casting Act, regulating content alone. This could well be true, if the existing broadcasting definitions are completely reworked. It may be possible to move down this track without a major dislocation of the existing system.

In summary, I believe that our present legal framework is a shambles. Unless urgent action is taken to try and bring some flexibility into it, the introduction of new services will always be a mad scramble of law trying to catch technology.

Leo Gray

The views expressed are not necessarily those of the Australian Broadcasting Tribunal or any of its members.

ACLA SEMINAR ON VAEIS
VIDEO AND AUDIO ENTERTAINMENT AND INFORMATION SERVICES

First I want to suggest that the subject of tonight's discussion deserves another name. Video and Audio Entertainment Services is such a mouthful and, in typical Department of Communications style, it has now been abbreviated to VAEIS.

No-one can hope to communicate to the general public or even limited sections of the public with terms like this.

I recognise that the policy makers are intent on distinguishing these services from subscription TV, broadcasting, and satellite program services, but terms like "quasi broadcasting" or even "like services" (which someone in the Department used at one stage last year) are so much simpler.

The program menus of several of these new services - in particular Bond's Sky Channel and the Holmes a Court - RCA venture "Club Superstation" (we don't know the Packer group's program plans yet) indicate that these services are "like" television and radio broadcasting.

As for the distinction between information and entertainment - information in the form of images, sound and text can entertain, and entertainment can inform. And if a technological framework is used, it won't be long before images, data, sound, and text are integrated and transmitted in digital form.

Perhaps we should borrow the term audiovisual services from the French?

If I understand the Department's reasoning correctly, because the services are only available to certain sections of the public they are not defined as broadcasting under the Broadcasting and Television Act. For example, services will be limited to subscribers or customers who lease special equipment to pick up the video, audio or text signals.

If the services are not regarded as broadcasting, then they escape the program and advertising standards laid down by the Broadcasting Tribunal. There is no requirement for a quota of Australian programs, no limit on advertising time or type, no need to broadcast childrens' programs at certain times, and no restriction on ownership and control - let alone foreign ownership. Even the Tribunal's public licensing and monitoring processes are redundant.

In theory, service providers could deliver 24 hours of news, rock video or sports direct from the USA, movies specialising in explicit sexual violence, and an unlimited amount of foreign or even Australian-made advertising for products like cigarettes.

These services are not tied to any one mode of delivery. They can be transmitted to subscribers via satellites or via "over-the-air" techniques which are very similar to broadcast TV and radio ... techniques called "MDS" by the Department and engineers. Telecom's broadband fibre optic cable network remains an option in the future.

It seems that as long as the service is not delivered into the domestic environment it is not defined as broadcasting. The recipients or subscribers could be places like pubs, clubs, sports grounds, racecourses, TAB's, hospitals, prisons, luxury hotels, office complexes, schools or shopping centres ... anywhere but the home. The boundaries are somewhat blurred for someone who happens to live in a combined office/residential complex ... or in a hotel or club.

And no! These services are not strictly pay TV either. The Government argues they are not being offered to the general public - and anyway subscribers to these "private networks" will be paying for the lease of the receiving equipment rather than the service.

Actually, a number of people, including the Shadow Communications Minister, Ian McPhee, have been using the term "subscription TV". McPhee observes that instead of individuals paying directly, they pay by virtue of being members of a club

or a client in a hotel.

My first initiation into the mysteries of these new services began in October 1984. The occasion was the Sydney launch of the service offered by Australian Associated Press, called "Corporate Report". Basically this is a text service, similar to teletext but recycled and repackaged for corporate subscribers.

Corporate Report was launched by Minister Duffy who made a number of observations about "video entertainment and information services", and "audio and video services" for special interest groups during his speech.

According to the Minister, AAP first approached the Radio Frequency Division of the Department of Communications in 1981 inquiring about a licence to provide customers with over the air services using a multipoint distribution system.

The Department took several years to re-assess the use of the microwave band and finally set aside a limited number of frequencies in each capital city. At this stage, I was told there could be five or six possible services in each capital city, though now I understand there may be additional frequencies.

AAP planned to begin with Corporate Report in capital cities and then eventually extend the range of services to places like schools and integrate them nationally using AUSSAT. Customers would lease special receiving equipment for their premises.

By October 1984, the Department had issued radiocommunications licences for Sydney and Melbourne, and Duffy announced that there were several other companies who had applied for licences to "begin various video entertainment and information services using non-broadcasting frequencies...".

