

Review of the Independent Broadcasting Authority (Advertising, Infomercial and Programme Sponsorship) Regulations, 1999

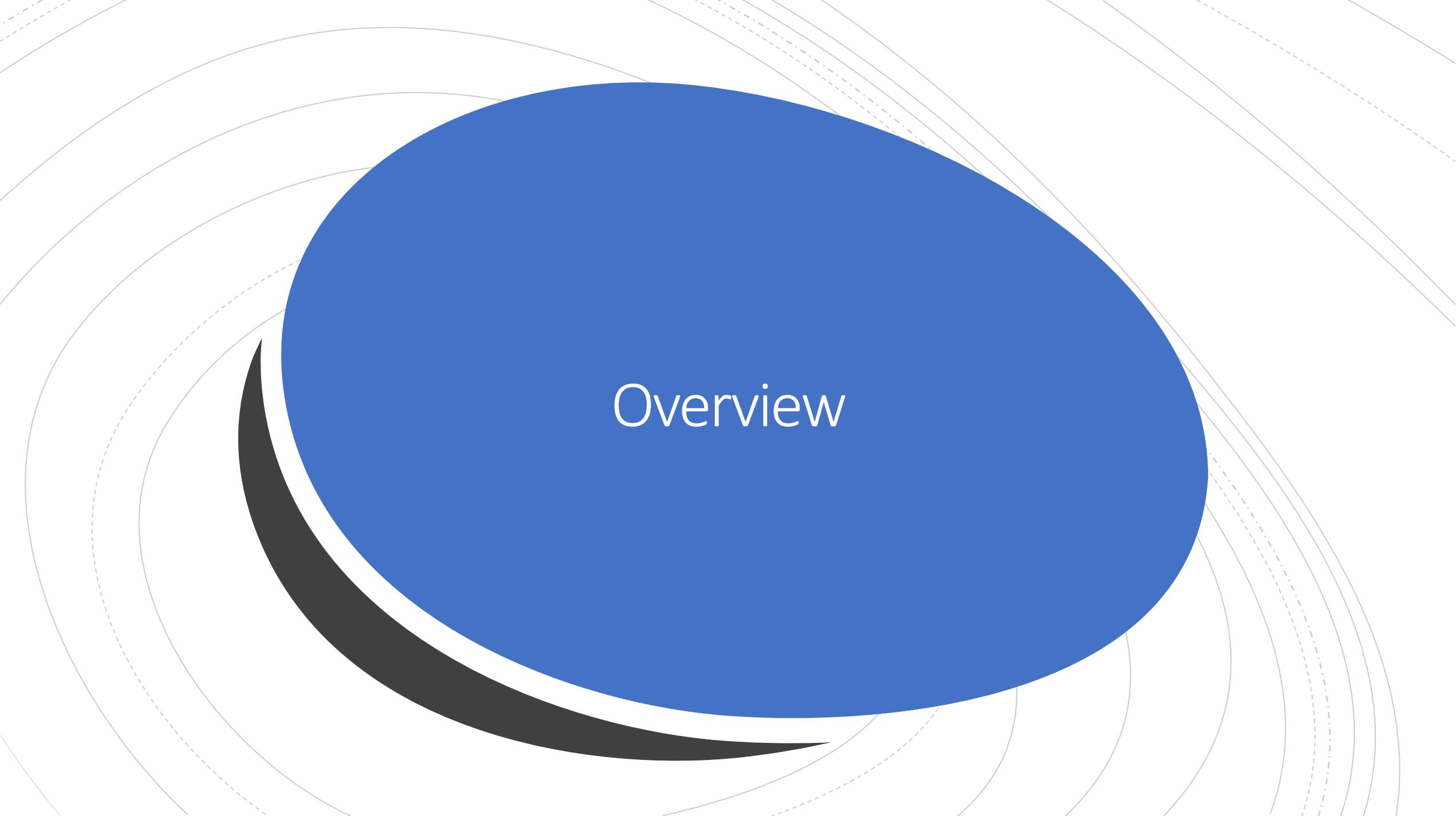
Presented by William Bird, Director of Media Monitoring Africa

Supported by Avani Singh, Director of Power Singh Inc.



