

ENFORCEABLE UNDERTAKING

ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY BY Tamworth Broadcasting Services (Operations) Ltd; ACN 652 005 037 UNDER SECTION 205W of the *Broadcasting Services Act 1992*

1. Person giving the undertaking

This Undertaking is given to the Australian Communications and Media Authority by Tamworth Broadcasting Services Operations Limited (ACN 652 005 037) under section 205W of the *Broadcasting Services Act 1992*.

2. Definitions

2.1 In this Undertaking:

- a) words or phrases that are defined in either the *Broadcasting Services Act 1992* or the *Radiocommunications Act 1992* have the same meaning as in those Acts.
- b) **Advertising and sponsorship regulations** means the regulatory obligations that apply to the licensee of the CBL in paragraph 9(1)(b) and sub-clause 9(3) of Schedule 2 to the BSA, and Code 6 of the Community Radio Broadcasting Codes of Practice (**the Codes**).
- c) **ACMA** means the Australian Communications and Media Authority.
- d) **AQEP (Assessment)** means an appropriately qualified external person approved by the ACMA to conduct audits for the purpose of this Undertaking. Examples may include a peak body representative, legal advisor or consultancy firm with a detailed understanding of regulatory obligations of community broadcasters under the BSA.
- e) **AQEP (Training)** means an appropriately qualified external person approved by the ACMA to assess training materials and conduct training for the purpose of this Undertaking. Examples may include a peak body representative, legal advisor or consultancy firm with a detailed understanding of regulatory obligations of community broadcasters under the BSA.
- f) **Board** means the board of directors of TBSO.
- g) **BSA** means the *Broadcasting Services Act 1992*.
- h) **CBL** means community broadcasting radio licence SL3061 in Tamworth RA1.
- i) **Commencement date** means the day this Undertaking is executed by the ACMA.
- j) **RA** means the *Radiocommunications Act 1992*.
- k) **Relevant 2YOU staff and volunteers** means all staff employed by, and volunteers working for, TBSO who are involved in programming, on air presenting, interviewing for the purpose of broadcasting, and editing of material for the purpose of broadcasting.
- l) **TBS** means Tamworth Broadcasting Society Incorporated ACN 4774 4587 412
- m) **TBSO** means Tamworth Broadcast Services (Operations) Limited ACN 652 005 037.
- n) **Training procedures** means systems and processes directed to ensuring induction training and refresher training is delivered at regular intervals and is directed to identifying areas for improvement and actioning those.
- o) **Transfer application** means the application made by TBS to the ACMA on 20 October 2021 to transfer its CBL to TBSO.
- p) **Undertaking** means this Enforceable Undertaking.

3. Terms of the Undertaking

3.1 This Undertaking continues for four years from the commencement date or until it is:

- a) withdrawn or varied by TBSO with the ACMA's consent under subsection 205W(3) of the BSA, or
- b) cancelled by the ACMA under subsection 205W(4) of the BSA.

4. Background

4.1 TBS has held the CBL since 16 July 1982 and is the current licensee. TBS has applied to the ACMA for a transfer of the community radio broadcasting licence to TBSO under section 91A of the BSA.

4.2 During its consideration of the Transfer application the ACMA investigated alleged breaches by TBS of its licence conditions. Those investigations resulted in findings by the ACMA that TBS had breached licence conditions under both the BSA and the RA. On 19 December 2022, the ACMA accepted two separate enforceable undertakings (Undertakings) from TBS in respect of those findings (the BSA Undertaking and the RA Undertaking) that remain in force until 19 December 2026. Under the BSA Undertaking a final report is due on 19 February 2025.

4.3 The undertakings under the RA Undertaking are ongoing until 18 December 2026 and permit periodic audits and monitoring by members of the ACMA staff of any radio communications transmitters in the possession of TBS, or on premises TBS has access to, operated to provide a community broadcasting service.

4.4 In June 2024 the ACMA finalised further investigations, finding that TBS again breached the BSA and RA.

4.5 TBS accepts the ACMA's investigation findings in BI-686 and acknowledges that the ACMA is considering appropriate enforcement action.

