# Regulating the Digital Sports Broadcasting Market: New Players, Old Problems

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## Introduction

A defining feature of the contemporary sports broadcasting marketplace is the growing use of the internet to deliver live (and non-live) sports content to viewers' online, over–the-top (OTT) (Hutchins et al, 2019; Smith, 2019). Using a range of different national examples, this chapter considers some of the main challenges and opportunities posed by the growth of OTT delivery for the regulation of sports broadcasting. Specifically, the chapter focuses, in turn, on two key areas that have long defined the 'politics of sports broadcasting regulation' (Smith et al., 2015: 722): first, competition issues linked to the buying, selling and distribution of premium sports content; and second, legislation designed to safeguard coverage of certain national and international sporting events, such as the Olympic Games or the FIFA World Cup, for free-to-air television, commonly known as major events or anti-siphoning legislation. The growth of OTT delivery has served to highlight the continued importance of each of these regulatory areas. First, increased competition for (particularly premium live) sports rights between new digital entrants (e.g. Amazon, Facebook, and DAZN) and/or established pay-TV operators (e.g. Disney/ESPN, Comcast/Sky, Discovery/Eurosport) suggests that control of premium sports rights remains a key source of 'market power' in pay-

TV and wider national communications markets. Second, just as importantly, while the growth of OTT delivery over recent years has facilitated a significant increase in the amount of sports content (live and recorded) available to sports fans, access to much of it is increasingly dependent on the ability and/or willingness to pay. As a result, to ensure both effective competition and universal access to live coverage of major national/international sporting events, intervention from policy makers and competition regulators will be just as, if not more, important in the era of digital broadcasting and online delivery.

**Competition Issues**

Before shedding light on some of the most prominent competition issues with regard to sports broadcasting, it is important to make a conceptual distinction between upstream and downstream broadcasting market (Szymanski, 2006: 430). *Downstream*, in the primary market for sports programmes, broadcasters compete for viewers, subscribers and/or advertisers. This is generally known as the consumer market. The sale of rights usually takes place in the *upstream* sports right market; this secondary market involves media organisations, rights agencies and sporting organisations to negotiate over the sale of rights (Turner, 2007). Depending on the situation, sports broadcasters function either on the supply side or demand side of sports broadcasting (see Figure 1). In the upstream market, broadcasters function as rights buyers and then these rights are packaged, scheduled and sold to audiences. Hence, depending on their business role, media organisations operate in two distinct yet highly interactive markets. The conceptual distinction between the upstream and downstream sports broadcasting market is nevertheless important because different competition issues are at play in each of the markets.

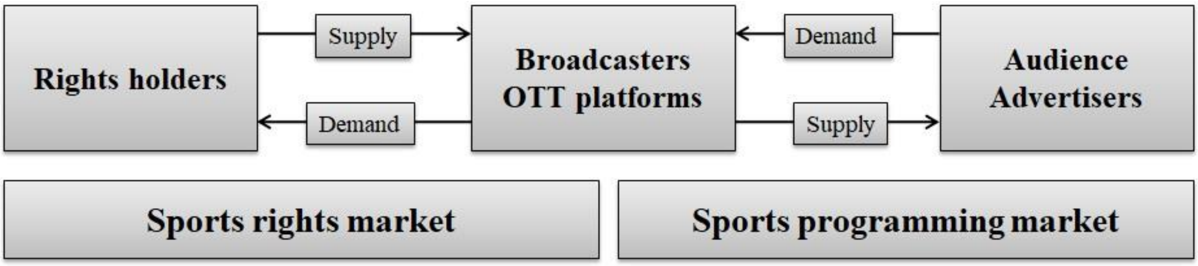


*Figure 1.* The sports broadcasting market (adapted from Evens et al., 2013: 39)

*Sports rights market*

Sports rights markets are often characterised by supply-side monopolies and demand-side abundance, which creates considerable market power for sporting organisations marketing their rights to interested broadcasters. To date, competition authorities have focused mainly on the collective selling by sports leagues, whereby individual teams group together and act as a cartel. Collective selling agreements have been criticised because they can restrict competition in several ways (Smith et al., 2015). First, it gives the league market power to dictate the price of media rights, which leads to inflated prices for both broadcasters and consumers. Second, collective agreements also tend to limit the availability of rights to sports events. This is because teams often fear that live broadcast coverage of matches will undermine their attendance revenue. By selling their broadcast rights collectively, teams have a mechanism through which they can limit the total number (and time) of games broadcast so as to lessen the impact on attendance revenue. Third, collective selling agreements can strengthen the position of the leading broadcasters who are able to bid for all the rights. In theory, if sports rights were sold by individual clubs, rather than collectively, there would be more possibilities for other broadcasters and platforms to obtain rights, which, in turn, would foster competition in the sports broadcasting market. Nevertheless, competition authorities in most, if not quite all, national markets have tended to exempt collective selling from antitrust regulations. Perhaps most notably, in the US (via the 1961 Sports Broadcasting Act) and in the European Union, following a landmark (2003) case on the selling of media rights to the UEFA Champions League (Asser, 2014: 78). To a greater or lesser degree, these legal exemptions are based on the claim that collective selling is in fact procompetitive, as individual selling would lead to significant income disparities between teams, which, in turn, would reduce the competitive balance of the league and thus undermine the popularity of the competition.

