

ENFORCEABLE UNDERTAKING

ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY BY Tamworth Broadcasting Society Inc; 47 744 587 412 UNDER section 205W of the *Broadcasting Services Act 1992*

1. Person/s giving the undertaking

This Undertaking is given to the Australian Communications and Media Authority by Tamworth Broadcasting Society Inc. under section 205W of the *Broadcasting Services Act 1992* (BSA)

2. Definitions

2.1 In this Undertaking:

- (a) **ACMA** means the Australian Communications and Media Authority.
- (b) **BSA** means Broadcasting Services Act 1992
- (c) **Undertaking** means this Enforceable Undertaking.

3 Term of the Undertaking

- 3.1 This undertaking, having been executed by Tamworth Broadcasting Society Inc., commences on the day it is executed by the ACMA (the commencement date).
- 3.2 This Undertaking continues for a period of 4 years from the commencement date or until it is withdrawn or varied by Tamworth Broadcasting Society Inc. with ACMA's consent under subsection 205W(3) or cancelled by the ACMA under subsection 205W(4) of the BSA, whichever is earlier.

4 Background

- 4.1 The description of the business relevant to the ACMA investigation relates to Tamworth Broadcasting Society Inc's actions with regards to clause 9 of Schedule 2.
- 4.2 The description of the conduct subject to the ACMA investigation was that Tamworth Broadcasting Society Inc breached the rules regarding;
 - 4.2.1 Advertising (paragraph 9(1)(b) of Schedule 2)
 - 4.2.2 Sponsorship (paragraph 9(3)(b) of Schedule 2)
 - 4.2.3 Community Interest (paragraph 9(2)(b) of Schedule 2)
 - 4.2.4 Participation in operations and programming (paragraph 9(2)(c) of Schedule 2)
 - 4.2.5 Corporate Governance Policies & Procedures (Community Radio Code of Practice 1.2)
- 4.3 These conducts are considered by the ACMA to contravene the BSA because Community Radio stations are not permitted to go over 5 mins per hour of sponsorship announcements. Community Radio stations must represent and encourage the community to participate with the Community Radio. Community Radios must follow the Community Radio Code of Practice.
- 4.4 Tamworth Broadcasting Society Inc. acknowledges the ACMA's view that this conduct contravened Clause 9 of Schedule 2 of the BSA and the Community Radio Code of Practice 1.2.
- 4.5 In response to the ACMA's view and concerns regarding Tamworth Broadcasting Society Inc's future compliance, Tamworth Broadcasting Society Inc. offers this undertaking.

5 Undertakings

- 5.1 Tamworth Broadcasting Society Inc. undertakes it will:
 - 5.1.1 Provide training for all relevant members and staff of Tamworth Broadcasting Services Inc (including board members where applicable) on the requirements of the following community radio licence conditions in the BSA
 - 5.1.1.1 Advertising (paragraph 9(1)(b) of Schedule 2).
 - 5.1.1.2 Sponsorship (paragraph 9(3)(b) of Schedule 2).
 - 5.1.1.3 Community Interest (paragraph 9(2)(b) of Schedule 2).
 - 5.1.1.4 Participation in operations and programming (paragraph 9(2)(c) of Schedule 2) (the relevant licence conditions).

- 5.1.2 The Training should:
 - 5.1.2.1 Include in its scope sound corporate governance practices
 - 5.1.2.2 Reflect and refer to the Community Broadcasting Sponsorship Guidelines and the Community Participation Guidelines
 - 5.1.2.3 Inform participants of the requirements of the relevant licence conditions with a focus on how Tamworth Broadcasting Society Inc meets those requirements
 - 5.1.2.4 Be provided to new staff and members as they join the organisation in the future.
- 5.1.3 Within 6 months of the commencement date, provide a report to the ACMA which sets out:
 - 5.1.3.1 The roles of all relevant members and staff of Tamworth Broadcasting Society Inc that need to be aware of Tamworth Broadcasting Society Inc's obligations under paragraph 9(1)(b) and 9(3)(b) of Schedule 2 to the BSA in order for Tamworth Broadcasting Society Inc to comply with those obligations.
 - 5.1.3.2 The roles and names of participants that were trained.
 - 5.1.3.3 The dates on which each of the participants attended the training.
 - 5.1.3.4 The content and focus of the training.
 - 5.1.3.5 The relevant credentials of the person or persons who developed and provided the training.

