
Enforceable Undertaking

This undertaking is given to the Australian Communications and Media Authority (ACMA) under section 205W of the *Broadcasting Services Act 1992* (Cth) (Act) by Prime Television Victoria Pty Limited (Licensee).

Accepted by the ACMA under Part 14D of the Act on 9 November 2023.

Table of Contents

1.	Background.....	1
2.	Defined terms and interpretation	1
3.	Term.....	2
4.	Withdrawal or variation	2
5.	Undertakings.....	3

1. **Background**

- A. The Licensee is licensed under the Act to provide commercial television broadcasting services in the Mildura/Sunraysia TV1 licence area.
- B. On 31 December 2021, Seven West Media (**Seven**) acquired Prime Media Limited which resulted in the occurrence of a 'trigger event' pursuant to Division 5D of the Act. This prompted increased local programming obligations in four aggregated and four non-aggregated regional television licence areas.
- C. Seven licensees impacted by the trigger event complied with the increased local programming obligations from the 6-week timing period that commenced on 24 July 2022 in all relevant licence areas, except for the Licensee in the Mildura/Sunraysia TV1 licence area.
- D. The Licensee in the Mildura/Sunraysia TV1 licence area holds two commercial television broadcasting licences, one of which is a licence issued under section 38B of the Act. Section 38B licences are exempt from trigger event obligations pursuant to subsection 61CX(1) of the Act. Prior to the trigger event, the former holder of the licence in the Mildura/Sunraysia TV1 licence area was not subject to local programming obligations and did not produce local news content.
- E. The Licensee acknowledges that it has not met, and as at the date of the making of this Undertaking, is not meeting, its local programming obligations under subsection 61CX(1) of the Act which came into effect on 24 July 2022.
- F. The Licensee has offered this enforceable undertaking under section 205W of the Act.

Operative Parts

2. **Defined terms and interpretation**

2.1 **Defined terms**

The following definitions apply unless the context requires otherwise.

ACMA means the Australian Communications and Media Authority.

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

Business Day means a day which is not a Saturday, Sunday, a bank holiday or a public holiday in Victoria.

Commencement Date has the meaning given to it in clause 3.1.

Licensee means Prime Television Victoria Pty Limited.

Undertaking means this enforceable undertaking.

2.2 **Interpretation**

In this Undertaking, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) other grammatical forms of a defined word or expression have a corresponding

meaning;

- (c) a reference to a clause or paragraph is to a clause or paragraph of this Undertaking;
- (d) a reference to a document or agreement (including the Undertaking), includes the document or agreement as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (g) a construction that would promote the purpose or object underlying the Undertaking (whether expressly stated or not) shall be preferred to a construction that would not promote that purpose or object;
- (h) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2.3 Headings

Headings are for ease of reference only and do not affect interpretation.

3. Term

3.1 Commencement

This Undertaking commences on the day (the Commencement Date) when, having been executed by or on behalf of the Licensee, and so executed, it has been accepted by the ACMA and written notification of that acceptance has been provided to the Licensee.

3.2 Termination

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. Withdrawal or variation

This Undertaking may only be withdrawn or varied with the written consent of the ACMA in accordance with subsection 205W(3) of the Act.

5. Undertakings

The Licensee undertakes in accordance with paragraph 205W(1)(c) of the Act to take the actions specified below, directed towards ensuring that it does not breach the Act, or is unlikely to breach the Act, in the future.

- 5.1 The Licensee will take the necessary steps, which are to be set out in a commencement plan

to be provided to the ACMA within two weeks of the Commencement Date, to be compliant with section 61CX of the Act by no later than the beginning of the 6-week timing period (as per the meaning of "timing period" given in subsection 61CY(2) of the Act) that commences on Sunday 4 February 2024.

- 5.2 Until compliance with section 61CX of the Act is achieved, the Licensee will provide a report to the ACMA by the last day of each calendar month occurring after the Commencement Date, setting out the actions it has taken in the previous month (or part of a month, if applicable) towards achieving compliance, and the actions it expects to take in the coming month.
- 5.3 Within one week of the end of each 6-week period commencing from Sunday 4 February 2024 up until 23 June 2024, the Licensee will provide to the ACMA a report on the Licensee's compliance with the local programming obligations imposed by subsection 61CX(1) of the Act for each week in the preceding 6-week period.

Signed for and on behalf of the Licensee by
Prime Television Victoria Pty Limited:

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Signature of authorised person

Director

Office held

Bruce McWilliam

Name of authorised person

Signed for and on behalf of the Australian
Communications and Media Authority
pursuant to section 205W of the Act by:

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Signature of Member



Signature of Member/General Manager

Creina Chapman

Name

Autumn Field

Name