



## HIGH COURT OF AUSTRALIA

Public Information Officer

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NETWORK TEN PTY LIMITED v TCN CHANNEL NINE PTY LIMITED, QUEENSLAND TELEVISION LIMITED AND GENERAL TELEVISION CORPORATION PTY LIMITED

The High Court of Australia today held that the Ten network had not infringed copyright laws with its use of snippets from the Nine network's programs on its weekly comedy chat show, The Panel.

The Panel ran extracts from other networks' programs, including pieces ranging from eight to 42 seconds from Nine's shows including the news, The Today Show, Midday, Sunday, Wide World of Sports, A Current Affair, Australia's Most Wanted, Crocodile Hunter, Days of Our Lives, the Academy Awards, and the Allan Border Medal Dinner. The 20 extracts were run on 15 episodes of The Panel broadcast in 1999 and 2000. Nine sought an injunction to restrain Ten from re-broadcasting such segments without consent and claimed a declaration of infringement of the broadcast copyright of Nine in its programs.

In the Federal Court of Australia Justice Richard Conti held that Ten had not taken the whole or a substantial part of any of Nine's broadcasts. He defined "a television broadcast" in the Copyright Act as a broadcaster's program or discrete segments of a program. The Full Court reversed his decision, holding that every image seen on a television screen and the accompanying sound was a television broadcast in which copyright subsisted. It held that Ten had infringed Nine's copyright under section 87(a) – subject to fair dealing defences for some segments that did not arise for consideration in the High Court.

In the High Court Ten argued that the Full Court of the Federal Court had misread the term "a television broadcast" in the Act and had erred in holding that it had infringed copyright. It also argued that the Full Court's decision expanded the ambit of copyright monopoly beyond the interests the legislation sought to protect.

The High Court, by a 3-2 majority, accepted Ten's arguments. The majority held that there was no indication that legislative protection was provided for each and every image discernible by viewers, as this would place broadcasters in a position of advantage over other copyright stakeholders, such as the owners of cinema films and sound recordings. It held that to understand "a television broadcast" as a tiny portion of the signal transmitted virtually continuously gave the term a very artificial meaning but did not decide whether a segment of a news or current affairs program constituted a broadcast.

The Court allowed the appeal and remitted the case to the Full Court of the Federal Court to determine the remaining grounds of appeal to that Court.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*