



## REVIEW OF THE PROVISIONS RELATING TO THE BROADCAST OF GAMBLING AND BETTING COMMERCIALS AND THE PROMOTION OF ODDS IN LIVE SPORT IN THE SUBSCRIPTION TELEVISION INDUSTRY CODES OF PRACTICE

### INVITATION FOR PUBLIC COMMENT

23 NOVEMBER 2017

#### OVERVIEW

ASTRA is conducting a review of the provisions relating to the broadcast of gambling and betting commercials and the promotion of odds (the **Gambling Provisions**) in live sport in the Subscription Television Broadcasting and Narrowcasting Codes of Practice (the **Codes**), and invites comments from members of the public regarding the proposed changes.

At this time ASTRA is not seeking comments on any other part of the Codes.

#### WHAT THIS CONSULTATION PACKAGE CONTAINS

This consultation package contains two documents:

- an Explanatory Note which contains details about how to make written submissions on the review of the Gambling Provisions, an overview of the current Code and Gambling Provisions (Part A) and an overview of the main proposed changes to the Gambling Provisions (Part B); and
- the draft revised Gambling Provisions.

#### REQUEST FOR PUBLIC COMMENTS BY FRIDAY 22 DECEMBER 2017

All public comments should contain your name and address and must be received by 5.00pm 22 December 2017.

You may submit your comments to ASTRA by either:

- Post: addressed to ASTRA Code Review, 5 Thomas Holt Drive, North Ryde, NSW 2113; or
- Email to [admin@astr.org.au](mailto:admin@astr.org.au).

#### PUBLICATION OF SUBMISSIONS

Please note that the submissions will be published. If you do not wish your submission to be published, you should mark it clearly 'Confidential – not for publication'.

## **GUIDELINES FOR COMMENTS**

In making comments for the review of the Gambling Provisions, you should have regard to:

- the objectives of the Code and the statutory context in which it operates;
- the way in which the Gambling Provisions have operated since their introduction in 2013;
- the operation of the Code alongside other regulatory instruments and codes of practice, including the *Broadcasting Services Act 1992*, and State and Territory regulations and codes relating to betting and gambling.

Comments received will be considered by ASTRA in the preparation of the final draft of the Gambling Provisions. The Code will then be submitted to the Australian Communications and Media Authority (ACMA), along with all public comments received.

Before registering the Gambling Provisions as part of the Code, the ACMA must be satisfied that the Code:

- adequately deals with the subject matter covered and provide appropriate community safeguards;
- is endorsed by the majority of subscription television licensees; and
- members of the public have been given adequate opportunity to comment on the draft Code.

## PART A – OVERVIEW OF THE CODE

The content of subscription television programs is regulated under the Codes, which are developed by ASTRA in consultation with the public and registered with the ACMA.

The ASTRA Codes cover areas such as program content and classification, advertising, privacy, subscriber service obligations and complaints procedures.

The Codes operate alongside the requirements of the *Broadcasting Services Act 1992* (BSA) and a number of other regulatory requirements. Under the BSA, there are serious penalties for non-compliance with the Codes.

Broadcasters are also subject to a broad range of other laws and regulations, including on matters such as competition and consumer protection, defamation, contempt, surveillance and reporting of certain legal proceedings.

### Existing gambling regulatory framework

The existing Appendix A of the Codes contains extensive advertising restrictions for promoting odds and broadcasting gambling advertisements in live sports coverage.

These restrictions were first introduced in the Codes in 2013 following extensive consultation and have not substantially changed since that time. The provisions:

- generally ban references to live odds during the broadcast of a live sporting event;
- ban the promotion of odds by commentators and their guests for 30 minutes before and after play;
- ban all other commercials relating to betting and gambling during live sporting events at all times other than before Play has commenced, during scheduled breaks, during unscheduled breaks and after Play has concluded; and
- require representatives of gambling organisations to be clearly identified during live sporting events. They must not appear as commentators or in gambling advertisements or promotions of live odds at or around the venue where the live event is taking place.

