We are heading for a period of almost unprecedented change in TV with the switch from analogue to digital, so ask this question in 2008–09, once the digital switch-over has begun, and it won't apply in the same way because there will not be terrestrial TV as we know it now.” This is just factually incorrect, quite apart from the total disregard for the damage done to cricket in the interim.

19. Factually incorrect as, of course, terrestrial broadcasters will continue to function as before. They will simply use an alternative transmission technology. The switch-off of analogue terrestrial TV signals is as irrelevant now in the argument about free-to-air cricket rights on digital terrestrial TV as it will be in 2009. Perhaps the acquiescence of the DCMS in allowing an exclusive deal with BSkyB was predicated on this fundamental misunderstanding. When the Secretary of State promises a digital future where there is equal access to the fruits of digital for the elderly and the disabled as the city broker, she fails to acknowledge that the digital divide between pay-TV and free-to-air is much the same as the divide between those pay-TV and free-to-air in the analogue world.

Wisden Cricketers' Almanack 2005—142nd edition, Matthew Engel

“We are talking about a situation where the overwhelming majority of the British population will never come across a game of cricket in their daily lives. There will be short-term consequences as sponsors drift away; the longer-term effects will take a generation to unfold. Some believe these could be serious. I think we're looking at a potential catastrophe.”

H. QUESTIONS

1. Has the ECB valued the various online new media imaging rights (Internet, 3G telephone reception, virtual advertising etc)?
2. Has the BSkyB Contract with the ECB included exclusive access to ALL forms of broadcasting/imaging rights in whatever format?
3. Where is the ECB evidence to prove that an exclusive deal with BSkyB is more valuable than several contracts relating to the unbundling and sale of separate licenses to a variety of commercial interests?
4. Why is the governing body of a national sport in the form of a company limited by guarantee and not publicly accountable?
5. Why was the Contract with BSkyB concluded before the Ashes Series had been played?
6. Why were the terrestrial broadcasters not courted as assiduously as BSkyB during this process?

I. RECOMMENDATIONS

The Parliamentary Select Committee has an essential role to perform in recommending to the House that the Secretary of State should require the ECB to implement the terms under which cricket was de-listed by the Government in 1998. The Secretary of State should be urged to bring together the ECB and all interested commercial interests to broker an arrangement whereby at least the major domestic series is simultaneously broadcast on BSkyB and on a free-to-air channel. If the parties are not prepared to enter into such an arrangement, the Secretary of State should be urged to undertake to return domestic Test cricket to the list of protected events with immediate effect.

8 November 2005

Annex

LETTER FROM JAMES PURNELL MP, MINISTER FOR CREATIVE INDUSTRIES AND TOURISM, DCMS TO SIR PETER TAPSELL MP

Thank you for your letter of 10 October 2005 to Richard Caborn enclosing one from Mr Anthony Pickerill, (*not printed*) concerning the broadcasting of test matches on terrestrial television. Your letter has been passed to me for reply as the Minister responsible for broadcasting matters.

I can understand Mr Pickerill's frustration that live Test cricket will not be shown on free-to-air television for the 2006–09 seasons. As you correctly state, live coverage of Test matches is no longer protected to prevent it simply being sold exclusively to subscription channels. This decision was made in 1998 in the light of the recommendations of the independent Review undertaken by Lord Gordon's Advisory Group. The Group recommended protecting highlights rather than live coverage of Test matches, principally because of the particular reliance of cricket on television income and the fact that terrestrial channels with mixed schedules find it difficult to schedule the long coverage needed for Test matches, especially as they can extend into and disrupt their evening programmes.

Overall, the result of the 1998 Review was to extend the list of protected events, adding some events to the A list protecting live coverage and introducing a B list protecting delayed or highlights coverage. This innovation facilitated a much wider list of protected events, especially of those which, because of their length, it is difficult for general channels to cover, such, as the Open Golf Championship. The B list recognizes the practical constraints on broadcasters and those constraints apply equally to Test cricket. Other events were also added to the A list—see Appendix (*not printed here*).

The Review also took into account the fact that the ECB did not have the flexibility to engage in a more competitive broadcasting environment and fully exploit broadcasting rights. Income from broadcasting forms 80% of cricket's income—and the vast majority of that comes from the Tests. The increased income since 1998 has allowed the ECB to invest substantial amounts in programmes for grass roots cricket and central contracts for England players.

The letter from Mr Pickerill makes reference to an understanding between Chris Smith and Lord MacLaurin that the main Test series each summer would be shown on terrestrial television. We must be clear, there was no binding agreement between Chris Smith and Lord MacLaurin. The policy set out at the time of the 1998 Review gave the ECB the responsibility for balancing media exposure and income, while protecting highlights coverage.

The ECB tell us they would ideally have wanted to continue to share live coverage between, for example, Sky and a terrestrial broadcaster as they have since 1998. However, because of the specific factors affecting cricket, the decision about whom to sell live broadcasting rights to should be for the ECB. For the contracts that followed the 1998 Review, they divided live broadcasting rights between free-to-air broadcasters and Sky as Lord MacLaurin proposed. But they have made clear that this time the terrestrial broadcasters did not offer the sums of money necessary to sustain the game at international, county and grass roots levels. The ECB argue that to have accepted the bids for live terrestrial coverage this time would have undermined the current funding of cricket and had a devastating effect on both the England team and the grass roots of the game.

In reaching this decision the ECB tell us they considered the effect on support for cricket, including its appeal to the potential players and fans of the future. The ECB argue that the combination of full, uninterrupted coverage on Sky and the highlights package on Five at peak time, when most young people and working families are able to watch, combined with continuing live coverage on BBC radio, will maintain support for cricket—and they further point to the effect on building support of grass roots initiatives which broadcasting income helps fund.

This time round, if we had prevented the ECB from considering bids from subscription broadcasters, competition for the rights would have been very limited. Not one terrestrial broadcaster bid for all of the domestic Test cricket next season. There was also no interest from terrestrial channels to televise overseas tours, One Day internationals, women's internationals nor domestic cricket. Therefore, if the ECB had been unable to consider bids from subscription broadcasters such as Sky they would have had to accept approximately £80 million less over the next four years—a decrease of around 35% on their 2005 income levels. Given the importance of TV rights to cricket's income this would have meant cuts in investment programmes at all levels of the game, including grass roots cricket, the national cricket centre and the England team.

As the Secretary of State has announced, the Government will in any case need to review the list of protected events as digital television take-up increases and viewers have a wider range of options for watching sport, but this will not affect the 2006–09 contract.

25 October 2005

Witnesses: Mr David Brook, Mr Anthony Wreford and Mr Stedford Wallen, Keep Cricket Free Campaign, examined.

Chairman: Can I welcome David Brook of the Keep Cricket Free Campaign, Stedford Wallen and Anthony Wreford. You have been at the forefront of the controversy over the sale of broadcasting rights to a subscription channel. Thank you for coming along.

Q88 Mr Sanders: Can I ask whether you think that the ECB were actually too timid in selling the game to broadcasters at the time that this deal was struck?

Mr Brook: I would agree with that. I know from my experience at Channel 4 that the art of negotiation is to ensure as many people bid as possible and to ensure that you engage with all the key participants and clearly in not maintaining the mix of free-to-air and pay TV that has seen the spectacular growth of English cricket under what might be seen as the Lord MacLaurin regime of the ECB and it was a mistake to move away from that. On the timidity point, I could not help noticing this morning that there was a discrepancy in the timetable in that Mr Collier said the deal was done after England had won in South Africa. Actually, in the ECB's haste to conclude a deal, the deal was done before England's excellent victory in South Africa and certainly a long time before the Ashes. I know as a former Director of Channel 4 how I would have felt if I had been taken to the Ashes series this summer and been able to see for myself the fantastic appeal that cricket has had this year and the pleasure it has given to millions and I think that would have influenced my decision to bid and therefore I do agree that the ECB was too timid. The same confidence on the field that we have seen from Michael Vaughan and Duncan Fletcher was not shown off the field.

Q89 Mr Sanders: What do you think lay behind what seems to have been the keenness to do a deal? Did any of those involved in negotiations from the ECB side stand to gain from the deal that was struck?

Mr Brook: I am not personally in a position to comment on that, although I note that the ECB management board contains ten county representatives out of 12. One of my colleagues alongside me, Mr Anthony Wreford, who is here today in a personal capacity but is Chairman of Marketing at the MCC and has been for six years, is perhaps able to comment on that.

Mr Wreford: I received a phone call from David Morgan on the Monday of the New Zealand Test match in May last year to ask if I would go to a meeting, which I did the following day. David approached me and said, "I believe there is a conflict of interest with the two candidates who are standing for the role of Chairman of Marketing." Those two candidates were both county chairmen, Lord Bramsgrove, Chairman of Hampshire, and Giles Clark, Chairman of Somerset, and he asked me if I was prepared to stand to effectively handle the team in negotiations. I asked him what the process was and he informed me that I would need to be proposed and seconded by two of the counties and I had 24 hours to get my application in. Since one of

those candidates was also a friend of mine, Lord Bramsgrove, I spoke to him and talked it through. As a result of that discussion I did not want to either run a campaign in what was then about 12 hours to get the nominations and get the support, nor did I necessarily want to stand against a friend, but David Morgan had approached me and emphasised again, "I am concerned about the conflict of interest that exists between the two existing candidates who are standing."

Q90 Chairman: How does that relate to broadcasting rights?

Mr Wreford: Because one of the major beneficiaries of an increased broadcasting rights deal would be the counties and you had two county chairmen there.

Q91 Chairman: So you are suggesting he felt that county chairmen should not take up that position?

Mr Wreford: I think he felt that somebody more independent leading the television negotiations would avoid what he saw as a conflict of interest.

Mr Brook: I can speak for the period when I was at Channel 4 when I know the ECB under Lord MacLaurin was very careful to maintain the neutrality of the negotiators, so his non-executive director handling negotiations would not be a county chairman who would stand to gain directly from the deal, as was pointed out in an earlier session. County cricket receives over 50% of this income that we are talking about and therefore the county chairmen would have a direct interest in the top-line figure. They are far less interested in the arguments that the Members have put today about exposure but that is of less interest to a county chairman.

Q92 Chairman: But you could argue that anybody with a passion for the game has an interest in this. The county structure is fundamental to the game and it would be very difficult to exclude anybody involved in a county from taking part in a negotiation of that kind?

