

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an arrangement between HarperCollins Publishers L.L.C., Hachette Book Group Inc., Verlagsgruppe Georg von Holtzbrinck GMBH, Holtzbrinck Publishers, LLC d/b/a Macmillan, Simon & Schuster Inc. and Apple Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition pursuant to section 90.1 of the *Competition Act*.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

AND

**HARPERCOLLINS PUBLISHERS L.L.C., and
HARPERCOLLINS CANADA LIMITED**

Respondents

**AFFIDAVIT OF AMANI SYED
Sworn March 28, 2017**

I, AMANI SYED, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a paralegal with Competition Bureau Legal Services, lawyers for the Applicant, the Commissioner of Competition (the “**Commissioner**”) in this proceeding. As such, I have personal knowledge of the matters deposed to herein.
2. I submit this affidavit in support of the Commissioner’s Response to HarperCollins Publishers L.L.C. and HarperCollins Canada Limited’s (collectively, “**HarperCollins**”) motion to strike/dismiss of the Commissioner’s Application.

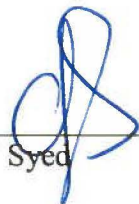
COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE FILED / PRODUIT Date: March 28, 2017 CT-2017-002 Andrée Bernier for / pour REGISTRAR / REGISTRATIRE	
OTTAWA, ONT.	# 45

3. Attached as Exhibit "A" to this Affidavit is a copy of the Federal Court of Canada's Order staying the execution of the 2017 Consent Agreements between the Commissioner and each of Hachette Book Group Canada Ltd, Hachette Book Group, Inc., Hachette Digital, Inc.; Holtzbrinck Publishers, LLC; and Simon & Schuster Canada, a Division of CBS Canada Holdings Co., pending the determination of judicial review proceedings initiated by Rakuten Kobo Inc. regarding those Consent Agreements.
4. This Affidavit is filed in accordance with the Tribunal's Direction in this proceeding, dated March 17, 2017.

AFFIRMED BEFORE ME at the City of
Gatineau, in the Province of Quebec, on
March 28, 2017



Commissioner for Taking Affidavits
625381c



Amani Syed

THIS IS EXHIBIT A TO THE
AFFIDAVIT OF Amani Syed

SWORN BEFORE ME THIS 28 DAY
OF MARCH 2017 Federal Court



Cour fédérale

[Signature]
COMMISSIONER FOR OATHS

Date: 20170308

Docket: T-219-17

Ottawa, Ontario, March 8, 2017

PRESENT: THE CHIEF JUSTICE

BETWEEN:

RAKUTEN KOBO INC.

Applicant/Moving Party

and

THE COMMISSIONER OF COMPETITION,
HACHETTE BOOK GROUP CANADA LTD.,
HACHETTE BOOK GROUP, INC.,
HACHETTE DIGITAL, INC., HOLTZBRINCK
PUBLISHERS, LLC and SIMON &
SCHUSTER CANADA, A DIVISION OF CBS
CANADA HOLDINGS CO.

Respondent/Responding Parties

ORDER

THIS MOTION brought in writing on behalf of the Applicant for interim relief regarding the Consent Agreements between the Commissioner of Competition (the “Commissioner”) and:

- (a) Hachette Book Group Canada Ltd., Hachette Book Group, Inc. and Hachette Digital, Inc.;

(b) Holtzbrinck Publishers, LLC; and

(c) Simon & Schuster Canada, a division of CBS Canada Holdings Co.,

all of which were filed by the Commissioner with the Competition Tribunal on January 19, 2017 under section 105 of the *Competition Act* (the “**Consent Agreements**”), was read on this date at 90 Sparks Street, Ottawa, Ontario.

UPON READING the Notice of Motion, the Affidavit of Mike Brown sworn February 22, 2017 and the exhibits attached thereto, the consent of the parties, and the written representations of the Moving Party:

1. **THIS COURT ORDERS** that the implementation of the Consent Agreements and the obligations of the Respondents under the Consent Agreements is hereby stayed and that, for purposes of any future performance of the Respondents’ obligations under those Consent Agreements, the date of registration of each Consent Agreement shall be deemed to occur on the fifth (5th) business day following the determination of the Applicant’s Application for Judicial Review in this proceeding.

2. **THIS COURT FURTHER ORDERS** that the Commissioner shall not take any enforcement proceedings against the Respondents for failing to abide by the terms of the Consent Agreements, until the fifth business day following the determination of the Applicant’s Application for Judicial Review in this proceeding.

3. **THIS COURT FURTHER ORDERS**, for greater certainty, that paragraphs 1 and 2 of this Order shall remain in effect until the fifth (5th) business day following this Court's determination of the Applicant's Application for Judicial Review in this proceeding.

4. **THIS COURT FURTHER ORDERS** that nothing in this Order prevents any Respondent from conducting business in the ordinary course, including, without limitation, terminating, renewing, extending, enforcing, or entering into agreements with E-book Retailers, or amending or waiving any terms thereof (including, without limitation, with respect to the terms that are the subject of the Consent Agreements).

5. **THIS COURT FURTHER ORDERS** that this Order and the consents upon which it is predicated are without prejudice to, and do not in any way derogate from, the rights, arguments and positions that the parties have available to them in respect of the merits of the relief provided for in paragraphs 1-3 hereof, including with respect to the requirements under the applicable Rules, statutes, in law or in equity for the granting of such relief, it being understood that this Order is intended only to preserve the status quo until the determination of the Applicant's Application for Judicial Review in this proceeding.

THIS COURT ORDERS that there shall be no costs of this Motion.

"Paul S. Crampton"
Chief Justice