In addition to the provisions in the Codes, broadcasters are also required to comply with the following national, State and Territory laws which regulate gambling:

- the *Interactive Gambling Act 2001* which prohibits the advertising of interactive gambling services in any State or Territory in Australia;
- specific restrictions in each State and Territory in relation to the advertising of gambling, wagering, casinos, gaming machines, lotteries, competitions and trade promotions; and
- the Australian Consumer Law which applies in relation to misleading and deceptive conduct.

### The new Gambling Provisions

The new Gambling Provisions retain these existing restrictions and introduce the following additional restrictions between 5.00 am and 8.30 pm:

- a ban on the broadcast of commercials relating to betting and gambling during live sporting events including during scheduled and unscheduled breaks; and
- a ban on the broadcast of commercials relating to betting and gambling and promotion of betting odds for 5 minutes before the scheduled start time of play and 5 minutes after the conclusion of play.

A detailed explanation of the provisions is contained in the Explanatory Notes at Part B of this consultation package.

## PART B: DETAILED EXPLANATORY NOTES ON THE GAMBLING PROVISIONS

Subscription television broadcasters take their responsibility to ensure that broadcast content is aligned with community expectations regarding gambling advertising in live sports coverage seriously.

The new Gambling Provisions prohibit the broadcast of commercials relating to betting or gambling during live sporting events, including for five minutes before and after live play, between 5.00 am and 8.30 pm. Separate rules are applicable to long form live sporting events.

The existing ban on the broadcast of betting odds during live sports has also been extended in a similar way, to include five minutes before and after live play, between 5.00 am and 8.30 pm.

A more detailed explanation of the proposed changes is set out below. This Explanatory Note does not comment on clauses which remain substantially the same unless necessary for completeness.

### Appendix A: Betting Advertising in a Live Sporting Event

**Clause (1)** Under the existing Codes, commercials relating to betting or gambling are permitted before play has commenced, during scheduled and unscheduled breaks in play and after play has concluded. Clause 1 now prohibits broadcasting of commercials relating to betting and gambling during live sporting events from 5 minutes before the commencement of play until 5 minutes after the conclusion of play, subject to exceptions in clauses (2), (3) and (11).

This provision is designed to protect children, by prohibiting gambling advertisements during times that children are likely to be watching live sport.

**Clause (2)** - Clause (2) permits commercials relating to betting or gambling before play has commenced, during scheduled and unscheduled breaks in play and after play has concluded between 8.30pm and 5.00am when children are unlikely to be watching.

Clause 2 also addresses the issues which arise from the interaction of new time-of-day restrictions, and subscription TV's single national signal.

Subscription television broadcasts to all timezones using a single national signal. The fact that the Government's announced policy includes a time of day component gives rise to a need to determine which Australian timezone will apply for the purposes of the restrictions.

For example, a sporting event may commence in Perth at 5.30pm local time (AWST). During Daylight Saving, it will be 8.30pm (AEDT) in the eastern States such as New South Wales and Victoria. If the timezone of the location of the sporting event is to apply, broadcasters that are able to broadcast different signals into different timezones will be able to commence limited gambling advertising in those eastern States. However, a broadcaster with a national signal will be subject to the blanket restrictions for a further three hours.

This would put subscription television at a substantial competitive disadvantage. Subscription television would bear this unfair penalty despite not being the primary source of community concerns with gambling advertising, having received very few complaints in recent years.

ASTRA believes a sensible alternative consists of the 8.30pm watershed being tied to Australian Eastern Standard Time, or Australian Eastern Daylight Time, as applicable. We believe this balances the need to ensure as many Australians as possible benefit from the new protections (the majority of subscription television audiences are located in the eastern States) with the need to ensure the new restrictions do not impose unfair penalties on one class of broadcaster or substantially distort the market.

Table 1 below outlines the total hours local teams played in FY17 in different timezones during the proposed new gambling advertising black out period, along with the average total audiences and average audiences aged between 0 – 17 of those events. Table 1 clearly demonstrates the disproportionate impact on a broadcaster with a national signal caused by setting the timezone based on where the event takes place. Based on FY17 numbers, national signal broadcasters would have to apply the restrictions in eastern States for an additional 55 hours beyond those broadcasters that can provide localised signals.