The pro-competition case for collective selling has, however, long been disputed by several sports economists (e.g. Kesenne, 2008) and the rise of OTT delivery could well rekindle debate over the merits of collective selling. As the OTT streaming market is becoming rapidly mature, this creates a window of opportunity, especially for larger teams, to market their rights individually instead of adopting a pooling and sharing strategy. Now that the value of digital rights is heating up, individual teams are experimenting with self-exploitation of these rights: several clubs have launched streaming models to reach their global fan base and enhance fan engagement: Manchester United, for example, has launched its MUTV app offering extra club content in over 150 countries, while Real Madrid has agreed a partnership with Facebook to stream its club TV channel and several live events, albeit, not yet at least, competitive Real Madrid matches (Connelly, 2016). As live streaming is likely to become one of the most preferred ways to serve sports fans and will account for a growing share of total media-related income for clubs, these developments is likely to put pressure on collective agreements as the dominant mechanism for selling rights and possibly give more leeway to the bigger teams to market their rights individually somewhere in the near future In fact, this trend has already been apparent in recent controversies in European football. Combined with the financial impact of the Covid-19 global pandemic, the lure of a potential revenue increase from individual rights selling, or at least sharing rights revenue with a smaller number of larger clubs, underpinned, first, in 2020, an initiative put forward by a handful of the English Premier League's biggest clubs – 'Project Big Picture' - to reorganise the league's governance structures in order to give the bigger clubs greater control (Gardner, 2020), and; second, in 2021, an attempt by some of Europe's largest football clubs, including Real Madrid, Barcelona and Juventus, as well as the 'big six' from the English Premier league, to launch a European Super League (Ahmed and Massoudi, 2021). The latter, in particular, prompted an enormous public backlash, including opposition from fans, UEFA and national governments, and was quickly abandoned. However, both examples suggest that renewed controversy over the issue of collective selling is likely to be a feature of the digital sports broadcasting era and as such may well require renewed attention from competition regulators.

While competition authorities have endorsed the practice of collective selling, *collective buying* of sports rights by broadcasters has been viewed as more problematic. The issue was predominantly raised in Europe in relation to the European Broadcasting Union (EBU), which negotiates sports contracts on behalf of its members, consisting mostly of public service broadcasters. By providing collective buying power for its members, the EBU were able to purchase the rights for international events, such as the Olympic Games, often at the expense of rival commercial broadcasters, who viewed the EBU's activities as anticompetitive because they place non-members at an inherent commercial disadvantage. In response, the European Commission have overseen some reforms to the EBU's rights-buying activities, including the opining up of sublicensing of rights to non-members on 'fair, reasonable and non-discriminatory' terms, but it has not moved to prevent joint purchasing of rights altogether. However, competition authorities have always remained vigilant of the possible impact of collusion on the demand side (see Evens et al., 2013). For this reason, horizontal mergers between pay-television operators, such as the formation of Digital+ and Canal+ in Spain and France respectively, and vertical mergers between broadcasters and sports organisations, with BSkyB's iconic attempt to control Manchester United, were usually part of lengthy antitrust scrutiny.

As part of such merger control, in Europe and beyond competition authorities have imposed a series of regulatory conditions, including a limit to the duration of premium sports rights agreements or the provision of wholesale access to third parties. In each case, the underlying competition concern was that a dominant pay-television operator could use its control of sports rights to undermine any prospect of the development of competition. In order to prevent this type of 'winner-takes-all' market and to facilitate entry of newcomers in the pay-television market, competition authorities often imposed an obligation to *partially unbundle* (i.e. dividing rights between separate packages) and a *no-single buyer* rule, instead of awarding one broadcaster with all rights (Evens and Lefever, 2011). Introducing such earmarked packages with exclusive coverage for different media (FTA, pay-TV, online, mobile) had the intention to safeguard dynamic competition in pay-television markets. Although this remedy did attract new entrants in the market, increased competition on the demand-side also led to counterproductive results: high rivalry often led to overbidding with newcomers soon becoming insolvable, going bankrupt and eventually leading not to more but less competition. Several winners of sports rights auctions were hit by the 'winners curse' and went out of business. Notable examples of such failures over the last couple of decades are Kirch Media (Germany), ITV Digital and Setanta Sports (both UK), Telepiù and Stream (both Italy), Alpha Digital (Greece), Sport7 (the Netherlands) and, most recently, in 2020, Téléfoot/Mediapro (France). The growing importance of digital rights means that most sports leagues now generally market their rights on a technologically neutral basis, with rights distinguished on a temporal basis (live, near-live, highlights, clips), rather than by means of delivery mode. This implies that while OTT streaming platforms previously had only access to smaller, often non-exclusive digital rights packages, they are now able to secure more valuable live packages to provide exclusive coverage of certain events or games online. The growing involvement of OTT streaming players is illustrated by a few early 2021 multibillion deals for the Italian football league Serie A and the National Football League (NFL) for which established broadcasters and pay-television operators were outbid by online platforms DAZN and Amazon respectively (Long, 2021; O'Halloran, 2021). The future challenge for competition authorities will be to secure free and fair competition in the online market, where network effects, global scale and capital intensity are leading to rapid consolidation (Evens and Donders, 2018).

