



## ABA NOTIFIES UCOM ABOUT PAY TV LICENCE A

The ABA notified satellite pay TV applicant UCOM Australia Pty Ltd on 18 October it will be allocated a licence upon payment of the balance of its bid.

'UCOM now has until 17 November to pay the balance of its bid for licence A, being \$92 150 950,' said ABA Chairman, Mr Brian Johns.

'The notification follows the receipt of a report from the Trade Practices Commission (TPC) on 15 October 1993. The TPC concluded the allocation of satellite pay TV licence A to UCOM would not constitute a contravention of the Trade Practices Act,' Mr Johns said, in releasing the ABA's report on licence A.

Meanwhile, UCOM has undertaken to notify the ABA of any change in ownership which could affect its suitability to be allocated a licence.

At this stage of common ownership between UCOM and New World Telecommunications, the applicant for licence B, the ABA is not referring licence B to the TPC.

The ABA has notified the TPC of its course of action.

### **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 situations requiring trust and candour. For example, any record of business-related crime or major fraud might be of relevance.

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.

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

The Broadcasting Services Act provides that a person who is in a position to exercise control of licence A must not, before 1 July 1997, have company interests exceeding two per cent in, or be in a position to exercise control of, licence B and vice versa (s.110).

It also states (s.109) that a foreign person must not have company interests greater than 20 per cent and when added to company interests held by other foreign persons must not exceed 35 per cent.

As long as only one licence is allocated, there is no risk of a breach of s.110 of the Act. UCOM has provided the ABA with statements in relation to foreign ownership and an undertaking to comply with the law. Whilst satisfied with its intentions in this regard, under the Broadcasting Services Act the ABA is obliged to monitor the ownership structure to ensure compliance with s.109 of the Act.

### **ALLOCATION**

Under the price-based allocation system for satellite pay TV licences, determined by the Minister, the successful bidder has 30 days from the date of notification within which to pay the remainder of the price bid (\$92 150 950, being \$97 001 000 less the five per cent deposit of \$4 850 050).

If the current applicant fails to pay the price it bid within the 30 days, the next highest bidder for the licence will

### **This Month:**

- 2 ABA Releases Priorities for Planning Services**
- 4 Q&A - Planning Priorities**
- 5 ABA to Hold Planning Meetings around Australia**
- 5 New FM Service for Wagga**
- 6 Community and Educational TV Licence in Brisbane**
- 7 The Filmmaker and Multimedia Conference**
- 8 New in the Library**
- 9 Children's Programs Classified C & P**
- 10 Innovations - The Digital Revolution in Broadcasting**
- 12 Radio Notes**
- 13 Research Report**
- 14 Survey of the Commercial Broadcasting Industry**
- 24 Index to Issues 1- 12**

be notified and will have three business days to pay a deposit of five per cent of the price bid. If it does not pay within the period, then the bid will fall away and the next highest bidder for the licence will be notified.

Once the five per cent deposit is paid, the new licence applicant would still be subject to TPC and ABA approval in accordance with the Broadcasting Services Act and the price-based determination.

Copies of the ABA's report (which includes the TPC's report) are available from Lori Lemon on (02) 334 7880.

