

# All-Party Parliamentary Group on Sport, Modern Slavery and Human Rights

## Session Summaries

*November 2018*

# Sports Broadcasting and the Media

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## Summary

Broadcasting plays an important role in MSEs. It is the conduit by which a global audience accesses such events. Opinions differ on the role broadcasters should take when faced with broadcasting events that take place in challenging human rights contexts. Some argue that broadcasters should use this role to raise awareness of human rights issues in the host country, while others say that broadcasting the events is a tacit endorsement of a local government whose policies may have an adverse impact on local communities. This is a difficult balancing act; however, the key role for broadcasters is to bring sports events to viewers at home providing pure sports entertainment. Aside from this broader question of whether to broadcast MSEs, there are also human rights considerations while broadcasting live events, such as ensuring freedom of expression, not propagating discrimination, protecting the right to privacy and avoiding self-censorship. These decisions have to be made on the spot, often in the context of regulatory requirements for impartiality, and with the potential for third party complaints.

This creates a grey area between what constitutes sports journalism and what is considered mainstream news. Take the case of refugee footballer Hakeem al-Araibi that made headlines earlier this year – as a person who had fled Bahrain during the 2011 uprising, received refugee status in Australia, and was then arbitrarily detained upon arrival in Thailand for his honeymoon, the story was typical of mainstream news, and yet several sports journalists picked up the story, and it was even featured on the BBC Sport section. This demonstrated the growing intersection between sport and human rights in the media. For some media outlets who cover both sport and news (such as the BBC for example), this distinction is not as relevant as it can be reported on anyway; however, for an outlet such as BT Sport which is sport-only, it raises a question of what to report. In the UK context, there are several examples where sports journalists have needed to relay major human disasters on live broadcasters – such as the Hillsborough Stadium disaster or racist chanting at Premier League matches. Sometimes the responsibility of the sports broadcaster is subtler but just as important in human rights terms, such as when interviewing same sex couples or invoking national, ethnic or gender-based stereotypes.

## ***Ofcom Broadcasting Code***

Ofcom was required under the Communications Act 2003 and the Broadcasting Act 1996 to draw up a code for television and radio, covering standards in programmes, sponsorship, fairness and privacy – this code is the Ofcom Broadcasting Code. The Code outlines the rules by which television and radio programmes in the UK must abide.

The Code is split into ten sections and cover issues including: protecting U-18s in terms of what they are exposed to through broadcasting, harm and offence, impartiality, privacy and fairness among others.

The Code also makes explicit reference to the European Convention on Human Rights. In particular, Article 8 on privacy, Article 9 on conscience and religion, Article 10 on expression and Article 14 on discrimination.

The leverage that broadcasters have also varies greatly. Broadcasters pay fees for the rights to broadcast sports events to their audiences. There are various broadcasting models that determine the level of editorial control a broadcaster has over the material that goes to air, either because the event is broadcast live, or because they receive it from another broadcaster and have less editorial control. In addition, not all broadcasters have news programming where sensitive issues can be presented and discussed appropriately.

The types of sport broadcasting include:

- *Host broadcaster*: where broadcasters have full editorial control, including full control of the pictures, the location of presentation positions, the audio and the presenters;
- *World feed with commentary*: where broadcasters take the full live programme from the host broadcaster including presentation and commentary;
- *World feed without commentary*: where broadcasters receive the pictures and presentation from the host broadcaster, but they provide their own commentary;
- *Acquired & commissioned content*: where broadcasters either buy fully completed programmes, or commission original content (not necessarily applicable with MSEs).

In the UK, broadcasters must adhere to the core principles of the Ofcom Broadcasting Code. This Code has been drawn up with the Human Rights Act 1998 and the European Convention of Human Rights factored in mind. Ofcom can therefore investigate any broadcast issue, which may be considered a potential breach of the Code, and when serious or repeated breaches occur, Ofcom can levy a fine or revoke a broadcaster's license.

Broadcasters also contribute a considerable amount of financing to sporting federations for the right to broadcast the event. In the case of the IOC, broadcasting rights make up 47% of total revenue. In the case of FIFA, broadcasting rights are 70% of total revenue. The role broadcasters play is therefore significant. Despite this enormous financing however, their leverage over sports bodies is minimal.

## **What are the Risks?**

Depending on which of the various broadcasting models is being used, the human rights issues that can be present include:

- protection from discrimination on the grounds of sex, race, language, religion etc;
- right to privacy.

Furthermore, for journalists covering stories, risks can include:

- right to freedom of the press and freedom of expression;
- fear of reprisal.

### *Protection from Discrimination*

Broadcasters oftentimes function in a 'live' environment, meaning they have to react in real-time to issues as they arise. As the world's eyes focus on a MSE, there is ample opportunity for events to become highly politicised. For example, in 2011 the **Bahrain Formula 1 Grand Prix** became politicised due to clashes between pro-democracy protestors and government security forces (these crackdowns have continued since 2011 and often coincide with the F1 races – see the **arbitrary detention of activist Najah Yusuf** as one of the more recent examples). The UK National Contact Point noted that there was no linkage between the money generated by the event and the abuses concerned; however, it did recommend ongoing due diligence to anticipate potential impacts on human rights. With the 2018 FIFA World Cup last summer in Russia, broadcasters faced concerns in the lead up over potential racism and homophobia – particularly with regards to the rainbow flag (a signifier of solidarity for the LGBTI community). It was reported that those found displaying the flag could be seen by the authorities as 'promoting' gay propaganda and by broadcasting the rainbow flag (even if inadvertently shown in a crowd shot) could implicate the broadcasters themselves as 'promoting' gay propaganda from the Russian authorities' perspective, which contravenes local law.

