

Explanatory Statement

Broadcasting Services Act 1992

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 1 of 2011)

Issued by the authority of the Minister for Innovation, Industry, Science and Research, on behalf of the Minister for Broadband, Communications and the Digital Economy in accordance with an authorisation under section 18C of the *Acts Interpretation Act 1901*

Purpose

The *Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 1 of 2011)* (the Notice) is made by the Minister for Innovation, Industry, Science and Research under subsection 115(2) of the *Broadcasting Services Act 1992* (the BSA), on behalf of the Minister for Broadband, Communications and the Digital Economy in accordance with an authorisation under section 18C of the *Acts Interpretation Act 1901*.

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.

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, by notice in the Gazette, specify 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 a subsection 115(1) notice 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 listed on a subsection 115(1) notice. Such restrictions ensure that anti-siphoning 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 commercial television and national broadcasters' primary digital multi-channels.

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 certain matches of the 2011 Australian Open tennis tournament from the current anti-siphoning list. The events to be removed are those specified in Item 9.1 of the Schedule to the Principal Notice, as amended by this Notice.

2011 Australian Open

The 2011 Australian Open is a Grand Slam tennis tournament that will be held between 17 January and 30 January 2011 in Melbourne. It will consist of men's and women's singles competitions; men's, women's and mixed doubles competitions; and various juniors' and wheelchair events.

This Notice will remove from the Principal Notice certain events held as part of the 2011 Australian Open, specifically events that will be partly or wholly held from 6 pm to 10.30 pm Australian Eastern Daylight Time.

This will allow the free-to-air broadcaster that holds the broadcast rights to the 2011 Australian Open (the Seven Network) to premiere events on a digital multi-channel in each relevant television licence area while regularly-scheduled programming is broadcast on its main channel. It is intended that this will allow for regularly-scheduled programming to be broadcast on the free-to-air broadcaster's main channel between 6 pm and 7.30 pm (local time). The four-and-a-half hour time period specified in clause 4 of this Notice is necessary to accommodate differences in time zones across Australia during the period that the 2011 Australian Open will be held.

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 2011 Australian Open. 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. 1 of 2011).

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

Clause 3 is a definitions clause.

Clause 4 is the main operative clause. It provides that the Principal Notice is amended by substituting the existing Item 9.1 of the Schedule to the Principal Notice with a new Item 9.1.

This amendment has the effect of removing certain events from the Principal Notice; specifically, the effect of new Item 9.1 of the Schedule is that each match of the Australian Open will remain listed on the Principal Notice (for the purposes of the obligations in Part 4A of Schedule 4 to the BSA), except for any event held as part of the 2011 Australian Open that is partly or wholly held during the period commencing at 6 pm and ending at 10.30 pm Australian Eastern Daylight Time.

Consultation

The free-to-air television broadcasting industry has been consulted in relation to this Notice.