In addition, Table 1 demonstrates that the total numbers of children watching sport in timezones other than AEST/AEDT is extremely low and a small proportion of total audiences (between 7 – 11%), which mitigates any impact that ASTRA's proposal may have.

**Table 1 – FY17 live hours, audiences for events hosted outside AEST/AEDT timezone**

Market	Live Hours	Average Audience		
		Total People	P 0-17	P 0-17 Profile
Adelaide (All year 20:00 - 20:29)	20:34	20,124	1,851	9%
Brisbane (Day Light Savings 19:30 - 20:29)	16:09	19,625	1,525	8%
Perth (Day Light Savings 17:30 - 20:29)	7:09	12,491	901	7%
Perth (Standard Time 18:30 - 20:29)	12:20	29,272	3,155	11%

Local teams include teams from AFL, AFLW, NBL, A-League, W-League, NRL and Super Rugby.

**Clause (3)** - Clause (3) outlines how to deal with commercials relating to betting or gambling during long form sporting events. No more than one commercial relating to betting or gambling may be shown in any two hours and commercials may only be shown in scheduled or unscheduled breaks. This introduces a limit on the frequency of commercials relating to betting or gambling, and restricts the commercials to stoppages in sporting events or games.

This exemption recognises the nature of long form sporting events where a 'siren to siren' prohibition is not appropriate, and is consistent with the existing recognition and provision of an exemption for long form events in the current Codes. Advertising during play remains prohibited in long form events.

**Clause (5)** - Clause (5) extends the prohibition at clause (1) to the promotion of betting odds in live sporting events. Accordingly, the promotion of betting odds during a live sporting event is prohibited from 5 minutes before the commencement of play until 5 minutes after the conclusion of play (subject to exceptions in Clauses (6) and (7)).

**Clause (6)** – Clause (6) states that betting odds may be promoted other than by a Commentator during a live sporting event, in the period 8.30pm to 4.59am, as is currently permitted at any time under the current Codes. Such promotions are permitted before play has commenced and after play has concluded. A provision is also made in relation to long form events in accordance with Clause (7).

**Clause (7)** – is a reframing of the existing provisions relating to the promotion of betting odds other than by a commentator during long form events. The list of long form sporting events has been extended to include a number of Rugby League and Rugby Union events that have been staged and gained popularity since the Codes were last released.

**Deletion of existing clause (11)** – existing clause (11) contains a number of safeguards intended to ensure the content of gambling advertising is responsible and in line with community standards. ASTRA has no objection in principle with this clause. However, since the existing restrictions came into place in 2013, the Australian Association of National

Advertisers (the AANA) has made the AANA Wagering Code of Ethics (**Wagering Code**) which relates specifically to the content of gambling advertising. The Wagering Code includes the protections in existing clause (11) and applies to all betting advertising on all platforms. In addition to the Wagering Code, there are a number of State and Territory laws which already govern the content of gambling advertising (including requirements around protections for children). So as to avoid duplication, ASTRA proposes removing the existing restrictions in the ASTRA Codes. ASTRA also considers that this makes clear that the content of an advertisement is ultimately the responsibility of the relevant advertiser.

**Clause (11)** – creates a new exemption for subscription TV channels with very small audiences. The proposal is that channels with average audience share of 0.5% or less should be exempt from the new restrictions.

On 2016 figures, this would result in exemptions for the following niche channels:

- beIN SPORTS 1 – 3 – broadcasting European football tournaments, European tennis, European rugby;
- ESPN and ESPN 2 – broadcasting US sports such as NFL, NBA, Major League Baseball;
- Eurosport – broadcasting European events, including cycling, European basketball, athletics, volleyball; and
- EPL club team channels MUTV, LFCTV and Chelsea TV.

Due to the very small audiences for these channels, this exemption will not compromise the Government's stated intentions of protecting children and would guard against the unintended likely consequence of denying coverage of niche overseas sports to die-hard fans and driving existing businesses and jobs out of Australia.

