

THE ABA HAS PRODUCED THREE INFORMATION PAMPHLETS ABOUT ITS ROLE AND FUNCTIONS. THE TEXT OF EACH OF THE THREE PAMPHLETS FOLLOWS. COPIES OF THE PAMPHLETS ARE AVAILABLE, FREE OF CHARGE, BY PHONING (02) 959 7811 OR YOUR STATE OFFICE (SEE BACK PAGE FOR DETAILS).

AN INTRODUCTION TO THE ABA

The Australian Broadcasting Authority (ABA) was created by the *Broadcasting Services Act 1992* (the Act) and took over the licensing, programming and ownership and control functions previously performed by the Australian Broadcasting Tribunal, as well as the function of planning the broadcasting spectrum, previously carried out by the Federal Minister for Transport and Communications and the Minister's Department.

The new Act aims to reduce the amount of regulation needed to achieve Government objectives and promote economic and administrative efficiency.

The ABA is given a range of powers and functions which are to be used to produce stable and predictable regulatory arrangements. The ABA is also directed to use its powers to deal effectively with breaches of the Act in a way that balances the broadcasting needs of the Australian community with the interests of the providers of services.

In contrast to the previous legislation, the *Broadcasting Act 1942*, the Act sets out explicit policy objectives and defines the role of the regulatory authority. The objectives reflect many of the concerns of the previous Act, such as the desirability of program diversity, limits on concentration of ownership and foreign control of our mass media and the need for media to help foster an Australian cultural identity, report news fairly and respect community standards.

The main differences in the new legislation include ready accommodation of expansion in the number of services, and regulation by exception and in proportion to the degree of influence of the category of service.

CATEGORIES OF LICENCES

The Act divides services into defined categories with each category subject to more or less regulation according to its power to influence the public.

Licences in the most influential cat-

egory, that of commercial television broadcasting services, are subject to five year licence terms, ownership and control limitations, compulsory standards on Austral-

ices) are not subject to ownership limits or suitability requirements.

Commercial and supplementary licences issued under the old Act are categorised 'commercial broadcasting' under the new Act, while public radio licences are categorised 'community radio'. New categories are subscription broadcasting services, subscription narrowcasting services and open narrowcasting services.

SPECTRUM PLANNING AND ALLOCATION OF BROADCASTING LICENCES

Once the Minister for Transport and Communications has assigned parts of the radiofrequency spectrum to the ABA for planning and management, it must establish planning priorities between areas of Australia, prepare frequency allotment plans determining the number of channels available in particular areas and prepare licence area plans determining the number and characteristics of broadcasting services to be available in an area.

In performing these tasks, the ABA must undertake wide public consultation and have regard to a range of demographic, social and economic factors in a particular area.

Commercial broadcasting services are to be allocated using a price-based system. Those parts of the spectrum which are not required for commercial services or which are reserved by the Minister for national and community services, but are not currently in use, may be allocated to other users under the *Radiocommunications Act 1983* for periods determined by the ABA.

The separate pamphlet, *Planning and the ABA*, deals with the planning process in greater detail.

ALLOCATION OF OTHER LICENCES

While allocation of the broadcast spectrum must follow the procedure outlined above, no such planning process is necessary for other delivery methods. There is a limitation on the grant of more than three commercial television licences to a

AN INTRODUCTION TO THE ABA

The Australian Broadcasting Authority (ABA) is an independent federal statutory authority responsible for the regulation of the broadcasting industry.

AUSTRALIAN BROADCASTING AUTHORITY

This text is contained in the above pamphlet.

ian content and children's television and a condition that the licensee be 'a suitable person', as defined in the Act.

Commercial radio broadcasting licences are subject to less restrictive ownership provisions.

Program content on commercial and community television and radio is covered by self-regulatory codes of practice, although the ABA can impose standards if it decides the codes are not working.

Community radio and television licences are not subject to ownership limitations, while the least influential services (subscription radio broadcasting services and all categories of narrowcasting serv-

market until the Government conducts a review (this will occur before 1 July 1997), but no such limit applies to the grant of new commercial or community radio licences. These licences may be granted to any suitable person. A potential broadcaster wishing to use cable, non-broadcasting spectrum or any other method of delivering a signal, may obtain a licence by applying to the ABA in writing and paying a fee.

