Submission to the
Senate Environment, Communications, Information Technology and the Arts Legislation Committee

Inquiry Into the Australian Communications and Media Authority

by

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1. Introduction

AAPT Ltd is pleased to have the opportunity to make a submission to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee's consideration of the Australian Communications and Media Authority Bill. AAPT has been a provider of telecommunication services in Australia since 1991 and has played an active part in all aspects of the development of the industry. This has included an intricate involvement of a seemingly endless procession of reviews and legislative change.

In that entire period "convergence" has been the watchword of the industry, though it has been far more talked about than evidenced. However, more recently there have been a number of service innovations that are starting to make some of this a reality. Many of these have arisen from the development of the internet and its associated protocols. It is highly appropriate at this time for consideration of the proper regulatory framework for the changes and new services we are at last beginning to see.

The Committee is inquiring into the provisions of the *Australian Communications and Media Authority Bill* and related bills (the "**Bills**"). In the context of the industry and the regulatory structure, these Bills contain relatively minor provisions.

However, the Committee's Terms of Reference pose two additional questions beyond the direct provisions of the current package of Bills; (i) whether the powers of the proposed Australian Communications and Media Authority (**"ACMA"**) and the Australian Competition and Consumer Commission (**"ACCC"**) will be sufficient to deal with the emerging market and technical issues in the telecommunications, media and broadcasting sectors and (ii) whether the powers of Australia's regulators meet world best practice.

It is perhaps too much to address such a wide terms of reference in the context of relatively minor legislative provisions. Specifically, the Bills are designed to implement a change in the structure of regulatory institutions, without addressing the fundamental regulatory powers conferred on the regulators in the *Broadcasting Services Act 1992, Radiocommunications Act 1992* or the *Telecommunications Act 1997* (the **"Principle Legislation"**). Consequently this submission focuses primarily on the provisions of the Bills under consideration and not on the Principle Legislation.

The Submission contains four sections following this introduction;

> **Section 2** covers the background to the current proposals and provides some commentary on regulatory structures in other countries,
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> **Section 3** addresses the policy objectives and specifically the role of self-regulation of the Principle Legislation,
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> **Section 4** raises some specific issues in relation to consumer consultation and representation as the Bill includes the continuation of a provision introduced as a consequence of the review by this Committee of Bills in 1996.
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> **Section 5** contains a list of recommendations for amendments to the legislation to address the matters raised in earlier sections. However, notwithstanding the number of recommendations the primary recommendation is that the Parliament implements the merger of the Australian Communications Authority (**"ACA"**) and the Australian Broadcasting Authority (**"ABA"**).

2. Background

It is important to note that the provisions of the Bills only relates to the merger of two authorities and makes virtually no other change to the structure of regulation in the sectors under consideration. This will create one regulator whereas when the three principle components of regulation were last comprehensively reviewed in 1991 there were three. The creation of one regulator brings us into line with both the USA which has had such a structure since 1934 and the UK where Ofcom was established in 2003. However, the similarity of the idea of one regulator masks a degree of diversity, indeed comparative regulatory studies are very hard indeed.

As the former chair of the Australian Broadcasting Authority Prof Flint noted at the 2004 conference of the Australian Telecommunications Users Group we should not expect an FCC style regulator from the new ACMA. In his speech he noted:

> *Whether or not you admire the FCC, a converged Australian regulator will not be a carbon copy of that regulator.*

The American system results in an often adversarial relationship between Congress and President, and that means the Congress is delighted to grant executive power to bodies other than the administration. Under the Westminster system of responsible government, there is no incentive to transfer the same range of functions to the unelected agencies.[1]

While this might potentially be part of an argument for an executive presidency, Prof Flint's point is that regulators exist within political structures. The FCC's description of itself from its website is instructive;

The Federal Communications Commission (FCC) is an independent United States government agency, directly responsible to Congress. The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 states, the District of Columbia, and U.S. possessions.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for 5-year terms, except when filling an unexpired term. The President designates one of the Commissioners to serve as Chairperson. Only three Commissioners may be members of the same political party. None of them can have a financial interest in any Commission-related business.