About Media Monitoring Africa

- **Not-for-profit organisation** that has been monitoring the media since 1993.
- **Objective:** To promote the development of a **free, fair and ethical media culture** in South Africa and the rest of the continent.
- Seeks to address media ethics, media quality and media freedom through a **human rights-based approach**.
- Over 28 years of experience in **media monitoring and direct engagement** with the media, civil society, state institutions and the public.
- Proven track record of demonstrating **leadership, creativity and progressive approaches** to meet the changing needs of the media environment.
- For more information, please visit www.mediamonitoringafrica.org.



Overview

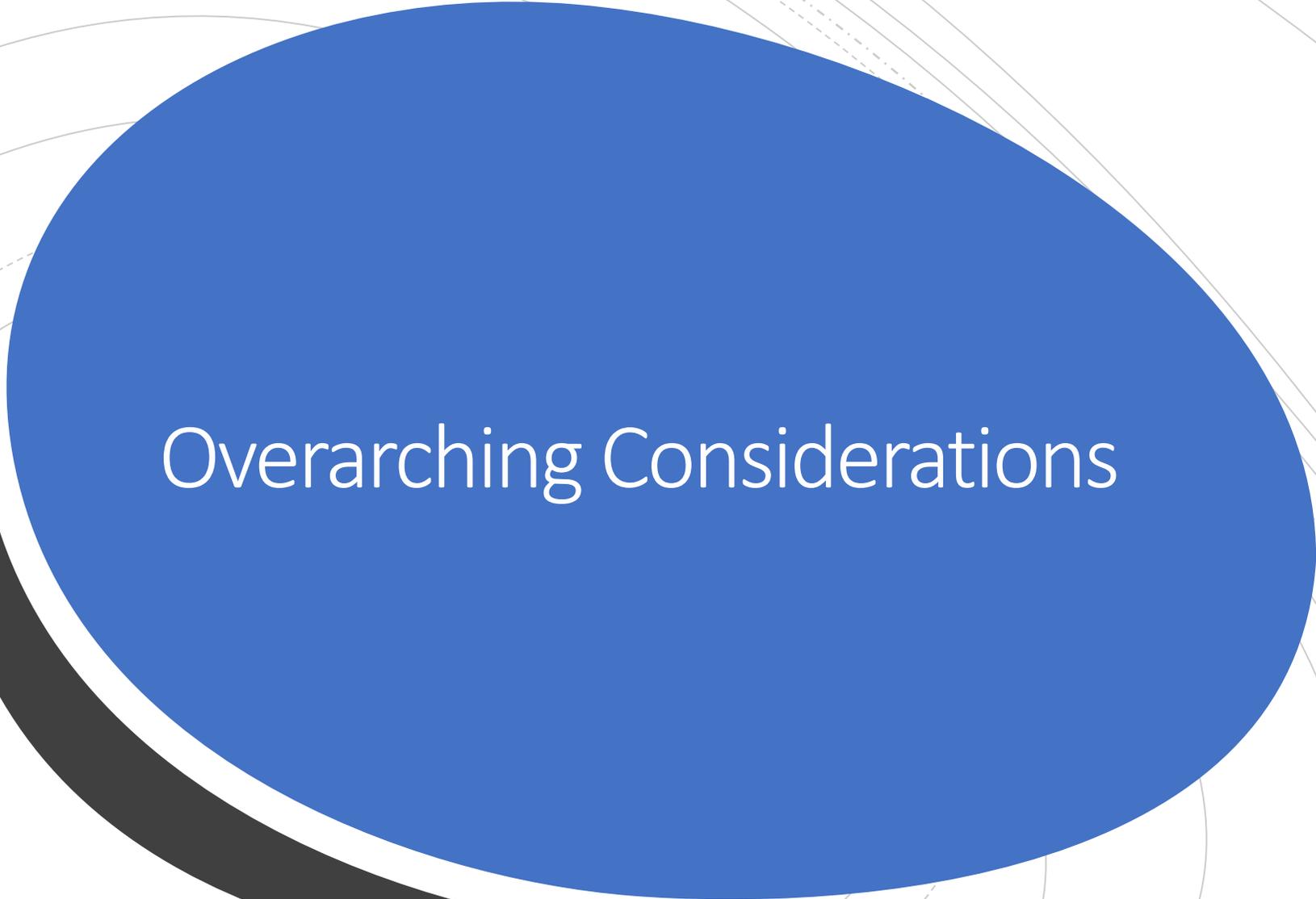
Key overarching considerations

Theme 1: Media sustainability and editorial independence

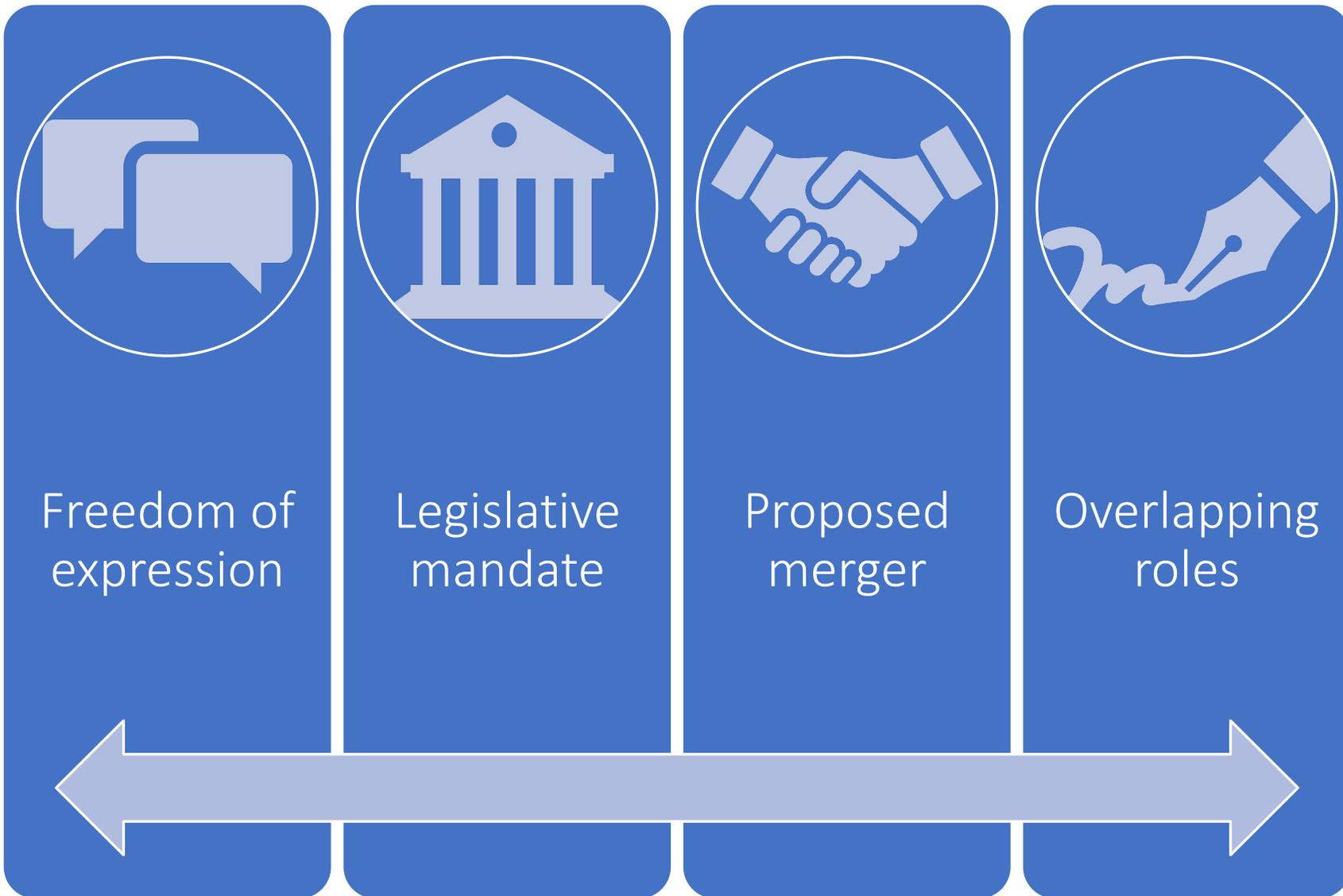
Theme 2: Protection of children

Theme 3: ICASA's role in online advertising

Summary of submissions

A blue speech bubble with a white outline and a black shadow, containing the text "Overarching Considerations". The background features a series of concentric, overlapping circles in light gray and dashed lines, creating a sense of depth and movement.

