Comments on the Productivity Commission's Broadcasting Draft Report

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Introduction

[1] A key aim of the Productivity Commission's current review of broadcasting legislation is to, "add a competition perspective to the other objectives of broadcasting policy" (p.2). The Productivity Commission's *Broadcasting Draft Report* sets out important recommendations for re-calibrating Australian media and communications law and policy in the short and medium terms. It is an impressive synthesises of empirical data about the current state of electronic media in Australia and the views of a wide range of media and communications law and policy stakeholders. This submission offers comments on possible unanticipated consequences of some of the Commission's draft recommendations in two areas and suggests ways in which these shortcomings might be addressed. It focuses upon two specific sets of recommendations contained within the *Draft Report*:

- the extension of market arrangements in spectrum to broadcasting spectrum (Chapter 4); and
- codes of practice (Chapter 10).

[2] These two areas have been singled out for attention because they are the areas in which I can most effectively apply my knowledge and experience of Australian media and communications policy in the time available. Although this submission adopts a critical perspective the underlying intent is to constructively contribute to the Commission's deliberations.

Summary

Recommendations on spectrum licensing and sectoral diversity

[3] Current arrangements for broadcasting spectrum should not be substantially altered unless and until adequate provision is made in radiocommunications and broadcasting regulation frameworks to provide:

- greater certainty for the broadcasting policy principal of sectoral diversity in spectrum access arrangements, as well as for non-commercial broadcasting sectoral growth into the future; and
- assurances about the enforceability of broadcasting service licence conditions in a spectrum market environment.

[4] In addition, the ABA should continue to plan and allocate broadcasting spectrum for non-commercial purposes, on delegated authority from the ACA.

Recommendations on codes of practice and broadcasting co-regulation

[5] Four key recommendations are made in respect of improvements to the scheme of broadcasting co-regulation and related matters.

- "Audiences" and "children" should be included in the range of end-users identified in the Productivity Commission's proposed principles for media policy.

- Draft Recommendation 10.1 should be modified so that 'freedom of expression' is addressed as a feature of broadcasting industry co-regulation, rather than as an object of broadcasting legislation as currently proposed.

- Either the AANA Code of Ethics should be submitted to ABA code registration processes, or broadcasting industry associations should be required to cover issues of advertising content and treatment in the body of their own codes where this does not already occur.

- The ABA should undertake research into changes and trends since the late 1980s in the amount of non-program matter, including advertising, broadcast on commercial television, in the lead up to the next FACTS Code renewal.

PART 1: SPECTRUM LICENSING AND SECTORAL DIVERSITY

1.1. Creation of a market in broadcasting spectrum

[6] If adopted and implemented the recommendations contained in Chapter 4 of the *Broadcasting Draft Report* would see the developing market in radiofrequency spectrum extended to broadcasting spectrum. The shift away from a public/national interest approach to administering spectrum to a market-based approach commenced with the enactment of the *Radiocommunications Act* 1992. This shift was considered necessary for important reasons of administrative, technical and economic efficiency. It aimed to capture the benefits that improvements in government responsiveness to the dynamic communications environment could deliver.

[7] Importantly, however, significant limits to the market in spectrum were recognised in the 1992 reforms. These concerned defence services (not commented upon further here), broadcasting services and not-for-profit services deemed to be "public and community services", pursuant to S.3(c) of the *Radiocommunications Act* 1992. "Public and community services" include emergency services such as police, fire, ambulance and rescue services. Exceptional spectrum administration and allocation arrangements were created for both these categories of spectrum users. Consequently the authority to plan and allocate broadcasting spectrum was delegated from the Australian Communications Authority (and previously, the Spectrum Management Agency) to the Australian Broadcasting Authority.

[8] In many respects the *Broadcasting Services Act* 1992 did in fact achieve the separation of technical and service licence regimes outlined by the Productivity Commission in Chapter 4 of the *Draft Report*. Prior to 1992 a licence issued to operate a broadcast transmitter was the same licence to provide a broadcasting service. Following the 1992 reforms the two were separated. The new arrangements proposed

by the Productivity Commission are in fact a refinement of the 1992 arrangements that will see the apparatus licence replaced with a spectrum licence, with the structure of the broadcasting licence regime remaining in tact. Under the Productivity Commission's proposal licences will be issued for use of designated parts of the broadcasting spectrum on an exclusive basis for a given period of time. A spectrum licensee will generally be able to use whatever physical pieces of equipment they require in order to exploit their spectrum rights as long as these activities do not generally interfere with the rights of other spectrum users. Presumably, in the case of broadcasting spectrum, there will also be a requirement that it is generally used for broadcasting purposes in the first instance.

