Ian Flatley

From: Ian Flatley
Sent: Sunday, 5 February 2012 10:53 AM
To: minister@dbcde.gov.au; Anti-Siphoning2@acma.gov.au
Subject: Urgent Action Required: Anti Siphoning Legislation

G'day

I understand the anti siphoning legislation currently prevents pay TV from holding rights that were not offered to free to air networks (as is shortly to be the case with the new AFL media deal). You'll be aware Rugby League is still hoarded by Channel Nine outside of NSW and QLD. Last nights Indigenous All Stars game did not be appear on our screens prior to midnight despite this being a non listed game (ie it could be played on either of the networks three channels) and in a non ratings period for the network. There is no excuse for the blatant hoarding of sport as occurs down here and we are patiently waiting on changes to the anti siphoning legislation as first promised in a letter from you some three years ago.

I was equally disappointed to hear the anti siphoning changes are reported as beyond the sixty seventh draft with little in the way of finalisation together with the rhetoric of potentially more legislation following the OPTUS TV decision earlier this week. I also note you have recently made a change to the anti siphoning list to de-list the entire 2012 AFL season from the anti siphoning list. This still does not allow FOX to hold TV rights that it obtained directly from the AFL (which requires a law change).

You are aware that I've have been very active with respect to accessing hoarded sport and have a swag of correspondence, records of phone discussions (with the department, channel nine, the NRL and others) and despite many contacts with the department including contributing to the initial review, while the minister and his department continue to negotiate with entities that did not contribute to the review.

The review into Sport on TV as presented to Parliament in November 2010 also provides for a "use it or lose it clause" and a maximum of four hour delay for listed sport together with the allowed use of multi channels. I understand the minister is considering interim steps to allow the AFL to be shown on pay TV as he gave the nudge and a wink to at the time of the current TV deal negotiations. Changes to legislation are required to allow FOX to show (and indeed hold) live AFL as negotiated last year.

May I remind the Minister as to his obligations to sports fans (particularly those in supposed non traditional states) and if interim changes are brought in (such as your recent attempt in the latest revision of the list), then we are looking to the minister to incorporate at the same time wider protection of currently hoarded sport (as provided for in the tabled Sport on TV review). <u>If any changes are made to my disadvantage (ie FOX allowed to hold AFL rights whilst rugby league continues to be hoarded in the manner it is in Victoria), then I will seek an injunction with respect to such changes.</u>

The "first bounce" of the AFL season is less than seven weeks away and as the current legislation stands, FOX cannot directly hold protected TV rights negotiated and obtained directly with the AFL. <u>This will be reported to ACMA as a breach if changes are not brought in before.</u>

Looking forward to seeing sport as intended (to the sports fan) rather than utilised as a commodity to be "warehoused" for the benefit of others.

Your Sincerely

Ian Flatley

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Regards