*Sports programming market*

The underlying idea of these remedies is to guarantee a sufficient level of competition in the sports programming market and to protect the benefits of the consumers in terms of choice, quality and price. However, Budzinski et al. (2019) doubt whether the partial unbundling and no-single buyer remedies have really served consumer welfare and claim these remedies have led to an increase, no decrease, in retail prices and transaction costs. While much of this increased competition provided by new entrants has often proved relatively short-lived and monopolies in pay-television markets were at best replaced by duopolies (e.g. Sky and British Telecom in the United Kingdom; Deutsche Telekom and Sky Deutschland in Germany), the emergence of these duopolies has contributed to a rapid escalation in the cost of premium rights, which were, to some extent, passed on to consumers. Paradoxically, for consumers, increased competition has led to higher prices. Given the monumental rise in the value of UK sports rights, it is perhaps no surprise that subscribers to sports channels have faced some of the steepest price increases in Europe. Butler and Massey (2019) have examined the nature of competition in the broadcasting market for live English Premier league matches and found no evidence of a price-decreasing effect following more competition. Instead, the overall price as well as the price per game is higher with competing broadcasters than under a monopoly. Moreover, consumers who do not subscribe to sports channels have also faced increased charges as a result of the spiralling fees paid for sports rights. In 2014, just after BT had secured live Premier League rights for the first time, it imposed a significant increase in the cost of home phone and broadband packages on all its customers, a move described by some industry observers as a ‘football tax’. Sky also raised the cost of its family bundle, leading to suspicions that these family bundle subscribers were helping to pay for the expensive Premier League rights deal (Smith et al., 2016).

Moreover, the obligations to unbundle live rights and to sell them to at least two different buyers has faced consumers with the inconvenience (as well as extra cost) of subscriptions to multiple pay-television services if they want to follow all of the matches within a particular competition. Under the 2019-2022 Premier League deal, live rights are scattered between pay-television channel Sky Sports (128 matches/season), BT Sports (52 matches/season) and streaming platform Amazon (20 matches/season). Similarly, German Bundesliga (2017-2021) live rights are split between Sky Deutschland (263 matches/season) and DAZN (40 live Friday matches); in Spain (2019-2022) Telefonica (342 matches/season) and GOL (38 matches/season) share the La Liga live rights. Because live rights become fragmented among several providers – both traditional pay-television and OTT platforms – the aforementioned competition remedies eliminate a one-stop shopping option and, therefore, increase transactions costs for consumers, which become reliant on different subscription services for supporting their favourite team (Budzinski et al., 2019). On top of transaction cost, this sports rights fragmentation and the subsequent need for subscribing to different sports channels and/or platforms, in turn, increases household premium sports expenditure. A survey revealed that Spain was the most expensive country in Europe for watching football on television, specifically due to the ‘maze’ of different premium viewers are required to take in order to watch certain matches, including those features the two most popular teams, Real Madrid and Barcelona (Clover, 2014). The emergence of new OTT players within European sports broadcasting markets, such as DAZN (mainly Germany and Italy) and Amazon (mainly UK and France) has reinforced, or even exacerbated, the fragmentation of Europe’s sports broadcasting markets and further highlighted the inadequacies of the existing regulatory approach.