These channels provide niche coverage of overseas events to a small number of highly devoted fans. These channels (as listed above), can be contrasted with the mass-appeal broadcasts of the major Australian football codes or cricket events on free-to-air television which attract audiences of up to 3.5 million viewers. It is these major broadcasts where ASTRA understands community concern to be focussed. These niche channels are also in a different category to the other sports channels on subscription television which provide coverage of a mix of niche and more popular sports

The niche sports channels on subscription TV attract a fraction of these audiences and they are typically adult audiences. For example, Eurosport maintains an average age of 57 and 95% of audiences are over 18. For ESPN, 88% of audiences are over 18. The average age profile of audiences for beIN Sports 1 – 3 is 89.3% over 18.

To reflect the fact that programming and sports coverage moves across groups of co-branded channels, ASTRA proposes that if a channel is supplied to the licensee as part of a group of 2 or more co-branded channels, then the audience share of the channel(s) for the purposes of the exemption will be the audience share of those co-branded channels when assessed together.

It is important to note that under ASTRA's drafting, these small channels would only be exempted as regards the new restrictions that are to apply between 5.00am and 8.29pm. All existing restrictions in the Codes of Practice relating to live odds and gambling advertising during breaks which currently apply at any time of day would continue to apply to the small channels, at any time of day.

**Clause (13)** – Clause 13 (c) contains a reframing of existing exemptions for Subscription Television Narrowcast services. Whilst these changes are not related to the Government's policy announcement, they have been under consideration by ASTRA in the context of its ongoing review of the Subscription Television Broadcasting and Narrowcasting Codes. It is appropriate to include the changes in the current consultation, so as to deal with all changes to the Gambling Provisions at once.

Clause 13(c) extends an existing exemption in the Subscription Television Narrowcast Codes of Practice for services that are provided exclusively to premises licensed to serve alcohol, and that are not available for private or domestic use.

This existing exemption acknowledges that children are typically not permitted in these premises, and that customers of these premises are accustomed to and expect gambling services and advertising to be present. This means the chances of inadvertent exposure of minors to betting advertising is minimal.

The proposed extension is to other sites/premises where children are unlikely to be present. For example, the extension will apply to premises that are licensed to offer gambling services. Children are not permitted in these premises.

The exemption will also cover other sites where children are not present and where viewers are likely to expect or be accustomed to the presence of wagering advertising (such as mines or military sites). ASTRA considers that the inclusion of these exemptions are unlikely to undermine the Government's stated policy intention.

**Clause 14** – Clause 14(a) clarifies that it will not be a breach of the Code if any non-compliance is a result of play commencing at a different time than the scheduled start time communicated to or reasonably understood by the Licensee. For example, where the commencement of play is brought forward due to circumstances beyond a licensee's control.

Clause 14 (b) reflects the existing provisions in the current Codes.

## Definitions

“Betting Advertising” or “Betting Advertisement” – the definition has been clarified to make it clear that fantasy sports and sports tipping competitions are not included.

ASTRA proposes the exclusion of advertisements for fantasy sports betting products on the following bases:

- fantasy products require a material level of skilled input and are not based primarily on chance like traditional wagering products. Daily fantasy typically involves the performance of a number of players across different matches which requires time and prior preparation in order for players to meaningfully enter competitions. Conversely, traditional wagering products typically require little preparation and tend to have discrete outcomes based on fewer variables. As a result, ASTRA considers that advertisements for paid fantasy products are much less likely to trigger short term wagering during live sporting events than traditional wagering products (which we understand to be a primary driver for limiting gambling advertisements during live sport);
- daily fantasy products are niche products; there are significantly fewer providers of the product than ordinary gambling products; and industry data suggests that take up of these products is not materially growing. As a result, we consider there is far less of a threat of extensive advertising given the smaller size of the market and the limited competing players. Further, we understand that community concern has not centred around advertising for these products but rather the advertising practices of traditional wagering products; and
- fantasy sports products have different messaging and incentives to traditional wagering products – while many fantasy competitions offer players the opportunities to win cash or prizes, daily fantasy competitions (and the advertisements of those competitions) are often also framed to incentivise players to “compete against your mates”, which is a different non-monetary incentive absent from typical gambling against a wagering operator. Competing against mates is not anti-social (and is arguably more controlled than standard gambling) and is framed in a more positive message than traditional wagering advertising, which we consider much less likely to be harmful from a community perspective.

