



News Update

sponsorship arrangements and anti-hoarding provision for sports programs. The Amendment Act (No. 3) introduces amendments to provisions for expenditure on Australian drama content on subscription television.

Pay TV in regional areas (new Part 8A)

This amendment provides that unless the ABA gives permission, a subscription television licensee or a related body corporate must not provide a television service in regional areas if any three or more consecutive programs transmitted on the service are identical to any three or more programs transmitted by a metropolitan commercial television licensee, during prime viewing hours.

Part 8A of the new Act commenced on 20 January 2000.

Retransmission provisions

The amending Act confers a new power on the ABA in relation to transmission of services outside a licence area. The Act amends the standard licence conditions of commercial and community broadcasting services, by repealing the paragraphs relating to 'fortuitous reception' and replacing them with paragraphs which allow the ABA to permit out-of-area transmission of services by the licensee under certain circumstances. These conditions are:

- (i) that a person in another licence area is not receiving an adequate service within that licence area; and
- (ii) the out-of-area service is provided to that person only to the extent necessary to ensure adequate reception by that person.

The ABA must give permission in writing.

In addition, amendments have been made to the ABA's existing powers contained in section 212 of the Act. These amendments add a new subsection (3) which abolishes the right of licensees to 're-transmit' their own services outside the licence area, under section 212. Section 212 will now only be available to licensees to re-transmit another licensee's service and to non-licensees for the purposes of re-transmission of any services. Licensees who wish to transmit their own services outside the licence area for the service will now need to obtain permission from the ABA under the new regime established under the amended licence conditions in Schedule 2 of the Broadcasting Services Act.

Further amendments to section 212, relating

to copyright issues, will come into effect once the *Copyright Amendment (Digital Agenda) Act 2000* commences operation. These amendments are designed to limit the exemptions from copyright obligations to 'self-help operators' only. Self-help operators will be defined under these new amendments.

Community radio sponsorship arrangements

Community broadcasting services are now permitted to broadcast five minutes of sponsorship per hour (increased from four minutes).

Anti-hoarding rules (new Part 10A)

This amendment sets up a regime to discourage commercial television licensees, program suppliers and the national services from hoarding rights to live coverage of sporting events. The Minister for Communications, Information Technology and the Arts is empowered to make a legislative instrument designating events that are covered by these rules.

The purpose of the new anti-hoarding rules is to ensure that free-to-air television broadcasters with live rights to designated events or series of events on the anti-siphoning list, and who do not intend to televise a substantial portion, offer the unused rights, for a nominal charge, to the ABC and SBS.

The amendment places a condition on the licence of commercial television broadcasters, with the intention that the new rules will reform the anti-siphoning regime to, 'maximise opportunities for full and live free-to-air coverage of major events, particularly sporting events'.

The new sections discourage commercial television broadcasting licensees, program suppliers, the ABC and SBS from 'hoarding' rights to provide live television coverage of certain events and series of events.

Section 146C provides that the Minister may declare, in writing, a specified event or series as a 'designated event' for the purpose of the anti-hoarding rules. Section 146C(4) provides for there to be an 'offer time' 30 days or more before the event, while section 146CA provides that the Minister may declare events and series of events to be eligible for delayed televising in the Central-Western time zones.

To view the Act, as in force from 14 January 2000, go to the SCALEplus web site:

<http://scaleplus.law.gov.au/html/pasteact/0/136/top.htm>