



AFACT

AUSTRALIAN FEDERATION AGAINST COPYRIGHT THEFT

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HIGH COURT OF AUSTRALIA GRANTS FILM STUDIOS SPECIAL LEAVE TO APPEAL

Roadshow Films Pty Ltd & ors v iiNet Limited

Thirty-four film and television industry companies that commenced legal action against iiNet for authorising the copyright infringement of its users today welcomed the High Court decision to grant them special leave to appeal.

Despite being successful on many grounds in their appeal to the Full Federal Court, the film and television companies will seek to overturn the ruling that iiNet did not authorise the acts of infringement that it knew occurred on its internet service.

By a majority of two to one, the full Federal Court dismissed the appeal on 24 February 2011 but found in favour of the film and television companies on many key points including that it was reasonable for ISPs to take steps to prevent known infringements that are occurring on their networks. The majority of the court did not accept iiNet's argument that establishing a system of warning and mitigation measures was either too difficult or costly. The court also rejected iiNet's defences, such as its defences under the Telecommunications Act and its claim that it was eligible for the statutory safe harbour provisions.

The film and television companies said they were confident of their grounds of appeal and looked forward to presenting their arguments to the High Court later this year.

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Background

Thirty-four entities from the film and television industry filed a legal action against iiNet in November 2008. The commencement of a legal action followed a five month investigation by AFACT with weekly notices sent to iiNet identifying the IP addresses of those customers who had infringed the film and television companies' copyright.

The hearing of the case commenced in the Federal Court on 6 October 2009 and ran for a total of 20 days in Sydney. The decision was handed down on 4 February 2010.



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The film and television companies appealed the decision to the Full Federal Court. The appeal was heard from 2 to 5 August 2010 before three judges of the Full Federal Court (Emmett, Jagot, Nicholas). The decision was handed down on 24 February 2011.

About AFACT

AFACT works closely with the film and television community, government and enforcement agencies to address copyright theft and protect the interests of its members.

In February 2011, IPSOS and Oxford Economics released a study on behalf of AFACT entitled "Economic Consequences of Movie Piracy in Australia". The key findings, outlined below, indicated the scale of harm caused by movie theft to the Australian economy in the 12 months up to July 2010.

- \$1.37 billion in revenue was lost across the entire Australian economy.
- 6,100 jobs were forgone across the entire economy.
- Tax losses to movie piracy amounted to \$193 million.
- Direct consumer spending losses to the movie industry, ie. cinema owners, local distributors, producers and retailers amounted to \$575 million.