

## Infringement Notice

under subsection 205Y(1) of the *Broadcasting Services Act 1992*

**To:** Seven Network (Operations) Limited

**Of:** 8 Central Avenue, EVERLEIGH NSW 2015

**Attention:** [REDACTED]

I, Rochelle Zurnamer, an authorised infringement notice officer appointed under section 205ZE of the *Broadcasting Services Act 1992* (the **BSA**) for the purposes of that Act, having reasonable grounds to believe that Seven Network (Operations) Limited (**Seven**) has contravened subclause 25(1) of Schedule 8 to the BSA (the **contravention**),

HEREBY give an infringement notice (the **Notice**) under section 205Y of the BSA, in relation to the contravention, to Seven.

### Details of alleged contravention

It is alleged that Seven contravened section 12 of the *Broadcasting Services (Online Content Service Provider Rules) 2018* (the **Online Rules**) by providing prohibited gambling promotional content to end-users in Australia of the 7plus online content service in conjunction with live coverage of the NFL American Football game between the *Seattle Seahawks* and the *Carolina Panthers* on 12 December 2022 at 10:38 am (AEDST).

In contravening section 12 of the Online Rules, it is also alleged that Seven contravened subclause 25(1) of Schedule 8 to the BSA which provides that an online content service provider must not contravene the Online Rules.

Subclause 25(1) of Schedule 8 to the BSA is a designated infringement notice provision (subclause 25(4) of Schedule 8).

Schedule 1 to this Notice sets out brief details of the alleged contravention of the designated infringement notice provision.

### Details of formal warning for similar contraventions

Under the BSA, an authorised infringement notice officer must not give a person an infringement notice relating to a contravention of a designated infringement notice provision unless the officer, or another authorised infringement notice officer, has previously given a notice to the person under section 205XA in relation to the contravention or a similar contravention (subsection 205Y(4) of the BSA).

In a previous investigation, the Australian Communications and Media Authority (the **ACMA**) found that Seven had contravened sections 12, 15 and 21 of the Online Rules and subclause 25(1) of Schedule 8 to the BSA. On 1 July 2022 I issued a formal warning under section 205XA of the BSA for contraventions of subclause 25(1) of Schedule 8 to the BSA (the **Olympic Games formal warning**).

In the covering letter sent in conjunction with the Olympic Games formal warning, Seven was warned that I may be entitled to give Seven an infringement notice relating to contraventions of similar nature.

The contravention, the subject of this Notice, is a similar contravention to that for which the Olympic Games formal warning was issued in respect of section 12 of the Online Rules and subclause 25(1) of Schedule 8 to the BSA.

### **Amount of Penalty**

The total pecuniary penalty (the **penalty**) specified in this Notice for the alleged contravention is 60 penalty units (\$13,320), calculated in accordance with paragraph 205ZA(1)(aa) of the BSA, as shown in the table in Schedule 2.

### **Payment of Penalty**

The penalty should be paid to the ACMA, on behalf of the Commonwealth, by deposit into the following account by 29 August 2023. Please include the narration 'Seven – infringement notice' with your payment:



### **Request for an extension to pay**

You may apply to have the period in which to pay the penalty extended. To be effective the application for an extension must occur on or before 29 August 2023 or the date of any extensions that have been granted by the ACMA. This should be addressed to myself in the first instance at [REDACTED]. You can apply for an extension more than once.

If the application to extend the period in which to pay is not granted, the period in which to pay will end on the day that is the last day of the period in which to pay or the day that is 7 days after the day Seven received ACMA's decision not to extend, whichever is the later.

### **If the penalty is paid**

If the penalty is paid to the ACMA, on behalf of the Commonwealth, on or before 29 August 2023 (or the date of any extensions that have been granted by the ACMA) and the Notice has not been withdrawn, further proceedings will not be taken with respect to the alleged contravention and the liability of Seven for the alleged contravention is discharged.

Payment of the penalty does not constitute any admission of guilt or liability.

### **If the penalty is not paid**

If you do not pay the penalty on or before 29 August 2023 or the date of any extensions that have been granted by the ACMA, further proceedings may be taken with respect to the alleged contravention.

### **Withdrawal of the infringement notice**

The ACMA may withdraw this Notice. To be effective the withdrawal must occur on or before 29 August 2023 or the date of any extensions that have been granted by the ACMA.

If you believe that the Notice should be withdrawn, you should write to the ACMA setting out the basis/reasons for this position, on or before 29 August 2023 or the date of any extensions that have been granted by the ACMA. This should be addressed to myself in the first

instance. The ACMA may take this into consideration when deciding whether or not to withdraw this Notice.

