



Bob Greeney, Director Engineering, answers some questions about new regional commercial radio services in 1996.

Section 39 of the *Broadcasting Services Act 1992*

Who can have a s.39 licence?

Licencees in a commercial radio market where there is currently only one licensed service may apply if they are already providing a service (in other words, licencees who hold a licence but do not provide a service are not eligible), where there is not an excessive overlap between services and suitable broadcasting services band spectrum is available for providing another commercial radio service in the same area. The entitlement to a s.39 licence only arises when an eligible licensee makes written application for a second service in the same licence area.

Features of s.39 licences

An applicant must be a company formed in Australia with a share capital and must be the same company as the licensee of the existing service. The licence areas of the additional and existing service will be identical and both services must continue to be operated together for a minimum period of two years. One licence cannot be transferred without the other during this period. It is a condition of the licence that the licensee will commence providing a commercial radio service within one year of being allocated the licence, or within such longer period as may be notified in writing by the ABA.

When can eligible licencees apply for a licence?

The statutory period in which applications can be made started on 5 January 1996 and ends on 5 March 1996. The entitlement to apply for a s.39 licence is strictly limited. If it is not exercised within the statutory time limit, the entitlement is lost forever. Applications must be made on the approved ABA application form (Form ABA 26) which was included in the information package sent to eligible licencees in December 1995.

An allocation fee of \$10 000 has been determined for s.39 licences, payable before the

licence is granted. The fee will be sought from the applicant once suitable spectrum has been determined for each s.39 licence.

What if there is no suitable spectrum?

If the ABA decides that there is no suitable spectrum available at the time a s.39 application is lodged, the application is deferred, not rejected. If a suitable frequency subsequently becomes available, then the ABA can allocate the additional licence. It may happen in some cases that the determination of suitable spectrum is dependent on licence area planning, but this will probably be the exception. In some cases, allocation may involve the conduct of test transmissions before suitable spectrum can be confirmed.

Commercial radio stations eligible for a section 39 licence

By the end of January 1996, 16 applications had been received. The ABA has circulated draft technical specifications for comment to seven of the applicants: 2BS Bathurst, 2LT Lithgow, 2GZ Orange, 3BA Ballarat, 3NE Wangaratta, 2RG Griffith and 6MM Mandurah. Negotiation and preparation of draft technical specifications for the nine remaining applicants received so far (2EC Bega, 2GN Goulburn, 2XL Cooma, 3CS Colac, 3SH Swan Hill, 3WM Horsham, 4SSS Nambour, 5SE Mt Gambier and 7XS Queenstown) has started in readiness for circulation of proposed specifications for those new services. (See p.7 for the list of commercial radio stations eligible for s.39 licences.)

When will the first s.39 licence be granted?

The ABA anticipates licensing the first of these new commercial radio services in regional markets across Australia from March 1996. This should mean more variety of programming for listeners in country areas as the two commercial services are likely to provide complementary and more diverse programs. ☐

For more information

If eligible licencees would like more information on the s.39 procedures, call the ABA Planning Branch on 1 800 810 241.