Mr Brook: I think that is right and I think the counties perform a fantastic role in providing this country with its current England cricket team. Clearly the counties need to take a long-term view. If they are asked to represent the country, and they are asked to represent the nation as the England and Wales Cricket Board, then it is their responsibility with that hat on to represent their country rather than their county, but I think the difficulty is with the precarious state of some of the county finances it is quite difficult to take that long-term view. One can sympathise with a member of a struggling county club who is looking at this deal as being a substitute. What we are talking about is not income to cricket; it is guaranteed income to cricket. The £20 million figure that was used many more times than I care to remember this morning is a figure that is about guaranteed income. What members of the Committee may ask is what the benefits of the wider exposure of television coverage could give to

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sponsorship, perimeter advertising, ticket sales, and merchandise sales. I believe over £20 million was taken in shirt sales just in the last month of this cricket season as we had 10,000 little Freddie Flintoffs running round all under ten years old wearing their England replica shirt this summer, and that clearly was as a result of the exposure on Channel 4.

Q93 Mr Sanders: Where do we go from here? What is the way forward?

Mr Brook: We are really self-appointed representatives of cricket fans, 15,000 of whom have contacted us since we established our website keepercricketfree.com. They do not want fingers of blame pointed, they just want a solution. We have been struck by the number of respondents we have had from the Republic of Ireland, which is not perhaps known as the number one cricketing nation (but it is growing fast) and many of them have pointed out the precedent in 2001 when the Republic of Ireland Football Association did a deal with Sky Sports over a contract that was totally exclusive for home football internationals immediately preceding the World Cup. As you can imagine there was considerable disquiet amongst the Republic of Ireland football-loving community that they would not be able to watch their international matches at this important stage of the World Cup. I understand the Prime Minister Bertie Ahern convened a meeting attended by representatives from Sky Sports and the main free-to-air channel, in this case RTÉ and an agreement was made without recourse to law that every other match should be shared with a free-to-air broadcaster, so Sky Sports did not lose any coverage but every other match was shared. In a cricketing context, with the visit of Pakistan next year, who are performing so well at the moment in Pakistan, we would implore members of the Committee to take action immediately to suggest that such a round table meeting was convened with a view to the main Test match series against Pakistan next year being made available immediately to a free-to-air broadcaster with an appropriate sum of compensation paid from the free-to-air broadcaster to Sky, who have no blame in this. Many of us as cricket fans are Sky Sports subscribers and enjoy their overseas coverage in the winter but in the summer I think victories like the Ashes victory are there for the whole nation to enjoy, not just the privileged few who can afford to pay.

Q94 Chairman: You will have heard earlier that the free-to-air broadcasters have not shown enormous enthusiasm for bidding for rights. The two main channels BBC and ITV did not bid at all.

Mr Brook: Again there is a discrepancy between the statement Mr Collier made that no terrestrial broadcaster bid and the statement from Mr Duncan, Chief Executive of Channel 4 claimed to bid for the main Test series, and who further stated that his bid was only £6 million less per year, not the £20 million figure that we have been encouraged to focus on this morning with the deleterious consequences for the game. You could look at that £14 million as perhaps

an opportunity to have got a better deal from Sky for shared coverage because what is clear from the figures if you deduct six from 20 is that Sky reduced their bid to £14 million a year on the basis of the facts we have heard this morning for shared coverage. I would suggest, going back to the first question, that this was an error of a fairly rudimentary nature in the negotiation process. Once you tell Sky as a monopoly pay TV provider they can have an exclusive, then they will do two things, they will ramp up their bid for exclusivity because that makes good commercial sense, and they will reduce their bid for shared coverage. The shared model had been working so well for cricket. The premium that Sky are paying is a premium not just for the picture rights of that stake, but they are paying to deny that coverage to the 30 million people who enjoyed the Ashes coverage at some time during this summer. My jaw dropped open at the figures that Mr Wakeling used this morning to describe his audience figures on Sky Sports because, as we discussed this morning, this is a pay TV offering, this is not about arguments about digital switchover changing the market fundamentally which, as Mr Collier said this morning, are quite spurious because what is no different in digital to analogue is the difference between pay TV and free TV. You know if you have got it and you know if you have paid for it, and whether you are paying by day or month you still have to pay.

Q95 Chairman: But presumably the reason that Sky is willing to bid such a large amount of money for the rights is that they see it as a primary driver to encourage people to subscribe to their subscription channel? They would not be paying that money if they did not believe that as a result they would gain a lot more viewers to those subscription channels.

Mr Brook: For the avoidance of doubt, Keep Cricket Free's position, and this is certainly echoed by many of our e-mail respondents, is not a criticism of Sky for taking the action because they clearly would like top-quality international English cricket to fill their schedules, and that is good commercial business for Sky Sports but that is clearly in breach of the agreement, as we heard just now in 1998 between the ECB and the Government. I do not think it makes sense from cricket's point of view to restrict coverage in that way because when you have 30 million people watching a series over the summer and coverage peaked, as Mr Duncan said, at over seven million people joining the coverage for peak moments, Test cricket I think is special. It has had an appeal in this country since it was first televised by the BBC in 1938 (and I will have to check the date) and it was rejuvenated by Channel 4 in 1998 (I can be more certain of that date). It is special because it goes on for five days. You have to follow the cricket in your office, at your home, at your friends' houses, at school. If you lose the narrative of those five days you have lost the plot. I think the English Cricket Board have lost the plot on this in not understanding that Test cricket is special. There is probably a reason why the former Secretary of State and Lord MacLaurin decided that Test cricket was special at

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the time cricket was delisted. We are not suggesting relisting; we are proposing a round table meeting, perhaps convened by the next witness, where an accommodation can be made which is a more equitable distribution for the British public. Whether they are supporters of England or whether they are supporters of Pakistan, we would urge you to take action sooner rather than later in order to maintain free-to-air coverage for next year. I do believe that at least one free-to-air broadcaster would welcome that and I believe that is for such a meeting to tease out.

Q96 Chairman: But you have said that you do not support putting Test matches back on to the A list, but you are suggesting that the Government should convene a meeting to essentially achieve the same thing, in order to overturn the agreement that Test matches in future will only be on a subscription channel. You do not accept that should be allowed to stand therefore essentially you are re-creating Test matches back on the A list.

Mr Brook: I think what one is doing, with respect, is to encourage a voluntary solution and encourage Mr Wakeling to talk to Mr Mosey, would be my immediate suggestion, that perhaps the BBC with licence-funded payment might consider that England's national cricket team is worthy of BBC coverage at this moment in time, because in four years' time Mr Flintoff may have retired or be seeking a new career in Hollywood and we want to see that team now when they are number one in the world not when they are back down the bottom again, which I am sure they will not be.

Q97 Chairman: So you would like the BBC to pay Sky for the right to some of their coverage?

Mr Brook: Yes, or Channel 5 who have indicated a new interest in cricket or indeed Channel 4, although I can understand why Channel 4's patience might have run dry. The fact they were not invited to submit a final bid I find baffling. And I also might ask why the BBC was not contacted to be told the news that negotiations with Channel 4 had fallen through. I wonder why that call was not made by the ECB to the BBC because the importance of terrestrial partners cannot be underestimated. We hear about the massive changes in the digital TV landscape. One thing that does not change is the public's appetite in this country for live sport, and compelling sport of the type that we have enjoyed this summer, and I am sure we will get in next summer's series against Pakistan.

Q98 Mr Yeo: What you are really saying however is that the ECB cannot be trusted to do its job?

Mr Brook: That may be the conclusion that members of the Committee wish to draw. We would suggest a meeting. As Mr Collier said, he was not in position when this deal was done. There was no Chief Executive appointed at the time this deal was done, which again suggests the timing was rather curious. Negotiations were conducted by the former Commercial Director who had just been appointed by the new Commercial Director at the

leading media agency Octagon and he was conducting negotiations in parallel with the Chairman of Somerset, Mr Clarke, with the conflict of interest Mr Wreford has pointed out. That I would suggest was not the optimum way of selling those rights at that time.

Q99 Mr Yeo: We will decide what conclusions to draw when we have heard the rest of the evidence and we write our report, but I want to be clear the conclusion that you have drawn is that the ECB cannot be trusted to do its job?

Mr Wreford: Could I add to that. Just before the announcement of the TV deal I took this issue to the MCC Committee. The MCC Committee voted unanimously for a balanced deal between terrestrial and satellite and that was conveyed in a telephone conversation I had with Roger Knight, CO of MCC, with Giles Clarke and David Morgan. What we also encouraged them to do was to look at the wider picture. The obsession became how much for the television rights and I said we would have to look, as has been said in previous evidence, at the effect on sponsorship, perimeter advertising, ticket sales, merchandising. If you have got a balance of terrestrial you have got local government in the inner cities looking at this. It is high on their agenda and they are more likely to be favourably disposed towards pitches and other initiatives which can help kids to play the game. The obsession became with this one number for cricket alone, without looking at the knock-on effects and opportunities that a broader coverage would bring from other commercial opportunities. That became a personal frustration to me and I think partly answers your question.

Mr Brook: If I might add, that responsibility is often shared with a broadcaster for some of the important activities we heard about this morning, for example inner city grass-roots development. Mr Duncan spoke of an annual marketing investment by Channel 4 of £5 million. That is in addition to its financial investment in the game. I can speak as being responsible for that marketing budget between the years of 1998 to 2003. We spent a great deal of that budget on inner city cricket development which is why Mr Wallen is sitting next to me on my right, who was the co-ordinator of inner city grass-roots cricket schemes entirely funded by Channel 4. It was entirely Channel 4's initiative. We converted wastelands into cricket fields in conjunction with the Lord's Taverners and Surrey County Cricket Club. It was our own initiative and Mr Wallen's employment ceased when Channel 4's activity ceased. The ECB was offered the opportunity to pick up that contract and it was not taken. Maybe there are new activities taking place but inner city development was part of Channel 4's investment in the game.

Q100 Mr Yeo: I think we are all clear that Channel 4 did an exceptionally good job and there is clearly widespread dissatisfaction with the present situation, but the solution still seems to me a

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difficult one and you have to acknowledge you are saying that the ECB now needs to be overruled by some sort of meeting convened by the Minister?

