



# Broadcasters and Human Rights in the Sports Context

Sporting Chance White Paper 3.2  
Version 1, January 2017



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# The Mega-Sporting Events Platform for Human Rights

The Mega-Sporting Events Platform for Human Rights (MSE Platform – [www.megasportingevents.org](http://www.megasportingevents.org)) is an emerging multi-stakeholder coalition of international and intergovernmental organisations, governments, sports governing bodies, athletes, unions, sponsors, broadcasters, and civil society groups. Through dialogue and joint action our mission is to ensure all actors involved in staging an event fully embrace and operationalise their respective human rights duties and responsibilities throughout the MSE lifecycle. Chaired by Mary Robinson, the MSE Platform is facilitated by the Institute for Human Rights and Business ([www.ihrb.org](http://www.ihrb.org)).

## The Sporting Chance White Papers

This White Paper Series was originally developed to support the Sporting Chance Forum on Mega-Sporting Events and Human Rights, co-convened by the US Department of State, the Swiss Federal Department of Foreign Affairs, and IHRB in Washington D.C. on 13-14 October 2016. Comments were received at and following the Forum, and each White Paper has been updated to reflect those inputs.

A total of 11 White Papers have been produced, clustered into four themes referring to key stakeholder groups (see below). These White Papers aim to present the latest thinking, practice, and debate in relation to key human rights issues involved in the planning, construction, delivery, and legacy of MSEs. Each paper also considers the case for, and potential role of, an independent centre of expertise on MSEs and human rights.

Each White Paper has been published as “Version 1” and the MSE Platform would welcome comments, input, and expressions of support with regard to future iterations or research on each topic.

### 1. Sports Governing Bodies

- White Paper 1.1 Evaluating Human Rights Risks in the Sports Context
- White Paper 1.2 Sports Governing Bodies and Human Rights Due Diligence
- White Paper 1.3 Corruption and Human Rights in the Sports Context

### 2. Host Actors

- White Paper 2.1 Host Actors and Human Rights Due Diligence in the Sports Context
- White Paper 2.2 Procurement and Human Rights in the Sports Context
- White Paper 2.3 Human Rights Risk Mitigation in the Sports Context
- White Paper 2.4 Remedy Mechanisms for Human Rights in the Sports Context

### 3. Sponsors and Broadcasters

- White Paper 3.1 Sponsors and Human Rights in the Sports Context
- White Paper 3.2 Broadcasters and Human Rights in the Sports Context

### 4. Affected Groups

- White Paper 4.1 Children’s Rights in the Sports Context
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# Executive Summary

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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 which 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. Others say that broadcasting the events is a tacit endorsement of local Governments whose policies may have an adverse impact on local communities. There is also a view that broadcasting MSEs allows local athletes to reach a global audience and exercise their human right to sporting activity.

This is a difficult balancing act. 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.

Furthermore, broadcasters often do not have control over the material they broadcast. There are different types of broadcasting models, ranging from sole editorial control over material, through to broadcasting clips from other broadcasters which may be based in different countries.

Broadcasters also do not control how a MSE is run, particularly as they only tend to become involved once a MSE has been awarded to a host city or country.

Sports governing bodies and the hosts have the greatest influence over the event.

Broadcasters therefore welcome the fact that sports governing bodies are increasingly looking to incorporate respect for human rights into their governance values and hosting requirements. This represents an opportunity, in turn, to embed human rights considerations into the fabric of an MSE. This approach can then be flowed down to corporates such as broadcasters, who can introduce ancillary human rights protections through their own operations.

Nevertheless, whilst a broadcaster's role in a MSE is of a more supporting nature, their commercial significance to the MSE business model should still be recognised. Broadcast licence fees are a major source of income for sports governing bodies. Broadcasters should anticipate increasing scrutiny about their role in MSEs.

With reference to the UN Guiding Principles for Business and Human Rights (UNGPs), this White Paper therefore explains the relationship between broadcasters and MSEs, identifies where human rights issues might arise, and discusses potential mechanisms which could be used – and in some cases already are being used – to address them.

Reflecting its contributors' businesses, this discussion has an emphasis on the UK and European markets. It is intended that these examples can be supplemented by examples from the wider global market in subsequent discussions.

# 1 Defining a Mega-Sporting Event

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There is no fixed definition of a MSE. However, for the purposes of the White Papers, MSEs are considered to be events that are set apart from other sporting events by the global recognition, attendance, interest, publicity, cost, and standards of venues and infrastructure. MSEs can be hosted by a single city or several cities across one or more countries. However, all of these MSEs tend to:

- Be prestigious sporting competitions.
- Be held on a regular and rotational basis following competitive bidding processes.
- Involve complex logistics and many years of forward planning.
- Include plans for urban revitalisation which leave a beneficial legacy for the host cities/countries and their residents.

The archetypal MSEs are the Olympic and Paralympic Games and men's FIFA World Cup. These are not, however, the only examples of MSEs. There are a number of multi-sports events such as the Commonwealth Games, the Pan-American Games, and the European Games, which should also be regarded as MSEs, as they share the same characteristics listed above, albeit their audience sizes may not be as big as the Olympics or a World Cup. The single-sport MSEs include the Rugby and Cricket World Cup, and the UEFA European Championships.

In addition, events such as Formula One Grand Prix, the Champions League Final and the NFL Superbowl are also sometimes categorised as MSEs due to their global appeal, even though their physical footprint may be less substantial, as they are more likely to rely on existing infrastructure. This highlights that MSEs are not just defined by the scale of the investment in them, but also by their global audience.

# Mapping the Broadcast Industry

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## 2.1 Broadcasting and MSEs

The 1936 Olympic Games in Berlin was the first Olympiad to be televised. Footage of Jesse Owens competing – and winning – at those Games became a powerful symbol in the debate about the policies of the National Socialist government.

Since then, the demand for televised sporting events has increased significantly. This increased appetite has been facilitated by considerable advances in technology. Whereas the Berlin Games were only broadcast to selected viewing halls in and around Berlin, broadcasters can now potentially reach a global audience.<sup>1</sup> In the UK alone, over 7 million viewers tuned in to watch the Rio Olympics Games on 15 August – over 1 in 10 people in the country. Broadcasting therefore represents an essential component of a successful MSE.

Consistent with that, broadcasters can have a genuinely positive human rights impact, as in the case of ESPN's coverage, promotion and celebration of the Special Olympics<sup>2</sup> and Channel 4's commitment, since 2012, to the Paralympic Games.<sup>3</sup> In other situations though, the issues are more complex. Some broadcasters were criticised – along with sponsors and athletes – for their involvement with the 2014 Sochi Olympic Games and the 2015 Baku European Games, on the basis that their participation effectively endorsed, respectively, the Russian and Azerbaijani policies on LGBTI issues and free expression.<sup>4</sup> On the other hand, the high profile nature of these events drew global attention to these issues, in a way that may have been missed without the engagement of prominent international companies and athletes.

