

ANTI – SIPHONING RULES FOR NATIONAL BROADCASTING AND MEDIA SERVICES IN VANUATU



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1. Introduction

The Telecommunications Radiocommunications and Broadcasting Regulator (TRBR) is developing the National Anti-Siphoning rules for broadcasting and media services in Vanuatu pursuant to the powers set out in Section 7 (2A) of the Telecommunications, Radiocommunications and Broadcasting Act (no 30 of 2009), (the “Act”).

The adoption of digital broadcasting, streaming platforms, and subscription-based media services has transformed the way people access content. While these technological advancements have significantly expanded the variety and quality of content available to consumers in Vanuatu, they have also created challenges in ensuring equitable access to events of national significance.

The Anti-Siphoning Rules are introduced to address this issue by safeguarding public access to culturally, socially, and nationally important events through free-to-air (FTA) platforms. These rules are designed to prevent exclusive broadcasting rights for such events from being acquired solely by subscription-based services, thereby ensuring that all citizens, regardless of financial capacity, can experience moments of national pride, cultural importance, and public interest.

However, the evolving media landscape—marked by changing consumer preferences, new technologies, and diverse content distribution models—necessitates a need to review these rules to ensure they remain relevant, effective, and aligned with current realities.

2. Objectives

(1) The objectives to these Rules are to:

- (a) Ensure that all citizens of Vanuatu have access to significant national events, particularly those of cultural and social importance.
- (b) To ensure exclusive broadcasting rights are fair and accessible to free-to-air broadcasting platforms.
- (c) To protect and safeguard national identity, unity, and cultural heritage through widespread public access to events.

3. Definitions

- (1) **Anti-Siphoning List (ASL)** - A catalogue of events deemed to be of public importance, requiring access by FTA broadcasters.
- (2) **Free-to-Air Broadcaster (FTA)** - Broadcasters accessible without subscription fees.
- (3) **Pay-Tv Broadcaster** - Broadcasters requiring a subscription for access.
- (4) **Significant Event** refers to cultural, sporting, or national events declared by the Minister responsible for the event.
- (5) **Rights holder** is a broadcasting licensee that owns or controls legal rights to a particular intellectual property, asset or content.
- (6) **Minister** – the Minister responsible for broadcasting, unless the context makes it clear that the reference is to another Minister.

4. Establishment of Anti-Siphoning List (ASL)

- 1) The Telecommunications, Radiocommunications and Broadcasting Regulator (TRBR) will establish and maintain an Anti-Siphoning List in accordance with these Rules.

5. Criteria of Inclusion

The ASL will include events based on the following criteria:

- (1) National cultural importances, such as traditional festivals or Independence Day celebration;
- (2) International events involving national teams or representation from Vanuatu;
- (3) High public interest events, such as the FIFA World Cup or Pacific Games; and/or
- (4) Events that promote Vanuatu's identity and values regionally and globally.

6. Listing and Delisting

- (1) The Minister shall have the authority to add or remove events from the Anti-Siphoning List, in accordance with this Rule.
- (2) The Minister shall consult with any other Minister responsible for the event before exercising the power in subsection (1) to add or remove an event from the Anti-Siphoning List.
- (3) The Regulator may on his own initiative or at the request of the Minister, provide the Minister with advice on the desirability of adding or removing an event from the Anti-Siphoning List, and may recommend that the matter be made the subject of a public consultation to gauge the views of stakeholders.
- (4) The Minister may exercise authority to add and remove events from the Anti-Siphoning List at any time, subject to publication of the decision beforehand in the Gazette and in other appropriate media.
- (5) The date of effect of a Ministerial decision to add or remove an event from the Anti-Siphoning List shall be date of Gazettal or such later date as the decision may provide.

7. Automatic Delisting

An event on the anti-siphoning list will be automatically delisted if

- 1) The event fails to generate significant public interest over three (3) consecutive years, as measured by viewership, engagement or public survey.
- 2) Free-to-air broadcasters declined to acquire rights to the event for two consecutive years, demonstrating insufficient demand
- 3) The event undergoes changes that diminish its cultural or national significance
- 4) Technical or logistical barriers consistently prevent equitable nation wide broadcasting.

The delisting decision will be revised and confirmed by the TRBR and announced publicly.