**Major Events Legislation**

From around the 1990s, the growth of pay-TV has prompted policy makers in a number of different countries to introduce legislation designed to preserve coverage of major sporting events/competitions on free-to-air TV. In Europe, major events legislation has been facilitated by the EU and adopted by most of the largest member states, including Germany, France and Ital, as well as the UK (at national level since its departure from the EU). Other countries, most notably, Australia, India and South Africa have also adopted a form of major events legislation (Evens et al. 2013). The introduction (and continued existence) of such legislation has been justified on the grounds that coverage of high profile sporting events will otherwise tend to migrate from free-to-air broadcasting to pay-TV. There is certainly considerable evidence to support this point of view. Perhaps most notably, during the mid-1990s, in Europe, live coverage of top level domestic football largely shifted from free-to-air television to pay-TV. At around the same time, in New Zealand, live coverage of the matches of the national rugby team, the iconic All Blacks, also moved from free-to-air (TVNZ) to pay-TV (Sky TV) (Scherer and Sam, 2012). The introduction of OTT sports services has only reinforced this trend. For example, in Japan, DAZN has been credited with ‘converting a population that was sceptical of pay-TV into paying customers’, with a host of premium rights deals, including the exclusive live rights for the J-League (football) and almost all NPB (baseball) teams (Bassam, 2021). However, it should be emphasised that much of the sports coverage provided by pay-TV and/or subscription OTT services does not consist of programming previously available via free-to-air broadcasters, but rather coverage of sports and sporting events that previously received little, if any, airtime on free-to-air television. For example, in the UK, before the launch of Sky’s (then BSkyB) pay-TV service, there was no live coverage of the England cricket team’s overseas Test matches. Since 1994, all matches have received live coverage from either Sky, or its pay-TV rival, BT Sport.

The case for major events legislation is also based on its potential to promote (and/or preserve) “cultural citizenship” in two key ways (Miller, 2014). First, major events legislation may be justified on grounds of equity. Low income groups should not be excluded from access to major sporting events by their inability to pay. While relevant to all countries, this issue is particular salient for countries characterised by wide disparities of income between social classes. For example, the Independent Communications Authority of South Africa (ICASA) justified its recent (2021) reform of major events legislation (see also below) by citing that that only around 8 million of South Africa’s 14 million television households have access to pay-TV (Business Tech, 2021). With this in mind, the ICASA declared that its new regulations were intended to ‘redress inequalities in how television is accessed in South Africa’ (ibid.). The second significant benefit of ensuring that major sporting events are broadcast on free-to-air television is the generation of what economists refer to as positive network externalities, whereby the shared benefits that can result from the coverage of major sporting events on universally available free-to-air television are more significant than the benefits for any individual viewer, such as the ‘feel good’ factor experienced in South Africa following its 2019 rugby world cup victory. Furthermore, against the backdrop of an increasingly fragmented media landscape, it is worth emphasising that live free-to-air television coverage of major sporting events remains one of the few forms of television able to bring nations together for a shared viewing experience. For example, in the UK, the final of the 2020 (held in 2021) UEFA European football championships between England and Italy was watched by an average audience of 29.85 million people, an 82 per cent share of the available television audience, and the most watched broadcast in the UK since the funeral of Princess Diana, in 1997 (Carp, 2021).

Opposition to major events legislation stems from an underlying commitment to free market principles. This line of argument is often voiced by pay-TV broadcasters. For example, in Australia, during the 2010s, the leading pay-TV operator, Foxtel, repeatedly called for changes to the country’s anti-siphoning law on the grounds that the existing legislation prevented it from competing with (commercial and public service) free-to-air broadcasters (Mann, 2013). At least partly as a result, with support from a politically sympathetic government, in 2017, the number of sporting events and/or competitions covered by Australia’s anti-siphoning legislations was significantly reduced, including the removal of international events involving Australian teams playing overseas in rugby league, football, rugby union, cricket, and netball, as well as a host of other major international sporting tournaments, such as Wimbledon and the US Open tennis (DCA, 2017a). A free market approach to the sale of rights is also often advocated by sports organisations. Many sports organisations resent legal restrictions being imposed on the sale their rights and argue that they are best placed to judge how to further the interests of their own sport, including how to balance the potential for increased revenue to be gained via pay-TV with the benefits of greater exposure through free-to-air television. For example, in South Africa, the ICASA's initial (2018) proposals for the reform of major events legislation included an increase in the number of events listed, as well as stronger protection for a number of key 'national sporting events', most notably the summer Olympic Games, the FIFA World Cup and the Rugby World Cup. These events would be guaranteed 'full live' coverage, rather than the 'live, delayed live, or delayed' coverage provided under the existing rules (ICASA, 2018). The ICASA's proposals were vehemently opposed by some of South Africa's leading sports organisations. In 2019, in public hearings on the draft proposals, numerous sports organisations, including the Cricket South Africa, the Premier Soccer League and South African Rugby Union, argued that the proposed regulations would 'kill' sport in the country as they relied on funds from the sale of their television rights to pay-TV (Mphahlele, 2020). For instance, in its written submission to the ICASA, Cricket South Africa (CSA) highlighted that in, 2018, 69 per cent of its total revenue was derived from broadcast revenue (CSA, 2019: para. 73). At least partly as a result of such opposition, by the time, in early 2021, the ICASA published its final Sports Broadcasting Regulations the plan for guaranteed live free-to-air television coverage of 'national events' had been abandoned (ICASA, 2021). As pointed out by Gary Rathbone, general manager of South Africa's public service broadcaster, the SABC, speaking following the publication of the ICASA's new regulations: 'nothing has changed' (Ray, 2021). South Africa's leading pay-TV broadcaster, DStv (MultiChoice) remains free therefore to continue to acquire rights for listed events, with the SABC (experiencing an ongoing financial crisis) then forced to negotiate with the pay-TV broadcaster for secondary rights. This system has often proved ineffective, most notably when, during the 2019 Rugby World Cup, the inability and/or unwillingness of the SABC and DStv to agree a sub-licencing deal meant that, despite being listed, there was no free-to-air television coverage of South Africa’s matches, until a public outcry led to a last ditch deal for live coverage of the final on SABC (Impey, 2019). With South Africa’s main sports organisations wedded to the financial support provided by DStv, there is little to suggest the country’s major events legislation will be any more effective in future.