If an infringement notice is withdrawn, the ACMA will consider whether further action is appropriate. That action may include the institution of civil penalty proceedings for the alleged contravention/s, the subject of the infringement notice (section 205ZD(b)(ii)). What further action is appropriate, if any, will turn on the facts of the case.

If the Notice is withdrawn after the penalty is paid, the penalty will be refunded.

Dated this 1 August 2023.



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**Rochelle Zuramer**  
**Authorised Infringement Notice Officer**

## SCHEDULE 1

### BRIEF DETAILS OF THE ALLEGED CONTRAVENTION IS SET OUT BELOW, IN ACCORDANCE WITH PARAGRAPH 205Z(1)(C) OF THE BSA.

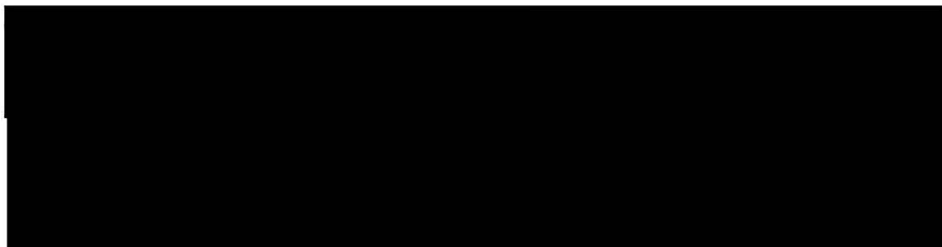
#### 1. Background

- 1.1. Seven is the online content service provider of the online content service 7plus (as defined in clause 2 of Schedule 8 to the BSA).
- 1.2. On 12 December 2022, the ACMA received an anonymous complaint alleging that a [Wagering company] gambling advertisement was streamed on 7plus during the third quarter of a US National Football League Game between the *Seattle Seahawks* and *Carolina Panthers* (NFL Game) on 12 December 2022 (AEDST).
- 1.3. On 9 February 2023 the ACMA commenced an investigation under the BSA into whether Seven had contravened sections 12 of the Online Rules.

#### 2. Matters giving rise to the Notice

- 2.1. Seven conceded that due to 'human error' a [Wagering company] was streamed on 7plus, to end-users in Australia, during the NFL Game at approximately 10:38 am (AEDST) on 12 December 2022.

2.2.



- 2.3. On 13 June 2023, the ACMA finalised its investigation and found that, as a provider of 7plus, Seven contravened section 12 of the Online Rules by providing prohibited gambling promotional content to end-users in Australia during live coverage of the NFL Game. The ACMA also found that Seven breached subclause 25(1) of Schedule 8 to the BSA as it had contravened the Online Rules.

#### 3. Relevant designated infringement notice provision of the BSA

- 3.1. Subclause 25(1) of Schedule 8 to the BSA provides that an online content service provider must not contravene the Online Rules (made under clause 11 of Schedule 8). Subclause 25(1) of Schedule 8 is a designated infringement notice provision (subclause 25(4) of Schedule 8).
  - 3.2. Section 12 of the Online Rules provides that an online content service provider must not provide gambling promotional content on an online content service in conjunction with live coverage of a sporting event in the period beginning at 5:00 am and ending at 8:30 pm.
  - 3.3. 'Gambling promotional content' is defined in clause 2 of Schedule 8 to the BSA to include advertising content that relates to a 'gambling service' as defined in clause 18.
- 3.4. *Contravention of section 12 of the Online Rules*

- 3.5. Seven has conceded that gambling promotional content, in the form of a gambling advertisement for a gambling service, was streamed on 7plus during live coverage of the NFL Game at approximately 10:38 am (AEDST) on 12 December 2022.
- 3.6. Seven is the online content service provider of 7plus.
- 3.7. The online content service was provided to end-users in Australia.
- 3.8. Seven, as the provider of 7plus, contravened section 12 of the Online Rules by providing the gambling advertisement on 7plus during the live coverage of the NFL Game at approximately 10.38 am (AEDST).

*Contravention of subclause 25(1) of Schedule 8 to the BSA*

- 3.9. In contravening section 12 of the Online Rules, Seven has also contravened subclause 25(1) of Schedule 8 to the BSA.

## **SCHEDULE 2**

### **PENALTY FOR CONTRAVENTION OF SUBCLAUSE 25(1) OF SCHEDULE 8 TO THE BSA**

<b>Date of contravention/s</b>	<b>Number of contraventions of subclause 25(1)</b>	<b>Penalty units</b>	<b>Amount of penalty unit</b>	<b>Penalty imposed</b>
<b>12 December 2022</b>	<b>1</b>	<b>60</b>	<b>\$222</b>	<b>\$13,320</b>