8. TRBR Functions

1. TRBR retains the right to override the automatic delisting if the Free-To-Air (FTA) Broadcasters have not been given chance to acquire the rights to the event
2. TRBR may add or remove events from the Anti Siphoning list at any time based on public interest, cultural changes, or other relevant factors
3. TRBR shall maintain the Anti Siphoning List and ensure its currency
4. TRBR may on its own initiative or at the request of the Minister, provide the Minister with advice on the desirability of adding or removing an event from the Anti Siphoning list, and may recommend that the matter be made the subject of a public consultation to gauge the views of stakeholders
5. TRBR shall ensure anti siphoning list be posted on the TRBR website
6. TRBR shall review the Anti Siphoning list at least annually result of this review or at any time

9. Conditions for Pay-TV Broadcasters Acquiring Rights

- (1) Pay-TV broadcasters may acquire television rights to an event if the event is not on, or has been removed from, the Anti-Siphoning List.
- (2) Pay-TV broadcasters may acquire television rights to an event that is on the Anti-Siphoning List provided those rights are not exclusive and do not purport to be exclusive.

10. Event Organisers

- (1) Organizers of events on the Anti-Siphoning List must offer broadcasting rights to FTA broadcasters under fair and reasonable terms and conditions.

11. Exclusive rights

- 1) Rights holders must provide documentation to the regulator on request to support any claim to exclusive rights in relation to the broadcasting of any event.

12. Monitoring and Reporting

(1) The Regulator will monitor compliance and may require right holders to submit reports detailing their negotiation with other broadcasters in relation to events on the Anti-Siphoning List.

(2) The Regulator will investigate complaints regarding non-compliance.

13. Penalties for Non – Compliance

(1) Penalties for non-compliance is subjected to the Section 46 of the TRBR Act.

(2) Repeated violation may result in a suspension of the relevant broadcasting licence. *“Non-compliance with these Rules may result in revocation or suspension of the relevant broadcasting licence”*. Any such action that is contemplated will then be subject to the provisions in the Act dealing with licensing.

14. Dispute Resolution Mechanism

(1) The Regulator will mediate and adjudicate disputes between right holders and broadcasters, at the request of either party.

15. Governing law

This Rules shall be governed by and construed in accordance with the laws of Vanuatu.

List of candidate events for Anti Siphoning Rules (ASR)

1. CATEGORY: MAJOR INTERNATIONAL SPORTS EVENTS
This category includes any international or regional sporting competition where Vanuatu participates, or where the event is of major public interest, such as:
<ul style="list-style-type: none">✓ World Championships (e.g., FIFA, Rugby League, Rugby Union, Athletics)✓ Continental Championships (e.g., UEFA, OFC, Oceania events)✓ International multi-sport events (Olympic Games, Commonwealth Games, Pacific Games)✓ Major tournaments involving national/regional teams (e.g., MSG Cup)
2. CATEGORY: NATIONAL SPORTS EVENTS
Includes all sports competitions held within Vanuatu that have nationwide significance:
<ul style="list-style-type: none">✓ National championships✓ National team qualifying matches✓ Major domestic tournaments declared to be of public interest
3. CATEGORY: CULTURAL & TRADITIONAL EVENTS
Includes all events of national cultural, historical, or customary significance, such as:
<ul style="list-style-type: none">✓ National cultural festivals✓ Provincial or island-based kastom ceremonies of national relevance✓ Traditional performances/ceremonies recognised by the Ministry of Culture
4. CATEGORY: NATIONAL ENTERTAINMENT & MUSIC EVENTS (Any entertainment event attracting national attendance or broadcast demand)
Includes events of major interest to the public, such as:
<ul style="list-style-type: none">✓ National music festivals✓ Community cultural shows✓ Large-scale public entertainment events✓ Significant artistic performances or showcases
5. CATEGORY: EVENTS DECLARED SIGNIFICANT BY THE REGULATOR MINISTER
A flexible category allowing TRBR to recommend that the Minister add events as needed. It allows the TRBR power to recommend and the Minister power to designate additional anti-siphoning events without amending the full list reviewing the full List.

This includes:

- ✓ Any event that TRBR or the Minister considers to have major public importance
- ✓ Any event funded or supported by the Government of Vanuatu
- ✓ Any event attracting national interest or high public expectation that it will be broadcast