“Incidental Accompaniment” – this definition has been expanded to take in the official sponsors of the competition, event, match or team. This is consistent with the existing definition which exempts references arising from commercial arrangements beyond the licensees’ control. Advertising or signage which is made to appear at an event is also to be classed as an ‘incidental accompaniment’, to recognise the fact that the presence of this advertising or signage, like physical advertising or signage at an event, is typically outside the control of the licensee.

“Low audience share channel” is a new definition required by the insertion of clause (11). The definition provides a robust and transparent means of assessing which channels can access the exemption in clause (11).

“Play” - The definition of Play has been amended so that it commences at the formal start of an event (for example, whistle or the commencement of active play as applicable) rather than on players entering the field. This is a more precise indicator and will enable licensees to accurately identify the 5 minute period before and after games during which time advertisements relating to Betting or Gambling are banned.

The definition has also been amended to clarify that in respect of Long Form Live Sporting Events, Play does not include separate or other programs in Scheduled Breaks.

“Scheduled Breaks” – the table has been updated to include additional examples of scheduled breaks which now exist in sporting events, but which are not reflected in the current Codes.

## **APPENDIX A**

### **BETTING ADVERTISING IN A LIVE SPORTING EVENT**

#### ***Betting Advertising during a Live Sporting Event***

- (1) Subject to clauses 2 and 3, a Licensee must not broadcast Betting Advertising during a Live Sporting Event from 5 minutes before the commencement of Play until 5 minutes after the conclusion of Play.
- (2) Between 8:30pm and 4:59am AEST or AEDT (as applicable), a Licensee may broadcast Betting Advertising during a Live Sporting Event:
  - a) before Play has commenced;
  - b) during Scheduled Breaks in Play;
  - c) during Unscheduled Postponements in Play; and
  - d) after Play has concluded.

#### **(3) *Betting Advertising - Long Form Live Sporting Events***

- (4) Clause 1 does not prevent Betting Advertising during a Long Form Live Sporting Event:
  - a) during Scheduled Breaks in Play; and
  - b) during Unscheduled Postponements in Play,provided that no more than one Betting Advertisement is shown in any 2 hour period during Play between 5.00am and 8.29pm AEST or AEDT (as applicable).
- (5) Clause 3 applies to each sporting event or game in a Long Form Live Sporting Event (such as the Australian Open Tennis) as if each sporting event or game was broadcast on an individual match basis.

#### ***Promotion of Betting Odds during Live Sporting Event***

- (6) Subject to clauses 6 and 7, a Licensee must not broadcast a Promotion of Betting Odds during a Live Sporting Event from 5 minutes before the commencement of Play until 5 minutes after the conclusion of Play.
- (7) ***Restrictions on the Promotion of Betting Odds other than by a Commentator***
- (8) A Licensee may broadcast a Promotion of Betting Odds other than by a Commentator during a Live Sporting Event:
  - a) between 8:30pm and 4:59am AEST or AEDT (as applicable), before Play has commenced or after Play has concluded; or
  - b) in relation to Long Form Live Sporting Events, in accordance with Clause 7.

#### ***Promotion of Betting Odds - Long Form Live Sporting Events***

- (9) Clauses 5, 6 and 11(b) do not prevent the Promotion of Betting Odds other than by a Commentator during Play in a Long Form Live Sporting Event, as part of a distinct break of at least 90 seconds and in accordance with the rules set out below for each Long Form Live Sporting Event:

Tennis	Not more than once per Session. To be placed between matches where the broadcast moves from one match to another.
Golf	Not more than once on each day of competition.
Formula 1, Moto GP and Supercars	Not more than once on each day of competition. To be placed no later than the end of the warm-up lap for Supercars Championship Series Race, or the relevant feature race.
Cricket	Not more than once on each day of competition. To be placed between Sessions.
Olympic and Commonwealth Games	Not more than once every 3 hours on each day of competition.
Rugby Union Sevens, Rugby Union Tens and Rugby League Nines Tournaments (or other similar tournaments)	Between matches and not more than 4 times on each day of competition.

provided that the Promotion of Betting Odds is not for a race, match or game that has already commenced.