As the chief executive officer of the Commission, the Chairman delegates management and administrative responsibility to the Managing Director. The Commissioners supervise all FCC activities, delegating responsibilities to staff units and Bureaus.[2]

This should be contrasted with the degree of controversy that accompanies any appointee with perceived political associations to an Australian authority, such as Prof Flint's own. Similarly, the role of the FCC is circumscribed to interstate issues, as telecommunications regulation is not a Federal power under the US constitution, unlike the case in Australia. Consequently, the seemingly organised state of a single regulator masks the reality of 50 state Public Utility Commissions.

The situation in the UK is also not directly comparable, with Ofcom being established within a Westminster system as an independent regulator – so independent it chooses to have a ".org" rather than ".gov" website. At the same time the UK is bound to enact a series of EU directives. In the case of Ofcom there was no major change to regulatory rules as a consequence of moving to a single regulator.

In both these cases the communications regulator is charged with some of the economic regulation functions, specifically the operation of "access regimes". In neither case is there a communications specific element of anti-competitive conduct, with both jurisdictions relying on economy wide regulation.

There is one other example of regulatory practice that is potentially relevant, and that is the establishment of the single Australian Energy Regulator (**"AER"**). The AER provides an interesting model, bringing together two "industries" in electricity and gas. ACCC Commissioner Ed Willett described the developments as ;

The principles behind the Australian Energy Regulator were that it should be:

- *independent in its decision making, but through its close links to the ACCC able to take an approach consistent with competition law*
- *achieve national consistency in regulating electricity and gas transmission and distribution.*

In line with that first point, the AER has been established under the Trade Practices Act, and will be a part of the ACCC but a separate legal entity. This means that the AER will make decisions on regulatory matters independently of the ACCC.

When fully operational it will comprise three Members who will be statutory appointments, including a full time Chair and two part time Members. One of the members will be a Commissioner of the ACCC, namely, me.

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[1] Presentation by Professor David Flint, ABA Chairman, at the Australian Telecommunications Users Group (ATUG) 2004 conference Thursday 4 March 12:00 pm, Hotel InterContinental, Sydney. Available at http://www.aba.gov.au/abanews/speeches/bcasting_info/pdfrtf/DF%20-%20ATUG%200304.PDF.

[2] Federal Communication Commission website at http://www.fcc.gov/aboutus.html

There will be a single body of staff providing assistance to both the AER, and to the ACCC on energy matters, creating a substantial body of specialist skills and knowledge. This will deliver the objective of a single national energy regulator and avoid duplication of processes by the ACCC and AER.[3]

While communications does not have the same issues of State consistency due to the Commonwealth power, the AER introduces the concept of the resources of both the industry regulator and the ACCC with respect to that industry being pooled. It is further relevant because the role of the ACCC as an economy wide regulator has been eroded by the creation of the AER. No one is quite sure how this model will work in practice, however the functioning of the Regulatory Affairs Branch of the ACCC will be significantly varied and there are justifiable concerns that the ACCC Telecommunications team will be further isolated and under resourced.

3. Policy Objectives and Self-Regulation

The policy objectives of both the telecommunications and broadcasting regulatory regimes are unchanged by the Bills. Both regimes have an emphasis in outcomes for end-users (or audiences) and both have as part of the regulatory design the application of principles of self-regulation.

The mechanisms for self-regulation are different for each industry, though both incorporate the use of industry codes. . However, there is already a degree of overlap between the existing regimes in the use of telecommunications services that have some one-to-many characteristics like broadcasting. This has been notable in the Internet, telephone information service and mobile content areas. Consequently there is no single model for code development with different consultation practices in place.

At the core of this remains some uncertainty about what self-regulation means and indeed why it is a policy objective. Some commentators take a view that self-regulation is a response by Government to industry seeking "an easy life", while others take a view that self-regulation works in the interest of end users and reduces costs. Similar confusion rests with consideration of the role of industry and regulators in a self-regulatory framework, with some thinking that a regulator making regulations is a punishment to industry for failing to self-regulate, whereas others see it as a failure of policy and the regulator. A further difference exists between those who see very clear delineation between what can be achieved through self-regulation versus regulation, while others believe that the potential for self-regulation has few bounds. These distinctions and views need to be related to theories of economic organisation in general, and it can be argued are not distinct from questions of market power or structure.

The Bills amend none of the core principles, and we can expect the creation of a single regulator will highlight these tensions. This has the potential to result in the new authority spending a great deal of time in reviewing and understanding the policy objectives, without these themselves being reviewed.

