thorised to carry on the business of the company as a going concern for a period. In either case, the liquidator or receiver (as the case may be) will generally, if not invariably, have power to sell the assets of the company and to vote shares held by the company.

My view is that in neither case does the liquidator or receiver obtain a prescribed or controlling interest in the licences held by the subject company or its subsidiaries. That is because receivers and liquidators are agents of the company to the property to which they are appointed. They are not agents of creditors who procure their appointment. They acquire neither a shareholding nor voting interest as defined under the Act. The consequence of that from a broadcasting point of view is that receivers and liquidators can largely proceed about their business without fear of ABT scrutiny or interference. They are obliged to seek neither prior nor subsequent ABT approval of their appointment.

An alternative view

There is a school of thought which, however, considers that if a lender who happened to be a foreign bank procured the appointment of a receiver or liquidator to a licensee company (or even a holding company) that would put the foreign lender in a position to exercise control of licensee companies and hence the licences. Now if that argument is right then the appointment of the receiver or liquidator in those circumstances would amount to an immediate serious breach of the licence conditions, obliging the ABT to act forthwith.

The ABT itself has yet to opine in the matter. Having regard, however, to the parlous state of the industry and the precarious position of some of its players, it will not be long in my view before the ABT is asked to give a definitive statement on the matter.

If the school of thought I have just described is accurate, there would inevitably be panic amongst lenders if the matter came to a head and a disaster in terms of the willingness of foreign lenders to continue to do business with the Australian Broadcasting industry.

It would surely be better for a receiver or liquidator appointed by a creditor (foreign or otherwise) to conduct business as usual (in the case of a media company in receivership or liquidation) than effectively to have the station (or network) shut down as a result of a meaningless technical breach of the Broadcasting Act.

Jack Ford is a partner in the Sydney office of Blake Dawson Waldron, Solicitors

President's address

to the AGM of Communications and Media Law Association

It is a pleasure to be able to give a totally positive report on the year's activities. At last year's annual general meeting we were in the throes of the merger between ACLA and the MLA. That large and complex manoeuvre has now been successfully completed. The new, merged, organisation has continued to grow throughout the year with a number of new members admitted at every committee meeting throughout the year. For example, 28 new members were admitted at the last committee meeting.

Last year, we all applauded Michael Berry for the work he had done in upgrading the Communications Law Bulletin. In the middle of the year, Michael resigned as editor and was replaced by Grantly Brown. Happily, we are able to thank Michael for all the work he did for us, as well as continuing our association with him. That is because he continues to arrange publication of the CLB despite the success and expansion of his media production company.

Working from the sound base which Michael provided, Grantly Brown has expanded and improved the CLB still further. The increase in membership is largely attributable to the work he has done in obtaining articles for the CLB, expanding its areas of coverage, and promoting it. For most members, the CLB is the identity of the organisation. That has been a very exacting and time-consuming task. The CLB reflects our interests, and provides a reference-point for every-thing else which happens.

It would be invidious to attempt to thank the office bearers and committee members who have raised CAMLA's level of activities through the year to a record level. The expressio unius principle could imply a lack of thanks to some of the large number who have made a contribution. The committee members have donated large amounts of time and skill to organising a number of functions, planning and supporting the basic fabric of the organisation.

The one person who should be expressly mentioned is Cleo Sabadine, who has made a personal contribution to all matters relating to the membership and records, as well as to the organising of virtually every function we have held. Cleo has done this with rare dedication, on terms extremely favourable to CAMLA.

There is every reason to believe that CAMLA will continue to grow and to stimulate interest in media and communications law issues. The sheer momentum we have now established makes that easier. And there is more need than ever before for the relaxed, independent forum which we provide for people and ideas to reach over the professional and institutional hurdles.

We have held a number of luncheons during the year, including those addressed by Wilcox J (defamation reform), Michael Chesterman (contempt reform) Ros Kelly (telecommunications), Dennis Pearce and Peter Banki (moral rights), Robin Davey, Judi Stack and John Evans (AUSTEL).

We have not yet matched the successes which both MLC and CAMLA achieved in earlier days in the organisation of seminars about current issues. The most manageable format is a short evening seminar; but in a voluntary organisation their success depends on having a few members prepared to undertake the organisation themselves. Hopefully, we shall be able to do something about this during 1990.

An objective which seems easy to meet is an increase in CAMLA activity outside Sydney. With a number of committee members now in Melbourne, there is every prospect of more Melbourne activities.

Mark Armstrong
15 February 1990.