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

meeting on 2 July 1986, there was a substantial degree of press coverage of the new services. Equity's secret weapon, Anne Britton, raised the issue in no uncertain terms at this meeting with DOC. The Department was absolutely unwilling to provide further information on the proposals and indeed would not even tell us at what stage the processing of proposals had reached. The first and only time the unions have been able to engage in any kind of consultation was with the Minister himself in the context of the ALP National Conference held in Hobart. At a late night meeting with the Minister on 9 July 1986 Equity's concerns were raised and the draft of a resolution, eventually carried by the conference the next day, was agreed.

For the benefit of those who haven't seen it, it reads:

> "The Government will ensure that non-broadcasting services utilising radio communications technology and providing video or audio entertainment, maintain adequate levels of Australian content appropriate to the nature of the respective service and observe advertising restrictions comparable with those imposed on the broadcasting media."

Like all such resolutions it's heavily qualified, but nevertheless it at least represents a commitment in principle by the Government to the concept of protection for Australian performing artists.

In summary then, Liz Fell was quite correct in describing the Department's secretiveness on this issue as simply scandalous. They have given us just two pieces of information. They've told us that whatever else this kind of medium is, it's not broadcasting. Secondly, they've told us that it's to be called VAEIS!

Throughout the period under review, we've been told that it was "too early" to consult with the industry. Presumably, with a Cabinet decision in the offing, it is now "too late" for consultation to occur. Indeed, I understand one bureaucrat has suggested to one of those interested in the issue that consultation could only occur once Cabinet had made a decision on the Department's submission. What use consultation at this stage would be, I'm not quite sure.

The next issue which I wish to raise tonight, at least in a cursory way, is the appropriate Act to govern these services. What I want to suggest to you is that VAEIS is at least a quasi pay television service. Let's go through those things which make it quite similar to a traditional pay television concept. The services represent video entertainment; they will be carrying mass appeal programming; they are delivered via a mass delivery system, i.e. the satellite; they are paid for by a subscriber - the pub or the club; they will even carry advertisements; and they will be viewed - at least that's the hope of their sponsors - by millions of Australians daily, rather than by any limited or specialist audience.

Now it would appear to me that we have two options. Either we lump VAEIS under the broad umbrella of broadcasting, so that it stands alongside free television and pay television. Or we put it under the radiocommunications umbrella alongside CB radio or taxi radio services. These juxtapositions give quite a clear conclusion to me at least. It is simply impossible to escape the reality that VAEIS looks and sounds like television - it carries both programs and ads. It looks and sounds nothing like the kind of data and communications services which we would categorise as non broadcasting services.

Obviously, this is in part a legal question. We have sought legal advice and that advice will form part of our submission to the Minister on the question. Perhaps I should make one small comment given the presence here of a number of copyright lawyers. The main justification given by the system's proponents for being regulated under the Radiocommunications Act is that these represent private broadcasts. My own limited knowledge of copyright law would indicate that the courts have interpreted the term "public broadcasts" very widely. Indeed, my recollection is that one decision has categorised a motel owner relaying programs to individual motel rooms to be a public communication. We shall see.

The last issue I need to raise is what kind of regulation Equity sees as necessary. First, we believe the issue of advertising regulations must be looked at. It would represent a totally unacceptable undermining of existing regulations relating to both place of manufacture and content, if the advertising to be relayed by services such as Club Superstation and Sports Play were to be unregulated. It is an important prop to the continued development of the Australian film and tele-

vision production industry for all advertisements to be made in this country. That must continue. Similarly, I find it difficult to believe that the Government could contemplate the banning of tobacco advertising on free television but permit it on VAEIS.

The second problem we face is the potential for conflict between the video entertainment provided by the systems and the existing live entertainment performed in clubs and pubs around the country. Club Superstation, to its credit, has indicated that it does not see its broadcasts as competition for live entertainment. That is, it won't be broadcasting a Shirley Bassey spectacular up against Australian performers in a club auditorium on a Saturday night. The commercial rationale for this is that clubs already attract audiences on Friday and Saturday nights. Club Superstation will be used earlier in the week when the attraction of audiences is difficult. Nevertheless, we must ask what guarantees do we have that this will continue into the future. If the commercial perceptions of Club Superstation should change, the potential exists for some 800 competent and dedicated performers to be thrown out of work overnight.

Finally there is the issue of the content of video services to be broadcast. We are told that a large part of the entertainment services will be devoted to the broadcast of music clips. Again to their credit, Club Superstation have indicated that they are anxious to broadcast middle of the road music videos having a relatively high proportion of Australian content. The problem here is that most of Australia's middle of the road entertainers are not recording artists. This means that they simply don't have ready made music clips. Given that the production of one rock clip at the moment costs at least $20,000 - and in America this figure can go into the millions of dollars - the difficulty of providing appropriate levels of Australian content can readily be perceived.

We acknowledge that the drafting of regulations appropriate to these services will be a difficult task. We are not so bloody minded as to demand that Sports Play broadcast 104 hours of first release prime time television drama as the television channels are required to do. Beyond the drafting of appropriate regulations however is the even more difficult problem of enforcement.

So in conclusion I can only stress that Equity's interest in VAEIS is a very real and genuine one. We simply will not tolerate the secretive tactics which have been used to date by the Department of Communications. Our members have rights and those rights will be enforced by us.

Michael Crosby

ACLA SEMINAR ON VAEIS
SUPERSTATIONS: A BASIC PROBLEM

My concern today - which is not necessarily the only one I have - is with the pressure the superstations are putting on a basic structural concept we have lived with comfortably for many decades, and cling to still. A very similar pressure is being applied by another initiative: the various kinds of Ancillary Communications Services (short title ACS, previously known as SCA, SMT and SCS). The pressure has developed because the proposed services have been ruled not to be broadcasting, but they share some important characteristics with it.

For many decades we have had communications and broadcasting neatly packed into two separate conceptual and legal boxes, and everything done with electromagnetic communications has been subsumed by those two system concepts. For a long time they seemed to serve, but life became less simple when they began to converge.

In Australia, VL2UV began 'broadcasting' (or did it?) in 1961, with educational material meant for students of the University of NSW, but not in a broadcasting band. It was put in the middle of a marine communications band, a good quarter-of-a-dial away from 'real' broadcasters, and there it remained. Its directors were considerate enough not to enlarge their ambitions so as to pose any real challenge to our neat distinction between communications and broadcasting.

The directors of VL5UV in Adelaide were not so co-operative. Right from their start in 1972 they complained and carried on, until in 1975, at the same time as FM broadcasting was initiated, 5UV was admitted to the AM broadcasting band and allowed, just a little, to resemble a broadcasting station. Until 1978 its licence remained a communications one.

In the same period (the early 1970s) special radio stations for print handicapped people were proposed, which were