When considering the role of the broadcaster in a MSE, and in full respect of the editorial independence of each broadcaster, the inherent limitations on what they can do to respect or promote human rights should be recognised. They do not control the sporting events. It is the host cities/countries and the sporting bodies (which own the

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1 This access is not, however, always guaranteed. For example, during the 2010 World Cup, the Asia-Pacific Broadcasting Union announced it would provide free coverage of the entire tournament to North Korea, including the country's game against Brazil. However reports emerged that the Government delayed the broadcasting of some games so that they could be censored first; see, for example, <https://www.theguardian.com/world/2010/jun/15/north-korea-brazil-world-cup-football-tv>.

2 <http://www.espnfrontrow.com/2016/06/espn-helps-special-olympics-reach-unified-sports-milestone/>

3 <http://www.telegraph.co.uk/tv/2016/09/18/channel-4-has-proved-itself-a-brilliant-paralympics-broadcaster/>

4 See, for example, <https://www.theguardian.com/sustainable-business/sochi-winter-olympics-sponsor-companies-human-rights>

broadcasting rights) which have the greatest influence over a MSE. These entities are most likely to be linked to – or even the cause of – human rights abuses, such as labour violations resulting from the MSE’s infrastructure requirements.

Consistent with that, certain major sports governing bodies now emphasise the importance of human rights and compliance with the UNGPs as part of their governance, hosting requirements and values. For example, the IOC Olympic Agenda 2020 reform package and new Host City Contract include new assurances for example on non-discrimination. FIFA and the Commonwealth Games Federation (CGF) are reviewing their governance, hosting and contractual requirements with the expectation of integrating the UNGPs. Local organising committees have also been revising their approaches, with Organising Committees for the Glasgow 2014 Commonwealth Games and Rio 2016 Olympic and Paralympic Games having put in place policies, procurement guidelines and other processes in keeping with international human rights principles and with Tokyo’s Organising Committee exploring similar options.

This is a crucial development for companies. Broadcasters generally only become involved once rights have been awarded. Sponsors and other advertisers may become involved earlier and have more scope to engage rights-holders. But in both cases, if rights-holders can be persuaded to set the tone, from the outset, that human rights must be respected, this approach can be flowed down to corporates in their supply chain, for example through contractual clauses. Broadcasters can then, through their own operations, add an ancillary layer of human rights protections (see section 4) – rather than trying to initiate such conversations much later on in the commercial process, after a MSE has been awarded.

Nevertheless, it is recognised that a consensus is building amongst other businesses, governments and NGOs that the influence of the broadcaster has grown.<sup>5</sup> Broadcast licence fees are now a major source of income for international sports bodies.<sup>6 7</sup> As global audiences grow, broadcast revenues will increase, whether through advertising or subscription fees.

It therefore seems likely that broadcasters will have increasing influence or come under increasing scrutiny by virtue of the revenue they provide to those responsible for organising MSEs and so may need to satisfy themselves that these fees are not being used in a way that involves human rights abuses.<sup>8</sup>

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5 It has been reported that fees for the worldwide rights for the Rio 2016 Games increased by 52%, with 70% of the revenue for the Olympics coming from TV rights (<http://www.totalsportek.com/money/olympics-2016-tv-rights-deals-worldwide-increased-52/>). At a national level, see also the discussions on the impact of the investment of UK broadcasters on the English Premier League (<http://www.bbc.co.uk/sport/football/31386483>)

6 IOC derived \$3.9bn in income from broadcasting rights in the four year cycle that took in the Vancouver 2010 Winter Olympics and the London 2012 Olympics [https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/How\\_We\\_Do\\_It/Other\\_Commercial\\_Programmes/Licensing/EN\\_IOC\\_Marketing\\_Media\\_Guide\\_2012.pdf](https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/How_We_Do_It/Other_Commercial_Programmes/Licensing/EN_IOC_Marketing_Media_Guide_2012.pdf).

7 Deloitte have predicted that the five largest European football leagues – the English Premier League; France’s Ligue 1; the German Bundesliga; Italy’s Serie A and La Liga in Spain – are expected to generate approximately \$17 billion of total revenues in 2016/17. Deloitte also estimate that domestic broadcasting rights are expected to generate an average of \$2.6 billion for the English Premier League for three seasons from 2016/17, a 71% increase on the prior agreement. See Deloitte Technology, Media and Telecommunications Predictions, 2016 <http://www2.deloitte.com/global/en/pages/technology-media-and-telecommunications/articles/tmt-predictions.html>

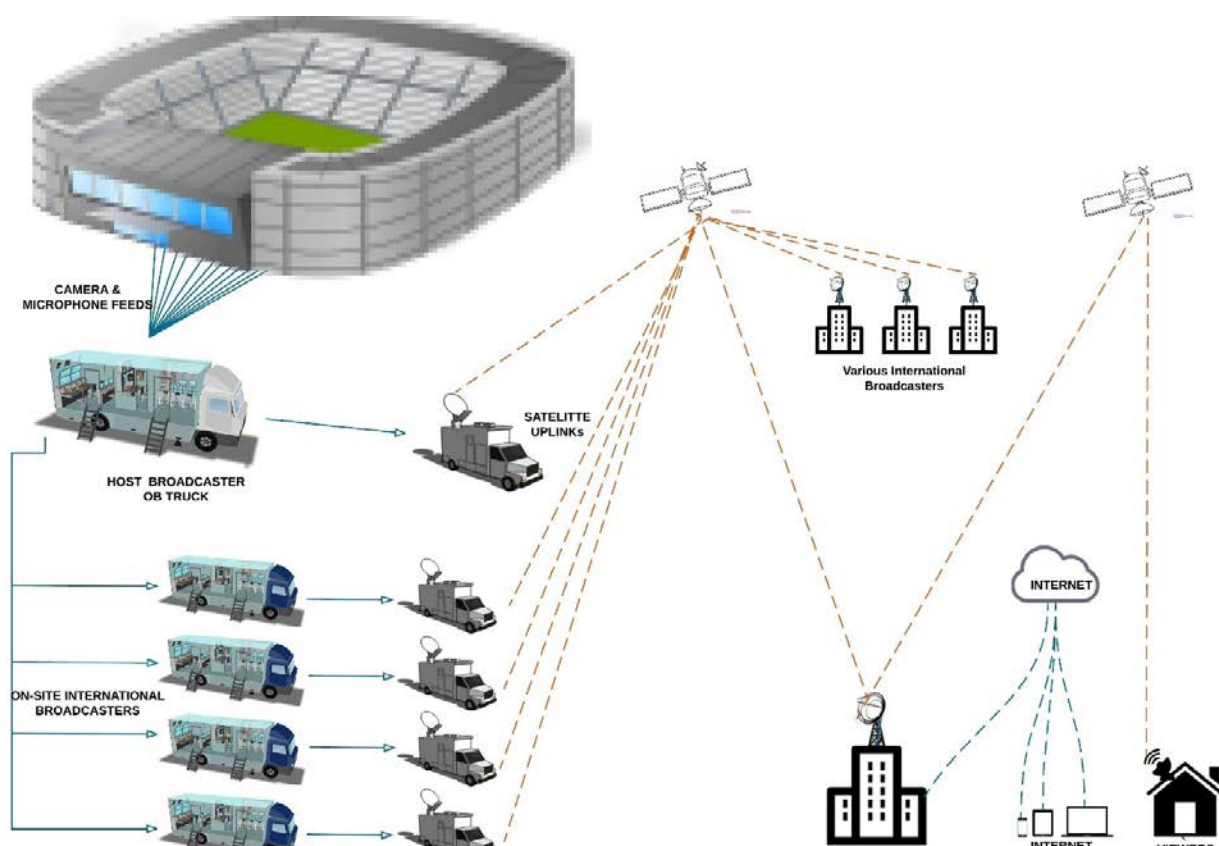
8 During the Brazil 2014 World Cup, there was industrial action over pressure on transport infrastructure and teachers on strike for better pay and working conditions in light of the cost of refurbishing stadiums.



