



**Date:** July 28, 2016

**Subject:** CT-2016-004 - The Commissioner of Competition v. Moose International Inc.

**Direction to Counsel (from Justice Gascon, Chairperson)**

A case management conference (CMC) to discuss the proposed timetable will take place on Thursday August 4, at 10:00 am, by teleconference. The CMC will be presided by the Chairperson, Mr. Justice Gascon.

Please find enclosed, for your consideration and for the purpose of the discussion at the CMC, some of the amendments that the Tribunal would propose to make to the proposed timetable received from the parties. The bracketed dates reflect the potential dates on which the Tribunal would be available to hear motions, and would need to be confirmed by the parties.

Please note that, at the CMC, the Tribunal also intends to discuss the following issues:

- 1) In light of the recent mediation in *Parkland*, should the parties consider filing witness statements and expert reports (if any) prior to having the mediation, in order for the mediator to have all the required facts/evidence to rely on ?;
- 2) Have the parties already identified any potential mediators or do they wish to propose any ?;
- 3) Regarding the visit contemplated to the Respondent's facilities in Winnipeg, what is the position of the Commissioner on this proposal ? If it takes place, what would be the timing of such visit (before or during the hearing) ? Is the visit intended to be with or without the parties and counsel present ? Is the visit and the information provided during the visit intended to be considered as evidence and, if so, how is it contemplated to be entered into the record ?;
- 4) With respect to the hearing, the Tribunal would propose to sit Monday to Thursday in the weeks of February 27 and March 6, for a total of 8 days, and to set aside two days for argument in the week of March 13.

The parties will of course have the opportunity to raise any other matter arising from the proposed timetable. Please confirm by email the telephone number where you can be reached for this CMC.

Joseph (Jos) LaRose  
Deputy Registrar / Registraire adjoint  
Competition Tribunal / Tribunal de la concurrence  
600-90 Sparks, Ottawa ON K1P 5B4  
Tel.: 613-954-0857

**[COMPETITION TRIBUNAL LETTERHEAD]**

Reference: *The Commissioner of Competition v. Moose International Inc.*

File No.: CT-2016-004

Registry Document No.:

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

AND IN THE MATTER of an application by the Commissioner of Competition pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a);

B E T W E E N:

**The Commissioner of Competition**

(applicant)

and

**Moose International Inc.**

(respondent)

[Date of case management conference/decided on the basis of the written record]

Before Judicial Member: [JUDICIAL MEMBER]

Date of Order: [DATE]

Order signed by: [NAME]

**[DRAFT] SCHEDULING ORDER**

[1] **FURTHER TO** the notice of application filed by the Commissioner of Competition (“**Commissioner**”) against the Respondent pursuant to section 74.1 of the *Competition Act*, R.S.C., c. C-34, as amended;

[other recitals depending on how schedule is resolved]

**THE TRIBUNAL ORDERS THAT:**

[4] The schedule for the pre-hearing steps shall be as follows:

September 12, 2016	Service of Affidavits of Documents and delivery of documents by all Parties
September 23, 2016	Last day to file motions arising from Affidavits of Documents and/or productions
<u>[September 23 or 26, 2016 or October 11, 2016]</u>	<u>Hearing of any motions arising from Affidavits of Documents and/or productions</u>
October 12, 2016	Deadline for delivery of any additional productions resulting from any Affidavits of Documents/production motions
October 17, 2016 – October 21, 2016	Examinations for discovery according to a schedule to be settled between counsel-
October 31, 2016	Deadline for fulfilling answers to discovery undertakings
November 7, 2016	Mediation briefs due
November 19-30, 2016	Mediation (2 days)
Mediation + 10 days	Last day <u>to file motions for the hearing of motions</u> arising from answers to undertakings and refusals
<u>[November 30 or December 1, 2016]</u>	<u>Hearing of any motions arising from answers to undertakings and refusals</u>
December 9, 2016	Last day for follow-up examinations for discovery
December 19, 2016	Applicant to serve documents relied upon, witness <u>statements</u> , and <u>to serve and file</u> expert reports, if any-
January 9, 2017	Applicant to serve list of documents proposed to be admitted without further proof

January 25, 2017	Respondent to serve documents relied upon, witness statements, and <u>to serve and file</u> expert reports, if any.
February 1, 2017	Deadline for delivering any Requests for Admissions
February <del>6+0</del> , 2017	Applicant to serve list of reply documents, witness statements, and <u>to serve and file reply</u> expert reports, if any.
<del>February 8, 2017</del>	<del>Last day to file motions for Summary Disposition and/or any motions related to the evidence</del>
<del>[February 10, 2017]</del>	<del>Hearing of any motions for Summary Disposition and/or any motions related to the evidence</del>
February 17, 2017	Deadline to provide documents to the Tribunal for use at the hearing (e.g., Briefs of Authorities, witness statements, expert reports and Agreed Books of Documents)
<del>February 17, 2017</del>	<del>Deadline for responding to any Requests for Admissions</del>
<del>February 17, 2017</del>	<del>Deadline for the hearing of any motions for Summary Disposition and/or any motions related to the evidence</del>

[5] The hearing of the Application will commence at 10:00 am on February 27, 2017, for not more than 10 days, in the Hearing Room of the Competition Tribunal located at 600-90 Sparks Street, Ottawa, subject to the Tribunal's disposition of the Respondent's future request that the Tribunal attend in Winnipeg to view the facilities used by the Respondent.

DATED at Ottawa, this [DATE]<sup>th</sup> of [MONTH], 2016.

SIGNED on behalf of the Tribunal by [NAME]