

FORMAL WARNING

under section 205XA of the *Broadcasting Services Act 1992*

To: Shepparton Newspapers Proprietary Limited (ACN: 004 406 946)
Attention: c/- [REDACTED], Director and Executive Chairman,
McPherson Media Group [REDACTED]

I, Rochelle Zurnamer, an authorised infringement notice officer appointed by the Australian Communications and Media Authority (the **ACMA**) under section 205ZE of the *Broadcasting Services Act 1992* (the **BSA**), having reasonable grounds to believe that Shepparton Newspapers Proprietary Ltd (ACN: 004 406 946) (**Shepparton Newspapers**) has contravened subsection 63(3) of the BSA, being a designated infringement notice provision;

HEREBY gives Shepparton Newspapers a formal warning under section 205XA of the BSA for contraventions of subsection 63(3) of the BSA, and warns Shepparton Newspapers that I, or another authorised infringement notice officer, may be entitled to give Shepparton Newspapers an infringement notice relating to the contraventions.

Obligations under subsection 63(3) of the BSA

Subsection 63(3) of the BSA states that:

- (3) If the publisher of a newspaper that is associated with the licence area of a commercial television broadcasting licence or a commercial radio broadcasting licence becomes aware that:
- (a) a person who was not in a position to exercise control of the newspaper has become in a position to exercise control of the newspaper; or
 - (b) a person who was in a position to control the newspaper has ceased to be in that position;

the publisher of the newspaper must, within 10 business days after becoming so aware, notify the ACMA in writing of that event.

Subsection 63(4) of the BSA requires that notice of the event(s) identified in paragraph 63(3)(a) or (b) is to be provided in a form approved in writing by the ACMA.

Subsection 63(5) of the BSA states that a person commits an offence if:

- (a) the person is subject to a requirement under subsection (1) or (3); and
- (b) the person omits to do an act; and
- (c) the omission breaches the requirement.

Penalty for contravention of this subsection:

- (a) if the breach relates to a commercial television broadcasting licence or a newspaper—500 penalty units; or
- (b) otherwise—50 penalty units.

Section 65A of the BSA provides that an offence against section 63 is an offence of strict liability.

Section 65B of the BSA declares that section 63 is a designated infringement notice provision.

Section 205XA of the BSA provides that the ACMA may issue a formal warning if a person has contravened a designated infringement notice provision.

Compliance assessment

- On 17 April 2023 (at 9:14 pm), the ACMA received an Australian Securities and Investments Commission (**ASIC**) alert that indicated McPherson Brothers Investments Pty Ltd (ACN 083 194 218) (**MBI**) had been de-registered.
- Searches of the ASIC database indicated that there had been further shareholding changes for Shepparton Newspapers.
- On 21 April 2023, the ACMA contacted Shepparton Newspapers about the effect of the de-registration by email.
- On 1 May 2023, Shepparton Newspapers lodged a notification (the **notification**) under section 63 of the BSA relating to changes in control of the *Shepparton News*, arising from a transaction which occurred on 12 April 2022 (the **Transaction**).
- The notification advised that [REDACTED] and MBI ceased to be in a position to exercise control of the *Shepparton News* on 12 April 2022, and that Thebossesdog Pty Ltd (ACN 657 423 017) (**Thebossesdog**) came into a position to exercise control of the *Shepparton News* on 12 April 2022.
- The notification advised that Shepparton Newspapers became aware of the changes in control on 12 April 2022, the date of the Transaction.
- On 22 May 2023, the ACMA wrote to Shepparton Newspapers to request additional information in relation to the apparent self-reported contraventions.
- On 23 May 2023, [REDACTED] on behalf of Shepparton Newspapers, provided an explanation for the late lodgment of the notification received on 1 May 2023, advising that it was not aware that the Transaction fell within the technical requirements for notification and provided an apology.

Details of the alleged contraventions

Based on the Shepparton Newspapers' report and the ACMA's assessment, I have reason to believe that on 12 April 2022, Shepparton Newspapers, the publisher of the associated newspaper, the *Shepparton News* (the **newspaper**), became aware that:

- (a) Thebossesdog, who was not in a position to exercise control of the newspaper, had become in a position to exercise control of the newspaper; and
- (b) [REDACTED] and MBI, who were in a position to exercise control of the newspaper, have ceased to be in that position.

Shepparton Newspapers did not notify the ACMA in writing of the above events within 10 business days after becoming aware of those events, that is, by 29 April 2022.

By not notifying the ACMA in writing of the above events until 1 May 2023, I have reason to believe that Shepparton Newspapers was in contravention of the notification obligation at subsection 63(3) of the BSA for a total of 366 calendar days.

Dated this 26th day of June 2023.

[REDACTED]

Rochelle Zurnamer
Authorised infringement notice officer under section 205ZE of the BSA