Licences in other categories are even simpler to obtain. The ABA has determined a class licence for the following categories of service - subscription radio broadcasting, subscription radio or television narrowcasting and open radio or television narrowcasting. A person or company intending to provide any of the services outlined can commence operations straight away, although they must comply with the conditions of their particular class licence. They need not even contact the ABA, unless they require a transmitter licence to use the broadcasting services bands spectrum or request an opinion about the category into which their service will fall. Relevant licences required under the Radiocommunications Act for spectrum outside the broadcasting services bands must be obtained from the manager of that spectrum.

RENEWAL AND TRANSFER OF LICENCES

Commercial and community licences are subject to renewal every five years. Commercial licences may be transferred at will, subject only to notification requirements under the ownership and control rules.

OWNERSHIP AND CONTROL

No person may be in a position to control more than one television licence in a market or control licences with a combined audience reach of more than 75% of the Australian population. Foreign control of television licences is restricted.

A person may control up to two commercial radio licences in a market (they used to be restricted to one) with no limit on the number of licences that can be held in each state or nationally. There are no limits on foreign control of commercial radio outside Foreign Investment Review Board guidelines.

'Control' is defined widely in the Act

and the ABA is empowered on request to give binding opinions on whether someone controls a licence.

COMMUNITY RADIO AND TELEVISION

Community services are allowed to broadcast up to four minutes per hour of promotional sponsorship announcements.

PROGRAM STANDARDS AND CODES

The primary responsibility for ensuring that programs reflect community standards has been shifted to broadcasters themselves. The former system of Australian Broadcasting Tribunal (ABT) program standards has been replaced with a system of industry developed codes of practice. Only in the areas of Australian content on television and children's television has regulation of program content through compulsory standards been retained.

It is envisaged that industry groups will produce codes of practice governing all other aspects of program content including the portrayal of violence, sexual conduct and nudity and matter likely to incite racial hatred. The ABA is to be consulted in this process and any relevant ABA research is to be taken into consideration.

The ABA is required to register a code if it provides appropriate community safeguards, is endorsed by a majority of service providers in that section of the industry and members of the public have been given adequate opportunity to comment on the code.

If no code of practice has been developed in a particular area, or if the ABA is convinced that a code does not provide appropriate community safeguards, the ABA may develop a program standard.

The ABT television program standards relating to children's programming and Australian content were automatically carried over by the new legislation and became ABA standards.

Under the Act's transitional provisions, the ABA has the power to decide which other ABT program standards will carry over. These standards will apply for two years or until the ABA registers a relevant code of practice.

COMPLAINTS

As with standards, the primary respon-

sibility for handling of complaints has been transferred to broadcasters. Complaints regarding program content or compliance with a code of practice may only be made to the ABA if a person has complained to the service provider and is dissatisfied with the response or has not received a response within 60 days.

The ABA will only accept complaints in the first instance if they relate to alleged breaches of the Act or licence conditions. Since program standards are deemed to be conditions of the licence, the ABA will accept, in the first instance, complaints about breaches of standards.

For ABC and SBS services, the ABA will accept complaints about non-compliance with codes of practice if a person is dissatisfied with the response to a complaint or has not received a response from the ABC or SBS within 60 days.

The ABA must investigate all complaints of the type outlined above and report to the person who made the complaint.

The pamphlet, *Complaints About Programs*, deals with complaints procedures in greater detail.

INVESTIGATIONS AND HEARINGS

The ABA can inform itself by consultation, investigation, hearings or in any manner it thinks fit. Once the ABA commences an investigation or hearing, its powers are wide and include the power to examine witnesses under oath and require production of documents. The Minister may direct the ABA to conduct an investigation.

ENFORCEMENT

The ABA is provided with a range of sanctions and will take action which is commensurate with the seriousness of any breach of the Act. Additionally, the ABA may brief the Director of Public Prosecutions to take legal action in relation to offences and the courts may impose substantial fines on any offender.

SOURCES OF INFORMATION

Under the Act, the ABA maintains a number of registers including codes of practice and ownership and control information provided by licensees and people who control licences. These are available for public inspection during normal office hours at the ABA's offices.