

From: [REDACTED]
Sent: Friday, 8 November 2024 1:22 PM
To: [REDACTED]
Subject: FW: FOR INFORMATION: November 2024 Supplementary Budget Senate Estimates – Summary of questions taken on notice - 4 Nov 2024 [SEC=OFFICIAL]

Follow Up Flag: Follow up
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Hi [REDACTED]
As discussed, I've reviewed the exchange between the Senator and ACMA on the Kyle and Jackie O Show so you have the context in which the QoNs were raised – the transcript won't be available until next week, I suspect.

I've identified four clear points where the Chair said she would take the Senator's *question* on notice (the 4 below), however the Senator also asked if we have conducted own motion investigations into the show and if not, why not. The Chair said she would take the senator's *concerns* on notice and have an internal discussion. I'm not sure what the requirement is here – ie whether this is an actual question to be answered.

In the early part of the exchange the Chair was responding to the Senator's questions specifically in relation to the comments on the paper that was distributed, however my sense is that the Senator is seeking answers about the show in general, not just the sample of comments distributed that day. So, I think that responses to the first and third question that PGAR identified in its email yesterday can be provided as a single response, where I've highlighted in green below. Happy to discuss if you wish.

Best regards,
[REDACTED]

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Senator Hanson-Young: I've got some questions in relation to what ACMA has done in relation the Kyle and Jackie O Show.

Senator asks for a page of comments that have been broadcast on the show since September to be handed to the Chair. Chair quickly reviews and states we are aware of some of the comments but not sure if we're aware of all of them, declines to read them out. Chair notes we have received 59 complaints about the show between July and October and outlines the co-regulatory process (complainant must go to broadcaster first).

Autumn states that between 1 – 31 October we have received 2 inquiries about the show. Both were referred to the broadcaster and they have not yet come back to us to say they are dissatisfied with the broadcaster's response. Autumn confirms that neither are in relation to the last dot point on the page provided.

Senator outlines the comments on the page (jokes about people sexual or racial background, misogynistic language, vulgar detail about sex acts, jokes about mental health, a 'peeing competition'). Asks Chair about her opinion of the comments. Chair notes we have previously breached the show in regards to decency and states the relevant enforcement actions that were taken.

Senator asks if we have conducted own motion investigations into the content on the show, and why not. Nerida notes there is a technicality around what an 'own motion' investigation is and states that it is possible or us to gather information and decide to investigate a matter where there haven't necessarily been complaints – cites Christchurch

attacks in NZ as an example. Chair states we have not turned our mind to the Kyle and Jackie O Show but will take the senator's concerns seriously and will have an internal conversation.

1. Senator: How many of the complaints that have been provided to you in relation to this show, have been upheld?

Chair: I have 2 before me at the moment but there would have been a large amount of complaints about a couple of programs. Happy to take that on notice. We've previously upheld breach findings around comments around the Paralympics and Mpox in 2023. I'm not sure where we're at with the current complaints and not sure if they cover the material you've provided, **can we reconcile that for you and take that on notice?**

Senator: Thank you.

2. Senator: I'd like to understand whether [...]the content that I've given you, you would consider falls foul of the Code's decency standard?

Chair: Senator, I think we'd like to take it offline and assess it, it would be unreasonable for us to give an opinion at the table.

Senator: Really? This is pretty blatant stuff.

Chair: We've only been given it, Senator, we'd like some time to review it.

Senator: ok.

3. Senator: "Is it fair to say that out of all of ... the number of complaints that have come, that aside from the two that you mentioned, about the Paralympics and Monkey pox, that the other complaints haven't been upheld?"

Chair: I haven't said that, Senator. I'll pass to my colleagues. In most cases what we've been doing is going through a process of, if the complaints have come to us and haven't been to the broadcasters, then they go to the broadcasters. I'm not sure that we've got any at the moment under investigation, but we are happy to give you a breakdown of complaints and where we're at.

Senator asks if ACMA Is aware of how many complaints are made to the broadcaster themselves. Chair responds that there is no requirement under the code for licensees to advise us of that and it is a question to ask of the licensee. Chair clarifies that CRA provides us with aggregated information about licensees for the whole year, not by program.

4. Senator: Can you take on notice how many complaints, aggregated, have been made?

Chair: We will certainly take that on notice.

