

## PROGRAM STANDARDS SAFETY NET EXTENDED

The ABA is proposing to extend the current program content standards for community broadcasting services and narrowcasting services, while industry codes of practice are being developed.

'We see this is an interim measure only, designed to maintain a 'safety net' of content regulation until such time as the codes of practice for these sectors come into effect,' said ABA Deputy Chairman, Mr Peter Webb.

Under the *Broadcasting Services Act 1992* organisations representing the various sectors of the broadcasting industry are required to develop codes of practice covering program content.

When the ABA was established in October 1992, it carried over program standards administered by the previous regulator, the Australian Broadcasting Tribunal. The standards relate to a range of matters, such as material not to be broadcast, standards for news broadcasts and advertising directed at children.

These standards were to stay in place for two years, to provide regulatory safeguards while each broadcasting sector developed its own code of practice. The standards cease to have effect on 5 October 1994.

'The ABA is pleased with the progress community broadcasters and narrowcasters are making with their codes of practice,' Mr Webb said, 'and are confident that the new system of program content regulation will soon be in place.'

As it is unlikely the codes will be in place by 5 October, the ABA is proposing to determine program standards identical to those currently in place. As part of this process, the ABA has sought public comment on the proposed standards.

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## PRIVATE CABLE GETS GO-AHEAD FROM ABA

The ABA has allocated 34 licences for non-satellite pay TV broadcasting services to Private Cable Network Pty Ltd (PCN).

PCN has indicated that it intends to deliver its pay TV services via cable Australia-wide. PCN intends to re-transmit satellite pay TV services A, B and C, MDS services and commercial and community broadcasting services utilising a system called SMATV. This system is essentially utilised in high density areas, particularly high rise units.

PCN has received 34 licences from the ABA, as the *Broadcasting Services Act 1992* requires a separate licence for each service. The ABA takes a service to be a single stream of programming material.

'The ABA examined the shareholding structure of the company and found it complied with the foreign ownership provisions of the *Broadcasting Services Act*', said Mr Brian Johns, ABA Chairman. 'In addition, the ABA found no reason to regard the companies as being unsuitable to be allocated pay TV licences.'

### NON-SATELLITE BROADCASTING

Section 96 of the Act 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 a 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.

Apart from licences A, B and C, the ABA must not allocate a licence that uses satellite as a means of service delivery before 1 July 1997.

### SUITABILITY

The 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.

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 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, for example, anti-siphoning rules, no 'R'-rated material until and unless the Commonwealth Parliament approves its transmission, no advertising or sponsorship before 1997 and 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. ☐