



# ABA allocates non-BSB commercial radio licences

The ABA has allocated three commercial radio broadcasting licences which are restricted in their operation to using means of delivery which do not use the broadcasting services bands.

One licence covers the whole of Australia and has been allocated to Hy-Grade Properties Pty Ltd.

The other two licences are to serve Geraldton and Kalgoorlie, Western Australia and have been allocated to Pirate Broadcasters Pty Ltd.

The ABA understands Pirate Broadcasters proposes to provide its services on 1620 kHz in Geraldton and 1611 kHz in Kalgoorlie. These frequencies just outside the AM radio band and are administered by the Australian Communications Authority.

The licence areas for the new services are the same as those applying to the existing commercial radio services in Geraldton, 6GGG and 6BAY and Kalgoorlie, 6KG and 6KAR.

Hy-Grade Properties and Pirate Broadcasters must commence their services within 12 months of being allocated the licences, or within a longer period as approved by the ABA.

## Allocation

Under section 40 of the *Broadcasting Services Act 1992*, the

ABA may allocate to a person, on application in writing, a commercial radio broadcasting licence for a service which does not use the broadcasting services bands.

Before allocating a section 40 licence, the ABA must designate a particular area in Australia as the licence area of the licence. This allows the control provisions of the Act to be applied to the service.

## What is the intention of section 40?

The Act sets out significantly different regulatory regimes for commercial broadcasting services that use the broadcasting services bands and those that do not. The intention of the Act in establishing a lighter regulatory regime for non-broadcasting services bands services is to foster and encourage the introduction of a range of new services using alternative technologies.

The reason for the different approaches is that a licence for a broadcasting service using the broadcasting services bands also entitles the licensee to radiofrequency spectrum to provide the service. Licences using the broadcasting services bands therefore allow use of a scarce and valuable public resource and because of this, broadcasting services bands licences are limited in supply and have considerable intrinsic value.



For broadcasting services which do not use the broadcasting services bands on the other hand, there is no question of either spectrum scarcity or use of a public resource. This is because non-broadcasting services bands licences merely authorise the content of the service; they confer no rights to carry that service to viewers or listeners.

Two key differences relate to the planning and allocation of licences for new services. Other important provisions of the Act, such as the control provisions, apply to all commercial services, regardless of whether they are broadcasting services bands or non-broadcasting services bands based.

Part 3 of the Act sets out detailed provisions for ABA to

comply with for the planning of new commercial services which use the broadcasting services bands. New broadcasting services bands licences, made available by the ABA as an outcome of the planning process, may only be allocated using a price-based allocation system (determined by the ABA under section 36).

In contrast to this, there are no requirements in the Act for planning broadcasting services which do not use the broadcasting services bands, and licensing for these services is an 'over the counter' procedure. As a result, the number of non-broadcasting services bands commercial broadcasting licences is potentially unlimited, and hence they are likely to have a low intrinsic value.

## Non-BSB commercial radio licences:

can be allocated by the ABA on application under section 40 of the *Broadcasting Services Act 1992*. Applicants for a licence must pay an application fee, currently \$695.

The broadcasting services bands are those parts of the radiofrequency spectrum referred to the ABA for planning by the Minister for Communications, the Information Economy and the Arts. They are the parts of the spectrum on which normal AM and FM radio services and free-to-air television services are provided. The MF-AM band referred to the ABA for planning by the Minister is 526.5 to 1606.5 kHz inclusive.