This introduces the final tension in the role of the regulator, which is the extent to which independent regulators get involved in policy development. While it may occasionally occur that the regulator identifies policy issues in the course of exercising their powers there should be a clear distinction between the role of a regulator, whose job is to implement the rules provided by Parliament, and the role of a portfolio Department whose job is to provide advice on what the rules should be to meet policy objectives. Australia's relatively recent experience with regulators has seen too many instances of the regulator being directly asked for policy advice.

A final consideration in this area is the extent to which industry has the opportunity to fully participate in a self-regulatory model. One of the weaknesses in the current arrangements for telecommunications is that the cost of self-regulation is met by a voluntary contribution from industry participants, whereas the cost of formal regulation is met by a hypothecated tax levied on all carriers. Thus the expenditure on self-regulation is entirely discretionary, and unfortunately due to the other tensions above there is no experience that effective self-regulation can reduce the size and therefore cost of the regulators. While other concerns could be raised about the equity in only recovering regulatory costs from carriers and not also from service providers without carrier licences, it is the lack of incentive to fund self-regulation that should be addressed.

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[3] *The benefits of a single Australian Energy Regulator* Ed Willett, ACCC Commissioner speech at National Power Conference Melbourne 16 August 2004. Available at http://www.accc.gov.au/content/item.phtml?itemId=531361&nodeId=file41201119e645d&fn=20040816%20National%20Power.pdf

4. Consumer Consultation and Representation

The ACMA Bill includes a provision at s58 empowering the ACMA to establish advisory committees and at s 59 continuing the existence of the ACA's Consumer Consultative Forum. These mirror provisions in the *Australian Communications Authority Act 1997*. It is entirely appropriate that a regulator be empowered to form advisory committees, though this appears to be a new feature for broadcasting.

There are serious concerns about the specific provisions of s59. Firstly, the existing Consumer Consultative Forum is constituted to provide advice on telecommunications, but the proposed legislation does not constrain the new Consumer Consultative Forum in this way. While the Terms of Reference of the current forum[4] are restricted to telecommunications, it could be interpreted that the proposed s59 expands these Terms of Reference while retaining its current constitution.

However, it is worth questioning the need to proscribe the continuation of that specific advisory committee. The history of the Forum is quite instructive. The *Telecommunications Act 1989* at created our first telecommunications regulator, the Australian Telecommunications Authority (**"AUSTEL"**). Section 32 of that Act created the power for AUSTEL to establish advisory committees in terms very similar to the proposed s59 of the ACMA Bill. In its first Annual Report AUSTEL reported it had established a Consumer Advisory Committee with seven members.[5] The *Telecommunications Act 1991*contained exactly the same provision though now as s53. In its 1994-1995 Annual Report AUSTEL noted that its Consumer Advisory Committee had been in operation since March 1990, but that during the year AUSTEL had commenced a major review of consumer consultation strategies and consistent with the review had revised the Committee membership in April 1995.[6] In its 1995-1996 Annual Report AUSTEL announced it had completed its review of its consumer strategies resulting in the establishment in November 1995 of the AUSTEL Consumer Consultative Forum.[7]

The Legislation introduced to implement the post-1997 framework included again the standard advisory committee provision. However, the report of the Senate Committee concluded as follows[8]:

> Australian Communications Authority Bill 1996
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> 8.2 The Australian Telecommunications Authority (AUSTEL) established a Consumer Consultative Forum in November 1995, comprising representatives of consumer, small business, ethnic, indigenous, youth, disabled and other organisations. The Forum's objective is to provide consumers with the opportunity to highlight their concerns to AUSTEL and to have input into the development of strategies to address those concerns.
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> 8.3 During its deliberations the Committee became aware that AUSTEL's Consumer Consultative Forum was not protected by transitional provisions contained in this legislative package. The Department of Communications and the Arts advised that it understood that the Forum was not constituted under the provisions of the Telecommunications Act 1991. It is, therefore, unable to be protected by transitional arrangements.
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> 8.4 The Committee noted advice from AUSTEL that the Forum could easily be re-established under the new legislation. The Committee considers it important, particularly given the increased role of self-regulation and consumer consultation in this package of legislation, that the Consumer Consultative Forum's continued operation be assured.
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> RECOMMENDATION 8.1

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[4] The terms of reference for the Consumer Consultative Forum are to:

- assist the ACA with consumer consultation on matters relating to its telecommunications functions
- ensure that consumer interests are adequately considered in the ACA's decision-making and
- assist in informing the community about telecommunications service issues and matters relating to the industry.