## 2.2 The Mechanics of Sports Broadcasting

Broadcasting involves a complex chain of filming at the venue, transmission by satellite and/or internet, commentary and consumption at home or on the move by viewers. This chain – and who performs each part of the chain – can vary considerably for different events, depending on how the rights have been allocated – see sections 2.3 and 2.4 below.

The diagram below provides a simplified model of how broadcasting works.



## 2.3 Different Ways of Broadcasting

It is important to recognise that a broadcaster may broadcast a sporting event in a number of different ways. However, the following modes are the most typical.

### Outside Broadcasting

Where the broadcaster's presenter and camera crew are physically present at the sporting event, such as the BBC's coverage of Wimbledon. The broadcaster has considerable control over the editorial decisions and production of the broadcast.<sup>9</sup> The broadcaster will liaise with the event organisers to arrange the logistics of the broadcast e.g. discussing the running order of the event's broadcast, agreeing camera/microphone positions and presentation positions, security arrangements etc.

### Live or World 'Feed'

Where a primary or host broadcaster with a direct relationship with the rights-holder provides, at minimum, the video footage to rights-holding broadcaster who be on location or broadcasting remotely. Depending on the location of the event, the host broadcaster usually provides the on-screen graphics and guide commentary – for example, a UK broadcaster might use the graphics and commentary of a US broadcaster, which would also be in English. However, in the case of the Rio Olympic Games, although the Olympic Broadcasting Services (OBS)<sup>10</sup> provided the live world feed, but European broadcasters (such as the BBC in the UK) provided their own "studio wrap" (i.e. commentators, pundits, video clips and graphics). Nevertheless the OBS – and also FIFA's "host" broadcaster, Host Broadcast Services<sup>11</sup> – still exercise significant influence over what is depicted in the world feed by issuing guidelines to the host broadcaster. For example, during an Olympic Games, the OBS will provide daily briefings where they provide information on coverage, venues or current news stories. Broadcasters may then chose whether or not to include this within their coverage.<sup>12</sup>

In all of these situations, broadcasters using a live feed will generally have less control over the footage than if they used their own outside broadcast.

### Originated Content

Commissioned directly by a broadcaster. This is produced either by the broadcaster themselves or by an independent production company. Broadcasters and their production partners have full editorial control over the content from pre-production decisions about the scope, contributions and location of the content right through to transmission.

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<sup>9</sup> The rights-holder may, however, still impose a number of production requirements, for example around the number of cameras at the venue and their positions.

<sup>10</sup> The IOC established its own agency, the Olympic Broadcasting Services, to provide the "World Feed" for all Olympic Games, in order to develop a "consistent approach across Olympic operations" (<https://www.obs.tv/about>).

<sup>11</sup> HBS is an independent company which works on FIFA's behalf "to ensure that FIFA's broadcast operations guidelines and standards are met" (<http://www.fifa.com/about-fifa/tv/host-broadcasting.html>).

<sup>12</sup> Information provided by a senior OBS freelancer who worked at Athens 2004, Torino 2006, Beijing 2008 and Rio 2016.

## Acquired Content

Content that is already produced by and licensed from other broadcasters/distributors. The licensee will negotiate various rights to exploit the content across their broadcasting channels and ancillary platforms, such as apps and website(s), but will have had no editorial control over the original material. This can involve the right to edit content to make sure it complies with the rules of the regulatory regime in the countries where it is transmitted. In the UK, this would be in accordance with Ofcom's Broadcast Code to ensure that the content is suitable for its scheduled transmission slot and complies with Ofcom's standards on broadcast material. There are analogous provisions in the media law and codes of other European countries.

## Sponsored Programming

Programming that has had some or all of its costs met by a sponsor (including advertiser-funded programmes). For example, according to UK guidance: a "sponsor must not influence the content and/or scheduling of a channel or programming in such a way as to impair the responsibility and editorial independence of the broadcaster".<sup>13</sup>

## News Access Arrangements

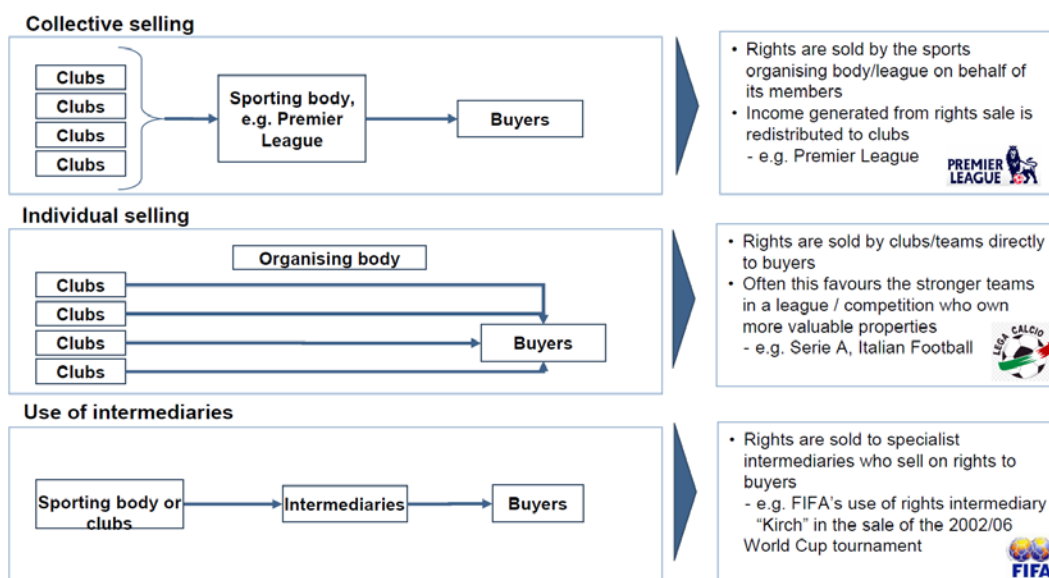
A broadcaster that does not hold any rights to an event may still be able to access footage via "news access" arrangements, even if another broadcaster has "exclusive" rights to that events. News access – or "short reporting" – is an obligation on broadcasters in the EU to offer competing broadcasters with access to coverage which is of significant interest to the public on a fair, reasonable and non-discriminatory basis. In practice, the obligation is usually addressed in a contract between the broadcasters, and is supported by "pooling arrangements", whereby footage is shared reciprocally. Typically, the principle might be used to allow Broadcaster A to show, for example, a winning goal in a football match on its evening news bulletin, even though Broadcaster B had the exclusive rights to the game. However, this provision was also introduced by regulators and legislators to allow adequate access to news stories which may have occurred in and around stadia, but which may not have been shown on air by the broadcaster which held the rights.

