

Explanatory Statement

Broadcasting Services Act 1992

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 11 of 2013)

Issued by the Authority of the Minister for Broadband, Communications
and the Digital Economy

Purpose

The *Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 11 of 2013)* (the Notice) is made by the Minister for Broadband, Communications and the Digital Economy (the Minister) under subsection 115(2) of the *Broadcasting Services Act 1992* (the BSA).

The purpose of this Notice is to amend the *Broadcasting Services (Events) Notice (No. 1) 2010* (the Principal Notice) to remove certain events from the Principal Notice to permit the events to be premiered on a free-to-air television digital multi-channel. The Notice also removes a number of redundant provisions.

This Notice is a legislative instrument for the purposes of subsection 6(d) of the *Legislative Instruments Act 2003*.

Background

Legislative background

Subsection 115(1) of the BSA provides that the Minister may make a notice that specifies events that in the Minister's opinion should be televised free to the public. Such a notice is commonly known as the anti-siphoning list.

The inclusion of an event in the anti-siphoning list triggers a licence condition for subscription television broadcasters that prohibits the subscription television broadcasters from acquiring rights to televise the event ahead of commercial television broadcasters and national broadcasters (see section 99 of the BSA and paragraph 10(1)(e) of Schedule 2 to the BSA).

The BSA also imposes restrictions on both commercial television broadcasters and national broadcasters with regard to televising events from the anti-siphoning list. Such restrictions ensure that these events (or parts of those events) are not shown on the broadcasters' standard definition or high definition television digital multi-channels without first being shown, or being shown simultaneously, on the broadcasters' main channels during the simulcast period (see Part 4A of Schedule 4 to the BSA). Similar restrictions apply after the end of the simulcast period to ensure that events on the anti-siphoning list are shown first, or shown simultaneously, on a commercial television broadcaster's or a national broadcaster's primary digital multi-channel.

Subsection 115(2) of the BSA allows the Minister to amend a notice made under subsection 115(1) of the BSA to remove an event from the notice.

The purpose of this Notice is to amend the Principal Notice to remove from the current anti-siphoning list all matches to be played between 2 August 2013 and 8 September 2013 as part of the National Rugby League Premiership competition. This amending Notice also removes spent provisions in the Principal Notice concerning past rugby league events.

2013 National Rugby League Premiership

The 2013 National Rugby League Premiership is being held between 7 March 2013 and 6 October 2013 in various locations around Australia and New Zealand. It consists of 26 rounds and a Finals Series, and is being contested by 16 teams.

This Notice will remove from the Principal Notice all matches to be played between 2 August 2013 and 8 September 2013 as part of the 2013 National Rugby League Premiership competition.

This amendment will allow (but not require) the free-to-air broadcasters that hold the free-to-air broadcast rights to the 2013 National Rugby League Premiership (the Nine Network and its affiliates) to premiere the delisted events on a digital multi-channel in each relevant television licence area.

Removing these events from the anti-siphoning list will provide for greater flexibility in the free-to-air television coverage and increase live coverage of the 2013 National Rugby League Premiership competition. This will enhance the viewing experience for Australian audiences.

Notes on Clauses

Clause 1 provides that the name of the Notice is the Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 11 of 2013).

Clause 2 provides that the Notice will commence on the day it is registered on the Federal Register of Legislative Instruments.

Clause 3 provides that the *Broadcasting Services (Events) Notice (No. 1) 2010* (the Principal Notice) is amended in accordance with the items contained in the attached Schedule.

Schedule - Amendments

Item 1 amends clause 5.1 of the Schedule to the Principal Notice.

Clause 5.1 includes particular matches of the National Rugby League Premiership season in the anti-siphoning list. The amendment to clause 5.1 has the effect of removing certain events. Specifically, the repeal and substitution of paragraph 5.1(a) removes all matches to be played between 2 August 2013 and 8 September 2013 as part of the 2013 National Rugby League Premiership competition. All other matches

of the National Rugby League Premiership competition, including the Finals Series, will remain specified in the Principal Notice. The repeal also removes a spent provision that concerns past events.

Items 2 and 3 amend clauses 5.2 and 5.3 of the Schedule to the Principal Notice respectively to remove spent provisions that concern past rugby league events.

Statement of Compatibility with Human Rights (prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*)

This Notice is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. This is because the Notice promotes freedom of expression and cultural rights by facilitating greater access by all Australians to live coverage of rugby league.

Australia is a signatory to the International Covenant on Civil and Political Rights (the ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (two of the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*). Article 19(2) of the ICCPR protects freedom of expression, including the right to seek, receive and impart information and ideas of all kinds, and the means of their dissemination. Article 15(1) of the ICESCR protects the right of everyone to take part in cultural life. Cultural life includes sports.

The purpose of the Principal Notice is to ensure that specified events are televised free to the Australian public. The removal of certain rugby league matches to be held as part of the 2013 National Rugby League Premiership competition from the anti-siphoning list will give free-to-air broadcasters greater flexibility and increase live coverage of the events. This will enhance the viewing experience for Australian audiences.

Consultation

The office of the Minister for Broadband, Communications, and the Digital Economy consulted with the Nine Network in relation to this Notice. The Nine Network holds the free-to-air broadcast rights to the National Rugby League Premiership competition matches affected by this Notice.