

ACMA statement,

Since the Kyle and Jackie O Show moved to the KIIS network in 2014 it has breached decency provisions in the Commercial Radio Code of Practice five times. Following the first breach in 2019, the ACMA has taken an escalating set of enforcement actions available to it under the broadcasting co-regulatory system. This has most recently included court-enforceable undertakings agreed by the licensee to prevent further breaches of the decency provisions. Despite these measures being taken, there has been growing concern in sections of the community, including from some listeners, about the content being broadcast. The ACMA is responding to these concerns by undertaking a thorough and comprehensive investigation into potential systemic non-compliance issues with the decency provisions set out in the Code. The investigation is considering a range of content on the program, including that provided to the ACMA through the Senate Estimates process. The Australian broadcasting co-regulatory system was established by Parliament to confer responsibility for broadcasting content onto the entity that holds the broadcasting licence, which in this case is an ARN licensee company. These responsibilities include the management and response to audience complaints about that content and complying with relevant codes of practice. The broadcasting co-regulatory framework has a graduated range of sanctions when these responsibilities are not complied with, including voluntarily agreed measures to be undertaken by the licensee (such as additional staff training), court-enforceable undertakings, and the setting of additional licence conditions. In 2012 the ACMA imposed a five-year licence condition on the licensee then responsible for the program when it was broadcast on 2DAY FM (a Southern Cross Austereo licensee company), following breaches of the then Code decency provisions by the Kyle and Jackie O program and another program. Mr Sandilands and Ms Henderson left 2DAY FM at the end of 2013. The ACMA cannot impose direct financial penalties on licensees for breaches of the broadcasting industry codes, only for breaches of licence conditions. We recognise that the actions that the ACMA is able to take under the framework may not meet the expectations of some complainants. However, any changes to the co-regulatory framework and the powers available to the regulator are a matter for government and the Parliament. The ACMA is also responsible for making sure that the industry codes provide appropriate community safeguards and reflect contemporary community standards and expectations. On Friday 4 April 2025 the commercial radio industry body commenced a public consultation into its Code of Practice. If listeners have broader concerns about whether the current decency provisions in the Code are adequate, the ACMA would encourage them to participate in the public consultation. The ACMA's views will also contribute to the consultation process.