

Remedial Direction issued under subsection 141(1) of the *Broadcasting Services Act 1992*

TO: Channel Seven Sydney Pty Limited (ACN 000 145 246) (the Licensee)
OF: 8 Central Avenue, Eveleigh, NSW 2015
Attention: Sarah Kossew, Senior Legal Counsel
By email: SKossew@Seven.com.au

Background

The Australian Communications and Media Authority (the **ACMA**) is responsible for administering and enforcing captioning obligations of commercial television broadcasting licensees under Part 9D of the *Broadcasting Services Act 1992* (the **BSA**).

Each commercial television broadcasting licence is subject to the conditions set out in clause 7 of Schedule 2 to the BSA. Paragraph 7(1)(o) of Schedule 2 provides that if a provision of Part 9D (which deals with the captioning of television programs for the deaf and hearing impaired) applies to the licensee, the licensee will comply with that provision (the **captioning licence condition**).

In 2022, the ACMA found that the Licensee breached the captioning licence condition by failing to comply with Part 9D of the BSA in 2 investigations - BI-580 and BI-629.

Direction

The ACMA is satisfied that the Licensee has breached the captioning licence condition and, from the date specified at the end of this Notice (the **Commencement Date**):

HEREBY directs the Licensee under subsection 141(1) of the BSA to take the actions specified below, directed towards ensuring that it does not breach the captioning licence condition, or is unlikely to breach the captioning licence condition, in the future:

Independent audit of captioning processes

- (a) within 1 month of the Commencement Date, the Licensee must, for the purposes of paragraph (b), provide the following to the ACMA for approval:
 - i. the name and qualifications of an independent auditor;
 - ii. the independent auditor's experience in assessing captioning for live and near-live television programs;
 - iii. the independent auditor's relationship, if any, with the Licensee;
and
 - iv. draft terms of reference;

- (b) within 3 months of the ACMA providing approval under paragraph (a), the Licensee must cause an independent audit to be conducted, and completed, of the current measures that it has in place to make sure that the quality of captioning is at a level that is compliant with the *Broadcasting Services (Television Captioning) Standard 2013* (the **Standard**);
- (c) the Licensee must provide a copy of the report of the audit prepared by the independent auditor to the ACMA within 30 days of the completion date of the audit;
- (d) the Licensee must implement any audit recommendations within 6 months of receiving the independent audit report;
- (e) the Licensee must provide a report to the ACMA within 30 days after the earlier of the end of the 6-month period or the date on which all audit recommendations are implemented;

Independent audits of captioning quality

- (f) within 3 months of the Commencement Date, the Licensee must, for the purposes of paragraph (g), provide the following to the ACMA for approval:
 - i. the name and qualifications of an independent auditor;
 - ii. the independent auditor's experience in assessing captioning for live and near-live television programs;
 - iii. the independent auditor's relationship, if any, with the Licensee; and
 - iv. draft terms of reference for the independent auditor, which include (without limitation) a requirement to assess captioning in distinct program segments in live and near-live programs against the requirements relating to quality set out in the Standard, where each individual news story or a discussion on a particular topic, unrelated to other program segments within that same program, will be assessed as being a distinct program segment;
- (g) in 4 consecutive 6-month periods, commencing on the date on which the independent auditor and the draft terms of reference are approved by the ACMA, the Licensee must cause an independent audit to be conducted of the quality of captions against the requirements relating to quality in the Standard, of 2 live or near-live programs where:
 - i. the 2 programs, the subject of each audit, are programs which have been selected by the ACMA;
 - ii. the ACMA has notified the Licensee of the selected programs not less than 60 days before the end of that 6-month period;

- iii. each audit is completed within 60 days of the date on which the ACMA notifies the Licensee of the selected programs for that 6-month period;
- (h) the Licensee must provide a report of the audit prepared by the independent auditor to the ACMA within 30 days of the completion date of each audit;

Training of captioning staff

- (i) within 30 days of the Commencement Date, the Licensee must provide to the ACMA for approval, a draft training program that sets out the obligations of the Licensee's captioning staff, responsible for the play-out of live and near-live content, including, without limitation:
 - i. the Licensee's obligations to comply with the requirements relating to quality in the Standard, which entail captioning staff monitoring captions for distinct program segments, for example, individual news stories or discussions on particular topics where such segments are unrelated to other program segments within that same program; and
 - ii. the Licensee's obligations to comply with the requirements relating to quality in the Standard, which entail captioning staff making necessary interventions when issues relating to quality, as assessed against the Standard, begin to emerge;
- (j) when providing the draft training program to the ACMA, the Licensee must also provide a copy of the training material that will be used and the number and positions of captioning staff of the Licensee who will receive training;
- (k) the Licensee must ensure that all captioning staff of the Licensee complete the training program, subject to any reasonable changes advised to it in writing by the ACMA, within 3 months after the Commencement Date;
- (l) within 30 days after the completion date of the training program, the Licensee must provide a report to the ACMA, including evidence that all its captioning staff responsible for the play-out of live and near-live content have completed the training program.

TAKE NOTE:

1. Paragraph 7(1)(o) of Schedule 2 to the BSA provides that, if a provision of Part 9D (which deals with captioning of television programs for the deaf and hearing impaired) applies to the licensee, the licensee will comply with that provision.
2. Under subsection 141(1) of the BSA, if the ACMA is satisfied that a person who is a commercial television broadcasting licensee has breached, or is breaching, a condition of the licence, the ACMA may, by written notice given to the person, direct the person to take action directed towards ensuring that the person does not breach that condition, or is unlikely to breach that condition, in the future.
3. Subsection 142(1) of the BSA provides that a person commits an offence if a person has been given a notice under section 141, and the person is a commercial television broadcasting licensee and engages in conduct that contravenes a requirement in the notice. The maximum penalty is 20,000 penalty units (\$5,500,000).
4. Subsection 142A(1) provides that a person must comply with a notice under section 141. Subsection 142A(2) provides that subsection 142A(1) is a civil penalty provision. Subsection 142A(3) provides that a person who contravenes subsection 142A(1) commits a separate contravention of that subsection in respect of each day (including a day of the making of a relevant civil penalty order or any subsequent day) during which the contravention continues.



Signature of Member



Signature of Member/General Manager

JAMES CAMERON

Name (Please Print)

CATHY RAINSFORD

Name (Please Print)

Dated this 22nd day of February 2023.