Overarching Considerations



Freedom of
expression

Legislative
mandate

Proposed
merger

Overlapping
roles

Overarching Considerations

The image features a central blue speech bubble with a white outline, containing the text 'Theme I: Media Sustainability and Editorial Independence'. The background is white with several concentric circles, some solid and some dashed, and a large black swoosh that curves around the bottom and left sides of the blue bubble.

Theme I: Media Sustainability and Editorial Independence

“[T]he reality for today’s media companies is that few, if any, journalists enjoy the luxury of saying whatever they like, about whoever they like, without regard for the consequences. Editing a newspaper or news programme always involves an element of risk mitigation: ‘If I publish this damaging content about company X, will the public interest outweigh or justify the blowback?’ In a harsh world, it can be a tough question to answer. Bluntly, any editor will always weigh the potential cost of his 'independence' before publishing content that disparages a significant advertiser, in the same way as they would before taking on a powerful public or political figure, so let’s not pretend otherwise.”

– Adam Leigh

Current challenges

Editorial independence

- [Regulation 5\(1\)](#): “Every broadcaster who derives benefit for a programme sponsorship shall ensure that, in relation to the relevant sponsored programme, editorial control remains with that broadcaster.”
- BUT: [Arbitrary distinction](#) between sponsorships, advertisements and infomercials.
- Editorial independence needs to be [safeguarded across the board](#).
- Need to explain what is [meant by editorial independence](#) and the principles to which adherence is required.
- See, for example, the [Code of Advertising Practice](#): “all advertisements should be legal, decent, honest and truthful; all advertisements should be prepared with a sense of responsibility to the consumer; all advertisements should conform to the principles of fair competition in business; and no advertisement should bring advertising into disrepute or reduce confidence in advertising as a service to industry and to the public.”