4.6 On 18 June 2024, the ACMA issued a Remedial Direction to TBS in respect of the RA breach.

4.7 In response to the ACMA's findings and ongoing concerns about future compliance, TBSO gives this Undertaking.

5 Undertakings relating to obligations under the *Broadcasting Services Act 1992*

5.1 TBSO undertakes it will:

Assessment of training systems and materials - advertising and sponsorship

5.1.1 within 3 months of the commencement of this Undertaking, engage an AQEP (Assessment) to conduct an assessment of 2YOU's training records to:

- a. assess the suitability of the existing material and systems to train Relevant 2YOU staff and volunteers on the Advertising and sponsorship regulations;
- b. assess and determine the suitability of the existing material and systems for training Relevant 2YOU staff and volunteers on the Advertising and sponsorship regulations in relation to specific broadcast situations such as outside broadcasts and interviews with sponsors;

- c. identify areas for improvement in each of (a) and (b) above and advise TBSO of any recommended improvements; and
- d. within 4 months of the engagement of the AQEP (Training), provide a report to the ACMA, on the findings of the assessment by the AQEP (Training) under clause 5.1.1 of this Undertaking, identifying areas for improvement (if any), suggested amendments to the existing systems and material, and listing any recommended improvements implemented immediately following the assessment and prior to reporting.

Assessment of training records

5.1.2 within 3 months of the acceptance of this Undertaking, engage an AQEP (Assessment) to conduct an assessment of 2YOU's records of training conducted since 19 December 2022:

- a. to assess the information contained in the training records and whether it includes the details of the provider, the date and topic of the training given, the training material used, the names of participants, whether they are volunteers or members of staff, and the outcomes of any knowledge assessments conducted and if that information is appropriately recorded;
- b. to identify areas of deficiencies in training records;
- c. to recommend any improvements to record keeping and to improve the scheduling of training to strengthen the understanding and knowledge of Relevant 2YOU staff and volunteers of the requirements of the Advertising and sponsorship regulations;
- d. to assess the method of planning for refresher training and how it is monitored to ensure it is undertaken by all Relevant 2YOU staff and volunteers and that this training and monitoring is appropriately recorded and monitored;
- e. to provide a report to the ACMA on the findings of that assessment within 2 months of the engagement of the AQEP (Assessment).

Development of further training procedures and materials

5.1.3 on or before the day occurring 5 months after acceptance of this Undertaking, taking into account the findings of the assessment of training records at 5.1.2., TBSO must develop, with the assistance of an AQEP (Training), training procedures and training material (**TPM**) to be used to train Relevant 2YOU staff and volunteers. The TPM must have a specific emphasis on and be directed to the Advertising and sponsorship regulations, and include training specifically related to the conduct of outside broadcasts and interviews with sponsors.

5.1.4 on or before the day occurring 4 months after acceptance of this Undertaking, TBSO must give the ACMA a copy of the draft TPM developed in accordance with paragraph 5.1.3.

5.1.5 finalise the TPM on or before the earlier of:

- a. the day occurring 1 month after the ACMA, or an SES employee or acting SES employee of the ACMA, gives TBSO comments on the draft TPM (ACMA comments) or notifies TBSO that there are no comments; or
- b. the day occurring 2 months after the date TBSO complies with paragraph 5.1.4

TBSO must finalise the TPM (as amended to take into account the ACMA comments).

Training

- 5.1.6 on or before the day occurring 3 months after TBSO finalises the TPM, TBSO must engage an AQEP (Training) to train TBSO staff and volunteers involved in programming, on air presenting and interviewing for broadcasting, using the TPM.
- 5.1.7 on or before the day occurring 1 month after TBSO complies with paragraph 5.1.6, TBSO must provide to the ACMA a report that includes the details of the training provided, the participants, provision dates, provider details, and a summary of a knowledge assessment and the results of the knowledge assessment.
- 5.1.8 within 1 month of the finalisation of the TPM in paragraph 5.1.5 TBSO must implement a training schedule for all staff and volunteers involved in programming, broadcasting, and interviewing to ensure regular refresher training is offered and provided in accordance with the TPM:
- a) that incorporates 3 training sessions across an 18-month period for on air announcers (both paid staff and volunteers) directed to improving understanding and facilitating compliance with the licence conditions applicable to a community broadcasting licence;
 - b) provide a copy of that schedule to the ACMA; and
 - c) provide a report to the ACMA within 1 month from the date of the training, that includes a list of attendees, topics covered, dates, facilitators, and the learnings including skills and competencies developed by staff and volunteers at each of the training sessions.

