

COMMONWEALTH OF AUSTRALIA

Copyright Act 1968



IN THE COPYRIGHT TRIBUNAL

FILE NO. CT 2 of 2023

REFERENCE BY: Commercial Radio & Audio Ltd ACN 059 731 467

under Section 152(2) of the *Copyright Act 1968 (Cth)*

ORDER

TRIBUNAL: ROFE J (Deputy President)

DATE: 13 MARCH 2025

WHERE MADE: MELBOURNE

THE TRIBUNAL ORDERS THAT:

Court Book

1. On or before 13 March 2025, the parties exchange lists of affidavits on which they intend to rely at the hearing.
2. On or before 20 March 2025, PPCA file and serve an electronic Tribunal Book (Court Book) containing the current pleadings and the affidavits notified under order 1 above (including annexures and exhibits) in accordance with Federal Court eBooks Practice Note (**GPN-eBOOKS**).

Cross-examination notification

3. On or before 20 March 2025, the parties exchange lists of deponents required to be available for cross-examination, either:
 - (a) by attendance in person; or
 - (b) by video link.
4. The parties confer in relation to a trial schedule for the hearing, and provide a draft of that schedule to the Tribunal by 28 March 2025.



Expert evidence

5. Orders 6 to 12 below apply to the following expert witnesses retained by the parties: Jeff Eisenach, Barry Massarsky, Robert Kulick, David Reitman, Joel Waldfogel.
6. There be a separate economic expert conclave between Dr Kulick and Professor Waldfogel in relation to the regression analysis undertaken in the Waldfogel report; and the constitution of the other economic expert conclaves is to be determined in accordance with Order 7 below.
7. On or before 20 March 2025, the parties endeavour to agree on economic expert conclaves and topics; and provide to the Tribunal an agreed list of participants and topics for the experts; or, in the event of disagreement, a marked-up list of participants and topics indicating the areas of disagreement.
8. In the event of disagreement, the matters be listed for the determination of the areas of disagreement at 9.30 am on 24 March 2025.
9. The parties' expert witnesses are to participate in joint experts' conferences, during the period 27 March to 8 April 2025, such conferences to be conducted in accordance with Part 7 of the Federal Court Expert Evidence Practice Note (**GPN-EXPT**), and, by 8 April 2025, produce joint reports that identify the topics posed and set out the areas of agreement, partial agreement and disagreement, in respect of any matters in which they have expertise, and, where there is disagreement or partial agreement, short reasons for the expert's position.
10. A registrar of the Federal Court be appointed to act as the facilitator of the joint experts' conferences referred to in order 9 in accordance with paragraph 7.2 of the GPN-EXPT.
11. By 9 April 2025, the parties file and serve the joint expert reports referred to in order 9.
12. The experts provide concurrent oral evidence at the hearing, in groupings to be agreed or determined by the Tribunal.

Submissions and lists of authorities

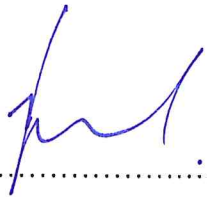
13. On or before 12.00 pm on 14 April 2025, PPCA file its opening submissions in chief, not exceeding 25 pages in length.
14. On or before 4.00 pm on 24 April 2025, CRA file its opening submissions in answer, not exceeding 25 pages in length.

15. On or before 25 April 2025, the parties agree, and PPCA prepare and provide to the chambers of Rofe DP, an electronic Joint Bundle of Authorities, prepared in the manner prescribed by Federal Court Lists of Authorities and Citations Practice Note (GPN-AUTH) and GPN-eBOOKS.

Other

16. The parties be granted liberty to apply on two days' notice.

Date stamped: 13 March 2025



The Hon Justice Rofe, Deputy President

