



## *Express law* fast track information for clients

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### **PRIVACY COMPLAINANTS CAN GO DIRECTLY TO THE FEDERAL COURT**

The Federal Court has recently held that individuals who believe their privacy has been, is being, or may be breached by a Commonwealth agency or a private sector organisation may, without first making a complaint to the Privacy Commissioner, go directly in the Federal Court or the Federal Magistrates court for an injunction restraining the agency or organisation from engaging in the conduct that is, or would constitute, a breach of privacy.

Last Friday the Federal Court handed down a decision in *Seven Network (Operations) Limited v Media Entertainment and Arts Alliance* [2004] FCA 637 (21 May 2004) in which, among other things, the court held:

Seven was entitled take action in the Federal Court in accordance with section 98 of the *Privacy Act 1988*, without first making a complaint to the Privacy Commissioner. Seven could seek an injunction restraining MEAA (a union representing workers at Seven Network) from engaging in conduct that would constitute a contravention of the National Privacy Principles in the Privacy Act to which MEAA was bound (see paragraphs 35-40).

In so holding, the Court said there was no reason to think that the position would be any different if Seven had been taking action against an (public sector) agency in relation to an alleged breach of the Information Privacy Principles; and after examining the merits of Seven's claim, and considering whether MEAA had breached certain of the National Privacy Principles, Seven was entitled to an injunction.

The court also indicated that it would grant positive orders requiring MEAA to take certain actions, in terms to be agreed at a later date.

A detailed case note will be included in the next edition of *In the Know*, due out in late June 2004.

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