



Reference: *Rakuten Kobo Inc. v. The Commissioner of Competition*, 2016 Comp. Trib. 5

File No.: CT-2014-02

Registry Document No.: 0209

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

AND IN THE MATTER OF the filing and registration of a consent agreement pursuant to section 105 of the *Competition Act*;

AND IN THE MATTER OF an application under section 106(2) of the *Competition Act*, by Rakuten Kobo Inc. to rescind or vary the Consent Agreement between the Commissioner of Competition and Hachette Book Group Canada Ltd., Hachette Book Group, Inc., Hachette Digital, Inc.; HarperCollins Canada Limited; Holtzbrinck Publishers, LLC; and Simon & Schuster Canada, a division of CBS Canada Holdings Co. filed and registered with the Competition Tribunal on February 7, 2014, under section 105 of the *Competition Act*.

BETWEEN:

Rakuten Kobo Inc.
(applicant)

and

**The Commissioner of Competition,
Hachette Book Group Canada Ltd.,
Hachette Book Group, Inc.,
Hachette Digital Inc.,
HarperCollins Canada Limited,
Holtzbrinck Publishers, LLC; and
Simon & Schuster Canada, a division of CBS Canada Holdings Co.**
(respondents)



Decided on the basis of the written record.

Before Judicial Member: Gascon J. (Chairperson)

Date of Order: March 22, 2016

ORDER AMENDING THE SCHEDULING ORDER OF FEBRUARY 10 2016

[1] **FURTHER TO** the application brought in February 2014 by Rakuten Kobo Inc. (“Kobo”) under subsection 106(2) of the *Competition Act*, RSC 1985, c C-34, to rescind or vary a consent agreement registered February 7, 2014, between the Commissioner of Competition (the “Commissioner”) and Hachette Book Group Canada Ltd., Hachette Book Group, Inc., Hachette Digital, Inc.; HarperCollins Canada Limited; Holtzbrinck Publishers, LLC; and Simon & Schuster Canada, a division of CBS Canada Holdings Co. (collectively, the “Settling Publishers”);

[2] **AND FURTHER TO** the Scheduling Order issued by the Tribunal on February 10, 2016;

[3] **AND FURTHER TO** the case management conference held with counsel on March 16, 2016, at which the Tribunal refused Kobo’s request to adjourn the hearing to a later date;

[4] **AND FURTHER TO** the correspondence of counsel, dated March 18, 2016, in which counsel submit, on consent, a new schedule for the pre-hearing steps leading up to the hearing scheduled to commence on April 25, 2016;

NOW THEREFORE THE TRIBUNAL ORDERS THAT:

[5] The Scheduling Order of February 10, 2016, is amended as follows:

March 18, 2016	Service of the Commissioner’s Amended Affidavit of Documents
March 23, 2016	Examination for discovery of the Commissioner’s representative
April 1, 2016	Deadline for fulfilling answers to discovery undertakings
April 11, 2016	Kobo to serve documents relied upon, witness statements and legal representations. Kobo to provide witness statements and legal representations to the Tribunal.
April 18, 2016	Commissioner and the Settling Publishers to serve documents relied upon, witness statements and legal representations. Commissioner and the Settling Publishers to provide witness statements and legal representations to the Tribunal.
April 21, 2016	Kobo to serve any reply documents, witness statements and legal representations. Kobo to provide reply witness statements and legal representations to the Tribunal.

April 25-26, 2016

Hearing of Application, for a period of two days.

DATED at Ottawa, this 22nd day of March, 2016.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Denis Gascon

COUNSEL:

For the applicant:

Rakuten Kobo Inc.

Nikiforos Iatrou
Bronwyn Roe

For the respondents:

Commissioner of Competition

Jonathan Chaplan
John Syme
Esther Rossman

Hachette Book Group Canada Ltd.,
Hachette Book Group, Inc.,
Hachette Digital, Inc.

Linda Plumpton
James Gotowiec

HarperCollins Canada Limited

Katherine L. Kay
Danielle Royal

Holtzbrinck Publishers, LLC

Randal Hughes
Emrys Davis

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

Mahmud Jamal
Peter Franklyn