Mr Brook: I think what we are suggesting is that the ECB needs to be encouraged to help facilitate and broker an agreement at a meeting between Sky Sports, BBC Television, Channel 4 and Channel 5 to arrive at a voluntary and more equitable system. If that is not forthcoming, if the participants do not wish to attend or if people do not wish to broker such a meeting then, yes, I think relisting has to be an immediate objective.

Q101 Mr Yeo: Given that Sky are already marketing, as I understand it, packages—and I am a subscriber anyway so it does not bother me quite so directly—for next year, have you made any assessment of the likely cost of the compensation they would expect if they were to lose the exclusivity?

Mr Brook: We have made some back-of-the-envelope calculations. We are not suggesting that Sky Sports should lose a single ball of coverage. We are merely suggesting that Sky Sports' subscribers be encouraged to share the main home Test match series with those viewers who are perhaps not so fortunate or who have a freeview box and are not physically able to trade up and watch the cricket. I think cricket is perhaps unique in that it is one of those special sports where fans get a lot of pleasure from other fans enjoying it too. We would all prefer it if everyone who wanted to watch was able to watch and I think Sky Sports subscribers would be no different to any others. I would expect the compensation to be paid by, for example, the BBC to Sky to be a significant sum but perhaps not as significant as Sky Sports or Sky might suggest. I think one would need to look very carefully at what the actual deleterious consequences were, how many Sky Sports subscribers would actually cancel their subscriptions because of the notion of having

to share coverage of some Test matches. We know that Sky Sports do an excellent job on one-day internationals and domestic cricket and that would remain.

Q102 Chairman: But Sky are bidding for the contract not to maintain their existing subscribers but to attract new ones who want to come and watch cricket. If they followed your path and made available key games, the last match in the series or whatever, then obviously it becomes less attractive to future subscribers.

Mr Brook: Without knowing the exact details from the Republic of Ireland Football Association case, I believe a significant sum of money was paid by RTÉ to Sky Sports. I think one could say to the BBC or Channel 4 or Channel 5—and interestingly enough on the BBC's scheduling problems any cricket fan would sympathise with the clash with any of the sporting events that Mr Mosey mentioned this morning, but July and August of next year which is when the Pakistan national team arrives for the main Test series, are free of such scheduling problems. There has been a lot of talk about scheduling this morning and about this imposition of cricket on TV channels, but cricket takes place during the day where there is not a lot of competition. An audience of one million is a significant audience and Channel 4 has achieved record market shares on days when cricket has been on. I do not think we should accept that it is a liability. Channel 4 chose to make a number of additional investments because of the wider public service benefits, and the BBC, which speaks often and passionately about public service should perhaps apply those public service principles to sport in the same way as Lord Reith saw that coverage of our great national teams was part of the BBC's national public service.

Chairman: No more questions? Thank you very much.

Memorandum submitted by the Department for Culture, Media and Sport

SUMMARY OF EVIDENCE

The following memorandum provides written evidence from the Department for Culture, Media and Sport (DCMS) on sports broadcasting policy and, in particular, broadcasting rights for cricket.

It provides information on the role of Government in relation to sports broadcasting and explains how the listed events legislation works. It also provides background on the 1998 Review of Sports Listed Events, setting out the changes recommended by the Advisory Group, chaired by Lord Gordon of Strathblane.

Finally, it provides general background information on the current cricket broadcasting deal between BskyB and Five and the particular importance to cricket of broadcasting income.

GOVERNMENT POLICY AND HISTORY ON LISTED EVENTS

1. Sports coverage is a matter that concerns many television viewers, therefore, it may be helpful to begin by setting out the Government's overall policy on sports broadcasting.

2. The Government wants to make sure that key sporting events are made available to all television viewers, particularly those who cannot afford the cost of subscription television. This is why some events are protected by law as "Listed Events".

3. There are many different sports and sporting events which are very popular, but unfortunately the Government cannot list them all. To do so can have a significant impact on the income sporting bodies can receive for their rights and therefore the amount which can be invested in the sport. A listed event, therefore, is one which is generally felt to have special national resonance. It should contain an element which serves to unite the nation, a shared point on the national calendar, not solely of interest to those who follow the sport in question.

4. The inclusion of an event on the list does not mean it has to be shown on television. What the law seeks to do is ensure that the rights to these events, if offered at all, are offered to the main free-to-air broadcasters on fair and reasonable terms.

5. Outside the protection offered by the list, the Major Spectator Sports Division of the Central Council for Physical Recreation (CCPR) announced its voluntary code on Broadcasting in 1996. Signatories—including the FA, the FA Premier League and the Nationwide League, the Rugby Football Union, the Rugby Football League and the England & Wales Cricket Board—undertake to ensure to the best of their ability that highlights of their events are available on free-to-air television where live coverage is shown on subscription channels, and to invest at least 5% of broadcasting income in the development of their sports. Such an investment will help the next generation of competitors to have the support and facilities necessary to succeed at the sport in question.

6. Beyond these arrangements, sports bodies are free to sell their rights as they wish, balancing the direct financial benefits of the sale with other factors, such as the wider audience which might be achievable through broadcast on the main channels and the potential impact in sponsorship income.

History

7. The original list of events was drawn up in 1956 for a rather different purpose. The BBC and the Independent Television Authority voluntarily agreed not to seek exclusive broadcast rights for the following:

- The FA Cup Final,
- Wimbledon (whole Championships),
- All Test matches,
- The Derby,
- The Grand National,
- The Boat Race,
- The Olympic and Commonwealth Games when held in UK.

8. Partly as a result of increasing friction between the BBC and the ITV Network over rights during the 1970s, the Broadcasting Act 1981 prevented the “making of exclusive arrangements for the broadcasting of sporting or other events of national interest”. The 1981 Act referred to terrestrial broadcasters only.

9. The listed events provisions of the Cable & Broadcasting Act 1984 were intended to prevent exclusive transmission of events of national significance by cable companies on “pay per view” (PPV) terms. If the broadcast rights to a listed event were offered to a cable company which intended to transmit it only on PPV terms, then the rights were also to be offered to the BBC and the ITV Network at a comparable price.

10. The Scottish FA Cup Final (in Scotland) was added following the passage of the Act, and the list was revised further after a review in 1985. The FIFA World Cup Finals were added and the listing of Test cricket was restricted to matches involving England. The 1985 review was not designed to be definitive. The Government hoped that the revised list would ensure the universal availability of coverage of the listed events until such time as a national cable system was in place, and it believed that the list could be progressively pruned as cable and satellite penetration increased.

11. At that time, “universal availability” was taken to mean that broadcasts were to be receivable by anyone with “standard receiving equipment”. By 1990, though, a transmission was to be regarded as “universal” if it could be received by anyone able to purchase a satellite dish. This definition informed the listed events provisions of the Broadcasting Act 1990. Section 182 of the 1990 Act confirmed the prohibition of exclusive transmission of the listed events only on PPV terms. Subscription channels could broadcast exclusive live coverage of the listed events on the condition that no extra charges were made.

12. The Home Secretary revised the list again in 1991. After consulting broadcasters and rights holders, he removed the Boat Race and the Commonwealth Games and restricted the listing of Wimbledon to the Finals weekend only (this brought the listing of the Championships into line with the FA Cup Final, the earlier rounds of which have never been included on the list).

13. The revised list was announced in April 1991:

- The Olympic Games,
- The FIFA World Cup Finals,
- The FA Cup Final,

The Scottish FA Cup Final (in Scotland),
 Test matches involving England,
 Wimbledon (Finals weekend only),
 The Grand National,
 The Derby.

14. A new Broadcasting Bill was introduced in late 1995 in response to developments within the broadcasting industry and in preparation for the introduction of digital television. The listed events provisions of the 1990 Act were to have been included much as they stood. However, following a defeat for the then Government in the House of Lords, an amendment was introduced which extended the existing restrictions on PPV to subscription channels in general. This forms a section of Part IV of the Broadcasting Act 1996. The rights to live coverage of a listed event must now be offered on “fair and reasonable” terms both to a category A broadcaster (the BBC, the ITV Network or Channel 4) and to a category B broadcaster (any other). The regulations are administered by the Independent Television Commission (ITC). Before amending the list, the Secretary of State is required to consult the appropriate sports body holding the rights, the ITC, the BBC and S4C.

15. In the Communications Act 2003 the Government made amendments to the 1996 Act. The provisions transferring responsibility for administering the listed events regime from the Independent Television Commission to OFCOM came into force on 29 December 2003. Other provisions, largely of a technical nature, are due to come into force soon.

1998 Review

16. In line with a 1997 Manifesto commitment, the list of protected events was reviewed in 1998. Following consultation, clear criteria were established (this was the first time that a review had been conducted in the light of any criteria) and an independent Advisory Group was set up under the Chairmanship of Lord Gordon of Strathblane.

17. The Advisory Group considered a number of events against the criteria. It took account of responses to the Secretary of State’s wide consultation with broadcasters, sports bodies, representatives of viewers and other interested parties and then made recommendations to the Secretary of State. The Group consisted of individuals with knowledge of the sporting, broadcasting and public policy issues involved in such a task.

18. Overall, the result of the 1998 Review was to extend the list of protected events, adding some events to the A list protecting live coverage and introducing a B list protecting delayed or highlights coverage. This innovation facilitated a much wider list of protected events, especially of those which, because of their length, are difficult for general channels to cover, such as the Open Golf Championship. The B list recognises the practical constraints on broadcasters.

19. Below is a comparison of the lists before the 1998 Review and as determined by the Secretary of State in the light of the recommendations put forward by the Advisory Group.

Pre-1998 Review (full live coverage had to be offered to generally available free-to-air channels—BBC, ITV and Channel 4)

The Olympic Games,
 The FIFA World Cup Finals,
 The FA Cup Final,
 The Scottish FA Cup Final (in Scotland),
 Cricket Test matches involving England,
 The Grand National,
 The Derby,
 The Wimbledon Tennis Tournament (finals weekend).

Post 1998 Review

Group A (full live coverage protected as before)

The Olympic Games,
 The FIFA World Cup Finals Tournament,
 The European Football Championship Finals Tournament,
 The FA Cup Final,
 The Scottish FA Cup Final (in Scotland),

The Grand National,
The Derby,
The Wimbledon Tennis Finals,
The Rugby League Challenge Cup Final,
The Rugby World Cup Final.