[9] The appeal of this proposal is twofold. It is entirely likely that a market in broadcasting spectrum will work well for a range of commercial users. It will also re-balance the distribution of administrative and regulatory tasks and costs of spectrum management amongst spectrum stakeholders in a way that optimises technical innovation, efficiency gains and economic returns to government. However, it also has the potential to result in significant challenges to existing broadcasting policy objectives in ways that do not appear to have been anticipated in the Productivity Commission's *Draft Report*.

[10] For example, the ABA was not able to enforce Australian content requirements for pay TV services, at least in part, because licensees of broadcast pay TV transmission systems and the actual providers of these services were not the same people. Any possible consequence of this type, arising from the proposed shift to spectrum licensing, should be anticipated in an inquiry such as the present one. To do otherwise is tantamount to allowing the social policy objectives of broadcasting to be over-determined by technological and market considerations.

[11] Similarly, the general impact of a market in spectrum upon the broadcasting policy objective of sectoral diversity appears to be understated. For example, the Productivity Commission has, commendably, identified indigenous broadcasting as an important area for further development of sectoral diversification. The *Draft Report* also proposes a one-off assessment of the spectrum requirements of non-commercial users and proposes that the requirements of this recently identified need fo an indigenous broadcasting sector be accommodated here. Yet there is no apparent capacity within the proposed spectrum licensing arrangements to "grow" sectoral diversity in this way into the future, or to accommodate future growth of existing non-commercial sectors.

[12] Other needs and interests of non-commercial broadcasting spectrum users probably deserve more rigorous consideration than that which is reflected in Chapter 4 of the *Draft Report*. For example, it considers, but rejects, a scheme whereby government could, in effect, pay itself for securing these spectrum rights for non-commercial services in a market system. Instead it in favours a scheme whereby the ACA could report on the value of these one-off reservations. The apparent benefits of this approach to establishing the value of spectrum applied to non-commercial services in this way, or indeed the need for this type of costing, are not clearly argued in the report.

[13] In the first instance the internal logic of this approach to placing an economic value on spectrum allocated principally for social and cultural purposes to non-

commercial users fails to appreciate that non-government, non-commercial services are often confronted by qualitatively different sets of problems to government-owned broadcasters in many operational and policy areas, including spectrum access. In any event, the main criticism of this strategy is that it is likely to have the extremely unproductive effect of promoting a perception in government and amongst commercial users of non-commercial spectrum users (government and non-government) as "free-loaders" on a market system. The broadcasting policy objective of sectoral diversity aims to capture a range of important benefits for Australian society that are not reducible to the economic (for example social pluralism including participation, representation, innovation, and communication of non- and pre-commercial ideas, values and services).

[14] It is perfectly reasonable for governments to expect that non-commercial users would be efficient with spectrum. It is quite another matter to establish market conditions for spectrum access that have the effect of undermining the social policy objective of sectoral diversity in broadcasting. Rather than constraining sectoral diversity within the bounds of broadcasting, thought should perhaps also be given to ways in which the sectoral diversity policy principle might be developed in a convergent media environment. The treatment of non-commercial broadcasting spectrum users requires much more careful consideration than that provided in the *Draft Report*. One possible path forward here is to look at how "public and community service" status, provided for in the *Radiocommunications Act* 1992, might be applied to these users. This in turn would probably necessitate a sympathetic evaluation of how current "public and community service" spectrum users have fared under these arrangements since 1992.

[15] This line of thinking, or something similar to it, does require working through. Otherwise, the proposal to revoke the ABA's broadcasting spectrum planning delegation is likely to produce a situation whereby the social dimensions of broadcasting spectrum use are significantly marginalised. Under present arrangements, the social aspects of broadcasting policy will generally fall outside the ACA's scope. The "general community of interest" (p. 83) that this planning agency takes into account is that of the spectrum market.In the intention here is to limit the possibility that market considerations might over-determine social and cultural policy objectives then this should be made clear in spectrum access and management arrangements for non commercial broadcasters. Broadcasting spectrum planning may routinely assume the form of technical activity but, as the Productivity Commission is aware (p.7), it has important social impacts. It is argued here that the technical planning and management of non-commercial broadcasting services should continue to have reference to the broader social context. In other words there may be a strong case for continued ABA involvement in the planning and allocation of broadcasting spectrum for non-commercial users.