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13 [http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/bg2016/Section9\\_may16.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/bg2016/Section9_may16.pdf)

## 2.4 An Overview of Broadcasting Rights

According to the UK regulator Ofcom, there are three main models for how sporting rights – whether for an MSE or otherwise – are sold:<sup>14</sup>



Ordinarily, MSEs will use the intermediary or agency model, with the broadcast rights typically scoped and owned by international sporting bodies. The rights are then sold on a territory by territory basis for broadcast, although territories are often bundled together – for example, Discovery/Eurosport will hold the licence to broadcast the PyeongChang Olympic Games in 2018 to 50 territories in Europe on behalf of the OBS. There are also different types of rights, including free to air vs pay,<sup>15</sup> digital rights,<sup>16</sup> clip rights and highlights rights.<sup>17</sup> Discovery/Eurosport's PyeongChang Olympic licence covers free to air, pay, internet and mobile rights. But sometimes rights may be split into separate packages to cater to the full range of viewing options.

The owner of the broadcast rights would usually engage agents with particular knowledge and expertise within a territory or territories to negotiate the sale of these rights. In order to maximise revenue, an open tender process is usually used.

Ordinarily, broadcast rights would be sold a number of years before the MSE takes place. However the timing may depend on the frequency of the MSE – the longer the cycle, the further in advance the sale of rights. Depending on the nature and

<sup>14</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/market\\_invest\\_paytv/annexes/annex\\_10.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/market_invest_paytv/annexes/annex_10.pdf). This diagram is from 2007. The models have not changed since then. However Serie A now uses a Collective selling model. Some other European leagues (e.g. Liga Portuguesa) continue to use the Individual selling model. A more recent example of the Intermediary model is the IOC's use of Sportfive for the sale of the rights for the 2014 and 2016 Olympic Games.

<sup>15</sup> "Free to air" content is defined in the UK as programmes available to 95% of the population for free, whereas "pay" requires the end-user to pay a subscription fee.

<sup>16</sup> "Digital rights" relate to content provided by mobile, video on demand, or via broadband.

<sup>17</sup> "Clip rights" relate to short video clips of, say, two to three minutes which might be sold online e.g. to newspapers. "Highlights rights", on the other hand, involve longer periods of footage and would typically be used for "magazine" style TV shows.

value of the rights to be acquired, broadcasters would expect a degree of flexibility in negotiating specific terms in the standard rights agreement. Occasionally though, a rights owner might insist on a standard set of terms to apply in all territories, with no scope for amendments.

## 2.5 Regulatory Frameworks

As a matter of prudent business practice, broadcasters in Europe which transmit coverage of any live sporting event, including MSEs, typically undertake risk assessments and have contingency plans to mitigate against issues such as inappropriate language, violent behaviour and consideration of the safety of their employees.

However, across Europe, all jurisdictions have in place a system of independent regulatory oversight which can be traced back to either the Council of Europe (e.g. the Transfrontier Television Convention) or the EU (e.g. the Audiovisual Media Services Directive).<sup>18</sup> The Transfrontier Television Convention establishes broad parameters for broadcasters' operation, such as the right to freedom of expression. The Audiovisual Media Services Directive focusses more on actual implementation, which in practice is devolved to the independent national regulators now established in every EU country.<sup>19</sup> These national regulators meet regularly and exchange views on best practice. While their operational practices will differ in accordance with the diversity of European media markets and constitutional traditions<sup>20</sup> there is significant common ground in the powers enjoyed by the regulators.

By way of example, the UK regulator, Ofcom, has the power to investigate any issue it identifies itself or post-transmission complaint which is raised to it about something broadcast on television in the UK. Human rights are also factored into Ofcom's broadcast regulatory regime. The Ofcom Broadcasting Code (the "Code") states that it 'has been drafted in the light of the Human Rights Act 1998 and the European Convention on Human Rights' ("the Convention"). In particular, the right to freedom of expression, as expressed in Article 10 of the Convention, encompasses the audience's right to receive creative material, information and ideas without interference but subject to restrictions prescribed by law and necessary in a democratic society. This Article is referenced in Appendix 3 of the Code,<sup>21</sup> along with the right to a person's private and family life, home and correspondence (Article 8), the right to freedom of thought, conscience and religion (Article 9), and the right to enjoyment of human rights without discrimination on grounds such as sex, race and religion (Article 14).

18 Directive 2010/13/EU

19 See wording of Article 30 of the proposed new text of the AVMS Directive: "Member States shall ensure that national regulatory authorities exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media pluralism, cultural diversity, consumer protection, internal market and the promotion of fair competition"

20 See [www.indireg.eu](http://www.indireg.eu) and [www.ec.europa.eu/digital-single-market/news/study-audiovisual-media-services](http://www.ec.europa.eu/digital-single-market/news/study-audiovisual-media-services) for authoritative studies on these points

21 Introduction to the Ofcom Broadcasting Code May 2016: [http://stakeholders.ofcom.org.uk/binaries/broadcast/code-may16/Ofcom\\_Broadcast\\_Code\\_May\\_2016.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/code-may16/Ofcom_Broadcast_Code_May_2016.pdf)

Further, UK broadcasters must respect impartiality and accuracy in their coverage of human rights and other non-sports related stories arising from a MSE, as set out in section 5 of the Code ('Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions').<sup>22</sup>

In some instances, there is a risk that this European regulatory framework might foster a tendency amongst broadcasters towards avoiding controversy. In such circumstances, regulatory compliance might therefore discourage engagement with difficult issues, and/or encourage self-censorship.

## 2.6 Key Stakeholders

The key stakeholders – or human rights holders – engaged<sup>23</sup> with broadcasters in MSEs are likely to include the following:

### International Sporting Bodies<sup>24</sup> and Entities which Organize the Event,<sup>25</sup> or Negotiate Contracts,<sup>26</sup> on their Behalf

Broadcasters will have a significant degree of commercial interaction with these bodies (although principally after a bid has been awarded), for example around rights acquisitions, production liaison/logistics, sponsorship opportunities and general relationship management. The key relationship is with the international sporting body, which is the ultimate recipient of the rights fees.

### Host City and/or Host Country

This relationship is likely to relate to the logistics of an event, for example in arranging security or transport for a broadcaster.

### Host Broadcasters

As discussed in section 2.3, if a broadcaster takes a live feed, it will need to cooperate with the local host broadcaster to ensure the delivery of that feed, and clarify what the host broadcaster will and will not provide (e.g. commentary), along with the video footage.