However, the key argument in support of major events legislation is not that policy makers and regulators know better than individual sports organisations, but rather that the wider public interest in the form of cultural citizenship is best served by the availability of particular sporting events on free-to-air television. It is not particularly unusual in democratic societies for certain property rights to be subject to state regulation in the public interest. Planning laws, for instance, mean that those who live in heritage properties cannot do with them exactly what they want. To promote cultural citizenship, the same is true for sports organisations and listed events. The challenge for policy makers in most, if not all, countries with major events legislation is to resist pressure from (some) media and sports organisations to remove, or at least water down, such legislation. Furthermore, the growth of online delivery has provided commercial players with new potential opportunities and/or added incentive to undermine the effectiveness of major events legislation. For example, in 2015, the International Olympic Committee (IOC) agreed a Pan-European €1.3 billion deal with Discovery, the owner of the pay-TV broadcaster, Eurosport, for the exclusive rights to the Olympic Games, between 2018 and 2024 (although only for 2022 onwards in the UK) (Emmett, 2015). This meant that Europe’s leading public service broadcasters, including the BBC (UK), France Television (France), RTVE (Spain) and Rai (Italy), each lost control of the rights to broadcast the Olympic Games. Whilst EU (and UK) major events listed events legislation guaranteed the sub-licensing of rights for national free-to-air coverage, this should not obscure the fact that the primacy of the Olympics coverage traditionally offered by

European public service broadcasters has been significantly diluted. Under the terms of a series of individual deals with Discovery (e.g. Discovery, 2016), Europe's leading public service broadcasters can only offer non-exclusive (exclusive free-to-air only) coverage, with more extensive coverage available via Eurosport's pay-TV channels and its OTT service, Discovery+. Clear limitations have also been imposed on the online coverage able to be offered by public service broadcasters, which is restricted to content previously (or currently) broadcast via linear TV services. Consequently, in 2021, during its coverage of the Tokyo Olympics, the BBC, for example, was only able to show two events at any one time, which led it to complaints from viewers when live coverage of medal winning performances was missed (Waterson, 2021). Without regulatory change, a repeat of the much lauded 2012 'digital Olympics', with 'live coverage of every Olympic sport from every venue' offered by the BBC for all UK citizens to enjoy is increasingly unlikely (BBC, 2013: 50).

In a similar vein, the effectiveness of Australia's major events legislation has also been challenged by the growth of OTT services. In 2021, the OTT platform, Kayo Sports, owned by pay-TV operator Foxtel, agreed a 'landmark deal' with Netball Australia, which controversially ended the sports long term partnership with the free-to-air broadcaster, Nine Network (Sports Business, 2021). Under the terms of the deal, all Australia's national netball team games and two other games a week are to be broadcast on Kayo Freebies, the platform's free tier, with users required only to provide an email address. Following the 2017 reforms (see above), the deal itself does not breach Australia's anti-siphoning legislation, rather the concern is that it offers a blueprint for pay-TV operators, like Foxtel, to secure rights for premium sports, including the AFL (Australian rules football) and NRL (rugby league), while complying with the letter, if not the spirit, of Australia's anti-siphoning rules (e.g.. by offering the bare minimum of matches required for free via Kayo Freebies) (Hennessy, 2021). The free-to-air commercial broadcaster, Channel Nine, has begun to use its OTT sports service, Stan Sport, launched in 2021, in a similar way. In 2020, Nine agreed a AUS$100 million three year deal with Rugby Australia for the exclusive rights to all rugby union in Australia, including men's and women's national team Test matches, as well as domestic club competitions (Carp, 2020). The deal brought to end Foxtel's 25 year partnership with Rugby Australia and signals Nine's intention to use Stan Sports, offered as a bundle to existing subscribers to Nine's film streaming service, Stan, as a platform to compete with its pay-TV rival, while at the same time using its free-to-air television services, the Nine network, to avoid breaching anti-siphoning rules. Just as, if not more worryingly, is the prospect of a subscription OTT streaming services, like Stan Sports or Kayo Sports, or even Amazon, or Facebook, legally 'siphoning' listed events behind a paywall. This is because of the way that Australian major events legislation operates, whereby a licence condition is imposed on subscription television broadcasting licensees, like Foxtel, preventing them from acquiring the rights to listed events before a free-to-air television broadcaster has had the opportunity to do so (DCA, 2017b: 1). In March 2021, the Australian government announced the extension of the current list, which was due to expire the following month, until April 2023 (Australian Government, 2021), but this extension does not close the legal loop hole that could enable subscription streaming services (as distinct from a pay TV broadcaster) to sidestep anti-siphoning legislation.