Available at http://internet.aca.gov.au/ACAINTER.3997752:STANDARD:1678608690:pp=PC_2499,pc=PC_2500

[5] Australian Telecommunications Authority Annual Report 1989-1990 Pp 17-18, 54-55.

[6] Australian Telecommunications Authority Annual Report 1994-1995 Pp22-23, 69

[7] Australian Telecommunications Authority Annual Report 1995-1996 P26.

[8] Report available at http://www.aph.gov.au/senate/committee/ecita_ctte/completed_inquiries/1996-99/telebills/report/c08.pdf, last accessed 17 January, 2005.

> The Committee recommends that the Minister amend the Australian Communications Authority Bill 1996 to ensure that the Consumer Consultative Forum is re-established by the Australian Communications Authority under the post 1997 regulatory arrangements.

The legislation was so amended. However, there is nothing in the history or discussion to suggest that the Forum would not have continued anyway.

Since the establishment of the post-1997 regime there have been a number of developments. The industry responded to the opportunities of the new regime by creating the Australian Communications Industry Forum (**"ACIF"**), which has from its beginning included consumer representatives at all levels of its operation. When consumer representatives indicated this model provided inadequate consumer consultation, ACIF went further and created its own Consumer Advisory Council in 2002.

There has to be some degree of questioning whether the structure of consumer consultation is best served by having both the regulator and the self-regulatory body maintaining consumer advisory committees with very similar memberships. One alternative worthy of consideration is separately establishing a Telecommunications Consumer Advocacy Institution that has its own dedicated funding structure and governance arrangements that ensures consumer input is well considered without the need for separate advisory committees. Such a body could also assist in undertaking the kinds of consumer research that appears to be missing from informed policy discussion.

5. Recommendations

Merger

While there are a number of elements of the proposed legislation that should be amended and a number of matters that need further review, there has already been significant uncertainty introduced into the telecommunications market through the impending merger that there is a need to conclude the merger by July 2005.

> **Recommendation 1. The merger of the ACA and ABA is an important step in improving the Australian communications regulatory regime. The rejection of the suggested further recommendations would not be an impediment justifying the delay of the merger.**

Policy Context

The Parliament needs to ensure that the process of interpreting the differing requirements of the legislation administered by the ACMA is not left to the ACMA. It has been a somewhat strange process of late to see the ACA issue a statement of "Regulatory Philosophy" in response to the Regional Telecommunications Inquiry (the Estens report) recommendations, when clearly regulatory philosophy is a function of the Parliament as incorporated in legislation.

Accordingly the Parliament should require the ACMA Bill be amended to include a review of the policy objectives and regulatory policy in the Communications regulatory regime embodied in the *Telecommunications Act 1997*, *Radiocommunications Act 1992* and the *Broadcasting Services Act 1992*.

> **Recommendation 2. A provision be added to the Bills requiring a review (either by the Department, the Productivity Commission or independently) of the policy objectives and regulatory policy in the Principle Legislation, such review to be completed and tabled in the Parliament by 1 July 2006.**

Governance

A major change in the implementation of the ACMA as opposed to the ACA and ABA appears to be that the ACMA will be an agency under the *Financial Management and Accountability Act 1997* whereas the two previous authorities were governed by the *Commonwealth Authorities and Companies Act 1997*. The technical consequence of this relates primarily to the relationship between the Chair and other authority members. Specifically, the Chair seems to be singly accountable for the achievements of the authority but the other authority members have no clear responsibility to the Chair.

There seems to be little point in reviewing this matter, as frankly the provisions of neither Act adequately deal with the construction of a regulator. The only provision of the ACMA Bill that needs to be reviewed is in relation to the operation of

the ACMA in Divisions and the role of the Chair in each Division. Section 46(3) makes it clear that the Chair can exercise the right to be a member of a Division at any time. However, section 47 does not preserve the right to the Chair to preside at a meeting of a Division, which would be normal procedure.