1.2. Recommendations on spectrum licensing and sectoral diversity

[16] Current arrangements for broadcasting spectrum should not be substantially altered unless and until adequate provision is made in radiocommunications and broadcasting regulation frameworks to provide:

- greater certainty for the broadcasting policy principal of sectoral diversity in spectrum access arrangements, as well as for non-commercial broadcasting sectoral growth into the future; and

- assurances about the enforceability of broadcasting service licence conditions in a spectrum market environment.

[17] In addition, the ABA should continue to plan and allocate broadcasting spectrum for non-commercial purposes, on delegated authority from the ACA.

PART 2: CODES OF PRACTICE AND BROADCASTING CO-REGULATION

2.1. Recommendations on Codes of Practice and Compliance

[18] As already noted, the Productivity Commission is charged with the job of advising on "practical courses of action to improve competition, efficiency and the interests of consumers in broadcasting services" (Terms of Reference, xii). The use of the word "consumers" in this context is important because up until now this particular subject position has been absent from explicit enunciations of broadcasting policy in law. Furthermore, if the Productivity Commission's proposed principles for media policy are endorsed by government (see Table 1) then the subject position of "consumer" will be privileged over others currently encompassed in the Broadcasting Services Act (see Table 2). These include "audiences" (s.3(a)), "Australians" (s.3(c)), "community" (3.(h)) and "children"(s.3(j)). Indeed, the positions of "audience" and "children" are completely absent from the Productivity Commission's proposed principles for media policy.

Table 1: Principles for media policy (Productivity Commission, 1999: xxvii).

- promote the interests of consumers
- promote the community's social and cultural objectives in broadcast programming
- secure diversity of major sources of information and opinion in the market for ideas
- promote efficient resource allocation in the broadcasting and related industries and for the Australian economy as a whole
- ensure that Australia makes the best possible use of its radiofrequency spectrum resources and that the community gets a fair return from the use of the spectrum
- provide equitable access of Australian consumers to broadcasting services
- encourage innovation in the provision of broadcasting services, and
- promote efficient, effective and transparent public administration in broadcasting.

Table 2: Objects of the *Broadcasting Services Act*, 1992 (s.3).

3. The objects of this Act are:

(a) to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information; and

(b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and

(c) to encourage diversity in control of the more influential broadcasting services; and

(d) to ensure that Australians have effective control of the more influential broadcasting services; and

(e) to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity; and

(f) to promote the provision of high quality and innovative programming by providers of broadcasting services; and

(g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance; and

(h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and

(i) to encourage the provision of means for addressing complaints about broadcasting services; and
(j) to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them.

[19] It is recommended here that reference to "audiences" and "children" be included in the Productivity Commission's proposed principles for media policy.

[20] In the area of code matters the Productivity Commission makes a number of interesting recommendations (Table 3).

Table 3: Productivity Commission Draft Recommendations on codes of practice and compliance

Draft Recommendation 10.1.
A further objective 'to promote the public interest in 'freedom of expression' should be added to the objectives in section 3 of the Broadcasting Services Act.

Draft Recommendation 10.2.
The mechanisms for consultation on the development of codes of practice should be amended so that:

- a requirement for general support from within the relevant section of the industry replace the requirement that a majority of broadcasters within the relevant section of broadcasting endorse a proposed code of practice; and
- the ABA develop guidelines on how it will assess whether a code has 'general support from within the relevant section of the industry; and
- the ABA develop guidelines on 'adequate opportunity to comment' to support community consultation on a proposed code of practice. These guidelines should provide for:
- on-air broadcasts at peak or other appropriate audience times announcing that a code is under development of review and inviting comment;
- public hearings; and
- minimum periods for consultation.