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22 See, for example, Ofcom's 2014 decision to uphold a complaint against RT (formerly Russia Today) for a lack of impartiality in its coverage of the conflict in Ukraine in 2014. In particular, Ofcom found that RT did not provide a "sufficient balance" of viewpoints in its coverage. <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb266/obb266.pdf>

23 Engagement can cover any interaction with or impact on another group.

24 e.g. FIFA, the IOC.

25 i.e. local organising committees such as LOCOG.

26 e.g. Lagardère.

## National Sporting Bodies, e.g. British Athletics

Broadcasters typically liaise with such bodies in order to explore public relations or other commercial opportunities, for example if they wanted to feature an athlete in a marketing campaign.

## Events Sponsors and Advertisers

The interaction is likely to be limited, as most MSEs will already have in place established sponsorship arrangements before broadcasters become involved. However broadcasters may approach the established sponsors to discuss the potential for ancillary advertising propositions and broadcast sponsorship opportunities.<sup>27</sup>

## Athletes and Participants

Broadcasters may employ them as on-air pundits or commentators, interview them as part of the coverage of an event, or use them as a brand ambassador.

## The Inhabitants of that City or Country

Broadcasters may employ local citizens to act as fixers to arrange logistics in the host country, or as e.g. media, catering or security staff. Alternatively, they may engage with them through on screen “vox pops” (i.e. informal interviews of members of the public). However there is unlikely to be significant engagement beyond that.

## Viewers and Fans

Viewers are crucial to broadcasters. Without them, the broadcast of MSEs would not be viable. By facilitating access to sports content, broadcasters can play a key role in ensuring their participation. This is particularly important in instances where fans’ access to sport may be subject to restrictions, as in Iran, where women cannot attend sporting events.<sup>28</sup>

Broadcasters already engage with viewers through market research on events, programmes and presenters. Content from fans may also be solicited on TV shows e.g. via social media.

These stakeholders represent a large range of people, with complex and sometimes diverging interests. Interactions with some groups will be frequent and direct, others occasional and indirect.

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<sup>27</sup> For example Allianz were the broadcast sponsors to the Rio Paralympic Games 2016. As part of that arrangement, Allianz were given “ancillary” opportunities to promote their product, for example with advertisements during television or online broadcasts.

<sup>28</sup> The Rio Games has allowed Iranian women such as [Sajedeh Norouzi](#) and [Darya Safai](#) to shine a light on this issue by attending volleyball matches that they would be banned from going to in their home country.

It is important to note that there are already some existing feedback mechanisms that exist to facilitate dialogue between certain stakeholder groups, such as the Sports and Rights Alliance, a coalition of leading NGOs, sports organizations and trade unions that was founded in early 2015 to address the human rights impacts of MSEs.<sup>29</sup> In addition, there may be other existing charitable initiatives run by individual broadcasters, which, while aiming to bring together viewers, fans and sports clubs, might be adapted or learnt from to enable engagement around human rights issues. Stakeholder engagement may also represent a suitable purpose for an Independent Centre; this is discussed further in section 5.

## 2.7 Future of the Industry

A 2015 report on the “Future of Sports”<sup>30</sup> predicted that the sports broadcasting landscape is likely to change considerably in the future, due to:

- The highly competitive market for sports rights attracting investment from more companies and platforms.
- Increasing efforts by athletes to assert control over their off-the-field media presences<sup>31</sup> which could challenge the current financial influence of a broadcaster by creating other powerful stakeholders in the MSE broadcasting model.
- The growth of advertising revenues from pirated sports content.

This change in viewing habits and increasing use of a range of technologies to consume programming means an increasingly complex model for broadcasters, which is also likely to impact the scale of their influence.

Equally though, broadcasters will also need to consider how best to manage the growth of “fan footage” taken at events, and shared on social media. Such content can provide an additional perspective, but might also create issues if not vetted properly. The regulatory framework may also need to evolve to reflect this development. In the UK, currently, any social media that is broadcast in a TV programme will be subject to the requirements of the Ofcom Code. The same principles also apply if the same social media content were broadcast via a “TV like service”, such as an app or a video-on-demand service. However if that content is broadcast simply as an embedded YouTube clip on a broadcaster’s website, then no regulatory requirements currently apply.

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29 <http://www.sportandhumanrights.org/wordpress/index.php/2015/07/06/sport-and-rights-alliance/>

30 <http://www.gannett-cdn.com/usatoday/editorial/sports/The-Future-of-Sports-2015-Report.pdf>

31 See, for example, the building of basketball player LeBron James’ brand. The value of his brand to his former team was estimated to be \$100m in 2014: <http://www.mondaq.com/unitedstates/x/323112/Trademark/LeBron+James+Building+A+Jordanesque+Brand>



# Mapping the Potential Risks

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## 3.1 Overview

The UNGPs state that business should respect human rights, avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved.

Many broadcasters have already begun to meet their commitments under the UNGPs through their own internal human rights governance programmes and/or improvements across their supply chains. Some are also part of existing industry collaborative platforms, such as the BAFTA Sustainability Consortium, which steers the environmental sustainability agenda for the UK screen arts and has now decided to extend its remit to address human rights impacts.<sup>32</sup> Similarly, considerable positive steps have been taken to address discrimination.<sup>33</sup> It is important to use existing collaborative platforms wherever possible – particularly those which are able to drive change across the industry globally. Equally, such initiatives must address the specific context of the production of broadcasting MSEs, which may differ from other productions either because of their live, ‘unscripted’ nature, or because of the limited influence of the end broadcaster over the host broadcaster which may operate in another territory. Further, MSEs may engage a number of specific human rights issues, chiefly freedom of expression, racism, LGBTI rights, discrimination or privacy – a range which may not be encountered by other broadcast material.

Broadcasters may become entangled in these issues, as the conduit by which many audiences will become aware of such issues. Provided that editorial independence is respected, broadcasters may be able to promote debate about such issues. But some may also argue that by simply covering the MSE, broadcasters are conferring legitimacy on governments with questionable human rights records.

The challenge to broadcasters in all of these situations is complex. Broadcasters often have little to no control over the events themselves, and tend to join the commercial process once a bid has been awarded – rather than beforehand, as may be the case with sponsors. If a broadcaster takes a live feed – as is the case with many MSEs – they will not be able to control the images that are seen. Even if a broadcaster uses its own footage, the live nature of sports provides very little time to react to situations

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<sup>32</sup> The BAFTA Sustainability Consortium features broadcasters and production companies which support the UK production and broadcast industry’s transition to environmental sustainability. Further information, including details of its membership, can be found here: <http://wearealbert.org/about>.

<sup>33</sup> UNGP 11: “Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations.”

that might arise. And the multiplicity of different broadcasting models for differing sporting events makes it very difficult to develop a uniform approach.

Equally, however, the UNGPs recognise that the challenge faced by companies in these situations is often complex. For example, the UNGPs do not expect broadcasters to breach local law where there is a tension with international human rights law. Rather, UNGP 23 states that companies should “seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements”.