#### ***UK National Contact Point (NCP): Complaint from the Americans for Democracy and Human Rights in Bahrain (ADHRB) against Formula One (F1)***

The UK NCP received a complaint from ADHRB on 11 June 2014 alleging that F1 had failed to address the human rights impacts associated with the Bahrain Grand Prix. ADHRB outlined that in 2011 the Bahraini government cancelled the scheduled F1 Grand Prix, citing the instability in the country due to government crackdowns of pro-democracy protests. In 2012 and 2013, however, the Grand Prix returned, but the crackdown remained unabated, resulting in the death of a protester and injuries to hundreds, as well as the arbitrary detention and torture of hundreds more. ADHRB further alleged that by failing to suspend the F1 Grand Prix race, F1 had inadvertently or otherwise, contributed to further human rights violations in Bahrain and the continuation of impunity for past violations. Formula One responded denying the alleged links to human rights impacts.

The outcome of this process was that the Formula One Group committed to taking further steps to strengthen its processes in relation to human rights in accordance with the standards provided for by the OECD Guidelines on Multinational Enterprises. Included in this commitment is a promise to develop and implement a due diligence policy in which F1 analyses and takes steps to mitigate any human rights impact that its activities may have on a host country, including on the human rights situation in Bahrain. The written policy commitment to respect human rights can be found [here](#).

Another example of these live risks is that of racist chanting or behavior at sporting events. Reactions need to be immediate in order to prevent the offence from becoming more widespread. For those broadcasters that do not have an associated news arm, it is difficult within the editorial of the sports coverage to address such issues, which may be presented on screen, with sufficient context and impartiality. It is also important to acknowledge that sports presenters / commentators generally are not news journalists.

### *Right to Privacy*

The decision on what to broadcast and what to report is sometimes a difficult one, and as has been explained, is not always a decision that is within the broadcasters control. The issue of privacy does however raise particular concern when viewed in the context of social media, where any fan in the stadium or viewer at home can comment and share clips on social media of an incident that has taken place within a live broadcast. This content can 'go viral' whereby amplifying an issue and making it more difficult to contain. In those circumstances, broadcasters have no control over the lifespan of such content. In addition to this lack of control, social media broadcasting currently sits outside of Ofcom's regulation. Their regulations only apply if social media is embedded within a programme or if it features on a 'TV like service' such as an app or a video-on-demand service. With more and more online services such as Amazon and Twitter winning broadcasting rights, this seems like an obvious gap in the regulation.

### *Freedom of the Press, Freedom of Expression and Fear of Reprisal*

Mitigating many of the risks outlined above could arguably constitute a restriction on freedom of expression. For example, there are various methods deployed by broadcasters to manage live broadcasting risks such as audience chanting, which can be discriminatory. These may include lowering the volume of mics in the vicinity where offensive language can be heard or getting the presentation team to offer an on-air apology. In extreme cases, broadcasters can liaise with the authorities and have individuals removed from the stadium. In the UK context, this has been a particular challenge, especially in Scotland where sectarian chanting is a very real issue and until recently was punishable by law. However, any of these examples could also be viewed as issues around freedom of expression, as what may be deemed offensive to one may not be offensive to another. Moreover, broadcasters often receive viewer complaints about the sound quality because they have dipped audio levels to avoid broadcasting offensive language, so as not to fall foul of Ofcom regulations.

In addition to broadcasters facing these issues when covering a live event, journalists face restrictions on their own freedom of expression and right to a free press when covering certain events on the ground. One journalist talked about his experience of reporting on issues in Qatar and the Middle East. Given that so many nation states now own football clubs in the UK and elsewhere in Europe, there is huge pressure created on people who report. In one case, this reporter was refused entry to Paris St. Germain after reporting on an issue related to their owners.

There are several other examples of reporters being denied entry into Russia ahead of the World Cup, being arbitrarily detained in China ahead of the 2008 Olympics – an issue that is becoming increasingly relevant as China gears up to hosts its second Olympics in 2022, and crackdowns ahead of the Formula One races in Bahrain. Journalists, human rights defenders and other activists should be able to carry out their jobs without fear of reprisal.

## Interim Findings

- Government should consider strengthening the Ofcom Broadcasting Code to include those social media outlets acting as broadcasters, particularly in cases where social media sites are being used for live streaming of sporting events. The APPG notes the current government consultation on the White Paper on Online Harms.
- Consider how best to incentivise space for reporting on human rights issues linked to sport at a time when sports audiences are becoming more switched on to these themes. There need to be media platforms ready to welcome them (for example, on 18 March 2019 The Daily Telegraph launched a women's sport section in the UK).
- Examine the best ways to encourage free press. While the UK government cannot interfere with other governments policies on free press, they can use relevant platforms to encourage a freer press, and encourage sports bodies to consider the implications on journalists when deciding where to stage their events.
- Consider carefully how export licences and export credit relating to technology that may be used in and around stadia to invade privacy and repress dissent, such as facial recognition technology. While this technology is not currently being used by broadcasters, the UK has an opportunity to play a role in the international governance of this space, dealing with social media companies such as Google, Facebook etc who also bid for sports rights.