Establishment of a media sustainability fund

Promoting access to public interest new websites

Fostering competition in the digital economy

Considering tax relief and other state support schemes

Engaging with different subsidisation, subscription and income-generating models

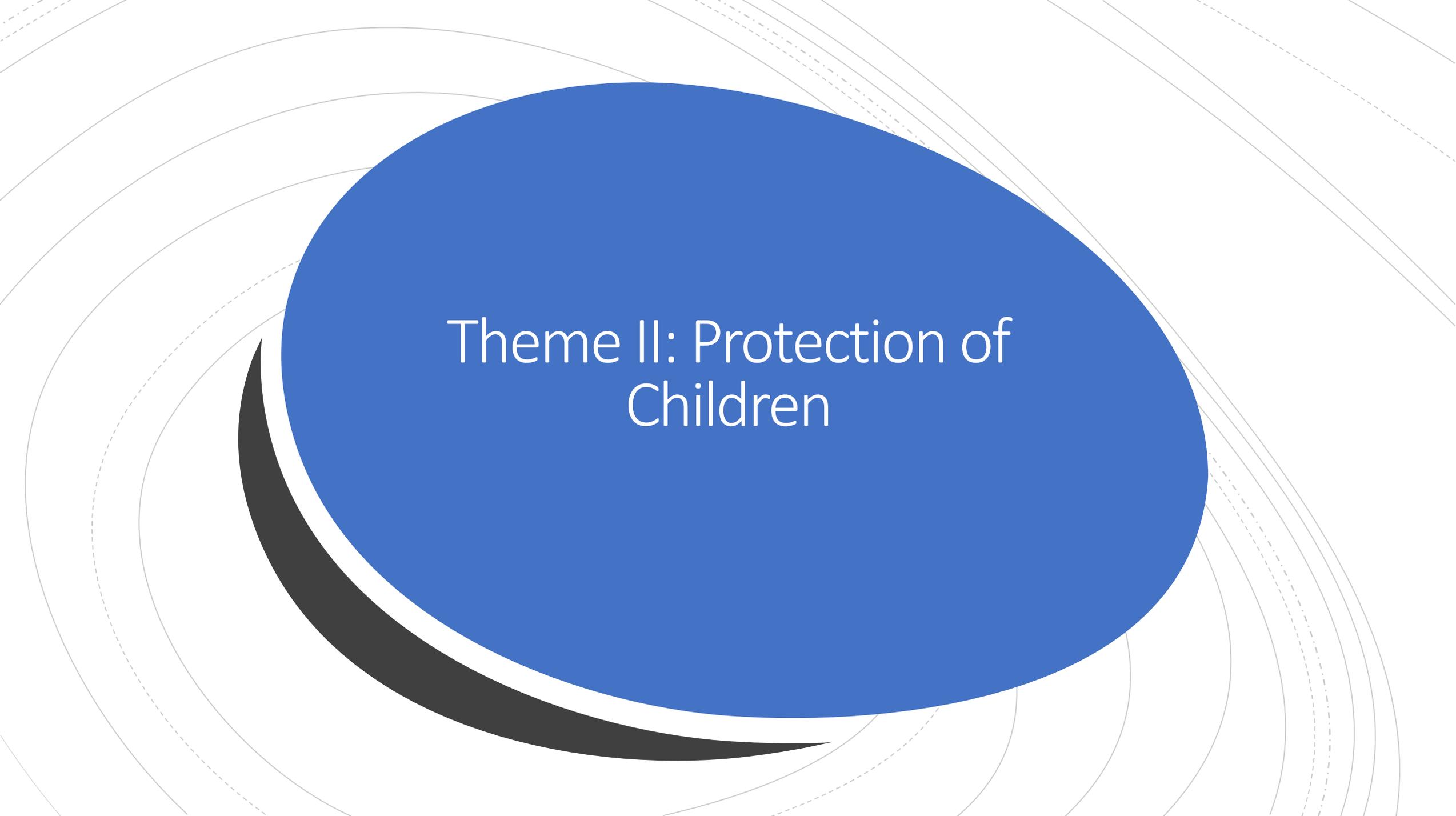
Assessing coupon and open-access systems