Similarly, UNGP 13 recognises that whilst a company should avoid causing a human rights issue, such an impact may still occur. In such circumstances, the expectation is that companies must try to mitigate that impact. The mitigations envisaged by the UNGPs, in turn, focus on the importance of learning from historical incidents and using them to anticipate possible future risks. In that respect, the UNGPs emphasise the importance of a robust process to avoid and mitigate risk as much as actually achieving specific outcomes.

The two examples set out below discuss the two principal issues that broadcasters might encounter in practice at MSEs: (1) the “self-censorship” risk; and (2) the investment and legitimacy risk. Some possible mitigations to these risks are discussed in section 4 below.

## 3.2 The “Self-Censorship” Risk

Broadcasters face a difficult dilemma when confronted by potentially discriminatory content or scenes of violence. In such situations, programme makers have to balance – in real time – the right of freedom of expression against, for example, the right to non-discrimination. This is challenging. If they lean towards the former, they risk propagating a discriminatory message. If they err in favour of the latter, they may be accused of sanitising the footage, restricting a viewer’s right to receive information<sup>34</sup> and even censorship of the individuals communicating the message. Each individual broadcaster will have to make their own editorial decisions depending on the context.

The issue is further complicated by the fact that in many cases – such as the Rio Olympic Games – the events are filmed by the organiser of the event, and the live feed then distributed by local broadcasters. Subsequent broadcasters may therefore have limited ability to control what appears on screen.

This issue can arise in a number of different forms, given the live nature of sport. For example, pundits may stereotype athletes by nationality or gender on air. Commentators may use language which, whilst acceptable in their own country, might

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<sup>34</sup> The right to freedom of expression includes the right to not only communicate information but also receive it. Consistent with that, the Australian Government at one time proposed a “use it or lose it” principle, whereby broadcasters would be compelled to offer other broadcasters free-to-air rights they had acquired if they did not intend to transmit it live. Broadcasters questioned the efficacy of the proposal, as in practice, negotiating such a transaction would be challenging – other broadcasters could not be compelled to acquire the free-to-air rights.

not be acceptable in others. Fights may break out at the MSE between rival sets of fans. Similar issues may also arise online; for example TV personalities may become embroiled in debates on social media which quickly get out of control.

One of the most enduring challenges to broadcasters is when football fans unfurl banners, or sing chants, which are racist, sectarian or homophobic<sup>35</sup> during matches. By broadcasting such matches, broadcasters may inadvertently promote these messages, and thereby contribute to an adverse human rights impact.<sup>36</sup>

Broadcasters already take action to address this. For example, during certain football matches, microphones which are near fans singing offensive songs may be turned down to avoid them being broadcast. However, the picture is often more complex. There may sometimes be hundreds of banners, which cannot all be vetted. Other messages or songs may be difficult to understand without an appreciation of the wider political context – or conversely may be justifiable when that context is understood. And some may simply be in a foreign language.

The issue of racist and/or homophobic chanting specifically has been raised as a potential issue at the Russia 2018 World Cup. Russian law also prohibits “gay propaganda” – which could potentially include rainbow flags displayed at a match. Taking into account the difficulties discussed above, broadcasters may find it challenging to exclude the risks associated with the 2018 World Cup. However, the event is two years away. Broadcasters have time to assess potential “appropriate actions” and seek the advice of human rights defenders and other experts.

### 3.3 The Investment and Legitimacy Risk

As discussed in section 2.1 above, TV broadcast rights currently represent approximately 70% of the revenue generated by the Olympics. Given how significant licence fees are to MSEs, there is a risk that – even if a broadcaster has not caused or contributed to an adverse human rights impact – they could arguably be linked to such an impact because their funding may act as an enabler.

If a broadcaster were on notice that its fees were a major source of finance for a MSE infrastructure project that was associated with a particularly egregious human rights violation, the awareness of this issue might lead to the suggestion that the company was linked to the abuse.<sup>37</sup> A broadcaster could be asked to explain what action it had

35 In December 2012, the main supporters’ group of Russian champions, Zenit St Petersburg, lobbied against the club signing non-white or homosexual players. Over 150 anti-racism campaign organisations and the UE-FA-funded East European Monitoring Centre seem to be resigned to the problem. See <http://www.guardian.co.uk/world/2010/dec/03/world-cup-2018-russian-racism>.

36 A similar “causal/contribution” risk might arise in the context of commentators making discriminatory remarks or stereotyping certain nations, or footage being shown which invades the privacy of an athlete (eg showing severe injury or if they suffer from a bout of Runner’s diarrhoea).

37 See the clothing product and conflict minerals examples at para 11 of the 2013 guidance on the UNGPs provided by the UN Human Rights High Commissioner: <http://www.ohchr.org/Documents/Issues/Business/LetterOECD.pdf>

taken to try and mitigate that risk, including if it had used its leverage, for example, to build capacity (such as human rights awareness training with those involved in the infrastructure project). Under the UNGPs, the expectation on the broadcaster in this situation would not be as great as in the case where it was more directly involved in an issue (e.g. as with self-censorship). However, critics may also argue that if a broadcaster is making a significant investment by the payment of licence fees, it is likely to have a commensurate degree of leverage and should therefore take some steps to address the issue.

The UNGPs are clear that where there is no linkage through a connection between an organisation's business and a human rights abuse, then there is no obligation on the organisation to do more (although there may be reputational issues by association). However, it may be advisable for a company to conduct additional due diligence if a business partner is implicated in a human rights issue, so that it can satisfy itself that such abuses are not in fact connected to it.<sup>38</sup>

This reasoning was followed by the UK National Contact Point (NCP),<sup>39</sup> which heard a complaint against Formula 1 in relation to the 2011 Bahrain Grand Prix. The Grand Prix was the focal point for clashes between pro-democracy protestors and government security forces. The NCP did not find that Formula 1 activities and the money generated by the event were linked to the abuses perpetrated by the security forces. But it did find that Formula 1 had failed to identify that the Grand Prix had become "politicised". This represented a new risk which "warrants updated or ongoing due diligence ... regardless of whether they are linked to the impacts".<sup>40</sup>

Whilst Formula 1 is a rights-holder, rather than a broadcaster, the case demonstrates that companies involved in MSEs can become implicated in human rights issues even when their involvement appears limited. At the very least, there is a risk of adverse publicity. And if that publicity results in the MSE becoming "politicised", a company may be expected to conduct further due diligence to confirm whether the issue is connected to its business, and also be ready to manage the reputational impact, for example through appropriate communications.

This generalised risk of MSEs becoming politicised is one that broadcasters need to keep in mind. Sporting events do not happen in a vacuum, and may reflect the political climate. Governments may seek to confer legitimacy on themselves through their athletes and/or hosting of MSEs. The Olympic Games have been tarnished by a number of political issues in the past, such as the boycott of the 1980 Moscow Games by 65 countries and the subsequent boycott of the 1984 Los Angeles Games by the Eastern Bloc. The 1978 Argentina World Cup, in turn, was marked by a number of political "disappearances".

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38 <http://www.ohchr.org/Documents/Issues/Business/LetterOECD.pdf>, para 14.