Additionally, the quasi-independent status of the authority is still maintained. This has the consequence that the Minister is not, other than in matters of financial management, accountable for the operation of the authority. This uncertain relationship of independent regulators to the legislature and executive government has been partially resolved in the case of the ACCC. Under s29(1B)(3) the ACCC is required to furnish any information to a House of Parliament or a Committee of either House that the House or Committee requires. This results in the review annually by the House of Representatives Standing Committee on Economics, Finance and Public Administration of the ACCC Annual Report. The Dawson Committee Review of the Trade Practices Act recommended;

> *11.1 Consideration should be given to the establishment of a single Joint Parliamentary Committee to oversee the ACCC's administration of the Act.*[9]

Finally the relationship between the Minister and the independent regulator needs to be clarified. Mostly the Principle Legislation carefully limits the ability of the Minister to direct the Authority in the exercise of its regulatory powers. However, where the Minister seeks advice from the Authority that advice is treated on the same basis as policy advice from the portfolio Department and remains confidential unless released by the Minister. The Report of the Review of the Corporate Governance of Statutory Authorities and Office Holders (the Uhrig report) made the following observation;

> *Ministers need to be supported in executing their governance responsibilities for statutory authorities. In addition to statutory authorities themselves, the relevant Minister's department is an important source of advice. Indeed, as a Minister's most senior departmental representative, the portfolio secretary needs to be in a position to provide advice in relation to all matters within the relevant Minister's portfolio. There would be considerable value in removing the current uncertainties among Ministers, secretaries and statutory authorities about the extent to which they are each able to engage in relation to the activities of statutory authorities. Reinforcing the role of portfolio secretaries as the principal source of advice to Ministers in relation to all matters within the portfolio would be the best way of achieving this. It will be important that departments and statutory authorities maintain effective communication channels to ensure that the department is well placed to provide timely advice to the responsible Minister.*[10]

To ensure that the relationship between portfolio secretaries and Ministers and regulators and Parliament are clear it would be beneficial to ensure that reports sought by the Minister are tabled in the House within 15 sitting days of receipt by the Minister.

> **Recommendation 3. That section 47(1)(a) be amended to provide that notice of the meeting of a Division must be given to the Chair even if the Chair has not elected to be in the Division, and that section 47(1)(d) be amended so that if the Chair is in a Division and is present at a meeting of the Division, the Chair may elect to preside at the meeting.**
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> **Recommendation 4. That a provision similar to that of s29(1B)(3) of the *Trade Practices Act 1974* be added to the Bill and that the Parliament convene a joint committee to review the annual report of the authority.**
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> **Recommendation 5. That a provision be added to the Bill that requires the tabling in the Parliament within 15 sitting days of receipt any report the Minister requests from the Authority.**

Consumer Consultation

Apart from the question of how consumer consultation should occur there has been a long running issue of its financing. Section 15(1)(d) of the *Telecommunications (Carrier Licence Charges) Act 1997* provides that carriers can be required to pay in their carrier licence fees for the cost the Government has incurred in funding consumer consultation and consumer research under s593 of the *Telecommunications Act 1997*.

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[9] Trade Practices Act Review 2002. Available at http://tpareview.treasury.gov.au/content/report/html/Chpt11.asp

[10] Review of the Corporate Governance of Statutory Authorities and Office Holders 2003, page 9. Available at http://www.finance.gov.au/GovernanceStructures/corporate_governance_report.html

The table below shows the amounts spent in each of the last 5 years by the ACA in performing its telecommunications functions (s15(1)(a)) and the amounts spent by the Department on funding consumer consultation and consumer research (s15(1)(d)) and then the latter as a percentage of the former. This indicates that the spending on consumer representation has not kept pace with the burgeoning growth of the regulator.

This situation should be reversed and the amount to be allocated under s593 be determined by the amount spent in the preceding year on the regulator.

Year	98/99	99/00	00/01	01/02	02/03
15(1)(a)	13,116,672	16,120,345	18,903,203	21,012,633	21,069,416
15(1)(d)	838,302	721,000	647,769	984,705	862,562
(d) as % (a)	6.4%	4.5%	3.4%	4.7%	4.1%

As appropriately funded consumer representation should result in alternative models of consumer engagement the requirements for the continued operation of the Consumer Consultative Forum should also be amended.

