

FORMAL WARNING

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

To: Network Ten (Sydney) Pty Ltd (ABN 41 008 664 962)

Attention: [REDACTED]
[REDACTED]

I, Jenny Allen, 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 the commercial television broadcasting licensee, Network Ten (Sydney) Pty Ltd (ABN 41 008 664 962) (the **Licensee**) that is a subsidiary of Network Ten Pty Limited (**Network Ten**), has contravened subsection 63(1) of the BSA, being a designated infringement notice provision;

HEREBY gives the Licensee a formal warning under section 205XA of the BSA for contravention of subsection 63(1) of the BSA, and warns the Licensee that I, or another authorised infringement notice officer, may be entitled to give the Licensee an infringement notice relating to the contravention.

Obligations under subsection 63(1) of the BSA

Subsection 63(1) of the BSA provides, amongst other things, that:

If a commercial television broadcasting licensee or [...] becomes aware that:

- (a) a person who was not in a position to exercise control of the licence has become in a position to exercise control of the licence; or
- (b) a person who was in a position to control the licence has ceased to be in that position;

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

Subsection 63(2) of the BSA requires that details are to be provided in a form approved in writing by the ACMA.

Subsection 63(5) of the BSA provides, amongst other things, that:

A person commits an offence if they breach a requirement under subsection 63(1) to which they are subject to.

Penalty for contravention of this subsection:

- (a) if the breach relates to a commercial television broadcasting licence [...]—500 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 21 July 2023, lawyers acting for Network Ten, submitted a notification under subsection 63(1) of the BSA for a change in control of commercial television broadcasting licence BSL 88 (the **Licence**) held by the Licensee, arising from a transaction that occurred on 31 August 2022 (the **Notification**):
- The Notification advised that, on 31 August 2022, Paramount Global and CBS International transferred their interests in CBS Studios to a newly formed and wholly owned entity, Eye International Studios Inc (**Eye International**) (the **Transaction**).
- According to the Notification, the Transaction did not involve any substantive change in ownership of CBS Studios and was purely an inter-company transaction between Paramount Global and its wholly owned subsidiaries.
- According to information in the Notification, as a result of the Transaction, Eye International came into a position to exercise control of the Licence.
- The Notification indicates that the Licensee became aware of the change in control on 31 August 2022, the date of the Transaction.
- The Licensee was required to lodge a notification under subsection 63(1) of the BSA on or before 14 September 2022, being 10 business days after 31 August 2022, the date the Licensee became aware of the change in control of the Licence. As the Notification was not lodged until 21 July 2023, the Licensee was non-compliant for 309 days.

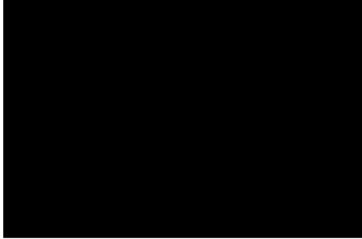
Details of the contravention

Based on the Notification and the ACMA's assessment, I have reason to believe that:

- (a) on 31 August 2022, the Licensee became aware that Eye International, who was not in a position to exercise control of the Licence, had become in a position to exercise control of the Licence; and
- (b) the Licensee did not notify the ACMA in writing of the above event within 10 business days after becoming aware of that event, that is, by 14 September 2022.

By not notifying the ACMA in writing of the above event until 21 July 2023, I have reason to believe that the Licensee contravened the notification obligation at subsection 63(1) of the BSA for a total of 309 calendar days.

Dated this 8th day of September 2023.



Jenny Allen
Authorised infringement notice officer under section 205ZE of the BSA