

ABA NOTIFIES NEW WORLD ABOUT PAY TV LICENCE B

The ABA has notified satellite pay TV applicant New World Telecommunications Pty Ltd it will be allocated a licence upon payment of the balance of its bid.

'New World now has until 14 January in which to pay the balance of its bid for licence B, being \$111 150 950,' said ABA Chairman, Mr Brian Johns.

'The notification follows the receipt of a report from the Trade Practices Commission on 15 December 1993. The TPC concluded the allocation of satellite pay TV licence B to New World would not constitute a contravention of the Trade Practices Act,' he said, in releasing the ABA's report on licence B.

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

For copies of the ABA's report (which includes the TPC's report), call the ABA on (02) 334 7700.

LICENCE REQUIREMENTS

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 com-

pany 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 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 Act provides that a person who is in a position to exercise control of licence B must not, before 1 July 1997, have company interests exceeding two per cent in, or be in a position to exercise control of, licence A 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. New World Telecom-

munications Pty Ltd 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 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 within which to pay the remainder of the price bid (\$111 150 950, being \$117 001 000 less the five per cent deposit of \$5 850 050).

If the current applicant fails to pay the price it bid within 30 days, the next highest bidder for the licence will 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 Act and the price-based determination.



ABA RELEASES DRAFT FREQUENCY ALLOTMENT PLAN

The ABA has released for public comment a second exposure draft of its frequency allotment plan, setting out the number of radio and television channels available in particular areas of Australia.

After the release of an initial draft plan in May 1993, nearly 200 written submissions were received. Matters were raised included the ABA's position on the use of VHF television channels 3, 4 and 5 (these channels are located in the FM radio band) and the issue of channel spacing for FM services.

'Such issues are fundamental to the preparation of the frequency allotment plan and require careful consideration

and further public consultation. As a result, the ABA has decided to publish a second exposure draft and invites further public comment,' said ABA Chairman, Mr Brian Johns.

'This document is a part of the second stage of the planning process and sets the framework for detailed planning of future services throughout Australia,' he said.

The first stage was completed in September 1993 with the release of the ABA's priorities for the planning of radio and television services across Australia. With the priorities set and the frequency allotment plan in place, the ABA can proceed to the third and final

stage of the planning process, the completion of licence area plans setting out the number and characteristics of the services to be available in particular areas.

A set of microfiche containing full copies of all submissions is available from the ABA for \$30. Copies of the draft and microfiche summaries of submissions are available from the ABA on freecall (008) 810 241.

Submissions on the frequency allotment plan should be made to the ABA before 31 January 1994 and should be sent to: Director, Planning Branch, PO Box 34, Belconnen, ACT 2616.