He did not name the companies, but it was clear that one of these companies was part of the Packer group who had floated the idea of providing US satellite delivered TV programming into inner city hotels. I understand that Mr Packer and his family can receive these US programs at home, in the office or even when they are in hospital... so why not make them widely available to American tourists away from home?

Duffy indicated his support and enthusiasm for the commercial opportunities opened up by these new services, commenting that a whole range of audio and video programs could be provided to businesses, schools, universities, hotels, and other special interest groups.

However, he pointed out that some of the services "raise important economic and social problems", and his department was still grappling with the "significant legal, technical and policy issues involved.

"For example", he said, "The content or availability of video services may need to be subject to some form of censorship ... Also some would claim that some of these services resemble broadcasting to such an extent that they may compete with, rather than complement, television services. Therefore, perhaps it may be necessary to apply some special conditions..."

He concluded: "We have embarked on the process of considering the implications of these potential new developments and I hope it will not be very long before I am able to indicate the guidelines we have under consideration, and to invite public comment".

Since 1984, another "over-the-air" service has been licensed. This is The Real Estate Channel which has radiocommunications licences in Sydney, Melbourne, Brisbane and Adelaide.

The Real Estate Channel

The Real Estate Channel is promoted as an "exciting new television service for the real estate industry" using a "specially licensed UHF television frequency". The service can be received on Channel Three with the assistance of a leased down-converter and small antenna.

A recent press release says "transmissions are received in participating real estate agencies, offices of property investors such as banks, stock brokers, international hotel rooms, and public areas such as shopping centres and malls". I understand there are plans to operate at Tullamarine airport, and subscribers are told they could run the videotape in the front window so passersby can watch it late at night.

The "Melbourne Proposal"

Meanwhile, there were others trying to secure licences. At some stage last year I recall doing a story on a Melbourne group seeking a radiocom licence to provide old movies and TAB results.

Every time I called up the Department to find out what was happening, I found myself moving backwards and forwards between the radio frequency division and the

communications strategy division.

My notes read something like this. "radio Frequency says it is a matter for communications strategy. The Real Estate Channel is licensed to transmit pictures, sound and text of houses. AAP is licensed to supply piped music to subscribers. Communications Strategy says all other licences are 'on hold' until policy is determined. The guidelines are coming. This is not broadcasting. The Melbourne proposal is pay TV and contrary to policy".

The Policy Dilemma

There was no real secrecy - just confusion. Why did some groups get licences while others were put on hold? Was it about providing opportunities for "new players" (to use a Department phrase)? After all, AAP hardly qualifies as a new player, given that it is owned by HWT, Fairfax and Murdoch.

There was also confusion associated with the satellite mode of distribution and the new transmission system, B-MAC. I think it is important to recognise that this system, (which was selected at the last minute by the Department), is especially designed to address individual subscribers for services like pay TV. It is capable of delivering sound, text, and data, alongside the TV signal.

This capacity to deliver multiple audiovisual services via satellite raised a new set of policy issues. It was no longer a matter of the Department quietly allocating scarce "over the air" frequencies to some companies rather than others, without a public inquiry.

Now it was a question of allocating licences to those corporations who could afford to access a satellite transponder and who had signed a contract with AUSSAT. My attention switched to AUSSAT but it would not reveal its customers "on commercial grounds".

The policy dilemma was becoming more and more complex, and it was virtually impossible to find out what was going on.

One thing was becoming clear. It was too late for the Government to exercise some form of control over who was allowed to offer these quasi broadcasting services. The next question was whether it would try to regulate content and limit the type of subscriber?

It would seem sensible to deem the services "broadcasting" or even "subscription TV" and introduce legislative amendments to the Broadcasting Act. But this takes time to draft - and time is running out. AUSSAT needs customers for its 30 watt transponders and Bond, Holmes a Court and Packer are ready, willing and waiting.

The Present Situation

As far as I understand the present situation, the Minister and his Department are still putting the final touches on a policy paper which is expected to go to Cabinet some time in the next few weeks.

The details are not known at this time, though there is some suggestion that licences specifying the nature of the service, the intended recipients and encoding requirements will be issued under the Radiocommunications Act. Service providers will be asked to agree to a self-regulatory code of practice covering content and advertising.

This policy framework is likely to have a number of implications. Touching on them briefly.