(10) ***Promotion of Betting Odds by a Commentator***

(11) A Licensee must not broadcast a Promotion of Betting Odds by a Commentator of a Live Sporting Event:

- a) within 30 minutes before the commencement of Play; and
- b) within 30 minutes after the conclusion of Play.

***Representatives of gambling organisations***

(12) During a Live Sporting Event, representatives of gambling or betting organisations must be clearly identifiable as such and must not appear as part, or as a guest, of the commentary team at any time.

(13) During a Live Sporting Event representatives of gambling or betting organisations:

- a) undertaking a Promotion of Betting Odds; or
- b) appearing in Betting Advertising,

must not be at or around, or appear to be at or around, the sports venue where the event which is the subject of the Live Sporting Event is taking place.

### ***Exemptions from this Appendix***

(14) Clauses 1 and 5 of this Appendix do not apply to Live Sporting Events which are broadcast on Low Audience Share Channels. During a Live Sporting Event, a Licensee must not broadcast on a Low Audience Share Channel:

- a) Betting Advertising during Play other than during Scheduled Breaks in Play and Unscheduled Postponements in Play; or
  - b) Promotion of Betting Odds:
    - i. during Play;
    - ii. during Scheduled Breaks in Play; or
    - iii. during Unscheduled Postponements in Play,
- other than as permitted under clause 7 during a Long Form Live Sporting Event.

For the avoidance of doubt:

- c) the limitation to Betting Advertising during a Long Form Live Sporting Event in clause 3 does not apply to Low Audience Share Channels; and
- d) paragraph 11(a) above does not prevent a Licensee from broadcasting Betting Advertising on a Low Audience Share Channel:
  - i. before Play has commenced;
  - ii. during a Scheduled Break in Play;
  - iii. during an Unscheduled Postponement in Play; and
  - iv. after Play has concluded.

(15) This Appendix does not apply to a Live Sporting Event of horse racing, harness racing or greyhound racing.

(16) This Appendix does not apply to a service that is delivered by a Licensee:

- a) on a pay-per-view basis; or
- b) as an alternative subsidiary service associated with a Live Sporting Event that is accessed through an active choice by the viewer (for example, by using a button on a remote control to select data relating to Betting Odds on a particular event); or
- c) as a Subscription Narrowcasting Service provided to:
  - i. limited locations (such as mining or military sites, hotels, short term accommodation, commercial outlets connected with the racing or wagering industry); or
  - ii. are limited audiences (such as channels produced by, on behalf of or in connection with the racing or wagering industry and intended for an adults-only audience); or
  - iii. commercial premises that are licensed to serve alcohol or offer gambling (including wagering or gaming services) and that is not available for private or domestic use.

(17) It will not be a breach of this Appendix if:

- a) a failure to comply arises from Play of a Live Sporting Event commencing earlier than the scheduled start time communicated to the Licensee; or
- b) a failure to comply arises from a Live Sporting Event originating from outside Australia; and
  - i. the Licensee has not added the Promotion of Betting Odds or Betting Advertising;

- ii. the Licensee does not receive any direct or indirect benefit for the Promotion of Betting Odds or the broadcast of the Betting Advertising in addition to any direct or indirect benefit received from broadcasting the event; and
- iii. it is not reasonably practicable for the Licensee to remove the Promotion of Betting Odds or Betting Advertising.

#### **Definitions**

(18) In this Appendix:

**“Accidental”** means an unscripted and unplanned reference (including remarks by a Commentator) for which the Licensee does not receive any direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the Licensee receives for broadcasting the Live Sporting Event).

**“AEST”** means Australian Eastern Standard Time (UTC+10:00).

**“AEDT”** means Australian Eastern Daylight Time (UTC+11:00).

**“Betting Advertising”** or **“Betting Advertisement”** means, an advertisement by, or a distinct promotional reference for, a gambling or betting organisation during a Live Sporting Event, and includes any writing, still or moving pictures, signs, symbols or other visual images or any audible message(s) (or any combination of those things) that provides generic information about the organisation’s brand, business or services. Betting Advertising does not include an advertisement or a reference:

- a) relating to such things as Government lotteries, lotto, keno or contests;
- b) relating to fantasy sports betting products;
- c) relating to entertainment or dining facilities at places where betting or gambling take place, or a tourism commercial which incidentally depicts betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use;
- d) that is Accidental; or
- e) that is an Incidental Accompaniment.

