

## ABA ALLOCATES FIRST CABLE PAY TV LICENCES

The ABA has allocated licences for pay TV broadcasting services to Paynet Telecommunications Pty Ltd ('Paynet').

Paynet's proposed services include community, education, children's, sport, drama and music video and will be delivered via coaxial and fibre optic cable to subscribers in the Townsville and Cairns areas of North Queensland.

Paynet is a company incorporated in New South Wales. Three of Paynet's principals have more than 45 years experience between them in cable television in Canada.

The ABA examined Paynet's shareholding structure and found that it complies with the foreign ownership provisions of the Broadcasting Services Act,' said Mr Brian Johns, ABA Chairman. 'In addition, the ABA found Paynet suitable to be allocated pay TV licences.'

Paynet has received a total of eight licences from the ABA, as the Act requires a separate licence for each service. The ABA takes a service to be a single, discrete stream of programming material.

Paynet joins a number of pay TV narrowcasting services already operating.

### **SUBSCRIPTION TELEVISION BROADCASTING SERVICES**

The Broadcasting Services Act (s.96)

allows the ABA to allocate subscription television broadcasting licences delivered by means other than satellite.

Unlike transmitter licences or other service delivery permits, these licences do not have geographical limitations. Therefore, a service licence is valid throughout Australia as long as the programming on that service is the same in all areas of reception. Where the service differs in a location, a separate service licence is required.

The current prohibition on licensing a pay TV broadcasting service dependent on an MDS system as its means of transmission, or as a part of its means of transmission, does not extend to services using cable as the means of delivery.

The ABA must not allocate a licence for an MDS delivered pay TV broadcasting service before the commencement of satellite broadcasting services under licence A, B or C. This prohibition ceases to have effect on 31 December 1994.

### **SUITABILITY**

The Broadcasting Services Act contains a presumption that licence applicants are suitable persons.

When examining suitability, the ABA is required to take into account the business record of an applicant company and its controllers and their record in situa-

tions requiring trust and candour.

A pay TV licence applicant is unsuitable if the ABA decides there would be a significant risk of an offence against the Act or a breach of the conditions of the licence occurring. In other words, the suitability test relates strictly to the applicant's ability to comply with the obligations of the licence.

Relevant offences under the Broadcasting Services Act relate to ownership and control limits on pay TV licences. This means the ABA could refuse to allocate a licence if a breach of these limits would result.

Most pay TV licence conditions relate to programming (e.g. anti-siphoning rules; no R-rated material until and unless Parliament approves its transmission; no advertising or sponsorship before 1997). Another condition is that a pay TV service is not to be used in the commission of an offence.

Once a licence has been allocated, there is a requirement for the licensee to remain a suitable person. This means if at any time after the licence is allocated the ABA decides there is a significant risk of an offence against the Act or a breach of the conditions of licence occurring, it may take action to remove the risk of such an offence or breach taking place.



## CO-LOCATION OF THE ABA

Since the ABA was established in October 1992 with the introduction of the *Broadcasting Services Act 1992*, the Head Office has been located in both Sydney and Canberra.

Senator Collins and the Hon. David Beddall have expressed the view that the Government's regulatory aims would be best served if the ABA were ultimately co-located.

A more specific time for co-location of the ABA has been decided upon. It has been agreed that the end of 1995 is the most practical date, although the current re-structure currently being undertaken by the ABA may have some long term effect.

A timetable for co-location will be announced at a later date.



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