

Formal Warning under subsection 122(2) of the *Telecommunications Act 1997*

TO: Optus Mobile Pty Ltd ACN 054 365 696

OF: 1 Lyon Park Road, Macquarie Park NSW 2113

I, Linda Caruso, delegate of the Australian Communications and Media Authority (the **ACMA**) being satisfied that:

- > Optus Mobile Pty Ltd ACN 054 365 696 (**Optus**) has contravened the Industry Code C564:2018 Mobile Phone Base Station Deployment (the **2018 Deployment Code**) as described below, and
- > the conduct described would also have contravened the Industry Code C564:2020 Mobile Phone Base Station Deployment (the **2020 Deployment Code**), if it occurred after the 2020 Deployment Code was registered,

HEREBY issue a formal warning to Optus under subsection 122(2) (as allowed by subsection 122(4)) of the *Telecommunications Act 1997* (the **Act**) in respect to the 2020 Deployment Code.

Details of the contraventions

1. The ACMA commenced an investigation on 15 September 2020 into Optus' alleged contraventions of the 2018 Deployment Code.
2. The investigation was in respect to the deployment of mobile phone radiocommunications infrastructure (the Facility) located at Utility Pole Number EP76943 on the Road Reserve, adjacent to 26 & 28 Magnolia Avenue Epping, NSW 2121.
3. As a licensed telecommunications carrier that installs and operates mobile phone radiocommunications infrastructure, which is used, intended to be used, or capable of being used to supply public mobile telecommunications services, Optus is a participant in a section of the telecommunications industry to which the 2018 Deployment Code applied.
4. Following completion of the investigation, the ACMA is satisfied that Optus contravened the following 2018 Deployment Code provisions by failing to:
 - a. provide a clear, legible, and plain English written description of the Facility to the relevant council and to interested and affected parties as required by clause 6.3.1(b) of the 2018 Deployment Code,
 - b. provide a clear, legible and plain English statement to the relevant council and to interested and affected parties setting out the applicable regulatory arrangements that it intends to rely on to install the infrastructure and the reasons that those arrangements apply, as required by clause 6.3.1(c) of the 2018 Deployment Code,
 - c. have a website that includes a statement setting out the applicable regulatory arrangements that it intends to rely on to install the infrastructure and the reasons that those arrangements apply, as required by clause 6.3.7(d) of the 2018 Deployment Code, and

- d. have a website that provides information about alternate options and opportunities for co-location considered, as required by clause 6.3.7(f) of the 2018 Deployment Code.
5. On 17 December 2020, the 2018 Deployment Code was replaced by the 2020 Deployment Code. The provisions described above in relation to the 2018 Deployment Code have been replicated in the 2020 Deployment Code.
6. Had Optus' conduct described in paragraph 4 occurred after the 2020 Deployment Code was registered, Optus' conduct would have contravened the same clauses as described under subparagraphs 4(a)—(d) of this formal warning notice.

Dated this 1 day of March 2021



Signature General Manager

Linda Caruso

Name (Please Print)