**“Betting Odds”** means comparative, generally monetary, odds offered in respect of a game or event for a bet on the chance of any occurrence or outcome within that particular game or event, or the overall outcome of the game or event. For the avoidance of doubt, **Betting Odds** includes comparative odds for horse, harness and greyhound racing.

**“Channel Provider”** means a person who:

- a) packages a channel (which may include programs produced by the person); and
  - b) supplies the Licensee with the channel; and
  - c) carries on a business in Australia, by means of a principal office or of a branch, that involves the supply of the channel;
- where, apart from any breaks for the purposes of the transmission of incidental matter, the channel is televised by the Licensee on the service.

**“Commentator”** means a person who is a host, guest or otherwise participating in a Live Sporting Event and includes a person calling, or providing analysis on the sporting event or game, but does not include discrete or distinguishable contributors, including clearly identified representatives of gambling or betting organisations.

**“Incidental Accompaniment”** means a reference or other material which occurs or is included in the normal course of broadcasting a Live Sporting Event for which the Licensee does not receive any

direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the Licensee receives for broadcasting the Live Sporting Event) and includes:

- a) the official sponsors of the competition, event, match, team;
- b) the name of a sporting venue;
- c) branding on a player's or official's uniform; or
- d) advertising or signage which is at or which is made to appear at the venue of the event which is the subject of the Live Sporting Event, for example, on a field barrier, big screen or scoreboard.

**"Live Sporting Event"** means a live-to-air broadcast of a sports event. A Live Sporting Event does not include broadcasts of programs that contain only analysis, award presentations or information or a first-run transmission of delayed programming.

**"Long Form Live Sporting Events"** include:

- a) sporting events of extended duration, such as golf, cricket (excluding 20/20 cricket) and motor sports events;
- b) tournaments for single sports that involve concurrent games or matches, such as tennis championships; and
- c) multi-sport events, such as the Olympic and Commonwealth Games.

**"Low Audience Share Channel"** means a channel which has an average television audience share of 0.5% or smaller over a 5 year period or, if a channel has operated less than 5 years, the term of operation for that channel until it has operated for a 5 year period.

Audience share is to be determined by reference to:

- a) the OzTAM ratings information for metropolitan areas for the channel; or
- b) the aggregated OzTAM ratings information for metropolitan areas for a group of 2 or more co-branded channels,

over the previous 5 year period or the term of operation of the channel(s) (as applicable) and must demonstrate a 0.5% or smaller share of a national broadcast TV (free-to-air television and subscription television) audience. If OzTAM data is not available for a channel, the Licensee must provide other evidence that reasonably demonstrates the average viewership of the channel(s) is at or below a 0.5% share of all national broadcast TV viewing over the applicable period.

If a channel is supplied to the Licensee by a Channel Provider as part of a group of 2 or more co-branded channels, then the aggregate audience share of the channel(s) for the purpose of this definition will be the audience share of those co-branded channels when assessed together.

**"Narrowcaster"** means a holder of a subscription television narrowcasting licence pursuant to the *Broadcasting Services Act 1992*.

**"Play"** means the period of the actual run of play or active progress of the sporting event or game which is the subject of the Live Sporting Event. It commences at the formal commencement of the match or game (e.g. first siren, whistle or coin toss, as applicable) and concludes at the conclusion of active play for the match or game (e.g. final whistle or siren, as applicable). It includes *ad hoc* unscheduled breaks such as:

- a) stoppages for injuries;
- b) stoppages for adjudication by third or TV umpires/referees; and
- c) time outs and substitutions in games such as basketball.

In respect of Long Form Live Sporting Events, Play does not include separate or other programs in Scheduled Breaks.

**“Promotion of Betting Odds”** means a distinct promotional reference that provides Betting Odds and includes any writing, still or moving pictures, signs, symbols or other visual images, or any audible message(s) (or any combination of those things). A Promotion of Betting Odds includes superimposed text and graphics such as banner advertisements and sponsorship logos, spot commercials and paid, clearly identified sponsorship segments presented by person(s) but does not include a reference or material that is:

- a) Accidental; or
- b) An Incidental Accompaniment.

