

Federal Court



Cour fédérale

**Ottawa, May 13, 2021** – The Honourable Michael L. Phelan of the Federal Court issued a decision in file T-1663-19:

**IN THE MATTER OF CANADIAN BROADCASTING CORPORATION v.  
CONSERVATIVE PARTY OF CANADA and CONSERVATIVE FUND CANADA**

Summary

This is a case about political criticism and whether the Canadian Broadcasting Corporation [CBC] can prevent political parties from using CBC’s copyright protected works for this purpose.

CBC brings this application in copyright infringement in respect of the use of their “Works” by the Conservative Party of Canada [Party or CPC] for what are commonly called “attack ads” shown at the time of the 2019 federal election.

The Works are brief excerpts of CBC news reports and the English-language federal leadership debate which the Party distributed in one advertisement and a series of four Tweets.

The principal legal issues in this matter are whether the Party’s use of CBC material constitutes *taking a substantial part* of CBC’s Works and whether the Party’s actions constitute *fair dealings*.

The Court concludes that the Respondents took, in respect of the Advertisement and Tweets, a substantial part of CBC’s copyrighted Works.

In considering the “fairness” inquiry, the Court found the *purpose of the dealing* was criticism in the context of political debate. The *nature of the work*, being news or news-like content, favours a fairness conclusion.

The Court concludes that the Respondents’ use of the CBC Works was, on these facts, fair and dismisses the matter with costs at the usual scale.

A copy of the decision can be obtained via the [Web site](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/496993/index.do) of the Federal Court:  
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/496993/index.do>.