

Media Reform - Online Safety, Media and Platform Division
Department of Infrastructure, Transport, Regional Development, Communications and the
Arts

Submission of COMPSS to the Government's Anti-siphoning scheme proposals paper

The Coalition of Major Professional and Participation Sports (**COMPSS**) appreciates the opportunity to respond to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' anti-siphoning review proposals paper August 2023 (**the Paper**).

1. INTRODUCTION

COMPSS consists of the seven major professional sporting organisations in Australia:

- Australian Football League;
- Cricket Australia;
- Football Australia;
- National Rugby League;
- Netball Australia;
- Rugby Australia; and
- Tennis Australia.

Each member of COMPSS is the governing body and custodian of a major professional sport in Australia. COMPSS members play a significant role in developing, promoting and presenting their sport from the grass roots through to the international level and, in some instances, rely on Commonwealth and State government funding in order to do so. They are not-for-profit bodies and are responsible for the long-term development and sustainability of their sports.

COMPSS members provide a wide range of public benefits primarily through a self-funding business model. A large portion of the revenue of COMPSS members is generated from the sale of their sport's media rights, which is then reinvested into enhancing, promoting and developing their sport for all Australians.

One of COMPSS' roles is to assist with advocacy in relation to issues on behalf of its member sports. This response to the Paper is lodged on behalf of the following COMPSS members: Australian Football League, Cricket Australia, Football Australia, National Rugby League, Netball Australia, and Tennis Australia. Given the significance of this issue to each COMPSS member and the specific nature of some of the issues raised in the Paper, COMPSS members may also make their own submissions in response to the Paper.



2. COMPPS SUBMISSION DECEMBER 2022

COMPPS reiterates its submission to the review of the Anti-siphoning Scheme lodged in December 2022 (**December Submission**) and in particular the following key points:

- The return on investment that a COMPPS member can drive from the exploitation of media rights is the single most critical factor in enabling them to sustain, develop and invest in their sports at all levels - from national team representation, through to men's and women's leagues and community sport. As such, the COMPPS members are more than *interested parties* in relation to the anti-siphoning scheme – they are the organisations that are significantly impacted by the regulatory and competitive constraints the scheme imposes on the exploitation of their most valuable assets.
- The COMPPS member sports are each at critical but different points in advancing the growth and commercial success of women's sport. Just as a one-size-fits-all approach should not apply between genders, nor should it apply as between sporting codes. Extreme caution needs to be taken to ensure that decisions to include events on the anti-siphoning list that are ostensibly intended to support the growth of women's sport do not have the counter effect. A nuanced and principled approach is required to adding events to the anti-siphoning list and any listing must be undertaken in consultation with each respective sport.
- If the anti-siphoning scheme is to remain in place, then it should be refined to only cover iconic events which are genuinely both nationally important **and** culturally significant – as a minimum these events should be, as referenced in the Paper, those that “*unite the Australian community not just a segment of the community with interest in a particular event*”. Not all of the events on the proposed lists meet this test.
- The automatic de-listing period should be extended to 104 weeks. As the Paper notes, the FTA broadcasters are already advantaged by the anti-siphoning scheme. Where the acquisition rights to so much live content are concentrated in so few parties, it is only fair and reasonable to require these parties to exercise their acquisition choices early to enable the affected sports realistic time to control the sale of their content in the event that the FTA broadcasters do not acquire the rights well in advance of the commencement of the events.
- Any changes to the anti-siphoning scheme (including any additions to the anti-siphoning list) must not apply retrospectively or impact agreements entered into prior to any such changes coming into effect.

3. COMPPS RESPONSE TO THE AUGUST 2023 PROPOSALS PAPER

In summary, while reiterating the position in the December Submission that the anti-siphoning scheme is both unfairly anti-competitive and not necessary to protect the interests of the Australian public, the COMPPS members respond to some of the key issues raised in the Paper as follows.

1. The COMPPS members strongly reject Model 3 and the associated Expanded List for, amongst others, the reasons outlined in the Paper. Noting these are not the Government's preference, COMPPS does not feel it necessary at this stage to expand on these views further but would seek to do so if the Government were inclined to give Model 3 further consideration.

2. The COMPPS members support Model 1. In doing so, the members note that Model 1 is inextricably linked to a significantly reduced list and this support of Model 1 is contingent on an appropriately and significantly reduced list. All references herein to Model 1 therefore incorporate this position.
3. The COMPPS members note that the Government considers it is too soon to introduce Model 1. The COMPPS members acknowledge the Government's position that Model 1 is likely to be a suitable and appropriate model for the anti-siphoning scheme in the longer-term. Should the Government determine that it wishes to proceed with Model 2, then the COMPPS members submit that the Government should do more than wait for the perceived obstacles to Model 1's immediate introduction to abate organically. The Government should commit to a considered and proactive process within a defined timeline (including industry engagement) to move to the introduction of Model 1.
4. In the interim, any acceptance by the COMPPS members of transitional arrangements that change the current operation of the Scheme, such as Model 2, would be subject to being satisfied as to the content of the anti-siphoning list that would attach to such transitional arrangements. COMPPS members will address the appropriate composition of the anti-siphoning list in their individual submissions, including in relation to women's sport.
5. Any changes to the anti-siphoning scheme (including any additions to the anti-siphoning list) must not apply retrospectively or impact agreements entered into prior to any such changes coming into effect.
6. Finally, given the COMPPS members are entities significantly impacted by the anti-siphoning scheme's regulation of their single most valuable asset, they request and appreciate the opportunity for further and ongoing consultation through the reform process.

**Coalition of Major Professional and Participation Sports
15 September 2023**