Considering the establishment of public interest wire services

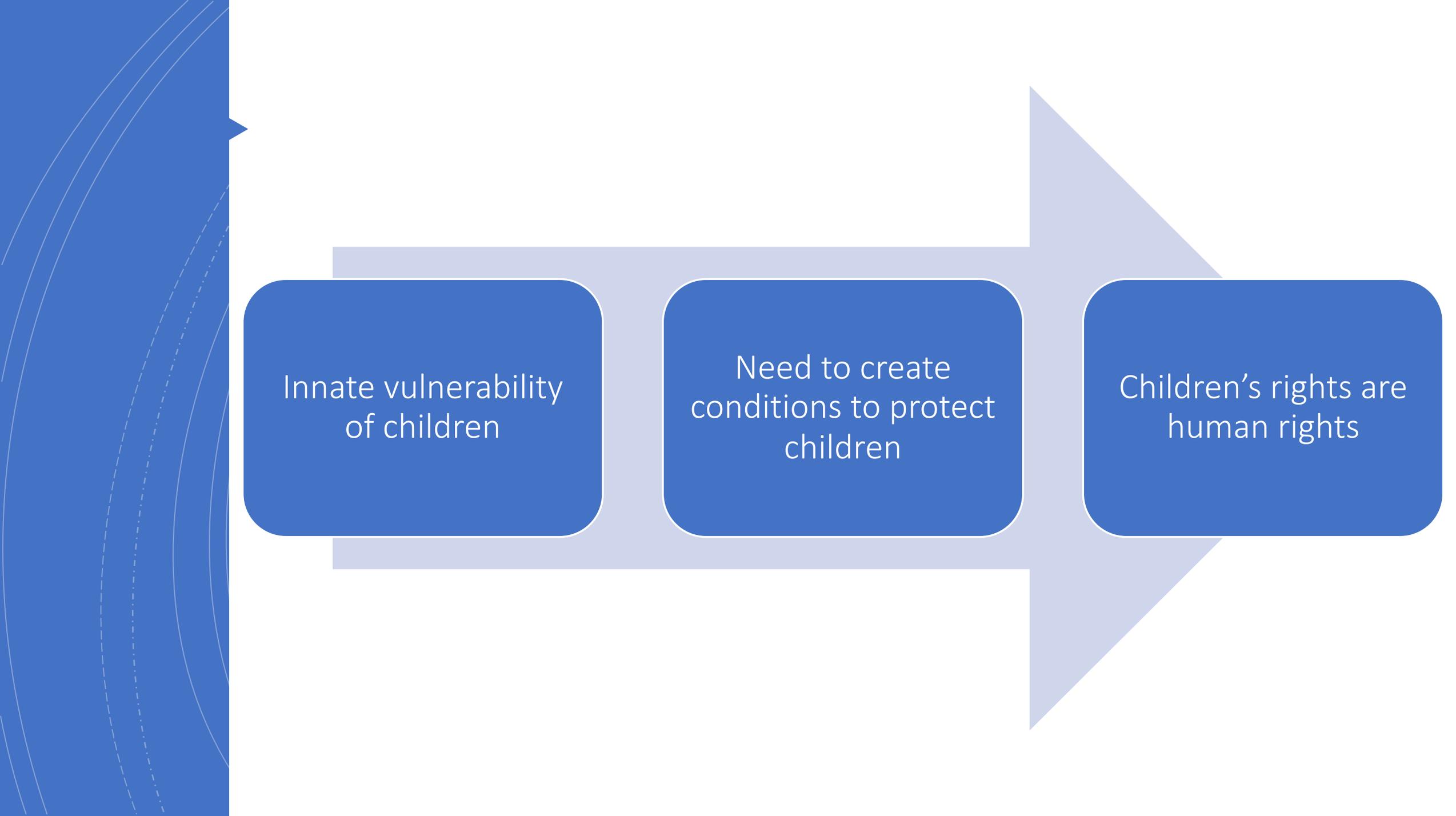
Promoting education, training and learnerships