39 <https://www.gov.uk/guidance/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-oecd-guidelines-for-multinational-enterprises>

40 The NCP ultimately recommended that Formula 1 enter into mediation with the complainant, American for Democracy & Human Rights in Bahrain. A settlement was reached between the parties, who issued a joint statement which stated that Formula 1 had committed to take "a number of further steps to strengthen its processes in relation to human rights in accordance with the standards provided for by the Guidelines".

This risk has arguably increased in recent years, as public scrutiny of the economic case for MSEs, following the debts incurred by Montreal when it hosted the 1976 Olympic Games, has made developed economies less inclined to bid for MSEs, creating an opportunity for states such as China, Kazakhstan, Azerbaijan, UAE and Qatar to submit MSE bids.

These bids benefit these countries by raising their global profile – but they may also legitimise their human rights records, both at home and abroad. By providing financial support to such MSEs, and broadcasting footage of such cities and countries in a favourable light, some observers may argue that a broadcaster' is effectively airbrushing the abuses of a government. Whilst others might argue that engagement with such countries through MSEs will actually have a net benefit for human rights, broadcasters need to be able to demonstrate that they have put in place a robust process that considers both sides of the arguments, and taken appropriate steps to address any residual risk, for example by working with business partners to promote human rights in the host country.

## Possible Mitigations

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Broadcasters may consider taking (and in some cases, are already taking) the following actions to address the types of concerns that might be raised by an event. Some of these will be designed to address systemic issues, such as discrimination, whereas others are intended to put production staff in as robust a position as possible when making real-time editorial decisions.

### 4.1 Due Diligence

- Conducting a prior risk assessment of the specific political context and the potential human rights risks using publicly available resources, such as the US Department of State Country Reports.
- Documenting applicable regulatory requirements and identifying where compliance will assist in mitigating human rights risk<sup>41</sup> – or conversely might help avoid controversy through self-censorship.

41  
Rights.

See section 2.5 on the Ofcom framework and its connection with the European Convention on Human

- Identifying possible tensions between international human rights law and local laws (e.g. Russian “anti-gay propaganda” law), and devising a plan for honouring the former whilst complying with the latter, as required by the UNGPs.
- Reviewing the conclusions of any investigations relevant to the particular sporting context, such as the 2013 FIFA anti-racism and discrimination taskforce.
- Identifying where human rights issues may already be covered by existing mechanisms, such as the news access and pooling arrangements required by the EU Audio Visual Media Services Directive and/or are better addressed by news providers who are more familiar with the political context.

## 4.2 Internal Guidelines and Policies

- Providing training to staff on (i) the local political context, so that they are able to spot potential issues more quickly; and (ii) how to exercise editorial judgment, drawing on historical examples where relevant.
- Providing written guidance to staff – for example in Editorial Guidelines – on such issues,<sup>42</sup> including how and when to report issues that do occur, and raising awareness of mechanisms such as the IOC press freedom complaints process.<sup>43</sup>
- Offering support to staff on who to contact in the event of an issue. This should apply not only to company employees, but also freelance and local media workers, taking into account guidelines such as the ACOS Alliance Freelance Journalist Safety Principles.<sup>44</sup>

## 4.3 Production Methods

- Drawing on the results of the due diligence and external engagement, considering whether production methods used in other instances may be appropriate.
- For example, one broadcaster, during a UEFA Champions League match, chose not to broadcast live footage of fan violence that had broken out in the stadium. Instead, the footage was sent to a separate team in the company, which had more time and expertise to consider what could and should be shown at a later point via its mainstream news service.

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42 See, as an example, the BBC’s editorial guidelines on live programming (<http://www.bbc.co.uk/editorial-guidelines/guidelines>)

43 <https://www.olympic.org/news/ioc-launches-reporting-tool-for-press-freedom-violations-at-the-games>

44 <http://www.acosalliance.org/the-principles>

- Similarly, broadcasters could consider whether the news access and pooling arrangements described in section 2.3 are applicable and would provide a more appropriate opportunity for a contentious issue to be covered, for example as part of a news bulletin later in the day.
- Alternatively, consider whether content could be aired which reflects the local context of the MSE by, for example, drawing attention to the difficulties encountered by an ethnic minority footballer in Russia as part of an interview on a magazine TV show.
- Exploring whether existing production techniques (such as using remote overhead cameras, rather than close-up shots, to preserve athletes' privacy) could be enhanced as innovations in broadcasting develop over time (such as greater use of multi-angle recording for use in apps or virtual reality). The increasing use of social media could provide broadcasters with opportunities to address human rights issues more broadly than only through their mainstream news teams. For example, if a broadcaster needed to contextualise a human rights issue, they might decide to use additional footage without interrupting the sports coverage, or garner the opinions of fans who were at the event. However, this might cut across internal operational models where mainstream news journalists are usually trained to have greater expertise in providing impartiality and balance in covering more complex broadcasting issues.

## 4.4 External Engagement

- Assessing whether contractual provisions could help and if there is scope for proposing changes to the rights-holder. A broadcaster may be able to negotiate a right to edit images or sounds prior to airing (particularly where required by local regulation), or suitable protections in the event that a MSE is boycotted by athletes. Although not yet commonplace, broadcasters may also wish to consider if more specific human rights commitments can be obtained in broadcast contractual frameworks. As discussed in section 2.1, this could be more easily achieved if rights-holders could be persuaded to include appropriate contractual provisions from the outset or themselves offering local risk assessments in prior planning,<sup>45</sup> rather than broadcasters attempting to secure such terms in subsequent bilateral negotiations.
- Outside of the contractual negotiations, engaging with the host of an event and/or the rights-holders to raise concerns, as Adidas did in the context of LGBTI rights and the 2014 Sochi Games.
- Seeking support from their home government when operating in countries where the human rights of vulnerable groups of people may be more at risk. For example, in the UK Government's revised National Action Plan 2016,<sup>46</sup> it commits to new

45 Eg the FAME portal used by UEFA to give prior information for match fixtures

46 [https://www.gov.uk/government/Good\\_Business\\_Implementing\\_the\\_UN\\_Guiding\\_Principles.pdf](https://www.gov.uk/government/Good_Business_Implementing_the_UN_Guiding_Principles.pdf) p11

project activity on raising awareness and targeting negative impacts on human rights by tasking its diplomatic missions in countries where this may be a concern.