Finally, it is worth noting that the need to update major events legislation in response to changes in broadcast technology may also provide policy makers and regulators with a window of opportunity to redress a significant shortcoming of most, if not all, examples of major events legislation, namely the under-representation of women's sport. The last decade or so, has witnessed a tremendous growth in the popularity of a host of women's sports, including football, rugby and cricket. At least in part, this growth has been fuelled by the active promotion and coverage of women's sport by (public and commercial) free-to-air broadcasters across the world. For example, the 2019 Women's World Cup was watched by a record 1.12 billion viewers across the world, almost exclusively on free-to-air television (FIFA, 2019). In the UK, the BBC's coverage of the tournament was watched by 47 per cent of the population (BBC, 2019). The popularity and commercial value of women's sport is only likely to gather pace. In the UK, revenue generated by women's sport, including from television rights sales, is predicted to grow to £1 billion a year by 2030 – up from £350m a year in 2020 (Women's Sport Trust, 2021). With its growing popular appeal, women's sport is inevitably attracting increased attention from pay-TV operators. DAZN, for example, has recently agreed a four year deal for the global rights to broadcast the UEFA Women's Champions League. As part of this ground breaking deal, DAZN has also agreed for many matches to be made available live and for free via its YouTube channel, but these will reduce in number over the term of the deal (DAZN, 2021). It seems likely that DAZN's long term plan is to build the popularity of the competition via free access, before gradually moving access behind a paywall. Against this backdrop, there is an urgent need for policy makers to incorporate more women's sport under the auspices of major events legislation.

## Conclusion

This chapter has highlighted the need for the continued evolution of sports broadcasting policy and regulation in order to better address long standing issues with the effectiveness of existing approaches and also to respond to the new challenges posed by the growing use of the internet to deliver sports content online. More specifically, it is clear that the fundamental characteristics of the sports broadcasting market remain largely unchanged. While the potential of OTT delivery may increase the potential for new entrants, popular sports content continues to be relatively scarce and thus control of premium sports rights remains a key source of market power within cotemporary pay-TV and wider communications markets. As a result, competition regulators are likely to face a constant challenge to prevent a handful of global media corporations, such as Disney/ESPN, Amazon, Comcast/Sky and DAZN, from using control of premium sports rights to dominate national pay-TV markets. Yet, at the same time, the regulatory solutions employed to date, such as unbundling the sale of rights, seem increasingly inappropriate and ineffective, at least from the perspective of consumers, who are often forced to pay more and/or face the inconvenience of subscribing to a number of different service providers. As we have argued elsewhere (see Smith, et al 2016), a potential way forward for regulators is to focus as much on the downstream sports programming market as the (upstream) sports rights market. Policy makers and regulators also need address a mix of old and new problems in relation to major events legislation. In many, if not all countries, the growth of OTT services may be cited by pay-TV broadcasters and some sports organisation to justify calls for the abolition, or at least dilution, of ‘outdated’ major events legislation. As ever, the challenge for policy makers and regulators will be to resist such challenges, while at the same time adapting existing rules where necessary so as to safeguard universally available coverage of major national and international sport events. For the immediate future at least, in most, if not all, countries free-to-air television remains the most efficient means to achieve universal availability and should therefore be prioritised in major events regulation.

**References**

Ahmed, M. and Massoudi, A. (2021). Leaked Super League plans reveal goal of US style football finances. *Financial Times*, 20 April. Available at: https://www.ft.com/content/e80299a4-8012-447a-8512-c24e149304b1 (accessed 30 July 2021).

Asser Institute (2014). Study on sports organisers' rights in the European Union. Final Report for the European Union. Available at http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf (accessed 30 July 2021).

Australian Government (Department of Infrastructure, Transport, Regional Development and Communication) (2021). Current anti-siphoning list to continue to 2023. News Release, 18 March. Available at: https://www.communications.gov.au/departmental-news/current-anti-siphoning-list-continue-2023 (accessed 30 July 2021).

Bassam, T. (2021). DAZN Japan 'doesn't see FTA networks as competitors', says SVP of subscription growth. *SportsPro*, 8 July, Available at: https://www.sportspromedia.com/news/dazn-japan-subscribers-growth-basso-2021 (accessed 30 July 2021).

