

## **ASSESSMENT OF THE NEED TO UPDATE THE LIST OF EVENTS OF MAJOR IMPORTANCE FOR SOCIETY**

### **1 Background**

According to section 212, subsection 3 of the Act on Electronic Communications Services (917/2014), where necessary, it shall be designated by Government Decree which events are considered to be of such importance to society in Finland that their coverage shall be broadcast in the area of Finland so that a substantial proportion of the public can follow the coverage of the events free via live coverage or deferred coverage. A television broadcast of an event that is of importance to society is deemed to have reached a substantial proportion of the public, if 90 per cent of the population are able to receive the broadcast without a separate charge. The purpose of the provision is to secure the opportunity for the public to follow events that are of major importance for society on free television channels.

The provision is based on the Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (the “AVMS Directive”). Article 14 of the directive contains the provisions on the use of exclusive rights. Member States are required promptly notify the EU Commission of any measures limiting the exercise of exclusive rights related to television broadcasting. Within three months of receipt of the notification, the Commission verifies that the proposed measures are in conformity with Union law and informs the other Member States thereof.

The procedure laid down by the directive has been transposed as part of national legislation in section 212, subsection 1 of Act on Electronic Communications Services, according to which if a television broadcaster has purchased an exclusive right to broadcast an event which is included in the list of events that are of importance to society, it may not exercise its exclusive right in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following the coverage of the event on free television as provided for by the State in question.

### **2 Events of major importance for society**

Section 6 of the Government Decree on Television and Radio Operations (1245/2014) lists the events that are considered to be of major importance for society in Finland. These events include:

- 1) The Summer and Winter Olympic Games organised by the International Olympic Committee;
- 2) The opening match, quarter-finals, semi-finals and final of the Football World Cup, organised by FIFA (the Fédération Internationale de Football Association), and the matches of the Finnish team;

- 3) The opening match, quarter-finals, semi-finals and final of the European Football Championships, organised by UEFA (Union of European Football Associations), and the matches of the Finnish team;
- 4) The men's Ice Hockey World Championships, organised by the International Ice Hockey Federation (IIHF);
- 5) The Nordic World Ski Championships, organised by the International Ski Federation (FIS);
- 6) The World Championships in Athletics, organised by the International Association of Athletics Federations (IAAF);
- 7) The European Athletics Championships, organised by the European Athletics Association (EAA).

The purpose of the measures related to the exercise of broadcasting rights for events of major importance is to ensure the attainment of public interest objectives in television broadcasting activities. On the other hand, the measures may not unduly and contrary to the principle of proportionality interfere with the operation of the sports broadcasting rights market. The aim is to keep the list of individuals events included in the Government decree short and to only include those events that can be justifiably considered to be of major importance for society in Finland.

Limiting the exercise of exclusive rights related to television broadcasts can be expected to have effects on the relationships between television broadcasters, so the matter also involves competition policy aspects. A limitation on the exercise of exclusive rights may affect the income from television rights of the organisers of various events – in practice, major sports events. For these reasons, the Commission has been given a central role in the implementation of the system. Member States are required promptly notify the EU Commission of any measures limiting the exercise of exclusive rights related to television broadcasting. Within three months of receipt of the notification, the Commission verifies that the proposed measures are in conformity with Union law and informs the other Member States thereof.

The list concerning the broadcasting of events of major importance for society was last prepared in 2007. As for the list of events of major importance for society, on 25 June 2007, the Commission issued a decision on the compatibility with Community law of measures taken by Finland pursuant to the AVMS Directive. The Commission was satisfied that the events listed in the Finnish measures met at least two of the following criteria considered to be reliable indicators of the importance of events for society:

- (i) a special general resonance within the Member State and not simply a significance to those who ordinarily follow the sport or activity concerned;
- (ii) a generally recognised, distinct cultural importance for the population in the Member State, in particular as a catalyst of cultural identity;
- (iii) involvement of the national team in the event concerned in the context of a competition or tournament of international importance; and
- (iv) the fact that the event has traditionally been broadcast on free television and has commanded large television audiences.

The Information Society Code is currently being amended. The amendments will implement nationally the amendments made to the AVMS Directive, among other things. The revised directive will also require amendments to the Government Decree on Television and Radio Operations. In connection with the updating of the decree, it is also appropriate to assess the up-to-dateness of the list of events of major importance for society and the impact of the changes in viewer behaviour on the content of the list. The list was drawn up 12 years ago, and since then, the viewing figures for women's sports events, for example, have increased and the status of women's sports has changed dramatically.

When the list of events of major importance for society is assessed, the changes in the popularity of different sports should also be considered, as well as whether the list should be supplemented with new sports, such as the Paralympics. It should also be considered whether the potential extension of the list could affect the willingness of television broadcasters to acquire television rights for less popular sports or whether the extension of the list could in some cases lead to such sports being no longer necessarily made available to the public at all if the right holder did not receive sufficient compensation for the rights of the freely received channels. When assessing the possible change, it must also be taken into account that it must meet the requirements of Union law. The events must therefore meet at least two of the criteria defined by the Commission to be reliable indicators of the importance of events for society.

### **3 Questions for stakeholders**

In view of the above, the Ministry of Transport and Communications invites views on the following questions in particular:

1. Should the list of events of major importance for society be updated with new sports or other events and, if so, on what grounds? What effects would the change have?

We understand that the Finnish Ministry of Transport and Communications has indicated that it is considering especially the addition of women's sports events and the Paralympic Games on the list of sporting events that must be broadcast on free-to-air television. We fully support such initiative.

The ratings and importance of women's sports has grown over the years. A significant factor for the development has been the free-to-air visibility that has been provided by the public broadcasters throughout Europe. It is justifiable from the perspective of equality that the current list of sporting events is supplemented by the addition of equivalent women's sports, in particular the FIFA Women's World Cup, the UEFA Women's EURO and the ice hockey IIHF World Championships.

On similar grounds it is justifiable that the Paralympic Games are brought to parity with the Olympic Games on the list of sporting events that must be broadcast on free-to-air television. The Paralympic Games is a sporting event which drives true social inclusion in culture and society. The Paralympic Games have grown in scale and in public interest. The addition, the Paralympic Games on the list will ensure visibility of disability sports also in the future.

Further, it should be clarified that the Summer and Winter Olympic Games organised by the International Olympic Committee are in their totality listed events to avoid any limiting interpretation.

We also recommend to including the FIFA World Cup and the UEFA EURO (both the men and women editions), as well as the UEFA Champions League Final in their totality in the list and not only certain matches.

2. Should an event be removed from the current list and, if so, on what grounds? What effects would the change have?

There is no need to remove any events from the current list.

3. How do the potential proposals meet the aforementioned criteria set out by the Commission?

It is our understanding that the addition of women's sports events and the Paralympic Games on the list of sporting events that must be broadcast on free-to-air television meets the criteria set out by the Commission. Women's sports events and the Paralympic Games have traditionally been broadcast on free-to-air television and have reached considerable television audiences. Women's soccer and ice hockey competitions are perceived as culturally unifying events and part of the national cultural identity of Finland. Addition of the Paralympics to the list is a concrete sign of progress towards increasing equality and inclusion in society, which further has an important role in shaping national cultural identity. The national team of Finland has been involved and has been successful in the relevant sports or events.

The inclusion of the FIFA World Cup and the UEFA EURO (both the men and women editions), as well as the UEFA Champions League Final in there is in line with the post-2012 ECoJ case law, that any country is free to do so as long as it meets 2 of the 4 listed conditions.