First, there is the question of parity. Why should broadcasters be subject to advertising and content regulation and monitoring, when quasi-broadcasters can operate under self-regulation? Is this the first step in a general move towards self-regulation? (ALP and Coalition).

Second, there are questions surrounding the principle of public accountability. Should there be some public input into allocating licences to operate these services over scarce radio frequencies or over AUSSAT and Telecom's publicly-owned facilities? Do we care about foreign ownership, increasing the concentration of media ownership, diversity of information sources and so on?

Third, several broadcasting lawyers have questioned the wisdom of using the Radiocommunications Act as a vehicle for regulating these services, and there is the chance that the imposition of licence conditions could be subject to legal challenge. The policy would then be determined by the Federal Court, rather than the Minister and his Department.

Fourth, there is the question of public input into the policy process. We have witnessed a public inquiry by the Tribunal into satellite program services, which was restricted to exploring the delivery of programs to broadcasting licensees. Delivery to non-licensees was not part of the terms of reference.

Then in October 1984, the Minister promised guidelines for public comment.

Where are these guidelines?

What happened to the process of public consultation? The Broadcasting Council has been excluded, the unions and ACTU have been excluded, despite the Accord.

As far as I can ascertain, the only discussion which has taken place is between the Department and some of the service providers.

The whole issue begins to assume the proportions of a scandal. It has not been discussed widely anywhere.

I recognise that the issues are complex and there are conceptual problems involved in formulating a policy which takes account of the convergence of the information, entertainment, broadcasting and telecommunications sectors.

The Tribunal does not have the telecommunications expertise and the Department doesn't have a monopoly on expertise in the audiovisual area. So why not throw the issue in to the public arena and attempt to develop policy using a range of expertise?

Maybe tonight's meeting is the first step in this process... but I fear it is too late!

Liz Fell

ACLA SEMINAR ON VAEIS
HOW NOT TO INTRODUCE TECHNOLOGICAL CHANGE

I'll resist the temptation this evening to respond to John Hodgman's comments on the delights awaiting us in the event of a deregulated market place. The arguments on this question in the broadcasting industry are well rehearsed. I suspect most of the people here tonight have long taken one position or another. Nothing I or John would say will change that position.

My purpose is to announce to you the publication of a forthcoming book which I'm in the process of writing. It's entitled "How Not to Introduce Technological Change". It will be a case study, the subject of which is the introduction of Video and Audio Entertainment and Information Services ("VAEIS").

It does have a nice ring to it doesn't it! Somebody remarked to me this afternoon that it sounds a bit like a Platters song. And of course as a result of the Platters controversy, you'll all be well aware that Equity doesn't just represent actors. We also represent those variety artists who work in New South Wales clubs and who may well be competing with the delights of systems such as Club Superstation.

The point of my case study is that disaster awaits those who simply impose technological change upon an industry where trade union organisation is the norm. Indeed, I can personally verify that even industrial relations students currently being trained in that bastion of deregulation, the University of New South Wales, are taught that simple fact.

The first of my points this evening will be that clearly, the Department of Communications ("DOC")knows nothing about such concepts. At every step of the way, they have resisted the very idea of consultation with those to be affected by the new services. Let me outline, as evidence of this fact, the chronology of consultation to date.

In our quite recent discussion with Club Superstation we've been told that they first approached the Department in April 1985. They've had a series of meetings with the Department since that time. At not one of those meetings, was any concern expressed by the Department about Australian content or about the regulation of advertising. On 21 August 1985 a meeting was held between DOC and the Media and Communications Council (MACC). Equity of course is a member of that Council. Let me read to you two quotations from the minutes of that meeting. First Col Cooper, Federal President of the ATEA, expressed the view that "more consultation on MDS (services transmitted to subscribers via satellites or via "over-the-air" techniques similar to broadcast TV and radio) will be required as MDS is seen to be basically broadcasting". (VAEIS was seen at that time as one part of MDS).

The Department's representatives informed the meeting that "MDS applications are not being processed at the present time until the relationship of MDS to pay television services has been examined".

Clearly, unions and other community organisations, could be forgiven for thinking that they had nothing to worry about. A further meeting was held in April 1986, a year after the first approach by Club Superstation to DOC. At that meeting MACC was told that "the Government's priority is equalisation, so that consideration of Pay TV and similar services will have to wait". On the basis of that, was it unreasonable for us to consider that we had no great problems?

Between that meeting and MACC's next