Group B (Secondary Coverage Protected)

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.

CRICKET'S POSITION AFTER THE 1998 REVIEW

20. Prior to 1998, "Test matches involving England" were protected. However, Lord Gordon's Advisory Group recommended the creation of A and B lists with events on the B list having only secondary coverage (delayed or highlights) protected and recommended that Test matches involving England be placed on the B list.

21. The Group's Report stated:

"We believe that the tests are the most problematic of the events under consideration, and accordingly we considered oral evidence from the England and Wales Cricket Board, the BBC and BSkyB at our third meeting. We consider that Test matches possess sufficient national resonance to merit some measure of protection for coverage. We also note the Commonwealth links of the sport and its appeal to distinct cultural groups in society. However, a Test series played over 30 days cannot be said to be a shared point on the national calendar. We believe that it is difficult for generally-available terrestrial broadcasters to schedule the Tests in full without being unfair to viewers who do not take an interest in cricket. We also considered the likely effect of continued listing on the finances of the sport.

Taking all the above into account, we recommend that secondary coverage only of the Tests be protected. They should remain on the list as Group B events."

22. The reference to "national resonance" refers to the key criterion for listing and references to the difficulties for broadcasters, of scheduling, and for the finances of the sport reflect some of the other considerations the Group was required to take into account.

23. Both when giving evidence and as part of their consultation response, the ECB made clear the benefits to the game at grass roots, domestic and international level of placing Test match cricket on the B list, so that there could be the most competitive market for the rights. The ECB have made clear that the decision has greatly increased their funding, and this is evidence by their greatly increased investment in the sport.

24. The key issue is the funding of cricket. Cricket depends more than other sports on broadcasting income—80% of its income. The ECB have made it clear to us that to have kept some Test matches on terrestrial TV would have reduced its income by £80 million over the next four years—a decrease of around 35% on their 2005 income levels.

25. Given the importance of TV rights to cricket's income this would have meant cuts in invest programmes at all levels of the game, including grass roots cricket, the national cricket centre and the England team.

CURRENT CRICKET BROADCASTING DEAL

26. At the time of the Review, the clear expectation, and the ECB's express intention, was that some live terrestrial coverage would remain, as it has in the intervening years, on terrestrial TV (either the BBC or Channel 4 from 2001–05).

27. However, in December 2004 the ECB announced that all live Test broadcasts from 2006 would be broadcast on Sky, who would provide uninterrupted coverage, and highlights carried on Five at 7.15pm. BBC Radio would continue to offer live commentary.

28. Terrestrial broadcasters were given opportunity to bid for rights. However, there is no obligation on any broadcasters to bid for the rights to broadcast any listed event and, as little interest was shown, the decision by the ECB to accept Sky's higher offer was perfectly within the rules of the listing agreements and followed fair practice. Highlights were also offered to the main terrestrial broadcasters before other broadcasters, but the ECB then accepted the bid by Five. Again, this followed fair practice. Ofcom provided independent confirmation that the listed events provisions and competition law were complied with.

29. There has been a lot of talk recently, both in the House of Commons and the House of Lords, as well as in the press regarding a supposed "gentleman's agreement" between the then Secretary of State, Chris Smith and Lord MacLaurin, then Chairman of the ECB that the main test series each summer would be shown on terrestrial television.

30. We must be clear, there was no binding agreement between Chris Smith and Lord MacLaurin. It was the "expectation" of both parties that some live Test matches would remain on free-to-air television. This was the position adopted by Chris Smith in his press notice, dated 25 June 1998, where he clearly stated that the acceptance of the recommendation allowed cricket more freedom to negotiate a fair price for its flagship events. However, he expected that the freedom would be used responsibly and that would be a continued access for all viewers to a proportion of live Test match cricket. If these expectations were not met then he reserved the right to review the listed criteria.

31. The contracts that followed the 1998 Review did indeed divide live broadcasting rights between free-to-air broadcasters and Sky.

32. However, the ECB have made clear that this time the terrestrial broadcasters did not offer the sums of money necessary to sustain the game at international, county and grass roots levels. They argue, therefore, that to have accepted the bids for live terrestrial coverage this time would have undermined the current funding of cricket at all levels of the game.

33. The ECB have the responsibility for balancing media exposure and income, while protecting highlights coverage. That was the policy set out at the time of the 1998 Review. It is precisely for the reasons set out above that we continue to believe that they rather than Government are best placed to decide on that balance.

EVIDENCE CONCERNING THE COMMITTEE'S PARTICULAR INTERESTS

Availability of Cricket Coverage to Television and Radio audiences through the UK

History of Cricket Broadcasting Rights:

1938–98: Exclusive coverage on BBC,

1999–2001: Joint deal between Channel 4 and BSkyB,

2002–05: Channel 4 and BSkyB,

2006–09: Exclusive live coverage on Sky; daily highlights on Five.

Test series covered by the new contract:

2006 v Sri Lanka and Pakistan,

2007 v West Indies and India,

2008 v Zimbabwe and South Africa,

2009 v New Zealand and Australia.

34. This summer Channel 4 had all the Ashes Tests. Sky had the one Test v Bangladesh and all of the One Day Internationals.

35. We understand that under the new deal Sky Sports will cover all seven home npower Test Matches, all NatWest Series One-Day Internationals and all International Twenty20 matches. They will guarantee live coverage of every ball of every Test Match in each season. They will also cover a minimum of 31 totosport League and Cheltenham & Gloucester Trophy fixtures, 14 Twenty20 Cup games and two Frizzell County Championship matches per season.

36. Five will offer highlights for all major matches. These will be shown at peak time (between 7.15 pm and 8.00 pm). This is the time when most children, families and working parents can view cricket. This was not always the case during the Ashes series when highlights were shown at varying times, including on occasion around midnight. BBC Radio will continue to offer live commentary.

37. In 1998 there were 3.5 million Sky subscribers; now there are over 7.8 million, 46% of 14–21 year-olds have access to satellite channels.

Commercial procedures governing the acquisition of Broadcasting Rights

38. The ECB's invitation to tender was drafted in accordance with UK domestic and EU law and all competition and regulatory issues were considered and adhered to. Ofcom were also consulted and they deemed that they were happy.

Constraints imposed by the Statutory Framework

39. The independent Advisory Group chaired by Lord Gordon of Strathblane undertook the first review that was conducted in the light of published criteria.

40. The criteria on which the Advisory Group based its decisions was as follows:

In order to be eligible to be listed, an event must meet the following main criterion:

- the event has a special national resonance, not simply a significance to those who ordinarily follow the sport concerned; it is an event which serves to unite the nation; a shared point on the nation calendar.

Such an event is likely to fall into one or both of the following categories:

- it is a pre-eminent national or international event in the sport;
- it involves the national team or national representatives in the sports concerned.

An event which satisfies the essential criterion is likely to be considered for listing, but listings of such an event is not automatic, it is more likely to be listed if it exhibits particular characteristics making listing an apt response, such as:

- it is likely to command a large television audience;
- it has history of being broadcast live on free-to-air services.

In considering whether to list such an event, the Secretary of State will have regard to other factors affecting the likely costs and benefits to the sport concerned, to the broadcasting industry and to viewers, such as:

- whether it is practical to offer full live coverage on a general channel—extended events such as season-long championships involving many matches will not normally be listed in their entirety;
- the impact of listing in reducing the income or potential income of the sport, and the consequences of that reduction for its investments in increasing participation and/or improving levels of performance and/or in creating safe facilities;
- the likely impact of listing on the broadcasting market, including future investment in sports broadcasting, the level of competition and the position of public service broadcasters; and
- whether there are arrangements to ensure that access to the event is available to all viewers by means of highlighting delayed coverage and/or radio commentary.

In considering events for listing, the Secretary of State will have regard to these other factors cumulatively. No single factor automatically commands listing as a response, nor does failure to meet an individual criterion disqualify an event from consideration.

IMPORTANCE OF INCOME AND EXPOSURE ASSOCIATED WITH BROADCASTING RIGHTS

41. The published criteria clearly state that the impact of listing in reducing the income or potential income of the sport, and the consequences of that reduction for its investments in increasing participation and/or improving levels of performance must be taken into account. The ECB have made it clear that the impact on cricket as a whole would have been enormous.

42. When the 2006–09 contract was tendered, interest was less. The facts are that:

- No terrestrial broadcasting channel bid for any overseas International Matches,
- No terrestrial broadcasting channel bid for any home International ODI cricket,
- 35% of international home tests failed to attract a bidder from terrestrial broadcasters,
- No terrestrial channel bid for any live Domestic cricket.

43. The BBC have also been very open in stating that they did not bid for any televised cricket. The ECB have made clear that the stark choice was to keep some Tests live on Channel 4 and see a dramatic cut in funding for cricket or go with Sky.

FOSTERING EXCELLENCE AND PARTICIPATION

44. Last year the ECB invested 16.1% of its overall income in grass roots cricket, this year it will be 18.5% and by 2009 it will 21%. Compare this to Cricket Australia's figure of 8% and it is clear that money is indeed being directed to support the game at all levels.

45. The success of these investments is clear. This summer 30,000 volunteers have supported the Natwest Cricket Force programme prior to the start of the season. There has been a 70% increase in domestic crowds at Twenty20 matches, more than 3,500 clubs and 2 million children are playing cricket and there has been great success for our National Teams at all levels—men's, women's and under-19's all winning their series this summer.

46. The "Chance to Shine" initiative is a £50 million campaign to improve participation in cricket in state schools. Run by the Cricket Foundation, the charitable arm of the ECB, the scheme is designed to revitalise interest in cricket, and aims to reach a third of all schools in England and Wales.

REVIEW OF LIST AROUND 2008–09

47. The Secretary of State has said that she intends to review the listing of sporting events, including cricket, around 2008–09. This would be 10 years after the last review and would allow the Government to take account of the changes in the broadcasting of sport and of broadcasting in general, in the run up to digital switch over. We, as some have suggested, cannot anticipate the outcome of the Review, whether Test cricket should be placed back on the A list or indeed whether any other sporting event would be added or removed from the list.

48. Indeed, there may be merit in re-examining whether the criteria established in 1998 remain the right criteria for deciding which events merit protection as well as the criteria for determining which channels should be able to benefit from being offered listed events. While we cannot anticipate the outcome of the Review, it will not affect the 2006–09 ECB contract.