Draft Recommendation 10.3.
The co-regulatory scheme should be amended so that:

- all codes of practice include the requirement for community service type announcements about the complaints mechanism, to be broadcast at peak or other appropriate audience times;
- the ABA undertake ongoing monitoring of community awareness of complaints mechanisms;
- licensees be required to accept e-mailed complaints as well written and faxed complaints;
- each licensee be required to institute a telephone complaints system which would advise complainants of their rights and on which complainants may record telephone complaints. A summary of these complaints along with a summary of written complaints and action by the licensee should be provided to the ABA;

- licensees found to be in breach of a relevant code of practice be required to broadcast an on-air announcement of the breach finding and subsequent action during the relevant program time-slot;
- the ABA be given the power to issue directions for action to broadcasters found in breach of a relevant code of practices; and
- the BSA be amended to provide that relevant codes of practice (once registered by the ABA) automatically become conditions of broadcasters' licenses, and the ABA be given the power to impose penalties for all breaches of codes of practice.

Draft Recommendation 10.4.
The ABA should develop standards dealing with fair and accurate coverage and ethical news gathering and reporting practices. These standards should provide that:
- such compaints may be made to either the ABA or the lisensee in the first instance;
- licensees must inform the ABA of such complaints and their proposed action as soon as practicable;
- the ABA must actively monitor the actions of the licensee in response to the complaint; and
- the ABA may exercise its powers to direct licensees to take certain actions (including broadcasting retractions and corrections) in response to complaints about fair and accurate coverage.

Draft Recommendation 10.5.
The regulatory scheme for controlling access to online content should be reviewed after two years of operation. Such a review should encompass:
- the scheme's success in regulating access to objectionable material;
- the scheme's effect on Internet service providers, Internet content hosts and online commerce;
- the scheme's effect on freedom of expression and access to educational, artistic and political material; and
- the scheme's compliance and administrative costs.

[21] There are a number of interesting general observations that can be made about this set of recommendations, including:
- The level of detail that these recommendations go into is an interesting departure from the "bigger picture" focus of the rest of the Draft Report.
- The contradictory character of these recommendations raises questions about the extent to which co-regulation of media content actually works. For example the very prescriptive detail of Draft Recommendation 10.3 seems very much at odds with Draft Recommendation 10.5 which seems to be anticipating a different kind of regulatory "failure" with regard to Internet services.
- Similarly, Draft Recommendation 10.4 identifies another area of apparent co-regulatory failure and appears to resonate, to some extent, with issues raised in the ABA's current "Cash for Comments" inquiry.

[22] It is argued here that if a 'freedom of expression' guarantee is to be included in the *Broadcasting Services Act* 1992, it is more appropriately located in S.123 as a matter to be addressed by industry codes, rather than as an object of the Act. When considered in the context of the other policy principles proposed by the Productivity Commission, this recommendation could seriously restrict the operation of the 'public

interest' in broadcasting regulation. It could have the unanticipated effect of strengthening the 'rights' of commercial interests of broadcasters and advertisers at the expense of the interests of consumers and other users of these services.

[23] By definition service providers and their clients, not consumers, exercise control over 'expression' in media (taken here to be broadcasting) environments. This is compounded, at least to some extent, by serious limits to current code administration arrangements that Draft Recommendation 10.3 seeks to address. Current code arrangements are only responsive to a very narrow range of forms of consumer and end user expression: written complaints. Draft Recommendation 10.3 could be expanded to include a 'freedom of expression' requirement in S.123 of the Act. This would make it clear to broadcasters that open and inclusive processes are a necessary pre-condition to effective co-regulation. It would also extend the intent of the final point on the Productivity Commission's proposed policy principles concerning transparency of regulatory and administrative processes to the quasi-public/quasi-private realm of broadcasting codes of practice (see Table 1). Importantly a 'freedom of expression' requirement embedded in the co-regulation system would also more precisely address the Productivity Commission's concern that, at the level of media representation and portrayal, this expectation would be taken into account in the application and development of industry codes.

[24] Developments such as the "cash for comments" scandal point to important limits of industry self and co-regulation. These are discussed in further detail in the 'Background' section of this paper below. Draft Recommendation 10.4 recognises some of these limits. However it still fails to address another major gap in the current scheme of broadcasting regulation and that is the fact that advertising, the organising force of commercial media, generally escapes effective public scrutiny. Draft Recommendation 10.3 addresses the need for ethical behaviour on the part of employees of licensees. It does not go the question of how we might begin to address the need for broadcasters' advertiser clients to also act in ethical and principled ways. Ways in which this might begin to be addressed are explored below.

