



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

TO: Radio 2GB Sydney Pty Ltd (the *Licensee*) – ACN 010 853 317

OF: GPO Box 4290, Sydney, NSW, 2001

The Australian Communications and Media Authority (the **ACMA**) being satisfied that the Licensee has breached subsection 10(2), section 13 and section 15 of the *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2012* (the **Disclosure Standard**), and, as a result, breached the licence condition at paragraph 8(1)(b) of Schedule 2 to the *Broadcasting Services Act 1992* (the **BSA**);

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

The Licensee must:

1. Conduct formal training with all relevant staff on the requirements of the Disclosure Standard within a period of 6 months from the date of this direction. For the purpose of this direction, **relevant staff** means staff of the Licensee (including presenters, producers and commercial and sales staff) who are:
 - a. involved in the negotiation and/or implementation of **commercial agreements**¹; or
 - b. responsible for maintaining the online register required to be kept under Part 3 of the Disclosure Standard.
2. Within 6 months from the date of this direction, provide a report to the ACMA which sets out in relation to item 1:
 - a. the names and roles of all relevant staff;
 - b. the dates on which each of the relevant staff attended the formal training;
 - c. the duration and content of the training (including providing a copy of any written materials used in the training, or a summary of the training provided if no written materials were used); and
 - d. the name and relevant credentials of the person who provided the training.
3. Establish systems, processes and practices (**SPPs**) to ensure ongoing compliance with the Disclosure Standard and introduce methods to monitor the effectiveness of those SPPs within 1 month of the date of this direction.
4. For the purposes of item 3, maintain records of:

¹ *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2012*, section 6

- a. any action answering this part taken by the Licensee between 27 May 2024 (being the date on which the Licensee received the ACMA's preliminary breach finding) and the date of this direction, as required by item 3 above;
- b. the new SPPs introduced in response to this remedial direction and the date they were introduced;
- c. identification of those SPPs which are in place to ensure the online register is current; and
- d. what methods are being used to monitor the effectiveness of the SPPs referred to in item 3.

Independent audit

5. Within 30 days from the date of this direction, the Licensee must, for the purposes of item 8, provide the following to the ACMA for approval:
 - a. The names and qualifications of an independent auditor which the Licensee proposes be engaged to conduct the audit and prepare the written audit report required by this direction;
 - b. A statement addressing whether the Licensee (or any of the Licensee's related bodies corporate) has had a prior or existing relationship with the proposed auditor and advise any potential conflicts of interest of the proposed auditor (or their employer);
 - c. A description of the proposed auditors's experience which is relevant to the assessment of systems and processes to ensure compliance by commercial radio licensees with the Disclosure Standard and the legal requirements of the Disclosure Standard; and
 - d. The draft terms of reference for the independent auditor which must comply with item 7.
6. Should the ACMA not approve the independent auditor proposed by the Licensee in accordance with item 5, the Licensee must, within 30 days from when the ACMA gives written notice to that effect, propose an alternative auditor under item 5.
7. The terms of reference for the internal auditor must include:
 - a. a requirement to assess the extent to which the Licensee's SPPs (as outlined in Item 4) are effective in ensuring the Licensee's compliance with the Disclosure Standard- this will include (but is not limited to) the auditor's conducting random audits of the systems;
 - b. confirmation that the auditor has reviewed all commercial agreements (as defined in section 6 of the Disclosure Standard) and has cross checked the commercial agreements to ensure the online register is compliant with the requirements under Part 4 of the Disclosure Standard;
 - c. an assessment of all unwritten commercial agreements to confirm they are in compliance with the requirements of section 15 of the Disclosure Standard; and
 - d. any other terms of reference which are considered to be appropriate by the Licensee or the independent auditor to assist in assessing the Licensee's capability to comply with the Disclosure Standard, so long as these do not in any way limit the scope of the terms of reference in paragraphs a to c.

Reports and Timeframes

8. The Licensee must require that an independent audit be completed in accordance with the terms of reference, and the independent auditor's written report be provided to the Licensee, no later than 4 months from the date the ACMA provided approval under item 5 (the **independent audit report**).
9. If the independent audit report identifies non compliance with the Disclosure Standard the Licensee must ensure compliance with the Disclosure Standard within 7 days from the date that it receives the independent audit report.
10. Within 30 days of receiving the independent audit report, the Licensee must report to the ACMA:
 - a. providing a copy of the independent audit report;
 - b. identifying any recommendations in the independent audit report that the Licensee believes it cannot reasonably implement within a 6 month period, providing its reasons and specifying the time period within which it proposes to implement these recommendation(s); and
 - c. identifying if there are any recommendations that the Licensee does not consider are reasonable to implement, providing its reasons why it considers the recommendations are not reasonable.
11. The ACMA must approve each identified:
 - a. revised time period pursuant to item 10b; and
 - b. recommendation which the Licensee does not consider is reasonable to implement pursuant to item 10c.
12. The Licensee must, within 6 months of receiving the independent audit report, have implemented the audit recommendations (except those recommendations identified in response to items 10b and 10c) and provided a report to the ACMA confirming the action taken in implementing the audit recommendations.
13. For each (if any) recommendations that the Licensee identified in response to item 10b, the Licensee must provide a written report to the ACMA confirming the action taken in implementing the audit recommendation. For each recommendation, this report must be provided within 30 days of the time period specified by the Licensee in response to item 10b.

TAKE NOTE:

1. Paragraph 8(1)(b) of Schedule 2 to the BSA provides that each commercial radio broadcasting licensee will comply with program standards applicable to the licence under Part 9 of the BSA.
2. The Disclosure Standard is made under subsection 125(1) of the BSA. As this is a program standard under Part 9 of the BSA, where applicable, a commercial radio broadcasting licensee must comply with this standard in accordance with paragraph 8(1)(b) of Schedule 2 to the BSA.
3. Under paragraph 141(1)(b) of the BSA, if the ACMA is satisfied that a person who is a commercial radio 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.
4. Section 142 of the BSA provides that a person commits an offence if the person has been given a notice under section 141, and the person is a commercial radio broadcasting licensee, and the person engages in conduct that contravenes a

requirement in the notice. The penalty for this offence is up to 500 penalty units and the maximum penalty for a corporation is \$782,500.

5. 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. The pecuniary penalty for a contravention of this civil penalty provision for a corporation must not exceed \$782,500.



Signature of Member

Creina Chapman

Name (Please Print)



Signature of Member

Samantha Yorke

Name (Please Print)

Dated this 22nd day of August 2024.