25 November 2005

Witness: Rt Hon Richard Caborn, a Member of the House, Minister for Sport, Department for Culture, Media and Sport, examined.

Q103 Chairman: Can I welcome Richard Caborn, the Minister for Sport. Minister, you will have heard quite a lot of the exchanges we have had over the course of the last two hours and therefore you will no doubt have anticipated a number of the questions we are likely to ask you. In relation to the present agreement between Sky and the ECB, we heard from Chris Smith that whilst it was permissible under the new arrangements with Test matches being on the B List, nevertheless he felt that had he been Secretary of State the ECB would have needed to come and seek his permission. Did they come and ask you?

Mr Caborn: No, they did not ask for our permission. They kept us informed of the negotiations. Like everybody else in the Department, I and my Secretary of State would have liked to have seen more Test cricket on terrestrial free-to-air. We have tried, within certain limitations, to give a summary of the main points in the exchange of correspondence between the Secretary of State and Lord Smith and Lord MacLaurin and I think it is important in two respects. One is that Lord MacLaurin confirmed that he had given his personal reassurance that in such an environment the ECB would wish to keep substantial amounts of live coverage on the free-to-air channel. That was a personal reassurance that the then chairman of the ECB gave. I think it is also very important to put it in its full context and indeed to some extent the view that we took in the Department some years later because when it went from the A list to the B list it was not just to do with the question of terrestrial television, it also had alongside that that the decision

would have certain merits. This is what the then chairman of the ECB said, that "the Government would be seen to be backing the recommendations, cricket would have a more secure future in the long term as the national sport, we will be able to follow through our plans to build a women's international side, cricket facilities and grass-roots development would be improved and moves to further modernise the structure of the games would be announced". They are very important parts of the agreement that was then reached between the ECB and the Government to make sure that that investment was not going to be washed into players' wages but it was going to be there to help with the substantial modernisation. I think the ECB can be very proud indeed of where they have brought cricket from. I would like to pay credit to Lord MacLaurin for what he did in the modernisation programme and in fact the whole of the ECB taken on by David Collier subsequent to that and David Morgan. I think they have done an absolutely first class job in terms of modernisation and I think that that is now reflected in some of the statistics that we have put into our memorandum. It is true to say that had it not been for central contracts and for the modernisation I do not believe that we would have been competing as number two to beat the number one in the world from the eighth position that we were in when this agreement was struck. I do not believe we would have had the academy that we have now got at Loughborough. If you talk to the women's cricket team, which has been highly successful this summer, they give all the credit to that academy at

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Loughborough and the support they received for the fact that they beat the Australians here. I think the development that we have got within our schools structure and the clubs structures, where there are now over 3,000 clubs up and down this country with junior sides, is to be welcomed. We have probably got more young people undertaking coaching for cricket than we have had for many, many years. I think all credit should be given to the ECB for getting hold of their organisation by the scruff of the neck and modernising it and taking us from eighth in the world to beating the number one in the world. That has not come about by chance but by design, hard work and some tough decisions. Part of that was down to the funding arrangements and the decision to come off the A list to the B list. The decision we had to reflect on was whether or not we cut that funding that has enabled us to achieve what has been achieved in cricket in this country by some £80 million over a period of four years. As we said, it is unfortunate that this is now going to go on to Sky. I think the highlights at 7.15 on Five will probably be more appropriate. It is something like eight or nine million people listened to the Test match on the radio and then got the highlights. Now it is going to be at 7.15, not at midnight, which is when it was on before, which was a bit inconvenient for many people. It is the case that young people will not be encouraged to watch cricket if it is not on free-to-air terrestrial. The ECB has developed Twenty20 cricket at a time when over half a million people watch it live at the grounds, that is an increase of something like 50% over the previous year. It is probably the fastest growing spectator sport that we have seen in this country and it is a revenue stream into the ECB and they have been able to tailor make the game to fit in with modern life in this country. Hopefully it will not overtake county cricket. The ECB has been able to capture the imagination of the nation and that has never been done on terrestrial television, it has been solely on Sky television and yet they could get a live audience to watch it at the grounds of in excess of half a million people last year.

Q104 Chairman: You are full of praise for the ECB and you do not feel that the deal that they have made for an exclusive right to show Test matches on Sky in any way breaches any agreement, either written or unwritten, that your Department had with the ECB.

Mr Caborn: There was no written agreement. I have read out the words from the letter and I can put that clearly on the record, "Lord MacLaurin also confirmed he had given a personal reassurance that in such an environment the ECB would wish to keep a substantial amount of live coverage on free-to-air." That was in 1998. The world has moved on since then. The reason for moving from A to B was to get a revenue stream to invest in the infrastructure of cricket and to put us as a winning team. I do not believe we would have been here having this inquiry had it not been for the investment on central contracts to put a team together that could beat the Aussies and that is what they did. What going off to the B list did was up the ante in terms of Channel 4

and terrestrial, there is no doubt about that, into the revenue stream and then Sky has come in and said "We can top that again". All the terrestrials were encouraged to bid for those Test matches. Some did not and some came in at a much lesser price than Sky did and that was the judgment that was made. It was a commercial judgment and therefore we had to go with that in saying that on the one hand we wanted investments at the grass-roots into hopefully what is now the contest for the best international side in the world along with the big growth of women's cricket and them beating the Australians as well. Do we deny them that? If you do then that is fine. That is a decision which will mean we will go back to being eighth in the world and we do not want to do that.

Q105 Alan Keen: I agree it has been a great achievement altogether. Let us forget everything that has gone before. You heard the previous witnesses say that they would like to have a meeting convened with Sky and the terrestrial broadcasters to see whether some agreement could be brought about which would enable them to reverse the thing that everybody is sorry has happened, ie the fact that it has gone exclusively to Sky. Are you saying in your stout defence of what has happened that you think it is impossible to change anything at all?

Mr Caborn: I cannot see that. When I was at a Labour Club on Sunday night the lads said to me, "Why can't we have it on the terrestrial? You are the Minister. Get them round the table and bang their heads together," and I said, "I can bang their heads together, but if they don't want to come and drink I cannot do anything." That is the reality of life. If people want to come round the table with goodwill then fine, I will convene a meeting. If you are asking me honestly whether a deal can be done, I do not think it can. I think Sky have done what they have done. As the Chairman explained to the Committee very sensibly, they have done that because they believed they would gather a commercial advantage out of it. These are not philanthropists, they are people in the commercial world. Channel 4 made a commercial decision, rightly or wrongly, the Beeb has done that, ITV has done that and they have to live with those consequences. Even being on the A list does not mean we can instruct them to take sport onto their channels, we cannot do that. It is a commercial judgement at the end of the day.

Q106 Alan Keen: The previous witnesses were reluctant to say that it should be reversed completely. Cricket is very different from football in that there is much more flexibility and it probably needs more flexibility because of the number of hours that it takes to show the whole game. Are you really saying that you do not think that it would lead to anything but you are willing to ask people to get together? Will you do that?

Mr Caborn: I will do that, there is absolutely no doubt about it. If you look at what has been happening in cricket in the last few seasons, people vote with their feet and they went to the matches. In excess of half a million people last year watched Twenty20 cricket. It was not on terrestrial, it was on

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Sky, but they went there. In my view it fitted in with the lifestyles of many people in that they could leave work, go and get the family and watch a game of cricket with all the entertainment around it. It is good to see the England team, led by their Yorkshire captain, doing extremely well at the moment. What the ECB has done is now tailored some of this to meet modern lifestyles and they are gaining by doing that. There are more people watching Twenty20 cricket now than there are at the county games or indeed Test matches.

Q107 Alan Keen: Was there a possibility of Sky putting the cricket onto a separate channel so that people could purchase that channel only without having to take the football and films in with it? I have not got time to watch cricket all day long and hopefully there will be a time in the future when I can do that, but I would like to buy that separately. The bundling together that Sky does is very clever and very effective in encouraging me to pay £40 a month to get the football, but the cricket is different. Would you not agree that we should try to get Sky not to bundle the cricket in with everything else?

Mr Caborn: Obviously that is your view and they will take a commercial view of that and rightly so. We are going to study very carefully the evidence that has been presented to this Select Committee. We will obviously, as we always do, take your views into consideration and we will respond to your recommendations. I think this is the first time it has been aired in public and that is why we welcome this inquiry, Chairman. I think it puts both sides of the argument and one can make a judgment at the end of that. We will be looking at the recommendations from this Committee and if we can take some of the things forward then I am more than willing to do that. As I said at the beginning, I would like to get more live cricket on free-to-air. I do not want that to be to the detriment of the England team vying to be number one in the world and making sure we have got more young people undertaking coaching now at the best academy. Rodney Marsh set the academy up at Loughborough, it is absolutely first class and we now have more women playing cricket than we have ever had before. Twenty20 is part of the landscape of cricket. I do not want to go from that to eighth in the world with an underperformance in our schools and in our communities.

Q108 Mr Yeo: The achievements which you rightly praised by English cricket in the last few years were all achieved during the period of the previous agreement when there was a joint arrangement, ie some cricket on free-to-air and some on Sky. When you said in an earlier answer that things have moved on since 1998, what you are really saying is that you personally are happy to renege on the agreement that Chris Smith agreed with Ian MacLaurin in 1998 and you are happy the ECB has also reneged. Is that what you are saying?

Mr Caborn: As usual you are putting words into my mouth. I will give you the exact words that came out of my mouth, "Lord MacLaurin also confirmed that he had given his personal reassurance that in such an

environment the ECB would wish to keep a substantial amount of live coverage on a free-to-air channel." That was not an agreement between the Government and the ECB, that is a very genuine "wish list" and one that was genuine at the time. The world does move on and the world moved on because there were also conditions that Lord MacLaurin put onto that and that was investment into the grass-roots, the central contracts, an academy and also investment into other areas of cricket, like women's cricket as well. It was that that had to be weighed up when it came to the Department. Let me reassure you, Mr Yeo, that there was no agreement between DCMS, the Government and the ECB.