[25] With important exceptions (such as advertising time and advertising in children's time) the FACTS code currently registered with the ABA defers to the Australian Association of National Advertisers' (AANA) Code of Ethics when it comes to the nature and content of advertising (see Table 5 below). So too does the Draft Code (Version 5.0) of the Internet Industry Association. The FARB Code could be construed to refer to the AANA Code, although this is not made explicit in the Code or its complaint handling processes. ASTRA is the only broadcasting industry association that seriously begins to address advertising content within the body of its own Code.

TABLE 4: ABA-registered codes that refer to AANA code for advertising content matters

Industry Body	Relevant Code Clause
FACTS	1.10 Requirements for television Commercials
IIA	7.4 General conduct of all code subscribers
FARB*	3. Advertising

*Not explicit or not intended

[26] The AANA Code plays a pivotal role in the co-regulatory scheme for broadcasting. Yet this code is not required to be registered by the ABA. The AANA's Code processes do not appear to be transparent. Nor do they appear to be accessible at critical moments of establishment or review (for example, *Media Australia Update*, 1997). If the full gamut of "grey" questions concerning ethical practice in broadcasting is to be effectively addressed in a scheme of co-regulation then AANA code should also be subject to the ABA code registration process. Alternatively, broadcasting industry associations should be required to adequately cover advertising content and its treatment within the body of their codes. Consideration should also be given to whether S.123(2) of the *Broadcasting Services Act* 1992 should also be amended to make it clear that the ethical responsibility to audiences/consumers to clearly distinguish between advertising and editorialising lies with broadcasters and advertisers alike. Ultimately broadcasters pay the penalty for failure here but as the "cash for comments" debacle suggests a significant cultural change might be required amongst advertisers as well as commercial broadcasters and their employees. In order to begin to address these deeper issues, however, it is important to have an understanding of the limits of the current co-regulatory scheme.

2.2. Background to Co-regulation

[27] Throughout the Broadcasting Draft Report it is asserted that the rationale for broadcasting regulation "lies in the degree of influence that broadcast media may exercise in political, commercial, cultural and social life" (for example, p.241). While this is the case, the report fails to balance this general observation with a more precise summary of the historical purpose of broadcasting regulation. The Draft Report does not explicitly acknowledge that broadcasting regulation is intended to ensure that the "public interest" prevails where conflicts arise between the commercial interests of electronic media service providers and other interests (for example audiences, producers, employees, as well as consumers). Ascertaining the public interest has been an extremely contentious activity in the history of broadcasting regulation. Consequently the methods for regulating the public interest in broadcasting, as well as the regulatory scope and meaning of the term, has been submitted to numerous significant alterations. It nevertheless endures as another important rationale underpinning the operation of broadcasting regulation in Australia (BSA, S. 4.(2)(a)).

[28] Diversification of the forms of state-sanctioned regulatory authority, now clearly apparent in broadcasting regulation, is one way in which the 'public interest' in a range of matters is more flexibly, efficiently and cost-effectively addressed. For example, industry codes are now extensively relied upon to complement "black letter" law, licence conditions, and program standards in many "grey" areas of broadcasting practice. This trend has been gaining momentum over the last 20 years. Importantly, it is not particular to broadcasting (for example, ACCC 1997). Nor is it historically unprecedented (for example, Bettig 1992). Nevertheless, the content of all electronic media is now subject to explicit or implicit "public interest" regulatory limits (for example, Spurgeon 1999). This is regardless of the perceived position of any one medium on a scale of "influence".

[29] Industry codes were legitimated as a regulatory instrument in the 1977 inquiry of the Australian Broadcasting Tribunal into self-regulation for broadcasters. Importantly, in this inquiry the ABT recognised that the private interests of the electronic "fourth estate" (licensees and their shareholders) generally coincided with the public interest as far as the content of broadcasting services was concerned. The ABT found that,

[30] "....the question to be determined was not whether there should be industry self-regulation or government regulation but how much of each there should be" (ABT, 1977: 2.15).