BBC (2019). Women's World Cup: Record total audience of 28.1m watch BBC coverage, *BBC Sport*, 8 July. Available at: https://www.bbc.co.uk/sport/football/48912587> (accessed 30 July 2021).

BBC (2013). *Annual Report and Accounts 2012/13*. Available at: http://downloads.bbc.co.uk/annualreport/pdf/2012-13/bbc-bbcexecutive-annualreport-review-and-assessment-2012-13.pdf (accessed 30 July 2021).

Budzinski, O., Gaenssle, S., and Kunz-Kaltenhäuser, P. (2019). How Does Online Streaming Affect Antitrust Remedies to Centralized Marketing? - The Case of European Football Broadcasting Rights. *International Journal of Sport Finance, 14*(3), 147-157.

Business Tech (2021). Updated rules for DStv and sports broadcasts in South Africa. *Business Tech*, 1 April. Available at: https://businesstech.co.za/news/media/480381/updated-rules-for-dstv-and-sports-broadcasts-in-south-africa/ (accessed July 2021).

Butler, R., and Massey, P. (2019). Has competition in the market for subscription sports broadcasting benefited consumers? The case of the English Premier League. *Journal of Sports Economics, 20*(4), 603–624.

Carp, S. (2021). Euro 2020 final delivers mammoth TV figures in UK and Italy. *SportsPro,* 13 July. Available at: https://www.sportspromedia.com/news/euro-2020-final-tv-figures-bbc-itv-rai-england-italy (accessed 30 July 2021).

Carp, S. (2020). Nine unveils Stan Sport OTT service after striking AUS$100m Rugby Australia deal. *SportsPro*, 9 November. Available at: https://www.sportspromedia.com/news/rugby-australia-tv-rights-nine-stan-sport-ott-streaming-platform (accessed 30 July 2021).

Clover, J. (2014). Spain most expensive country for pay-TV sports. *Broadband TV News*, 2 September. Available at: http://www.broadbandtvnews.com/2014/09/23/spain-most-expensive-country-for-pay-tv-sports/ (accessed 11 April, 2021).

Connelly, T. (2016). Real Madrid’s decision to take its TV channel to Facebook Live could be a sign of things to come. *The Drum*, 26 October. Available at: https://www.thedrum.com/news/2016/10/26/real-madrids-decision-take-its-tv-channel-facebook-live-could-be-sign-things-come (accessed 30 July 2021).

CSA (Cricket South Africa) (2019). *CSA Submission on the Draft Sports Broadcasting Services Amendment*. Available at: https://www.icasa.org.za/legislation-and-regulations/csa-submission-on-the-draft-sports-broadcasting-services-amendment-regulations (accessed 30 July 2021).

DAZN (2021). DAZN and YouTube Enter Groundbreaking Partnership to Bring UEFA Women's Champion's League to Fans Around the World, Live and for Free. News Release, 30 June. Available at: https://media.dazn.com/en/press-releases/2021/06/dazn-and-youtube-enter-groundbreaking-partnership-to-bring-uefa-womens-champions-league-to-fans-around-the-world-live-and-for-free/> (accessed 30 July 2021).

DCA (Department of Communications and the Arts) (2017a). *Amending the anti-siphoning scheme*. Available at: https://www.communications.gov.au/documents/amending-anti-siphoning-scheme (accessed 30 July 2021).

DCA (Department of Communications and the Arts) (2017b). *Reform of the anti-siphoning scheme*. Available at: https://obpr.pmc.gov.au/sites/default/files/posts/2017/11/anti-siphoning_ris.pdf (accessed 30 July 2021).

Discovery Communications (2016) BBC & Discovery Communications Sign Long-Term Olympic Games Partnership. News Release, 2 February. Available at: https://corporate.discovery.com/discovery-newsroom/bbc-discovery-communications-sign-long-term-olympic-games-partnership/ (accessed 30 July 2021).

Emmett J (2015). Discovery takes European Olympic rights in 1.3 billion deal. *SportsPro*, 29 June. Available at: http://www.sportspromedia.com/news/discovery_takes_european_olympic_rights_in_1.3_billion_deal (accessed July 2021).

Evens, T., and Donders, K. (2018). *Platform Power and Policy in Transforming Television Markets*. London: Palgrave Macmillan.

Evens, T., Iosifidis, P., and Smith, P. (2013). *The Political Economy of Television Sports Rights*. Basingstoke: Palgrave Macmillan.

Evens, T. and Lefever, K. (2011). Watching the football game: broadcasting rights for the European digital television market. *Journal of Sport & Social Issues, 35*(1), 33-49.

FIFA (2019). *FIFA Women's World Cup France 2019: Global Broadcast and Audience Report*. Available at: https://digitalhub.fifa.com/m/5fd80f719fbff8e4/original/rvgxekduqpeo1ptbgcng-pdf.pdf> (accessed 30 July 2021).

