



25 November 1997, the 20 licences allocated on 10 December 1998 and 20 licences acquired from Cable Television Services Pty Ltd on 23 June 1995. The 40 licences allocated before 1 July 1997 may not be used to provide services via satellite. Before that date the ABA could not allocate subscription television broadcasting licences under section 96(1) that used a satellite as a means of delivery.

Optus Vision Media now holds 198 section 96 licences. The ABA allocated 100 of these licences to it on 24 June 1996. These 100 licences may not be used to provide services via satellite, as they were allocated before 1 July 1997.

In recent months, both the ABA and the Department of Communication, the Information Economy and the Arts have received complaints from persons on the fringes of metropolitan areas and in some regional areas that they are being denied access to subscription television services. Some of these areas were formerly able to receive the Galaxy pay television services via microwave, or are very close to areas served by regional satellite pay TV provider Austar, which is apparently prevented from connecting homes in certain areas due to commercial agreements relating to program supply.

While the picture is not entirely clear, a perception appears to have arisen that the problems of these consumers may have been due to a lack of subscription television licences in the hands of pay TV service providers.

## Section 100 conditions

The ABA is obliged under subsection 100(3) of the Act to impose special conditions on licences that are regarded as satellite subscription television broadcasting licences. These conditions must be designed to ensure that:

- (a) the domestic reception equipment used by each satellite subscription television broadcasting licensee is accessible by other satellite broadcasting services; and
- (b) each satellite subscription television broadcasting licensee that has a subscriber management system provides access to that system to other satellite subscription television broadcasting licensees at a fair price.

Under subsection 100(5) the ABA must impose a condition on all subscription television broadcasting licences requiring each licensee to make available, as an option,

domestic reception equipment on a rental basis.

Under subsection 100(6) the ABA must impose a condition on all non-satellite subscription television broadcasting licences requiring that, if a licensee rents domestic reception equipment to a consumer, the rental agreement must allow the consumer to terminate the agreement on giving one month's written notice to the licensee.

Section 100 conditions came into effect from 3 September 1997.



## FXF Trust and Fairfax

The ABA is considering the sale of John Fairfax Holdings shares currently held by Brierley Investments Ltd announced on 10 December, including Fairfax's proposed buy-back of 10 per cent of its own stock.

'The ABA is investigating whether a breach of the cross-media rules in relation to Fairfax occurred in the period 17 May-24 August 1998. The ABA has no intention of extending the present investigation to include consideration of the buy-back scheme. This of course does not mean the sale of Brierley's Fairfax shares will not be examined by the ABA to ensure compliance with the cross-media rules,' said Professor Flint.

Under section 60(b) of the Broadcasting Services Act, CPH, and Publishing and Broadcasting Limited (PBL) (and others) are prohibited from being in a position to exercise control of newspapers which are associated with the licence area of the Nine network licences.

John Fairfax Holdings Ltd publishes newspapers (the *Sydney Morning Herald* and the *Age*) which are associated with the licence areas of the Sydney and Melbourne television licences of the Nine network. CPH and PBL are therefore prohibited from being in a position to exercise control of Fairfax, either alone or together with an associate.

Section 67 of the Broadcasting Services Act allows the ABA, on application, to grant approval for temporary breaches of the cross-media provisions of Act for periods of six months, one year or two years. The ABA must be satisfied that the breach was incidental to the objectives of the transaction that caused it and that the person would take action to ensure the breach would cease.