

**COMMONWEALTH OF AUSTRALIA**

*Copyright Act 1968*

**IN THE COPYRIGHT TRIBUNAL OF AUSTRALIA  
FILE NO. CT 2 OF 2022**

**FREE TV AUSTRALIA LIMITED (ACN 101 842 184)**  
Applicant

**PHONOGRAPHIC PERFORMANCE COMPANY OF  
AUSTRALIA LIMITED (ACN 000 680 704)**  
Respondent

**ORDER**

**TRIBUNAL: PERRAM J (President)**

**DATE: 13 OCTOBER 2023**

**WHERE MADE: SYDNEY**



**BY CONSENT, THE TRIBUNAL ORDERS THAT:**

- 1 Pursuant to section 167(3) of the *Copyright Act 1968* (Cth), summonses in the form annexed to these orders issue to issue to Seven Network (Operations) Limited and Network Ten Pty Limited.
- 2 It will be sufficient answer to the summonses for the documents required thereunder to be provided, on or before 4:00pm on 18 October 2023, by a secure electronic means, and subject to orders 3 and 4 below, to the Respondent's external solicitors, Gilbert + Tobin.
- 3 Subject to Order 4 below, the documents produced pursuant to the summonses referred to in Order 1 and served in accordance with Order 2 be treated as 'Restricted Access' and may only be made available to, and copied for use by, individuals who are entitled to access such documents pursuant to Order 10 of the Orders of the Tribunal dated 28 March 2023.
- 4 If a party wishes to contest or amend the confidentiality classification of any 'Restricted Access' document produced pursuant to the summonses referred to in Orders 1 and 2:

- (a) That party must first notify the third party that produced the documents and the other party to this proceeding, and seek to agree on the classification by negotiation.
- (b) If agreement cannot be reached, that party must provide a short written submission to the Tribunal relating to a variation of the classification, and serve that written submission on the third party that produced the documents and the other party to this proceeding.
- (c) Any party opposing that variation of the classification will then have the opportunity to provide a short written submission in answer, which must be provided to the Tribunal and served on both parties to the proceedings within 10 days of receipt of the submission referred to in (b) above.
- (d) The matter will be determined by the Tribunal on the papers unless the Tribunal considers an oral hearing appropriate or any party to this proceeding or a third party requests the opportunity to provide short oral submissions.

5 Costs reserved.

Date that entry is stamped: 16 October 2023



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The Hon Justice Nye Perram, President



**COMMONWEALTH OF AUSTRALIA**

***COPYRIGHT ACT 1968***

**IN THE COPYRIGHT TRIBUNAL OF AUSTRALIA**

**FILE NO. CT2 OF 2022**

**REFERENCE BY: Free TV Australia Limited (ACN 101 842 184)**

Applicant

**Phonographic Performance Company of Australia Limited (ACN 000 680 704)**

Respondent

under section 154 of the *Copyright Act 1968*

**Summons to produce documents**

(pursuant to section 167(3) of the *Copyright Act 1968*)

To: The Proper Officer  
Seven Network (Operations) Limited  
6-8 Central Avenue Eveleigh NSW 2015

- 1 You are summoned to produce to the Copyright Tribunal of Australia the documents annexed to this summons and marked 'A'.
- 2 You are required to produce the documents by 18 October 2023 to the Copyright Tribunal of Australia at Level 17, Law Courts Building, 184 Phillip St, Queens Square, Sydney NSW 2000 or at [copyright.tribunal@fedcourt.gov.au](mailto:copyright.tribunal@fedcourt.gov.au) and in electronic form to the solicitor for the Respondent at [kharrison@gtlaw.com.au](mailto:kharrison@gtlaw.com.au).

Date this entry is stamped:

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The Hon Justice Nye Perram, President

## **Annexure 'A'**

### **List of documents for production**

#### **A. Categories of documents required to be produced**

- 1 All licence agreements between any production music providers and Seven Network (Operations) Ltd (or a Related Body Corporate of Seven Network (Operations) Ltd) for the Broadcast, Communication, reproduction or synchronisation of production music, (musical works and/or sound recordings) covering all or any part of the Relevant Period.
- 2 A document or documents held by Seven Network (Operations) Ltd showing the rates charged by third-party programmatic advertising services for each year during the Relevant Period.
- 3 A document or documents held by Seven Network (Operations) Ltd showing a summary of, or the average of, the advertising rates charged by any third-party programmatic advertising service provider.
- 4 All agreements or arrangements between Seven Network (Operations) Ltd (or a Related Body Corporate) and any third-party programmatic advertising service provider during the Relevant Period.

#### **B. Interpretation**

For the purposes of this Summons:

- 1 no category limits the ambit of any other category;
- 2 a word importing the singular includes the plural (and vice versa);
- 3 a reference to a "licence" includes a sub-licence; and
- 4 a licence agreement includes:
  - (a) all licence agreements that were operative from time to time during the time period specified;
  - (b) all documents recording any amendments to such agreements made from time to time during the time period specified;
  - (c) all appendices or other relevant documents attached to such licence agreements;
  - (d) all licence agreements that involve more than one service if a service provided by a relevant service provider is not licensed on a standalone basis; and
  - (e) where no formal licence agreement is documented, all documents that record the basis upon which the licensee is paying fees.

## **C. Definitions**

In this Summons:

**Broadcast** has the meaning given to that term in the *Copyright Act 1968* (Cth), but does not include a transmission which is:

- (i) delivered using the internet or a mobile telecommunications network (including a Simulcast);
- (ii) delivered on demand on a point-to-point basis; or
- (iii) a Datacasting Service.

**Communicate** has the meaning given to that term in the *Copyright Act 1968* (Cth).

**Document** means any record of information and includes:

- (a) anything on which there is writing; or
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph; or
- (e) any other material, data or information stored or recorded by mechanical or electronic means.

**Free TV** means Free TV Australia Limited (ACN 101 842 184), in its own capacity and/or as agent for its members.

**Relevant Period** means the period from 1 January 2010 to date.

**Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001* (Cth).

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Applicant

**Phonographic Performance Company of Australia Limited (ACN 000 680 704)**

Respondent

under section 154 of the *Copyright Act 1968*

**Summons to produce documents**

(pursuant to section 167(3) of the *Copyright Act 1968*)

To: The Proper Officer  
Network Ten Pty Limited  
1 Saunders Street, Pyrmont NSW 2000

- 1 You are summoned to produce to the Copyright Tribunal of Australia the documents annexed to this summons and marked 'A'.
- 2 You are required to produce the documents by 18 October 2023 to the Copyright Tribunal of Australia at Level 17, Law Courts Building, 184 Phillip St, Queens Square, Sydney NSW 2000 or at [copyright.tribunal@fedcourt.gov.au](mailto:copyright.tribunal@fedcourt.gov.au) and in electronic form to the solicitor for the Respondent at [kharrison@gtlaw.com.au](mailto:kharrison@gtlaw.com.au).

Date this entry is stamped:

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The Hon Justice Nye Perram, President

## **Annexure 'A'**

### **List of documents for production**

#### **A. Categories of documents required to be produced**

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- 2 All agreements or arrangements between Network Ten Pty Ltd (or a Related Body Corporate) and any third-party programmatic advertising service provider during the Relevant Period.

#### **B. Interpretation**

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- 1 no category limits the ambit of any other category;
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- 3 a reference to a "licence" includes a sub-licence; and
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  - (c) all appendices or other relevant documents attached to such licence agreements;
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