

**ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND MEDIA
AUTHORITY BY TCN CHANNEL NINE PTY LTD, ABN 65001549560 UNDER SECTION 205W(1) OF
THE *BROADCASTING SERVICES ACT 1992***

1. Person/s giving the undertaking

This Undertaking is given to the Australian Communications and Media Authority by **TCN CHANNEL NINE PTY LTD, ABN 65001549560** under section **205W(1)** of the ***BROADCASTING SERVICES ACT 1992***.

2. Definitions

In this Undertaking:

(a) **ACMA** means the Australian Communications and Media Authority.

(b) **Act** means the *Broadcasting Services Act 1992*.

(c) **Code** means the *Commercial Television Code of Practice 2015*.

(d) **Commencement date** has the meaning outlined in section 3.1 of the Undertaking.

(e) **Investigation** means ACMA Investigation BI-625.

(f) **Licensee** means TCN Channel Nine Pty Ltd.

(g) **Relevant staff** means the following:

(i) Broadcast television scheduling and material team

(ii) Broadcast television sports sales team

(iii) Broadcast television sports producers

(iv) Broadcast television presentation team

(h) **SPPs** means systems, processes and procedures.

(i) **Term** has the meaning outlined in section 3.2 of the Undertaking.

(j) **Undertaking** means this Enforceable Undertaking.

3. Term of the Undertaking

3.1 This Undertaking, having been executed by the Licensee, commences on the day it is executed by the ACMA.

3.2 This Undertaking will terminate upon completion of the Licensee's obligations in clause 5 unless the ACMA gives notice to the Licensee cancelling this Undertaking in accordance with subsection 205W(4) of the Act, in which event this Undertaking terminates on the day that written notice is given.

4. Background

4.1 The ACMA commenced an Investigation into the placement of gambling advertising during the Licensee's broadcast of the 2021 NRL Grand Final on 3 October 2021.

4.2 The ACMA found that the Licensee incorrectly placed one commercial relating to betting and gambling during its broadcast of the 2021 NRL Grand Final.

4.3 The Licensee acknowledges the ACMA's view that its conduct contravened clause 3.1 of Appendix 3 of the Code (gambling advertisements not permitted before 8.30pm).

4.4 The Licensee notes that it has not previously breached Appendix 3 of the Code.

4.5 In response to the ACMA's view and concerns regarding the Licensee's future compliance, the Licensee offers this Undertaking.

5. Undertakings

5.1 The Licensee undertakes it will:

5.1.1 Within 3 months of the Commencement date, provide training for all Relevant staff on compliance with clause 3.1 of Appendix 3 to the Code.

5.1.2 Within 5 months of the Commencement date, provide a report to the ACMA which sets out:

(i) the roles of the Relevant staff

(ii) the number of individuals who completed training against each of the categories identified in clause 2(g)(i) – (iv)

- (ii) the dates on which each of the Relevant staff attended the formal training
 - (iii) the duration and content of the training
 - (iv) the name and relevant credentials of the person who provided the training.
- 5.1.3 Within 3 months of the Commencement date, establish SSPs to ensure ongoing compliance with clause 3.1 of Appendix 3 and introduce methods to monitor the effectiveness of those SSPs.
- 5.1.4 Within 5 months of the Commencement date, provide a report to the ACMA which sets out:
 - (i) the SSPs introduced in response to the undertaking and the date they were introduced
 - (ii) the method(s) being used to monitor the effectiveness of the SSPs (recognising that the only method available may be checking the Licensee's compliance with clause 3.1 of Appendix 3).
- 5.1.5 Within 12 months of the Commencement date, provide a report to the ACMA which sets out:
 - (i) the number of complaints received by the licensee, in that 12 month period, that allege a breach of clause 3.1 of Appendix 3 to the Code
 - (ii) where the licensee concluded that any of those complaints indicated an actual breach of clause 3.1 of Appendix 3 to the Code and if there are any, what the licensee has done in response to these
 - (iii) any refresher/supplementary training provided by the Licensee after the training referred to at Item 5.1.1 above
 - (iv) a report on the effectiveness of the SSPs, including any revisions made in that period.
- 5.2 The Licensee agrees to produce, upon reasonable request by the ACMA, documents as reasonably required to evidence compliance with the Undertaking. The Licensee is not required to produce documents subject to legal professional privilege, or which if produced would breach any other applicable laws.

6. Acknowledgements

- 6.1 The Licensee acknowledges that:
 - 6.1.1 The ACMA will make this Undertaking publicly available including by publishing it on the ACMA's website.
 - 6.1.2 The ACMA may, from time to time, make public comment about this Undertaking and its terms which includes issuing a media release upon its execution by the ACMA.
 - 6.1.3 The ACMA may, from time to time, publicly report on compliance with this Undertaking.
- 6.2 The Licensee also acknowledges that:
 - 6.2.1 The ACMA's acceptance of this Undertaking does not affect the ACMA's power to investigate and take compliance and enforcement action arising from conduct that is not the subject of this Undertaking or arising from future conduct.
 - 6.2.2 This Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from the alleged conduct, the subject of this Undertaking.

Execution of the Undertaking

Signed/Executed by TCN CHANNEL NINE PTY LTD, ABN 65001549560:

[Redacted Signature]

[Redacted Signature]

Signature

Signature

[Redacted Signature]

[Redacted Signature]

Name (insert title if relevant/appropriate) Name (insert title if relevant/appropriate)

(print))

(print))

Date 7 October 2022

Date 7 October 2022

Accepted by the Australian Communications and Media Authority under [insert section] of the [insert Act]

[Redacted Signature]

[Redacted Signature]

Signature

Signature

[Redacted Signature]

[Redacted Signature]

Name, Member (print) Name,

Member/General Manager (print))

Date [leave blank, ACMA to insert]

19 October 2022