[31] It recommended against a system of government-administered program censorship and classification, preferring instead to see these matters self-regulated by industry according to explicit codes of conduct. However, it did go on to identify three areas where direct methods of government intervention should be maintained in the public interest. This was because the potential for conflict between the commercial interests of broadcasting licensees and their shareholders and wider public interest considerations (including social and cultural policy objectives) was so great. These were:

- children's programming
- Australian content, and
- the amount of time occupied by advertising.

[32] The ABT recommended that the stronger regulatory instrument of program standards, enforceable as licence conditions, be retained in these areas.

[33] Following the Self Regulation inquiry the ABT undertook a series of major public inquiries to review all program standards. This reform process was juggled with other competing demands for ABT resources arising from major structural changes to broadcasting that also took place in the 1980s. All of the program standard reviews were hotly contested and in many cases protracted. At the end of this process children's and Australian content standards were established. The review of advertising time standards, however, resulted in a trial period of deregulation. The period of deregulation was deemed to be a success against the criteria that were set down by the ABT at the time (ABT, 1987). The principle criterion here was that the amount of time occupied by non-program matter, including advertising did not increase during the trial period.

[34] By this time a major Departmental review of broadcasting legislation was imminent. This review informed in the 1992 reforms that saw the regulatory partnership between government and industry, now referred to as co-regulation, established in law. Under these arrangements the Australian Broadcasting Authority (which replaced the ABT in 1992) assumed responsibility for registering industry codes of practice. These codes operate alongside legislated licence conditions and ABA program standards to provide the current regulatory framework for broadcasting. Disputes about the content of advertising had historically been mediated by the now defunct Advertising Standards Council. This scheme of industry self-regulation was so notoriously self-interested that its 'public benefit' authorisation was withdrawn by the Australian Competition and Consumer Commission in 1996 (Media Council of Australia, 1997). The media industry

sponsors responded by winding up the Media Council of Australia and the Advertising Standards Council before the revocation took effect. The Australian Association of National Advertisers has since established another scheme. However the operation of this scheme appears to be beyond the reach of independent, public, critical scrutiny.

[35] Co-regulation as initially conceived by the Australian Consumers' Association in the mid-1980s was, if I recall correctly, intended to be a three way partnership between government, consumers and industry. Consumer input to current arrangements is generally limited to the use of complaints procedures and to limited opportunities to comment upon codes when they are reviewed or established by the sponsoring industry association. The question of resources is the main limit to the Australian Consumers' Association's early vision of co-regulation. This is because a sharing of the costs as well as ownership and authority of a co-regulatory scheme is implicit in the concept of co-regulation (PC 1999: 246). As discussed earlier, the insertion of a freedom of expression requirement into S.123 of the *Broadcasting Services Act* 1992 could have the desired effect of improving the responsiveness of the current co-regulatory framework to the concerns of a wider set of broadcasting stakeholders in a greater variety of ways.

[36] Importantly, a decade later after advertising time became self-regulated, it seems to me that the amount of non-program matter on commercial television, including advertising, has probably increased above 1986/87 levels. Furthermore this increase has since been accommodated in the FACTS Code which was hastily re-registered with the ABA in 1999. I cannot be certain about this claim because the advertising time clauses of the FACTS Code remain so complex that they are of little practical use to any ordinary person as a guide to how much program content one can reasonably expect to find on commercial television. Draft Recommendations 10.2 and 10.3 may assist in ensuring a better opportunity for this issue to be raised in the context of the next FACTS Code review. This is also an area where ABA research could be undertaken in anticipation of the next FACTS Code review. Answers to the larger ethically significant question of whether, where advertising is concerned, broadcasting industry codes operate in consumers' interests if not the wider public interest, could also be addressed through this type of research endeavour.

2.3.Recommendations on codes of practice and broadcasting co-regulation

[37] Four key recommendations are made in respect of improvements to the scheme of broadcasting co-regulation.

- "Audiences" and "children" should be included in the range of end-users identified in the Productivity Commission's proposed principles for media policy.

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- Either the AANA Code of Ethics should be submitted to ABA code registration processes, or broadcasting industry associations should be required to cover issues of advertising content and treatment in the body of their own codes where this does not already occur.

- The ABA should undertake research into changes and trends since the late 1980s in the amount of non-program matter broadcast on commercial television, in the lead up to the next FACTS Code renewal.

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