

## TEN NETWORK SALE AND THE ABA

**P**rior to the final settlement by Westpac Bank and the CanWest Corporation the Australian Broadcasting Authority was given final details about the make-up of the Oltec Ltd consortium which bought the Sydney, Melbourne and Brisbane stations of the Ten television network.

The consortium includes not only the necessary majority Australian element, but local members of the consortium include people who bring with them considerable experience of the media in Australia,' said Mr Brian Johns, ABA Chairman.

He said parties involved in the sale had kept the ABA informed from time to time about progress over the recent weeks of discussions and had responded to ABA requests for information.

At this stage the ABA does not believe it is necessary to take further action. However, Mr Johns said the [Broadcasting Services] Act obliges the ABA to monitor events in order to ensure ownership and control provisions continue to be met.

The Act places restrictions on foreign control of commercial television broadcasting licences and foreign directorships in companies which control such licences. A foreign person must not be in a position to exercise control of a commercial television broadcasting licence or have com-

pany interests in a commercial television broadcasting licence exceeding 15 per cent.

Two or more foreign persons must not have company interests in a commercial television broadcasting licence exceeding 20 per cent. Not more than 20 per cent of the directors of a commercial television broadcasting licensee may be foreign persons.

### **NOTIFICATION**

The *Broadcasting Services Act 1992* includes reporting requirements on changes in control of commercial television and radio stations. Each licensee company must notify the ABA when a person has come to be, or ceased to be, in a position to exercise control of the licence within seven days of the licensee becoming aware of the event. Similarly, a person who has come to be in a position to exercise control of a commercial licence must notify the ABA within seven days of becoming aware of the event.

The seven day period for the Ten network took effect from settlement of the share acquisition agreement.

The ABA is charged with the responsibility to deal effectively with any breaches of the ownership and control

rules established by the Act. The penalty for such a breach of the Act is \$50,000. •

### **PRIOR OPINION**

The Act empowers the ABA to give an opinion on whether a person (or company) is in a position to control a licence. A prior opinion on control of licences can be provided on request, in advance of a proposed transaction, contract, agreement or other arrangement or to confirm an applicant's understanding of an existing situation.

The ABA is obliged to give its opinion in writing as soon as practicable. In any case, it must provide its opinion within 45 days of receiving the application or the further information.

Once the ABA has given an opinion the Authority and other Commonwealth agencies will be bound by the opinion. If the ABA gives an opinion that a person is not in a position to exercise control of a licence, then no action can be taken subsequently against the person, providing that the circumstances advised to the ABA remain substantially the same.

No such request was received by the ABA from any of the parties involved in this transaction.



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### **INSPECTION FEES**

No fees will be charged for inspection of the Associated Newspaper Register or the Section 75 Ownership and Control Register.

However, a fee of 10c per copy will be charged for photocopying from either register.



### **LICENCE REPORTS AVAILABLE**

The following inquiry reports are now available from the ABA:

- IL/88/198 Inquiry into the grant of a commercial FM radio licence for Mackay;
- IL/92/46 Inquiry in the grant of a supplementary radio licence for the Lismore region.

Copies of these reports, price \$12, are available by phoning Graeme Rodrick on (02) 959 7860.