Media sustainability

Source: SANEF

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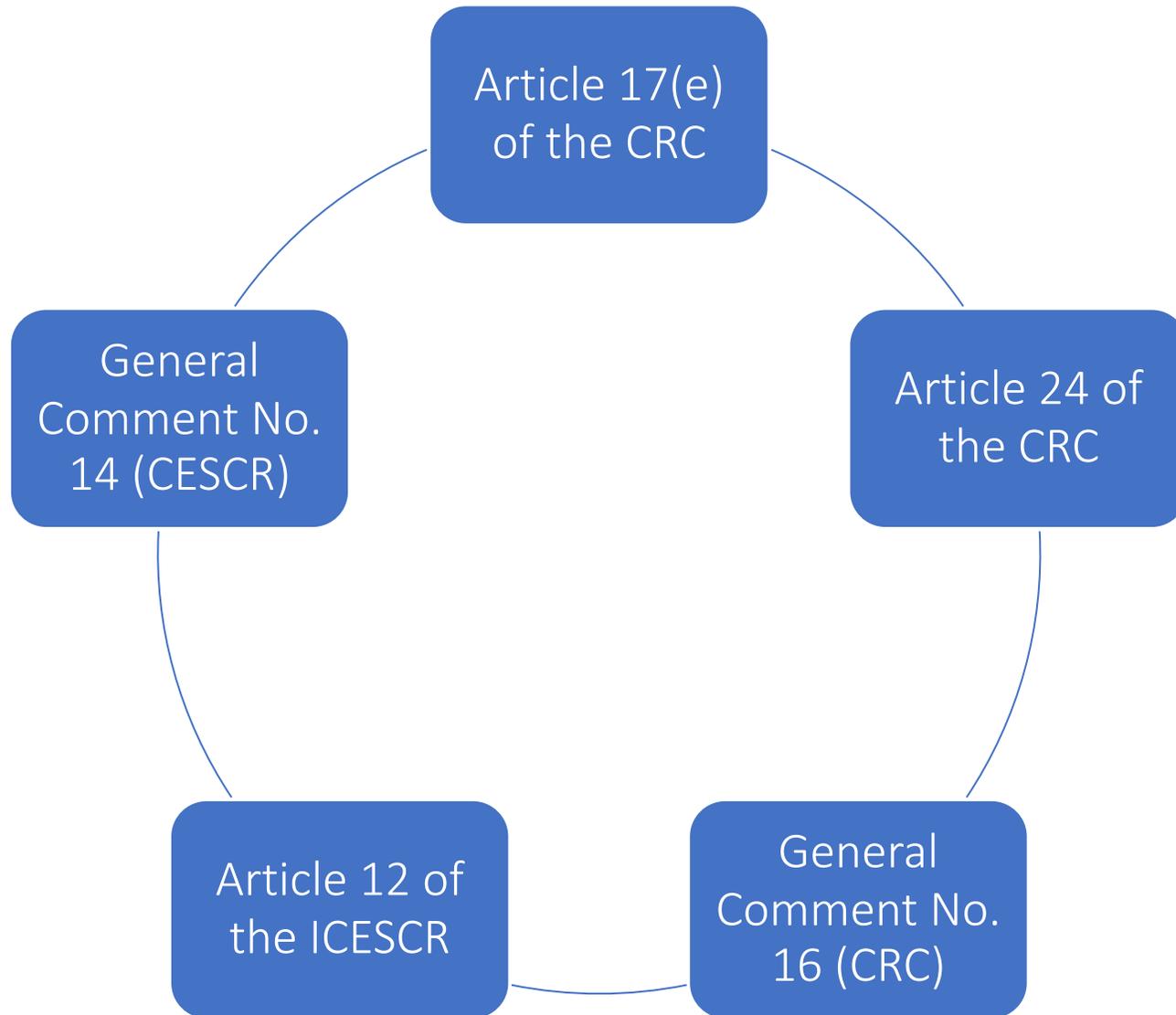
Theme II: Protection of Children



Innate vulnerability
of children

Need to create
conditions to protect
children

Children's rights are
human rights



International law guidance

Source: Children's Institute and Others

Best interests of the child

- Due regard to [the evolving maturities of children](#), and the need to protect children from [undue and potentially harmful influences](#).
- Ideally, there should be [no advertisements, product placements or sponsorships](#) permitted during the broadcast of children's programming.
- Alternatively, Regulations should identify the [types of advertising, product placements or sponsorships](#) to which children may be exposed (or not exposed).
- Clear [duty on ICASA](#) to ensure the protection of children, which can and should be done through the Regulations.
- Every measure should be taken to ensure that no content is broadcast that is [dangerous or harmful](#) to the health, development and best interests of the child.



Theme II: Role in Online
Advertising

1. All broadcasting service licensees must adhere to the Code of Advertising Practice (in this section referred to as the Code) as from time to time determined and administered by the Advertising Standards Authority of South Africa and to any advertising regulations prescribed by the Authority in respect of scheduling of adverts, infomercials and programme sponsorships.
2. The Complaints and Compliance Committee must adjudicate complaints concerning alleged breaches of the Code by broadcasting service licensees who are not members of the Advertising Standards Authority of South Africa, in accordance with section 17C of the ICASA Act, as well as complaints concerning alleged breaches of the advertising regulations.
3. Where a broadcasting licensee, irrespective of whether or not he or she is a member of the said Advertising Standards Authority of South Africa, is found to have breached the Code or advertising regulations, such broadcasting licensee must be dealt with in accordance with applicable provisions of sections 17A to 17H of the ICASA Act.

Mandate of ICASA in online advertising

- **Partial mandate** – limited by section 55.
- Role of the **Advertising Regulatory Board** and import of judgment in **Bliss Brands (Pty) Limited v Advertising Regulatory Board**.
- **Complex and nuanced issue**, and requires appropriate consultation and deliberation.
- **More information is needed** on the extent to which ICASA seeks to engage on this issue.
- May have a role to play – but would likely require an **amendment to the ECA**.

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Thank You!