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

also to be treated as 'communications' and hived off into the marine band. This was to be an interim solution until FM subcarrier services were introduced, which were very suitable for services which were not 'real broadcasting'.

These specialised radio services are one illustration of how smudgy the distinction has become between what is broadcasting and what is communication - and it has not all happened just now, or the year-before-last. Yet we had and have just two kinds of Act of Parliament, one explicitly for broadcasting and the other explicitly for everything else - 'communications'. The Department of Communications has been wrestling for some 18 months with the definitional problems posed by the ACS - those which are carried piggy-back by another service, such as subcarriers on an FM radio service or ancillary channels on a satellite television service. The Minister has announced that all these ancillary services are to be dealt with under one or other of these Acts. Yet only a week ago a discussion involving the Department and all sectors of the broadcasting industry showed just how far away we still are from ways to license and regulate these ACS services with which everyone will be happy.

And now we are to have the early arrival of superstations, in the club-and-pub circuit. It has been ruled by the legal pundits that they will not be 'broadcasting'. Therefore, under the simple conceptual frameworks we still cling to, they will be 'communications'. They must be we have not up to now conceded that there can be anything else.

The broadcasting industry, especially its commercial sectors, are outraged that the supply of just the kind of material they provide themselves is to be free of all regulation, when for decades they have had government agencies obliging them to meet standards on things like Australian content, use of the services of Australians, the foreign content of advertisements, how much advertising you can carry in an hour and so on, and also on supposedly moral matters like obscenity and blasphemy. Can this new activity really be treated quite differently from broadcasting, when it is carrying the same kinds of program with the same basic kind of technology, to a great many people, if not the whole population?

I am not arguing there has to be regulation, but only that a case has been put for it. I am looking at the problem of how we are to regulate if we decide in favour of it. Functionally as well as legally, these are not 'broadcasting' services. They are more like subscription services where the material is received not free-from-air, but as a result of a contract for it. Consequently, content regulation which purports to protect the listener from outrage will (in my view) constantly create virtually insoluble problems of definition.

Michael Law

The previous 4 papers were all presented at ACLA's Seminar, "New Video Entertainment Services - Out of the Sky ... and into the Pubs and Clubs", held on 13 August 1986. Papers were also presented by Michael Owen, Lyall McCase and John Hodgman. It is hoped to publish these in the next issue of the Communications Law Bulletin.

ACLA SEMINAR ON VAEIS
NEW VIDEO ENTERTAINMENT SERVICES

The advent of the new via satellite "closed circuit" television services complements the "coming of age" that Australia achieved with it's ownership of it's own satellite.

The fact that such services are vital to the economic viability of AUSSAT seems to have been overlooked in some early bureaucratic considerations.

These services, represent Australia's first departure from the norm of public broadcasting and it's licensed system of control.

These services will not be operated under the Broadcast and Television Act, which will prevent the issues we are opposed to in public licensing being applied. We define our "anti" issue as:-

1. Protection of the vested interests with the underlying realism that a licence granting can and has been a favoured act on numerous occasions.

2. Protection of economic viability to ensure that consumers are never deprived, because of financial failure, of a service that they have been receiving.
   This is a total fallacy. The fact that there has never been a financial