Interim training

- 5.2 within 2 months from the acceptance of this Undertaking, TBSO must engage an AQEP (Training) to provide interim refresher training for relevant 2YOU staff and volunteers directed to improving understanding and facilitating compliance with the BSA community broadcasting conditions with a specific emphasis on the Advertising and sponsorship regulations, outside broadcasts and interviews with sponsors.

AGM & elections

- 5.3 on or before 18 February 2025 provide a report to the ACMA:
- a) providing draft or final minutes of the TBSO 2024 AGM including the election of the Board of Directors;
 - b) identifying specific positions that were declared vacant at the 2024 AGM;
 - c) including the details of the people elected to fill any vacant positions at the 2024 AGM;
 - d) stating whether those people are volunteers or paid members of staff;
 - e) providing details of any reimbursement or gifts any board members receive for fulfilling the duties associated with the positions filled at the 2024 AGM including allowances paid or received.

Program schedule and recordings

5.4 on each Friday from the Commencement date, provide the ACMA with the planned weekly program schedule for the 4 weeks following the date the schedule is provided, with all scheduled outside broadcasts clearly indicated.

5.5 the planned weekly program schedule must be provided to the ACMA by email to communitybroadcasting@acma.gov.au each Friday for a period of 6 months from the Commencement date.

5.6 secure and retain all program content for a period of 120 days after it has been broadcast.

6 Assistance to the ACMA

Provide all other reasonable assistance as requested by the ACMA staff members to facilitate the assessment of reports provided under this Undertaking, investigations by the ACMA and ongoing monitoring of compliance.

Acknowledgments

7 TBSO acknowledges that:

- 7.1 the ACMA will make this Undertaking publicly available including publishing it on the ACMA's website
- 7.2 the ACMA may, make public comment about this Undertaking and its terms which includes issuing a media release upon its execution by the ACMA as the ACMA considers appropriate.
- 7.3 the ACMA may, publicly report on compliance with this Undertaking.
- 7.4 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 subject to this Undertaking or arising from future conduct.
- 7.5 this Undertaking in no way derogates from the rights and remedies available to any other person or entity arising 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 Enforceable Undertaking

Signed/Executed by Tamworth Broadcasting Services Operations Limited (ACN 652 005 037)

	
Signature	Signature
Mr Kevin Tongue	Mr John Brand
Name (Director)	Name (Director)
Date: 10 December 2024	Date: 10 December 2024

Accepted by the Australian Communications and Media Authority under section 205W of the *Broadcasting Services Act 1992*.

	
Signature	Signature
Nerida O'Loughlin	Autumn Field
Name, Member (print)	Name, Member/General Manager (print)
Date: 17/01/2025	17/01/2025

Revised dates for actions under EU

Clause of EU	Action Required	Proposed revised Date	
5.1.2(e)	Within 3 months of the acceptance of this Undertaking engage an AQEP (Assessment) to conduct an assessment of 2YOU's records of training conducted since 19 December 2022 to provide a report to the ACMA on the findings of that assessment within 2 months of the engagement of the AQEP (Assessment).	13 October 2025	
5.1.3	<i>On or before the day occurring 5 months after acceptance of this Undertaking taking into account the findings of the assessment of training records at 5.1.2, TBSO must develop with the assistance of an AQEP (Training), training procedures and training material (TPM) to be used to train relevant 2YOU staff and volunteers. The TPM must have specific emphasis on and be directed to the advertising and sponsorship regulations and include training specifically related to the conduct of outside broadcasts and interviews with sponsors.</i>	N/A	<i>Included here for context only to understand 5.1.4</i>
5.1.4	On or before the day occurring 4 months after the acceptance of this Undertaking TBSO must give the ACMA a copy of the draft TPM developed in accordance with paragraph 5.1.3 (training procedures and training material to be used)	12 December 2025	