

Act, in the relevant years. However, it was pointed out that neither TCN-9 or any other part of the Consolidated Press Group had invested in this scheme.

The Tribunal found that it was appropriate for it to investigate this scheme, although it did not necessarily involve criminal conduct. Trustworthiness of a person in Mr Packer's position was relevant to fitness and propriety. It was also tied in with the undertaking given by licensees in relation to the use of Australian creative resources. It found that there was no evidence that either Mr Packer or his two companies had not been honest with the Commissioner for Taxation in relation to the film tax minimisation scheme and that there was no connection between the scheme and the provision of Australian programs by the licensees.

However, the Tribunal sounded a warning for the future. It said that it would take into account on the issue of fitness and propriety participation by licensees, or persons possessing significant interests in licensees, in artificial schemes which attempted to avoid the obligations and limitations imposed by the Act. In the context of the News Limited restructuring inquiry this appeared to sound an ominous note. In relation to the film tax minimisation scheme Mr Packer had relied on professional advice. The Tribunal said that this would not be a sufficient excuse in relation to matters regulated by the Act.

## 9. Max Gillies

Evidence had been led that TCN-9 had cancelled an appearance by the comedian Max Gillies on the Mike Walsh Show because of contemplated defamation proceedings by Mr Packer, and TCN-9, against Mr Gillies and the Australian Broadcasting Corporation arising out of an episode of the Gillies Report. The evidence was that the decision to cancel this appearance was made on legal, and not artistic and programming, grounds. The Tribunal said that whilst the private interest of a licensee, its directors or management, were recognised as entering into programming decisions from time to time this should be done objectively, balancing the private interests of those persons with the public interest in the provision of an adequate and comprehensive service.

## 10. Conclusion

Whilst the Tribunal in this report covered a very full range of issues, it would appear to have decided that caution was appropriate and that warnings were sufficient. On the two issues of ascertainment and drama content the Nine Network seemed to have disregarded the Tribunal's requirements. In the absence of an independent party prepared to invest substantial sums to show (possibly) that its stations were not providing any adequate and comprehensive service there appears to be no reason why this attitude should not continue.

Robyn Durie

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## NEWS

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### NEW COMMUNICATION SERVICES

The Government has foreshadowed the transmission of new communication services as part of existing radio and television signals. These services are to be known as Ancillary Communication Services and are expected to be provided by existing broadcasters, independent operators and entrepreneurs. The first may commence operation later this year.

It is anticipated the services will include commercial and public radio, educational tutorials, data/information distribution and background music. They will be transmitted either to simple receivers or attachments to existing television or FM radio receivers.

At present most television or FM radio signals can be used to transmit both broadcasting and non-broadcasting material. New technology now permits more efficient use of this capacity by providing additional channels at a modest cost and with potential benefits.

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