Recommendation 6. The *Telecommunications (Carrier Licence Charges) Act 1997* should be amended to specify that the maximum charge not include the amount actually spent by the Minister under s593 but an amount equal to one tenth of the amount at s15(1)(a) and that the *Telecommunications Act 1997* be amended to require the Minister to make grants totalling that amount, or if there are not projects worthy of sufficient consideration rolling the funding over to the following year.

Recommendation 7. Amend s59(2) of the ACMA Bill by adding the words "of telecommunications services".

Recommendation 8. Amend s59 by inserting a new subclause (1) so that it reads "The ACA must, by writing, establish an advisory committee, to be known as the Consumer Consultative Forum, to assist the ACA in performing its functions in relation to matters affecting consumers." and renumber remaining subclauses. Amend the new s59(2) to read "The Consumer Consultative Forum established under the *Australian Communications Authority Act 1997* continues its existence as the Consumer Consultative Forum established under subsection (1) until such time as the ACMA reconstitutes the Forum."

Recommendation 9. Insert a new subclause s59(3) that reads "If the ACMA is satisfied that there is another body representing consumers that could assist the ACMA to perform its functions in relation to matters affecting consumers, and the ACMA is able to reach agreement with that body that they will assist the ACMA, then the ACMA may abolish the Consumer Consultative Forum." and renumber the remaining sub-clauses.

Relationship with the ACCC

There are many views of the appropriate relationship between the existing ACA and the ACCC. There are some who would advocate the transfer of the telecommunications functions back to the ACMA and create a more industry specific approach to this aspect of regulation. There are others who will continue to advocate the current arrangements and even the reduction of some of the specific components.

These matters were well discussed during the Productivity Commission's review of Telecommunications Competition Regulation in 2001. Since that time, however, there has been the establishment of the Australian Energy Regulator (at least in legislation) and there has not been the cross membership between the ACA and ACCC as there once was. While the legislation still requires close consultation between the two, and they now conveniently occupy the same building, the formal institutional link has been broken. This contrasts with the very tight relationship envisioned for energy. This can be partially resolved with a minimal amendment.

Recommendation 10. The ACMA Bill and the *Telecommunications Act 1974* be amended to make the Chair of the ACMA an associate member of the ACCC. The *Telecommunications Act 1974* be amended with provisions similar to those introduced with the Energy Regulator to designate a Commissioner the Telecommunications Commissioner, and the ACMA Bill be amended to make the Telecommunications Commissioner a member of the Authority.

Funding Self-Regulation

It has been identified above that there is no effective incentive to encourage organisations to participate in an effective self-regulation framework. In fact, far from participation in self-regulation easing a provider's burden it currently heightens it as the provider needs to contribute to funding it voluntarily.

The regulatory regime is funded by a hypothecated tax that raises the full sum of the cost of regulation. The tax is levied by a formula included in the *Telecommunications (Annual Carrier Licence Charge) Determination 2004*. Apart from the fact that a minimum licence fee is set for each carrier, the amount charged to each carrier is an apportionment of the maximum amount under s15(1) of the *Telecommunications (Carrier Licence Charges) Act 1997*. Since 1997 the cost of the ACA has grown at over 12% CAGR whereas the expenditure of ACIF has grown at under 8% CAGR. However, it has been increasingly hard to attract smaller providers to participate.

To provide the appropriate incentive for participation in self-regulation payments to approved self-regulatory bodies should be "deductable" from carrier licence fees. To ensure the Commonwealth's costs are still recovered the amount of self-regulation costs needs to be included in the determination of the minimum amount.

Recommendation 11. The *Telecommunications (Carrier Licence Charges) Act 1997 be amended to;*

i. **Provide for the Minister to declare an industry association an "eligible self-regulatory body" with a provision that the Australian Communications Industry Forum is taken to be so declared.**
ii. **To include in a new s15(1)(f) the total amount of levies paid to eligible self-regulatory bodies by carriers (so the new maximum charge amount includes all the amounts paid to self-regulatory bodies).**
iii. **To include in a new section the formula used in s4 of the *Telecommunications (Annual Carrier Licence Charge) Determination 2004* except that for each carrier the amount of levies they paid to eligible self-regulatory bodies is subtracted.**