Senator asks if there is a classification scheme for radio broadcasting in terms of protecting children from inappropriate, unsafe or harmful content. Creina notes the decency provision in the code.

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From: Parliamentary & Ministerial [REDACTED]
Sent: Thursday, November 7, 2024 10:40 AM
To: Office of the Chair [REDACTED] Creina Chapman and Assistant
[REDACTED] DL - Helen Owens and Assistant [REDACTED]
[REDACTED] DL - Autumn Field & Assistant [REDACTED]
DL - Cathy Rainsford & Assistants [REDACTED]; DL - Michael Brealey & Assistant
[REDACTED] DL - Rochelle Zurnamer & Assistant [REDACTED]
[REDACTED] DL - Jeremy Fenton and Assistant [REDACTED]
[REDACTED] DL - Tanya Farrell and Assistant [REDACTED]
[REDACTED] DL - Sam MacCready and Assistant [REDACTED]
[REDACTED] DL - Christopher Worley & Assistant [REDACTED]
[REDACTED]; DL - Alana Fraser & Assistant <[REDACTED]>
Cc: DL - Richard Bullock and Assistant [REDACTED] [REDACTED]

Subject: FOR INFORMATION: November 2024 Supplementary Budget Senate Estimates – Summary of questions taken on notice - 4 Nov 2024 [SEC=OFFICIAL]

Dear all,

Thank you for attending Senate Estimates on Tuesday at 5:00pm. Please find below a summary of questions taken on notice by the ACMA during our Hearing.

We will confirm the wording of the questions taken on notice against the Hansard once it has been released, and also provide the response template when it becomes available.

Please note, the Department has not yet provided a due date for responses to QoNs, we will share this information as soon as it becomes available.

Topic	Question
Draft update of Free TV Australia Code of Practice	<p>Senator Pocock</p> <ul style="list-style-type: none"> • Senator Pocock stated “ACMA’s submission to the draft code doesn’t say anything about the alcohol ads during sporting events highlighted by the government rapid response team put together”. <ul style="list-style-type: none"> ○ ACMA Chair replied “I will have to take that on notice as I’m not aligning those two up”. ○ The Parliamentary Team have noted the conversation was corrected as no submission was made, rather ACMA’s views was made public via a paper but have noted down the question on notice as a provision. • As a regulator of Free TV, that allows alcohol ads during sporting events, has ACMA undertaken it’s own evaluation and/or reflection on what that means for future regulation?
Kyle and Jackie O Show Comments/Remarks	<p>Senator Hanson-Young</p> <ol style="list-style-type: none"> 1. Out of the 59 complaints received since July about the Kyle and Jackie O Show, how many of them are about the comments/remarks provided? 2. Has ACMA conducted its own motion of investigation into the complaints about Kyle and Jackie O Show? <ul style="list-style-type: none"> ○ ACMA Chair replied “Not on the Kyle and Jackie O Show but I am happy to take your concern on notice and discuss it as an Authority”. 3. How many complaints provided have been upheld? 4. Would the content provided falls foul of the Code’s decency standard? <ul style="list-style-type: none"> ○ ACMA Chair replied “We will have to take this offline...” “need to take some time to review” 5. How many complaints aggregated of the show have been made?

Telecommunications Consumer Protection (TCP) Code	Senator Pocock <ul style="list-style-type: none"> • What resourcing is ACMA committing to enforcing activities under the TCP Code given the egregious practices revealed by ACCC?
News Media Bargaining Process	Senator Hanson-Young <ul style="list-style-type: none"> • Since Meta announced they are refusing to comply, has the Government or Ministers office contacted ACMA on what to do next? • Has the Government or Ministers Office contacted ACMA about what the media agencies list or the current criteria or current assessment process that ACMA is using looks like? • Have there been any appeals to ACMA about knockbacks on the process by which if somebody doesn't make it onto the list, they an ask for it to be reviewed?

Please let the [REDACTED] know if you have any questions.

Kind regards,

[REDACTED]
[REDACTED]

Performance, Governance, Audit and Risk Section

[REDACTED]

Australian Communications and Media Authority

[REDACTED]

acma.gov.au



The ACMA acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, culture and community. We pay our respects to Elders past and present.

