



# New non-BSB commercial radio licence

radio licence area plan. It determined that one new community radio broadcasting licence be made available for the Mount Gambier area.

## **Yorke Peninsula, SA**

The new licence was allocated to Peninsula Community Broadcasters Inc. to serve the general community. The new service broadcasts on 89.3 MHz on the FM band. The permanent licence commenced on 26 October 2002.

The service currently operates 24 hours a day, seven days a week, as a temporary community broadcaster.

The Yorke Peninsula area is currently served by four national radio services, (5CK, 5JJJ, 5ABCRN and 5ABCFM) and two commercial radio services (5CS and 5AU). The area is also served by national television services ABNS and SBS, and the commercial television service GTS.

On 6 December 2001 the ABA finalised the radio licence area plan for the Spencer Gulf area of South Australia. It determined that two new community broadcasting licences be made available, one in each of Port Pirie and Yorke Peninsula. The licence for Port Pirie was allocated to Pirie Community Radio Broadcasters Inc. on 17 September 2002.

The ABA has allocated a new commercial radio broadcasting licence to Heart N Soul Productions Pty Limited to cover the whole of Australia. The licence is restricted to means of delivery that do not use the broadcasting services bands.

Heart N Soul Productions Pty Limited must commence its service within 12 months of being allocated the licence, or within a longer period as approved by the ABA.

The ABA allocates non-broadcasting services bands commercial radio licences on application under section 40 of the Broadcasting Services Act. Applicants for a licence must pay an application fee, currently \$2400.

## **How was the licence allocated?**

Section 40 of the Broadcasting Services Act provides that 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.

The broadcasting services bands is that part of the radiofrequency spectrum referred to the ABA for planning by the Minister for Communications, Information Technol-

ogy and the Arts on which normal AM and FM radio services and free-to-air television services are provided.

Before allocating a section 40 licence the ABA must designate a particular area in Australia as the licence area of the licence. Designating a licence area 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 licences for broadcasting services bands broadcasting services also entitle 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.

Two key areas of difference 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).

In relation to the planning of new commercial services that use the broadcasting services bands, the Act sets out detailed provisions with which the ABA must comply (Part 3 of the Act). In addition, when the ABA makes a new broadcasting services bands licence available as an outcome of the planning process, it may only be allocated using a price-based allocation system (determined by the ABA under section 36 of the Act).

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.