- Engaging other stakeholders in the media, such as sports journalists, with whom broadcasters could collaborate to raise concerns and redress possible issues, such as restrictions on freedom of the press in the host country, as was the case at the 2015 European Games in Baku.
- Using learnings from existing channels and mechanisms – such as the BAFTA Sustainability Consortium, which is now expanding scope from environmental sustainability to human rights issues in all broadcast and production activity.
- Using such forums to share knowledge and concerns, and explore if their collective leverage could be pooled.
- All of these possible mitigations are suggestions which might be taken up by broadcasters, though it is important to note that – given the nature of broadcasting – there is no universal “right” answer for all broadcasters. Furthermore, the editorial independence of each broadcaster needs to be taken into account. Some broadcasters choose to make a clear distinction between their News broadcasting and Sports broadcasting. Others may not have multiple channels to give such broad coverage. Nevertheless, the industry doesn’t stay still. Broadcast techniques may change in future (such as the increasing use of user generated content); audience expectations may also change.
- Moreover, broadcasters coming together to act as a “collective voice” is easier said than done – for an event such as the Olympics, there will be dozens of broadcasters involved. Broadcasters’ leverage over host countries or rights holders is likely to be limited. However, as suggested by the UNGPs, there will still be value in broadcasters attempting to take such steps, documenting the issues they encounter and, if possible, developing common standards. In the events these difficulties are insurmountable, they can then be escalated to appropriate bodies such as an independent centre, or even appropriate government bodies.



# The Role of the Independent Centre

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## 5.1 Overview of the Independent Centre

Following the London 2012 Games, an independent body produced a review of the event's impact on human rights. It identified a number of useful learning points. However, there was not an equivalent body for the Rio 2016 Games to receive and benefit from the report's analysis.

More generally, there is apparent lack of knowledge sharing on human rights across differing types of MSEs, so that the lessons from an Olympics Games might never, for example, be utilised for a World Cup.

It has been proposed that an Independent Centre be established to fill this gap and more generally assist with the implementation of the MSE guiding principles for human rights, once they are finalised.

This Centre would be "multi-stakeholder", in that it would draw from not just a single group, such as the broadcasting industry, but also sporting bodies, host cities, sponsors and affected communities who are involved in and/or affected by MSEs.

This body – which could be virtual and/or based in a physical location – could potentially be a Centre for stakeholders to:

- Learn, including accessing guidance, expert analysis, disseminating good practice, liaising with NGOs (e.g. press freedom groups) on previous experiences and generally sharing knowledge.
- Collaborate, including co-ordinating initiatives, avoiding duplication, and pooling leverage.
- Improve accountability, including innovations and enhancements in remedies, opportunities for advocacy, and ongoing monitoring.

## 5.2 The Centre and the Role of Broadcasters

As discussed in sections 3 and 4.4, there are existing mechanisms such as the BAFTA Sustainability Consortium, ACOS Alliance and the Sports and Rights Alliance which already act as knowledge centres for specific stakeholder groups. Any new Centre should not duplicate these efforts. They could be used as the mechanism by which any Centre receives information and achieves dialogue with stakeholders. The Centre could also help raise awareness of the work of these existing bodies.

The primary focus should therefore be on the benefit it could provide as a global multi-stakeholder Centre. In particular, such a Centre could provide an opportunity for ensuring that respect for human rights is embedded into individual MSEs from their inception. Sporting bodies, host cities and other stakeholders who are involved from the outset could be encouraged to incorporate the UNGPs into their governance framework. Supporting stakeholders such as broadcasters could then be engaged, in turn, to explore how they can best implement this framework in their respective link in the chain.

In facilitating such conversations, the Centre would allow the respective stakeholders to better appreciate what is and is not achievable – and who can achieve it – in the context of human rights. Similarly, it would provide a means through which concerns could be escalated to the appropriate entity. For example, broadcasters could highlight the difficulties they face in negotiating contractual commitments to respect human rights, in light of their late entrance into the commercial process.

At a more specific level, the collaborative nature of the Centre could also enhance the efficacy of the mitigations discussed in section 4, as it would allow broadcasters to not only strengthen training through e.g. educational events and conferences, but also to:

- Explore the potential for pooling leverage, either within the industry, or with other stakeholders (e.g. sponsors).
- Assess potential remedies with the input of other stakeholders (e.g. local communities and civil society).

It should be noted, however, that some of the mitigations in section 4 – such as the “pre-emptive” training – might not be assisted by a multi-stakeholder Centre. The key risk for broadcasters is the need to make real-time production decisions on complex issues. As this risk is largely unique to broadcasters, there may be limited scope for other Centre participants to assist with this.



# Annex: Overview of the UN Guiding Principles on Business & Human Rights

The UN Guiding Principles on Business & Human Rights state that business should “respect” human rights, “avoid infringing on the human rights of others” and “address adverse human rights impacts with which they are involved. This responsibility “exists over and above compliance with national laws and regulations protecting human rights”.<sup>1</sup>

## Level of involvement and appropriate action

UN Guiding Principles 13 identifies three ways in which a company may be associated with a human rights issue: (1) by causing an adverse human rights impact; (2) by contributing to an adverse impact; or (2) being directly linked<sup>2</sup> to it. The actions that a company is expected to take will vary depending on which level of involvement applies (UN Guiding Principle 19).

Involvement	Appropriate Action
<b>Causing</b> an adverse human rights impact	A company may “cause” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” causing that impact and “address such impacts when they occur” (UNGP 13). This requires: <ul style="list-style-type: none"> <li>• “Taking the necessary steps to cease or prevent the impact” (UNGP 19)</li> <li>• “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)</li> </ul>
<b>Contributing</b> to an adverse human rights impact	A company may “contribute to” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” that contribution and “address such impacts when they occur” (UNGP 13). This requires:

<sup>1</sup> UN Guiding Principle 11, p13.

<sup>2</sup> The definition of “direct linkage” has proven difficult to apply in practice across a number of industries. The issue is discussed further in the context of the Broadcasting White Paper 3.2.

	<ul style="list-style-type: none"> <li>• “Taking the necessary steps to cease or prevent its contribution” (UNGP 19)</li> <li>• “Using its leverage to mitigate any remaining impact to the greatest extent possible” (UNGP 19)</li> <li>• “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)</li> </ul>
<p>Impacts <b>directly linked</b> to a company’s operations, products, or services by a business relationship</p>	<p>A company’s operations, products, or services may be directly linked to an impact by a business relationship (UNGP 13). Such companies are expected to seek to “prevent or mitigate” the impact, “even if they have not contributed to those impacts” (UNGP 13). This requires:</p> <ul style="list-style-type: none"> <li>• Using or increasing its leverage over the entity at cause to seek to prevent or mitigate the impact (UNGP 19).</li> <li>• Where directly linked, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, “though it may take a role in doing so” (UNGP 22).</li> </ul> <p>UNGP 19 commentary explains that this situation “is more complex”. In order to determine the “appropriate action”, companies should consider:</p> <ul style="list-style-type: none"> <li>• “[Its] leverage over the entity concerned”.</li> <li>• “How crucial the relationship is”.</li> <li>• “The severity of the abuse”.</li> <li>• “Whether terminating the relationship ... would have adverse human rights consequences”.</li> </ul>

## Meeting the Responsibility: Policies and Procedures

UN Guiding Principle 15 states that a company’s responsibility to respect human rights – whether involved through causing, contributing to, or being directly linked to an impact – should be met by having in place policies and processes, including:

- A **policy commitment** to meet their responsibility to respect human rights (elaborated on further in UN Guiding Principle 16);
- A **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights (elaborated on further in UN Guiding Principles 17-21);
- Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute (elaborated on further in UN Guiding Principles 22 and 29-31).