

Order NOT Entered

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY

No: (P)NSD639/2007

SEVEN NETWORK LIMITED
Applicant

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
First Respondent

FOXTEL MANAGEMENT PTY LTD
Second Respondent

FOXTEL CABLE TELEVISION PTY LTD
Third Respondent

ORDER

JUDGE: Justice Buchanan

DATE OF ORDER: 28 March 2008

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. It is declared that the Special Access Undertaking by FOXTEL Management Pty Limited (ACN 068 671 938) for and on behalf of the FOXTEL Partnership and FOXTEL Cable Television Pty Ltd (ACN 069 008 797) under Subdivision B of Division 5 Part XIC of the Trade Practices Act 1974 (Cth) and dated 1 December 2006 is, within the meaning of s 152CBA(5) and s 152AL(7) of the said Act, subject to the following limitation:

1. FOXTEL is only obliged to supply and continue to supply the Digital Set Top Unit Service described in Appendix 1 to the Access Seeker:

(A) in the case of services broadcast via cable, where the Digital Set Top Unit to which the Digital Set Top Unit Service is to be supplied is actually in use by a Subscriber for reception of FOXTEL's digital Subscription Television Services; or

(B) in the case of services broadcast via satellite, where the Digital Set Top Unit to which the Digital Set Top Unit Service is to be supplied is actually in use by a Subscriber for reception of FOXTEL's expanded digital Subscription Television Services;

2. *FOXTEL has no obligation to supply the Digital Set Top Unit Service described in Appendix 1 where the Digital Set Top Unit to which the Digital Set Top Unit Service is to be supplied is not in use by a Subscriber for reception of FOXTEL's digital Subscription Television Services (if broadcast via cable) or FOXTEL's expanded digital Subscription Television Services (if broadcast via satellite).'*
2. The Application is otherwise dismissed.
3. The Notice of Motion filed by the second and third respondents is dismissed.
4. The applicant pay the first respondent's costs of and incidental to the proceedings on a party and party basis, to be taxed if not agreed.
5. There be no order as to costs as between the applicant and the second and third respondents.

Date that entry is stamped:

Deputy District Registrar