Q109 Mr Yeo: Call it an agreement or call it a "wish list", it was quite clear from the evidence session we had with Lord MacLaurin and Lord Smith that they thought it was an agreement and that the cricketing world presumably thought it was an agreement and the fans thought it was an agreement. You may not think it is an agreement, but the fact is, this is a change of policy and it is a change of policy which clearly has your personal approval and it is a change of policy which probably would not have taken place if the DCMS had not made clear a year or so ago they were happy for it to take place.

Mr Caborn: That is not true at all. We took this very seriously indeed just as we have been taking seriously the modernisation of sport and cricket in particular and that is why I am supporting the ECB in what they have done. I think they have put cricket right at the top of the sporting agenda. I think they have done exactly what the Government wanted it to do, which is to get more participation in that. They have moved from eighth position to beat the number one team this season and I would give all credit to the ECB for the way they got hold of it by the scruff of the neck and modernised it. I do not want to put that in jeopardy. If it means there has got to be certain trade-offs, that is life.

Q110 Mr Yeo: What was their position in the world rankings may have been affected by whether any wickets have fallen during the course of this morning's meeting. However, I come back to the point that all those achievements were achieved during the period of the previous arrangement. The progress that English cricket has made is not inhibited by the fact that the ECB at that time accepted a deal where some of the Test matches were going to be broadcast on free-to-air. That arrangement has now come to an end and it has come to an end with the full support of the Government.

Mr Caborn: It has not got full support. I said we were consulted on that and we had to make a judgment about the other conditions that Lord MacLaurin had laid down as the reasons for moving from A to B and that was that 80% of the revenue stream coming from television into cricket would be used, not to go into players' wages, but to invest in the infrastructure from the top to the bottom of cricket. They have done that and in doing that they

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have moved us from eighth to second in the world and vying for first place and they have put cricket in a very fit for purpose position. I think that is commendable. Yes, we would have loved for Channel 4 or the BBC to have been putting that type of money on the table and having that type of confidence in cricket to be able to continue to do that type of investment. It was a trade-off at the end of the day. We believe that the ECB, with all the difficulties they have got and the real concern about free-to-air, will think the judgement was right.

Q111 Mr Yeo: So you do not want to have the sort of meeting that David Brook suggested.

Mr Caborn: I would have that meeting that Mr Brook has suggested and I will look at the recommendations of this Committee. If I believed that we could get in the commercial context more free-to-air then obviously that is in my interest and everyone else's interest. If we can do that either through my office or any other way, we will do that.

Q112 Mr Hall: You have said that you would like to have more live Test cricket on free-to-air, but we have got none.

Mr Caborn: I take the point, Mr Hall.

Q113 Mr Hall: When you first found out that the ECB were going to sell exclusive rights to broadcast cricket to Sky, what did you do about it?

Mr Caborn: The person who told me about it and kept me informed about it, besides the two Davids, was Clive Leach. Clive Leach was head of Yorkshire for a long time and he is now at Durham. Clive told me about the process. One of the problems is that a lot of this is shadowed by confidentiality agreements and that is unfortunate because I think a lot of this could have come out into the public domain earlier. I would have loved to put the letter out into the public domain but because of the confidentiality clause in it it is a bit difficult. I have tried to give a flavour of what the exchanges were between the ECB and my Department. The problem they have in terms of terrestrial is the price that has got to be paid at the end of the day. The commercial judgement is, do you want to take cricket back under-invested to where we were before or do we move it forward?

Q114 Mr Hall: You say we have moved on. In 1998 cricket was on the A list and it moved to the B list. We have substantial terrestrial coverage of cricket and from next year we are going to get none. I accept that the investment that has been brought into the game has seen a remarkable improvement in the England team's performance and we wish them all the best. I do not know how they are getting on today, but I hope they will square the series in Pakistan. We have also got to consider that people want to watch cricket. You are either going to have to pay to watch it live or you are going to get 45 minutes of highlights of the Test match series. I am very uncomfortable with that.

Mr Caborn: I can understand that. Forty eight percent of 14–21 year olds have access to Sky television. I dispute, as an inner city MP for Sheffield

Central, that it is only the leafy suburbs that have Sky television. My guess is there is probably more Sky television in some of the working class areas up and down this country than there is in the leafy suburbs because Sky television is something that people buy, rightly or wrongly. So I would dispute the fact it is only in the leafy suburbs that they have Sky television. If we could put it on to terrestrial then obviously we would do that, but it is about a balance. A lot of people connect to cricket through the radio as well, I do that a lot when I am driving and I do like to see the highlights. I think the 7.15 slot on Five will be extremely welcome by many of those who are living a fairly busy lifestyle, who listen to it on radio, go home and then watch the highlights at 7.15 instead of at midnight.

Q115 Adam Price: How do you square the fact that the two individuals, Chris Smith and Lord MacLaurin, who were involved in the original understanding of this *quid pro quo* in return for delisting, said there was an understanding there would be a substantial free-to-air element still? They describe their understanding as an agreement and you say it is not.

Mr Caborn: Mr Price, all I can do is read out to you what is actually in the letter and if you say this is an agreement, you give me your interpretation of it.

Q116 Adam Price: I am not saying it is an agreement. The two individuals who brokered the deal are telling this Committee that it is not an agreement. I read out to Lord MacLaurin your statement from your memorandum and he said that was false. It is pretty important this Committee understands why we have a pretty clear disagreement between the two individuals involved and the Department.

Mr Caborn: This is the letter. Unfortunately we cannot put it in the public domain because there are some confidential parts in it. It is dated 23 June 1998 and it says, "As you will recall, I give my personal reassurance to you and the Prime Minister that in such an environment the ECB would wish to keep a substantial amount of live coverage on the BBC." I am saying that our interpretation is that that is not an agreement. I pay credit to Lord MacLaurin for what he has done for cricket in this country, but on this occasion I disagree with him. That is not an agreement. It says "my personal reassurance" and personal reassurances do not constitute an agreement, that is the reality and that comes out of the letter.

Q117 Mr Sanders: Could I ask whether, if that agreement or personal reassurance had not been given, in fact it would have moved from the A list to the B list?

Mr Caborn: The answer to that is yes because it was not just about keeping free-to-air, it was about moving the England team from eighth in the world to number one. It was about the other very important areas that Lord MacLaurin put in because he gave reassurances, unlike some other sports, that television revenues would not go straight into players' wages, it was actually to invest in the

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infrastructure of cricket. That has happened, that has been successful and that is why, on the stats I have just given out, the reality of cricket in 2005 was as it was against 1998.

Q118 Mr Sanders: One of the stats you gave out was that 48% of people can watch Sky.

Mr Caborn: I said it was 14–21 year olds and that was in our memorandum as well.

Q119 Mr Sanders: What is the difference between that, which is obviously the number of people who can access a Sky service by one platform or another, and the number of people who subscribe to Sky Sports so that they can access live cricket?

Mr Caborn: All I can do is read you out what is in my brief. In my brief it says, “In 1998 there were 3.5 million Sky subscribers; now there are 7.8 million, 46% of 14–21 year-olds have access to satellite channels.” You may be right in what you are saying, Mr Sanders, in terms of does that actually mean subscribe into sports. I do not know. You may well have a point there.

Q120 Chairman: Minister, we have received two submissions from the broadcasters on a confidential basis which are for the use of this Committee only. Would you be willing to make available the letter to us on the same basis?

Mr Caborn: Yes.

Q121 Paul Farrelly: The ECB kept the Department informed of the negotiations that were going on and the Department lodged no objection. There is no question of bad faith on either side, no deals were broken, no assurances and that was the hard-headed decision that was taken. Whether you call it a policy change or a tacit consent, those are moot points. In response to Mike Hall’s question there was an indication that correspondence had been sent between the Department to the ECB putting that sort of lack of objection in writing. Is that the case?

Mr Caborn: No. The only piece of correspondence is the one that I have referred to of 23 June 1998. After that there has been no correspondence to the best of my knowledge. There have been telephone calls, there have been discussions in my office, but there has been no correspondence as such between the ECB and my Department to the best of my knowledge.

Q122 Paul Farrelly: If I were Sky’s lawyers I might in some circumstances want, for example, a letter of comfort to comfort them over the status of any agreement they may have reached given the assurances that were previously given. Are there any such letters that have gone between the Department and the ECB or Sky or any of their agents or intermediaries?

Mr Caborn: Not that has crossed my desk.

Q123 Paul Farrelly: If you were to review your files and find any, would you make them available to the Committee?

Mr Caborn: Absolutely. I have no reason not to. I think the more information we get out into the public domain the better. My view is that if I had been able to I would have put this in the public domain as well, but the ECB has confidential information in it and that is fine.

Q124 Paul Farrelly: In view of the hard-headed decisions that have been taken, is it therefore a possibility, as the world changes, that when the review in 2008/09 of listed events comes up we may just simply get rid of the listed events framework altogether?

Mr Caborn: No, I do not think so. Obviously it serves its purpose. It is right to judge that in three or four years’ time the world will be different in media terms in that we will be on digital and there will be access to all sorts of programmes available too. So it is very difficult to see four years in front what is going to be available and there is no doubt, as the report in 1998 said, cricket is the most difficult one to schedule for television, particularly Test cricket which is very difficult to schedule for some of the major channels. That could well change because of the number of channels which will be available free-to-air on digital. So it is difficult to look into the future and say what exactly is there for an agreement.

Q125 Paul Farrelly: So what you are saying is there is no possibility of the listed events framework being jettisoned in any review, although individual events might be affected?

Mr Caborn: What the Secretary of State said in 1998-99 was we will review it, and it is not just about cricket but obviously the whole question of listings and whether we need to have a review of that in the light of what will be a whole new situation in terms of broadcasting—kids get it on their mobile phones now, you get texts through, there is a whole new way of communicating. That has been part of the discussions in Europe over this last period with the Premier Division and DG Competition and it is very difficult to try to throw these things forward and say what technology will be around and fit a commercial deal around it.

Q126 Paul Farrelly: So there is a possibility that we might not need a listed framework or any listed events whatsoever?

