[NL] Inclusion of Several Fragments of a Documentary in a PSB News Programme not in Breach of Copyright

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The public service broadcaster TROS had included nine fragments, lasting a total of three minutes and 12 seconds, of a documentary entitled “China Blue” in one of its news programmes. The Dutch Film Fund, which holds an exclusive licence in respect of the documentary, took TROS to court claiming its copyright had been infringed.

TROS argued before the court, on the grounds of several articles of the Dutch Copyright Act, that it had not acted in breach of the Fund’s rights in the documentary. The decisive argument was based on Article 15a of the Dutch Copyright Act, which allows a work to be quoted under specific circumstances. Quoting a work is permissible *inter alia* if it is aimed at announcing the work so as to draw attention to it, or to an event relating to it. This was the case since China Blue was scheduled to *première* during the time at which it was referred to in the news programme. The court also held that TROS had not made a disproportionate use of documentary fragments in its news programme.

The ruling therefore concluded that the broadcasting by TROS of its news programme, containing several extracts of the documentary, did not constitute an infringement of copyright. Although the matter is settled with regard to the copyright infringement claim, the dispute is not entirely resolved as the complainant is intent on proving that an agreement it concluded with TROS contractually prohibited the broadcaster from making use of the documentary extracts in this manner.

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http://www.iept.nl/files/2007/IEPT20070606_Rb_Amsterdam_China_Blue.pdf

Judgment of 6 June 2007, Dutch Film Fund v. TROS

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