

## ABA ALLOCATES PAY TV LICENCE A TO UCOM

The ABA allocated satellite pay TV licence A to applicant UCOM Pty Ltd on 14 February.

UCOM was the highest bidder for pay TV licence A which allows for the provision of up to four subscription television broadcasting services.

It paid \$77 001 000 for the licence.

There were three preconditions to be satisfied before the ABA could issue the licence:

- UCOM had to be an Australian company with a share capital;
- the Trade Practices Commission (TPC) had to give its approval to the allocation of the licence; and
- the ABA had to find UCOM to be a suitable applicant for a subscription television broadcasting licence.

While UCOM met each of these preconditions, there had been speculation about the ownership structure of UCOM. Despite this, the ABA has not been provided with any evidence which prevented allocation of licence A.

'On the basis of the information available to the ABA, there were no reasons to believe that the allocation of the licence would lead to a significant risk of an offence against the Broadcasting Services Act or a breach of the licence conditions,' said ABA Chairman, Mr Brian Johns.

### SUITABILITY

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 an offence or breach.

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.

In other words, the suitability test relates strictly to the applicant's ability to comply with the obligations of the licence. This is a much narrower test than the 'fit and proper' requirement which existed in the former *Broadcasting Act 1942*.

Relevant offences under the current 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.

The same foreign ownership limits apply to licences A and B (20 per cent individual and 35 per cent aggregate) but licence A is subject to more rigorous cross-media ownership and control restrictions.

Persons in control of a large circulation newspaper, a commercial television licence or a telecommunications carrier must not have company interests exceeding two per cent or be in a position to exercise control of licence A.

### LICENCE CONDITIONS

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; 10 per cent expenditure on new Australian drama). Another condition is that a pay TV service is not to be used in the commission of an offence.

Once a transmission system standard has been determined and domestic reception equipment is commercially available, licences A and B are also subject to a special condition that they provide services within six months of a notification by the Minister for Communications and the Arts.



## LOW POWER INFORMATION SERVICES EXTENDED TO 1997

The ABA has decided to make low power information services available for a further three year period.

Low power information services which use the five channels 87.6, 87.7, 87.8, 87.9 and 88.0 MHz in the FM band will now be available until 31 January 1997.

These services provide localised information such as tourist radio, parking advice at outdoor events and commentary at sporting fixtures. There has also been interest in providing religious programming and farming information services.

'The decision to make available five channels for low power services in the

FM band is consistent with the ABA's intention to set aside that part of the band for low power narrowcast services,' said ABA Member, Mr Tim O'Keefe.

'We originally released these frequencies for low power services on 1 December 1992 and more than 300 licences have been granted since then.'

Low power services licences are usually granted for a twelve month period.

Application forms for apparatus (previously called technical) licences for low power open narrowcasting services and information about these services may be obtained from the ABA's general inquiries number in Canberra, (06) 256 2832.



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