Mr Caborn: There might not be. My personal thought is that I would think we would need some listings because I think free-to-air is important for certain events and I think we need to keep the A listing there. It is always a balance, is it not, against the income for sport. One of the other spin-offs from the success of the Test is that we have just announced today—Sport England and ourselves—further investment into cricket of some £2 million into what has been a very successful *Chance to shine*, and we are looking at a fund of somewhere around about £50 million into that. I think it is because of the success of others that now the commercial side is prepared to look at how they can invest in grassroots sport—a bit like they do with the Football Foundation. The Football Foundation has just got

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£30 million off Barclays, £10 million a year over the next three years, to invest into grassroots sport along with the investment that football and the Government put into that. I am hoping we can grow on the back of all this success that type of fund for investment into grassroots sport. If we do, that will really ensure the future of cricket and that is where we have got to invest.

Q127 Adam Price: A month before Sky won the bid, the Chief Executive of Sky, James Murdoch, met with the Secretary of State. Did they seek a verbal assurance at that meeting that the Government would not raise any objection to the potential loss of cricket from free-to-air?

Mr Caborn: I was not there so I do not know. I do not know what was discussed at that meeting at all. I would doubt it because the discussions I have had with my Secretary of State have been ones where we said to the ECB we would like to see obviously some live coverage of Tests on television. This was not just one negotiation, I think it was a whole series of negotiations, particularly between Channel 4 and the ECB, who have been a fantastic partner. There is no doubt about that, with *HOWZAT!*, they have brought cricket right to the grassroots, used the media to get that excitement into cricket, it has been absolutely first class and I pay credit to Channel 4. But at the end of the day, after a number of approaches to Channel 4, I understand, and a number of discussions which took place in that negotiation, they could not come up and match what Sky put on the table, but that is a normal commercial deal, there is nothing new about that. The judgment has to be made then, do you stop that deal or put pressure on it, knowing the consequences are that you will not deliver the other four points which Lord

MacLaurin said he was going to deliver, ie greater investment in the international side, greater investment in the grassroots, greater investment in the Academy and women's cricket.

Q128 Adam Price: The televising of cricket was one of the main agenda items for that meeting, could we see the minutes of that meeting?

Mr Caborn: You had better put an FOI down. I do not know whether there is any confidential information on those minutes. I hear what you say and if it can be *in camera* then I will speak to my Secretary of State and the officials in my Department and if we can let you have copies of those, Mr Whittingdale, we will in the usual way.

Q129 Mr Sanders: Surely we have a right to ask to see this evidence? This is a specific question over contact between the Department and someone from Sky, presumably a member of the Murdoch family, and what was discussed in relation to exclusivity with regard to broadcasting Text cricket in the United Kingdom.

Mr Caborn: I am trying to say (a) I was not privy to that meeting and (b) I have not seen any minutes of that meeting. I hear what has been said by the Committee and, as we always are in my Department, although I say it myself, we will be as open as we possibly can because both of us agree the Select Committees are a very good instrument inside government and we will try and assist that wherever we can. I will take that request back and if we can give it *in camera* to you, that is what we will do.

Chairman: Thank you. Minister, we will now reflect on what we have heard from you and previous witnesses and indeed make some recommendations to you. Thank you for your time.

Written evidence

Memorandum submitted by Mr John Grogan MP

During my time in Parliament since 1997 I have maintained a strong interest in the issues of both sport and broadcasting. In 1998 I met both Chris Smith and Downing Street officials to make the case that home Test matches should remain on the A-List of protected sporting events. More recently I tabled EDM 696 which has 164 signatures from across all parties at present.

I offer the following thoughts:

1. ACCESS TO CRICKET

1.1 Cricket will now occupy a unique position in this country as the only major national sport to have sold all rights for all competitions exclusively to a pay-to-view broadcaster. Not only will Test Match Cricket be unavailable on free-to-air television there will be no live cricket coverage of any form as all domestic cricket rights are also to be exclusively on Sky Television. Cricket is one of our national games and as with rugby and football it is in its international form that it reaches its pinnacle of excitement and interest for the wider public. In football the European Championships and the World Cup are available on free-to-air television, as are matches in the Six Nations and Rugby World Cup as well as the Olympics, and Commonwealth Games for athletics. With all these sports people of all backgrounds and ages and not just dedicated sports fans are able to gather to watch their national team compete on the highest stage. This leaves only cricket where the nation will be unable to watch their national team complete. Sport is part of the UK's cultural heritage and cricket has to continue to be part of that.

1.2 The result is that cricket will become accessible to only a small section of society. At present there are only around five million households who subscribe to Sky Sports. Of course exclusivity is part of Sky's marketing strategy to increase this figure but many households will be unwilling to pay for a subscription to a dedicated sports package purely to watch cricket for a limited number of days a year and a good deal more will simply be unable to afford a £400 a year subscription.

1.3 The viewing figures available for previous home Test Matches screened on Sky television compared to Channel 4 highlight the problem the sport will have as regards exposure and accessibility. During last summer's home test series against New Zealand the first Test Match was shown live on Channel 4 with the second shown on Sky Sports. The figures are shown below. (*Source: BBC Sport Website*)

SUMMER TEST SERIES 2004 v NEW ZEALAND (IN '000s)

	<i>1st Test (Ch 4)</i>	<i>2nd Test (Sky)</i>
1st Day	631	97
2nd Day	827	163
3rd Day	955	219
4th Day	1,038	334
5th Day	1,014	85

The Channel 4 coverage received around 4 million viewers over the five day Test match compared to around 900,000 over five days for the second test shown on Sky. At its peak the Channel 4 coverage was being watched by over 1 million people on the fourth and fifth day compared to Sky's 334,000 peak on day four, less than a third of the free-to-air coverage at its height. More strikingly the lowest daily figure for Channel 4 was 631,000, compared with the lowest figures for Sky which was watched by only 85,000 viewers on the final day. This has considerable implications for a sport which recently received a peak audience figure of 8.4 million during the final test. If this is extrapolated to a similar level of Test match on Sky a best case scenario would be a peak audience of around 2.8 million. In reality even this may be unrealistic given that many of those watching the exciting events on Channel 4 will have been casual viewers unlikely to subscribe to Sky Sports, or new viewers drawn to the sport for the first time. It will be difficult for cricket to expand or even preserve its fan base when it is only available to dedicated existing sports fans with sufficient financial means.

1.4 This lack of access and exposure may well prove to be detrimental to the future of the sport. The Department for Culture Media and Sport openly expresses a belief in the importance of sport in tackling social and health problems and for encouraging excellence, but for this to happen there needs to be participation. There is a distinct possibility that as cricket becomes less accessible to young children then participation may fall. The massive popularity of football already poses a problem for sports such as cricket as to how it wins over new sports fans and players. At present many young cricketers still want to emulate stars such as Andrew Flintoff or Michael Vaughn, will this still occur in the same way when, with the exception of short highlights, those idols have disappeared from most household television screens?

1.5 On a purely commercial basis alone questions must surely be raised about the benefit of the new deal. Although it will raise higher revenue directly from broadcast fees, the value of the cricket brand—at a real high this summer—must surely fall the longer it is off our screens. Aside from the reduced exposure given to sponsors, the profile of the major cricketing idols who help to sell official merchandise and attract sponsorship will be lower without free-to-air television exposure. The fact that existing sponsors are for the moment sticking to the game does not mean there will not be an effect in the medium term.

2. THE “GENTLEMEN’S AGREEMENT”

2.1 The most important and concerning aspect of the recent deal is that it seems to go against the now well publicised agreement between the ECB and Culture Secretary Chris Smith that while Test Match Cricket was to be removed from the A-List of protected events, the main home test series would remain on free-to-air television. Commenting on his decision to remove cricket from the A-List of protected events Chris Smith said.

“My decision to accept the Gordon recommendations on cricket allows the sport more freedom to negotiate a fair price for its flagship events. This is something for which the ECB and County Cricket clubs have specifically asked. I expect to see that freedom used responsibly, with continued access for all viewers to a substantial proportion of live test coverage and any new income derived for cricket devoted to improvements in the facilities needed to play the game and to raise our standards. If these expectations—especially the test of achieving substantial live coverage on free-on-air television—are not fulfilled, then I may of course need to review the listed criteria again.” (DCMS Press Release, 25 June 1998)

2.2 This is an explicit statement, which has not been adhered to. Lord MacLaurin who was Chairman of the ECB when the agreement with the government was reached has confirmed this agreement, stating:

“Chris came to the Lord’s Test in 1998 against South Africa and he said, ‘OK provided you keep the majority of Test matches on free-to-air television I will allow you to move from the A to B list’. He was very concerned about the Test matches.” MacLaurin also added. *“I feel quite strongly about this. I think the new deal is wrong for cricket. There are millions of people who share my view.”* (Daily Telegraph 03/09/2005)

Lord MacLaurin has now clarified his position as regards the deal and recently told BBC Radio 4 that:

“I did a quite clear deal with Chris to take us from the A-List to the B-List and he said quite categorically that the majority of Test cricket should be on free-to-air television and I presume that the ECB in their latest negotiations went back to the department and said ‘is that still in force?’ and they said ‘no’ so they were free to deal as they wished.”

2.3 As a result I asked the following question in to Tessa Jowell in the House on 25 October.

Mr. Grogan: *Did the England and Wales Cricket Board ask the Government to be released from the informal agreement reached by the then Secretary of State in 1998—that although cricket was to be delisted, the majority of home test matches would continue to be available live on free-to-air TV? In the interests of the many rather than the few and in the interests of all who cannot afford £400 for Sky sports, should not the main test match series in the summer be restored to the A list forthwith?*

Tessa Jowell: *I thank my hon. Friend for that question. No, the ECB did not ask to be released and I must also say that the status of the reported gentleman’s agreement is somewhat unclear. Lord MacLaurin has taken steps to clarify it and to explain that the ECB had no choice. The point at which cricket was delisted was also the point at which the Government ceased to have a direct role in the decision. From then on, the decision became a matter between the ECB and the broadcaster. Clearly, the ECB sought to maximise the income from broadcasting revenues, which accounts for 80% of its income available to spend on the English team and grassroots cricket. In view of the very high level of interest in the matter—reflected in the early-day motion—I have undertaken to review the listed events at the appropriate time.*

2.4 It seems to me that given the “gentleman’s agreement” the English Cricket Board should have initiated discussions with the Department if they intended to break it and the Department should have been proactive in defence of it. The Secretary of State has said the listed events will be reviewed in 2008–09. The problem is that the ECB will no doubt be looking to negotiate its next contract for the season of 2010 onwards well before the due date. Indeed the 1999 contract was simply extended for an additional two years before it was due to expire in 2003. There is a strong case for conducting a review of the listed events now because to do otherwise will lead to uncertainty for rights holders. My own view is that the digital switchover does not fundamentally change the debate about listed sporting events. The principle that the law should, as it does now, guarantee the availability of rights to live coverage of the A-List of events to broadcasters who meet certain criteria (ie those who reach a 95% coverage of UK viewers) and at no additional cost to the viewer other than the television License Fee would still seem to me to be valid.