Gardner, J. (2020). Project Big Picture rejected by Premier League. *SportsPro,* 14 October. Available at: https://www.sportspromedia.com/news/project-big-picture-rejected-premier-league-clubs (acccessed 30 July 2021).

Hutchins, B, Li, B. and Rowe, D. (2019). Over-the-top sport: live streaming services, changing coverage rights markets and the growth of media sport portals. *Media, Culture & Society*, *41* (7), 975-994.

ICASA (Independent Communications Authority of South Africa) (2021). *Sports Broadcasting Services Amendment Regulations.* Available at: https://www.icasa.org.za/legislation-and-regulations/sports-broadcasting-services-amendment-regulations-2021 (accessed July2021).

ICASA (Independent Communications Authority of South Africa) (2018). *Draft Sports Broadcasting Service Amendment Regulations*. Available at: https://www.icasa.org.za/legislation-and-regulations/draft-sports-broadcasting-services-amendment-regulations-2018 (accessed 30 July 2021).

Impey, S. (2021). SABC lands deal to air Rugby World Cup final. *SportsPro,* 29 October. Available at: https://www.sportspromedia.com/news/sabc-supersport-2019-rugby-world-cup-final-tv-rights-south-africa (accessed 30 July 2021).

Kesenne, S. (2008). The Impact of Pooling and Sharing Broadcast Rights in Professional Team Sports. *International Journal of Sport Finance 4*(3), 211-218.

Long, M. (2021). NFL confirms domestic rights deals worth more than US$110 billion. *SportsPro*, 18 March. Available at: https://www.sportspromedia.com/news/nfl-domestic-media-rights-deals-nbc-fox-espn-abc-cbs-amazon (accessed 30 July 2021).

Mann, C. (2013). Foxtel seeks sports ‘anti-siphoning’ shake-up. *Advanced Television*, 25 November. Available at: https://advanced-television.com/2013/11/25/foxtel-seeks-sports-anti-siphoning-shake-up/ (accessed 30 July 2021).

Miller, T. (2014) Before, During, and After the Neoliberal Moment: Media, Sports, Policy, Citizenship In J. Scherer and D. Rowe (eds) *Sport, Public Broadcasting, and Cultural Citizenship: Signal Lost?*. (pp.30-47), London: Routledge.

Mphahlele, M. (2020). Icasa sets target for news sports broadcast regulations. *Times Live*, 16 March. Available at: https://www.timeslive.co.za/sport/2020-03-16-icasa-sets-target-for-news-sports-broadcast-regulations/ (accessed 30 July 2021).

O’Halloran, J. (2021). DAZN scores Serie A rights in Italy. *RapidTV News*, 27 March. Available at: https://www.rapidtvnews.com/2021032760183/dazn-scores-serie-a-rights-in-italy.html#ixzz6qKd6Iril (accessed 30 July 2021).

Ray, C. (2021). Icasa’s superficial regulation amendments for sports broadcasting changes nothing. *Daily Maverick*. Available at: https://www.dailymaverick.co.za/article/2021-04-16-icasas-superficial-regulation-amendments-for-sports-broadcasting-changes-nothing/ (accessed 30 July 2021).

Sports Business (2021). Foxtel’s five-year netball rights deal prompts fiery response from incumbent Nine. *SportBusiness*. 3 February. Available at: https://www.sportbusiness.com/news/foxtels-five-year-netball-rights-deal-prompts-fiery-response-from-incumbent-nine/ (accessed July 2021).

Smith, P. (2019**).** A Whole New Ball Game? The Changing European Sports Rights Marketplace. In G. Armfield, J. McGuire and A. Earnheardt (eds.) *ESPN and the Changing Sports Media Marketplace*. (pp.39-56.) New York: Peter Lang.

Smith, P., Evens, T., and Iosifidis, P. (2016). The next big match: Convergence, competition and sports media rights. *European Journal of Communication, 31*(5), 536-550.

Smith, P., Evens, T., and Iosifidis, P. (2015). The regulation of television sports broadcasting: a comparative analysis. . *Media, Culture & Society, 37*(5), 720-736.

Szymanski, S. (2006). The economic evolution of sport and broadcasting. *The Australian Economic Review, 39*(4), 428-434.

Turner, P. (2007). The impact of technology on the supply of sports broadcasting. *European Sports Management Quarterly, 7*(4), 337-360.

Waterson, J. (2021). BBC Olympics coverage misses events after loss of TV rights, *The Guardian*, 25 July. Available at: https://www.theguardian.com/media/2021/jul/25/bbc-olympics-coverage-misses-events-after-selling-tv-rights (accessed 30 July 2021).

Women's Sport Trust (2021). *Closing the Visibility Gap: Growing the Value of Women's Sport Through the Impact of Visibility*. Available at: https://www.womenssporttrust.com/closing-the-visibility-gap/ (accessed 30 July 2021).