[IE] Legislation on Major Events

IRIS 2003-5:1/16

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The Broadcasting (Major Events Television Coverage) (Amendment) Bill 2003 has been passed by both Houses of the Oireachtas (Parliament). The Act is in response to the long-running controversy over the sale by the Football Association of Ireland (FAI) of the rights to live coverage of Ireland's home soccer matches to Sky Television for showing on a pay-per-view basis. An Act of 1999 allowed the Minister for Communications to draw up a list of designated events for showing on free-to-air television, but that was not done until 2002 when the FAI/Sky deal provided the impetus (see IRIS 2002-10: 9). The list of designated events was published in October 2002 and the Minister signalled that he would introduce amending legislation, effectively to provide a mechanism to deal retrospectively with deals such as the FAI/Sky one and to strengthen the existing legislation. The amending legislation was introduced in February 2003, was passed by both Houses in April 2003 and was signed into law by the President on 25 April 2003.

Section 2 makes clear that the Act applies to events designated both before and after the passing of the Act, whether or not an agreement or arrangement has been entered into between the event organiser and a broadcaster. An agreement or arrangement entered into before the passing of the Act is covered, provided it Galway was entered into after the publication of the Television without Frontiers Directive and concerns an event taking place after 13 November 1999, the date on which Article 3a of the Directive was given effect to in Ireland by the Broadcasting (Major Events Television Coverage) Act 1999.

The High Court is given a central role in implementing the new legislation (section 4). Qualifying broadcasters (that is, free-to-air broadcasters) can apply to the High Court for an order to allow them to provide coverage of a designated event upon terms to be fixed by the Court. The Court can appoint an arbitrator to determine reasonable market rates, in accordance with the criteria set out in the Act (section 6). The inclusion of an arbitration mechanism was urged by many sporting organisations during the consultation process.

Where the High Court has fixed the terms and there is more than one qualifying broadcaster interested, the event organiser can choose which of them shall have the rights. In situations where an existing contract is in place between an event organiser and a non-qualifying broadcaster (that is, one that is not free-to-air), as in the FAI/Sky case, the High Court, on application to it by a qualifying

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broadcaster, shall decide to whom and in what proportion monies in respect of reasonable market rates should be paid. The Court may, if it considers it necessary, adjust an existing agreement or arrangement.

The Act also provides for periodic review of designated events and the designation of events (section 9).

Broadcasting (Major Events Television Coverage) (Amendment) Act 2003, 25 April 2003

http://www.gov.ie/bills28/bills/2003/1003/b10c03d.pdf

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