**“Scheduled Break in Play”** means stoppages in a sporting event or game that is the subject of a Live Sporting Event. A Scheduled Break in Play will differ depending on the sporting event or game that is the subject of the broadcast, for example:

<b>Sport</b>	<b>Scheduled Break</b>
Test Cricket	<ul style="list-style-type: none"> <li>• Between each Session (ie., lunch break and tea break)</li> <li>• Drinks break</li> <li>• Change of innings</li> </ul> (19)
One Day International Cricket	<ul style="list-style-type: none"> <li>• Between each Session / Change of innings</li> <li>• Drinks break</li> </ul> (20)
T20 Cricket	<ul style="list-style-type: none"> <li>• Between each Session / Change of innings</li> <li>• Between the conclusion of second innings and Super Overs</li> <li>• Between Super Overs</li> </ul> (21)
Rugby League	<ul style="list-style-type: none"> <li>• Half-time</li> <li>• Between full time and commencement of golden point</li> </ul> (22)
Rugby Union	<ul style="list-style-type: none"> <li>• Half-time</li> <li>• Between full time and commencement of extra time</li> </ul> (23)
Football (Soccer)	<ul style="list-style-type: none"> <li>• Half-time</li> <li>• Between full time and extra time</li> <li>• Between extra time and the commencement of a penalty shoot-out</li> </ul> (24)
AFL	<ul style="list-style-type: none"> <li>• Quarter time</li> <li>• Half-time</li> </ul>

<b>Sport</b>	<b>Scheduled Break</b>
	<ul style="list-style-type: none"> <li>• Three-quarter time</li> <li>• Between full time and extra time</li> </ul> <p>(25)</p>
Tennis	<ul style="list-style-type: none"> <li>• Between each set</li> <li>• A distinct break of at least 90 seconds (including when during a Session the broadcast switches from one match still in Play to another match in Play at the same time), such break to occur not more than once every hour</li> </ul> <p>(26)</p>
Basketball	<ul style="list-style-type: none"> <li>• Quarter time</li> <li>• Half-time</li> <li>• Three-quarter time</li> <li>• Between full time and overtime</li> </ul> <p>(27)</p>
Netball	<ul style="list-style-type: none"> <li>• Quarter time</li> <li>• Half-time</li> <li>• Three-quarter time</li> <li>• Between full time and overtime</li> </ul> <p>(28)</p>
Golf / Supercars endurance races / Swimming Championships	<ul style="list-style-type: none"> <li>• A distinct break of at least 90 seconds, such break to occur not more than once every hour</li> </ul>
Formula 1 / MotoGP / Supercars non-endurance races	<ul style="list-style-type: none"> <li>• Between each Session</li> </ul>
Olympic Games & Commonwealth Games	<ul style="list-style-type: none"> <li>• Between each day, twilight and night session</li> <li>• A distinct break of at least 90 seconds (including when during a session the broadcast switches from one event still in Play to another event in Play at the same time), such break to occur not more than every 2 hours</li> </ul> <p>(29)</p>
Rugby Union Sevens, Rugby Union Tens and Rugby League Nines Tournaments (or other similar	<ul style="list-style-type: none"> <li>• Half-time</li> <li>• Full time</li> <li>• Between each morning, afternoon and evening session</li> </ul>

<b>Sport</b>	<b>Scheduled Break</b>
tournaments)	

This is not an exhaustive list and other sporting events or games may also contain a Scheduled Break in Play, as determined by the rules and regulations of that sport.

**“Session”** means:

- a) in relation to tennis, the day, twilight, or evening session of matches as scheduled by the organisers of the relevant tournament or competition;
- b) in relation to test cricket, any of the three distinct sessions of a match that are divided by lunch and the tea break;
- c) in relation to one-day cricket, an innings; and
- d) in relation to motorsport, an individual race or practice session or qualifying session.

**“Unscheduled Postponement in Play”** means the period when Play is postponed, suspended or delayed due to rain or other unforeseen event, the participants have left or are yet to enter the area of play and the broadcast of replacement or stand-by programs has not commenced.