5.2. Within 3 months of the commencement date, establish systems and processes to maintain and record evidence of broadcasting of:

- 5.2.1.1 Sponsorship announcements
- 5.2.1.2 Community information
- 5.2.1.3 Community promotional material
- 5.2.2 Within 6 months of the commencement date, provide a report of the content that Tamworth Broadcasting Society Inc has broadcast this is:
 - 5.2.2.1 sponsorship announcements
 - 5.2.2.2 community information
 - 5.2.2.3 community promotional material
- 5.2.3 Within 12 months of the commencement date, provide a second report on the same matters as referred to in 5.2.2.
- 5.3 Within 6 months of the commencement date, develop and adopt a detailed community consultation strategy and structured engagement plan in accordance with the ACMA draft community consultation strategy and program with key performance indicators to measure activities to represent the community interest and participation in operations and programming. For example, the number of hours of programming provided by volunteers and the numbers of volunteers in programming and operations at all levels of the organisation. This should:
 - 5.3.1 take account of the Community Participation Guidelines and the ACMA structured engagement plan template.
 - 5.3.2 Support the establishment of a programming committee with community members that are not paid or board members.
 - 5.3.3 Include actions, timeframes and expected results.
 - 5.3.4 Within 14 months of the commencement date, provide a provide a report of activity against the community engagement plan and progress against the measures.
 - 5.3.5 Within 20 months of the commencement date provide a second report on the same matters.
- 5.4 Within 14 months of the commencement date, provide programming opportunities to members of the community and provide evidence to the ACMA that this occurred, including:
 - 5.4.1 the ways in which the community can participate in the programming of the station.
 - 5.4.2 How the opportunities were communicated to the community.
 - 5.4.3 How the decisions were made as to including new programs in the schedule.
 - 5.4.4 The number and names of the new programs that have been included in the program

- schedule since the commencement of the undertaking.
- 5.5 Within 2 months of the commencement date, provide written reports to the ACMA covering the period from 1 January 2020 to the date of this EU, about
 - 5.5.1 Tamworth Broadcasting Society Inc AGMs and elections for the Board of Directors, including these are being conducted in accordance with Tamworth Broadcasting Society Inc constitution
 - 5.5.2 Which positions, including key positions such as board and committee members and presenter positions within Tamworth Broadcasting Society Inc have been made available to volunteers.
 - 5.5.3 Within 14 months of the commencement date, provide a second report to the ACMA on the same matters for the preceding 12 month period.
 - 5.5.4 Within 26 months of the commencement date, provide a second report to the ACMA on the same matters for the preceding 12 month period.
 - 5.6 At no time during the term of this undertaking will Tamworth Broadcasting Society Inc or its representatives make representations to any person, by any means, to the effect that Tamworth Broadcasting Society Inc will target audiences outside the Tamworth RA2 licence area.
 - 5.7 Provide all other reasonable assistance as requested by the ACMA staff members.

6 Acknowledgements

- 6.2 Tamworth Broadcasting Society Inc. acknowledges that:
 - 6.2.1 The ACMA will make this Undertaking publicly available including by publishing it on the ACMA's website.
 - 6.2.2 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.
 - 6.2.3 The ACMA may, from time to time, publicly report on compliance with this Undertaking.
- 6.3 Tamworth Broadcasting Society Inc. also acknowledges that:
 - 6.3.1 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.
 - 6.3.2 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.