3. THE BIDDING PROCESS

3.1 Exact figures for bids during the recent TV rights deals for cricket are difficult to come by due to corporate confidentiality but approximate figures seem to indicate that the new deal is worth around 52 million a year over four years, with the previous deal worth around 45 million a year.

3.2 There have been various figures quoted by the ECB but the most recent, in a letter to me, is that they stood to lose 80 million if they did not accept the Sky deal. (Letter from David Collier, ECB Chief Executive, 3 October 2005) The ECB's use of figures can be slightly misleading, this shortfall is based on difference between the new combined (C4 & Sky) bid and the new exclusive bid, not the difference between the previous deal and the new deal which is far less. The gap between the new deal and the previous C4/Sky deal is only around 7 million a year rather than the approximately 20 million a year widely quoted by the ECB based on the two proposed new deals. Sky themselves offered 7 million a year less than they are presently paying if Channel 4 continued to have shared coverage.

3.3 It can be argued that the ECB were not particularly good negotiators. Most other sports are currently managing to at least maintain the value of their rights whilst maintaining a strong free-to-air presence. Rugby League for example were insistent on maintaining a balance between free to air and subscription TV and like cricket all domestic club and international rights are sold together. Faced with this strong negotiating position both the BBC and Sky agreed a 15% rise in TV rights. A similar story can be told of Rugby Union. Indeed if cricket had negotiated during the 2005 cricket season itself rather than some months previously their hand would have been much stronger.

4. EXPERIENCE FROM OTHER COUNTRIES

4.1 In Australia all cricket Test matches involving Australia are protected events for free-to-air TV under the so-called "Anti-Siphoning" legislation. However the ECB received no bid for the Australian rights to the most recent Ashes series from free-to-air TV. Fox Sports consequently bought the rights. A public controversy followed and after discussions involving the Sports Minister and the Prime Minister's office free-to-air station SBS were also offered the rights.

4.2 In 2002 in Ireland Sky gained extensive rights to the Irish national football team's matches. The Irish Government retrospectively created a protected list including the Republic of Ireland's competitive matches. The Irish FA and Sky Sports renegotiated their contracts to allow RTE to show the matches live as well.

4.3 In New Zealand Sky Sports also have the primary rights to all domestic cricket. However they have reached a deal with free-to-air partner Prime Television who show live a selection of the main home international matches. New Zealand Sky Television Chief Executive John Fellet said in a press release proclaiming the deal on 18 November 2004:

"A free-to-air broadcast partner is an important element in our involvement in televised sport in New Zealand. This new agreement is another key step in the continued development of our relationship with Prime."

14 November 2005

Memorandum submitted by Orange UK

1. INTRODUCTION

1.1 Orange welcomes the Committee's inquiry into broadcasting rights for cricket. Whilst the specific nature of the Committee's inquiry relates to the broadcasting of cricket content, we have general concerns about the broader issue of the distribution of sports rights to all new media platforms.

1.2 This is particularly significant as we enter an era where consumers are beginning to choose different platforms, such as the Internet and the mobile handset, to watch television and other audio visual content. To this extent, Orange believes that the Committee's inquiry may only "scratch the surface" of what is a far wider and potentially significant issue for sports fans in the UK.

1.3 Orange believes that the distribution of sports rights should be unbundled so as to offer maximum choice of media platform to consumers. There must be sufficient unbundling of rights to maximise choice for consumers.

2. THE DISTRIBUTION OF SPORTING RIGHTS

2.1 Prior to the emergence and availability of fixed broadband Internet, the rights for television sports content were distributed to broadcasters such as the BBC, ITV or Sky. As new ways of watching television emerged, rights for these new media platforms tended to be included in the overall broadcasting package. This enabled the broadcaster to retain full control of the media rights, such as highlights packages and the rights to other media platforms. The rights were not unbundled to allow other providers to buy the rights for their media platform.

2.2 In addition to this, we are witnessing the emergence of “traditional” broadcasters in the different media platforms, such as Sky’s purchase of EasyNet, the BBC’s Internet Music Player (iMP) and Sky Mobile TV. Whilst Orange welcomes a free-market for the provision of content to maximise choice and entertainment for the consumer, we are concerned that—without sufficient unbundling—this may allow sporting content to be controlled exclusively across all media platforms by one or two players. We do not believe this is in the interest of consumers.

3. ORANGE TV

3.1 Orange is one of five mobile network operators in the UK, offering a wide range of mobile communication services to consumers. In July 2004, Orange launched its Third Generation (3G) network. 3G offers consumers innovative services, such as video calling, as well as fast access to the Internet and multi-media services whilst on the move. Orange’s 3G network now covers over 70% of the UK population.

3.2 In May 2005, Orange launched a streamed television service for its customers, the first TV-on-mobile service in the UK. The service now offers a choice of 16 channels of news, entertainment, sport, weather and comedy and each channel selected by the customer is streamed over the 3G network. Channels include ITN news, CNN, Bloomberg, Extreme Sports, Bravo, ICC Super Series Cricket, Kiss, Kerrang! and Fashion TV. Customers can experience the service for free for seven days and thereafter it costs £10 per month for approximately 20 hours of viewing.

3.3 There continues to be some debate over the most appropriate technology for watching television over a mobile handset. The current service available on Orange in the UK uses the 3G network to enable the mobile user to “pull” the chosen content to the handset. However, there are many trials in the UK and abroad of the use of Digital Video Broadcast—Handheld (DVB-H), Digital Audio Broadcast (DAB) and Digital Mobile Broadcast (DMB).

3.4 Orange in France is currently trialling television on a mobile handset using DVB-H technology, specifically designed for handheld reception. This is not the mobile network streaming the content but rather it allows the handset to receive broadcast content.

3.5 Television via a mobile handset (using whichever technology) is just one of the new ways we can watch television and audio visual content today. It offers consumers the potential to watch television content at a time and place that is convenient to them rather than in a fixed place such as in the home. We believe this method of watching television will be popular with consumers. It is therefore important that we have a level-playing field in the distribution of all sporting content. In order to compete effectively for sports rights there must be sufficient unbundling.

4. RECOMMENDATIONS

4.1 Orange believes that the Committee should recommend that the Government works with Ofcom and the European Union to ensure the sufficient unbundling of sports rights to maximise choice and entertainment for consumers across all media platforms.

4.2 Orange believes the Committee should consider examining the wider issue of the distribution of sports rights in the UK across media platforms and its implications for choice and entertainment for sports fans.

14 November 2005

Memorandum submitted by the Central Council of Physical Recreation

INTRODUCTION TO THE CCPR

The Central Council of Physical Recreation (CCPR) represents and promotes the interests of 270 national organisations for sport and recreation, which in turn represent around 13 million participants and volunteers across the country. Most of the UK based sport governing bodies whose events are “listed” under the Broadcasting Act 2000 are members of the CCPR’s Major Spectator Sports Division (MSSD). It is in this context that we are making a submission to the Inquiry.

OVERVIEW

As is widely acknowledged, the primary responsibility of a sports governing body is to promote that sport in the way it thinks best for the sport. Governing bodies have a wide array of responsibilities, from development to disciplinary processes, national teams to the grassroots. They have to make complex and balanced judgments in all of these areas.

Raising revenues from commercial activities and marketing the sport is a vital responsibility of all sports governing bodies.

CCPR believes that sports governing bodies must be free to make their own decisions in these areas according to their judgement on what is in the best short, medium and long-term interest of their sports.

This includes making commercial decisions in relation to the sale of broadcasting rights. It is the CCPR's view that the governing bodies fully understand the need to strike a balance between promoting the widest possible access for their events through terrestrial broadcasters against the scheduling and financial opportunities which may be available from the pay broadcast sector.

Only the governing body, with responsibility for the entire commercial and marketing strategy (including public relations, sponsorship, marketing support and revenue raising) have the full information required to make these complex, balanced decisions.

THE CCPR VOLUNTARY CODE OF CONDUCT FOR SPORTS

In 1996, a number of rights-owning governing bodies came together under the banner of the CCPR to create a "Voluntary Code of Conduct for Sports Events." The Code set out a number of principles which the signatories agreed to adhere to and reflect in the sales process for television rights. The signatories were the England and Wales Cricket Board (ECB), The Football Association and the FA Premier League, UK Athletics, the Lawn Tennis Association, the Rugby Football Union and the Rugby Football League, the Racecourse Association and the Royal and Ancient Golf Club of St Andrews and the PGA European Tour: all are members of the CCPR within the Major Spectator Sports Division.

The Code's signatories recognised the central principle of ensuring that coverage of the major sporting events was available to the general public in live, recorded and/or highlights programmes. The Code also set out the need of rights owners to balance the need for accessibility through television against the need for governing bodies to get the best market rate for rights for the wider benefit of their respective sports. The signatories agreed to make every reasonable effort to strike a balance between these objectives.

REINVESTMENT IN SPORT

In the years since the introduction of the Code, its signatories have reaffirmed their commitment to the Voluntary Code. The signatories also committed to reinvest into the "grass roots", at community level, not less than 5% of UK broadcast fees received from sale of rights for events covered by the Code. Almost all signatories reinvest a percentage far greater than this, as is the case with the ECB.

CONCLUSION

The signatories to the CCPR Voluntary Code are aware of the need to strike an appropriate balance between income generation and broadcast exposure in order to achieve the best development potential for their respective sports. The Code ensures that a significant percentage of income derived from broadcasting rights fees is reinvested directly into the grass-roots of the particular sport.

CCPR welcomes this sustained investment and the autonomy of national governing bodies to strike a responsible balance between income generation and maximum exposure as described above.

CCPR welcomes the statements made by the Secretary of State for Culture, Media and Sport that the "List" is to be reviewed as part of the wider review of the broadcast landscape in 2008–09, and hopes that when this takes place, the key role that the code has played in this policy area is recognised and that the principle of self-regulation is upheld.

15 November 2005