



**Date:** February 2, 2016

**Subject:** *CT-2014-002 - Rakuten Kobo Inc. v. 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.*

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

Further to the correspondence of counsel of January 18 and 26, 2016, the parties are hereby directed as follows:

- On or before end of day on Friday, February 5, 2016:
  - o Rakuten Kobo Inc. is to serve and file representations, not exceeding 5 pages, explaining its position as to why the question of whether a consent agreement should be rescinded on a with or without prejudice basis, is not a question of law;
  - o Rakuten Kobo Inc. is to indicate any factual basis for its request to conduct discovery of the Commissioner of Competition in respect of the Commissioner's future intentions to enter into a materially identical consent agreement in the event the current Consent Agreement is rescinded by the Tribunal;
  - o All counsel are to indicate their availability for a hearing of Rakuten Kobo Inc.'s application on the following days in April 2016: April 12, 13, 14, 15, 20 and 21. The Tribunal expects the hearing will not last more than two days.
  
- On or before end of day on Tuesday, February 9, 2016:
  - o The Commissioner of Competition and Simon & Schuster are to serve and file any representations, not exceeding 5 pages, in response to Rakuten Kobo Inc.'s representations;
  - o Considering that the Tribunal intends to issue a scheduling order which will allow Rakuten Kobo Inc. to conduct discovery of the Commissioner of the Commissioner on the first two topics outlined in Rakuten Kobo's January 18 and 26, 2016 letters, the Commissioner of Competition and Simon & Schuster are to confirm that they still do not intend to conduct any discovery of Rakuten Kobo Inc.

Joseph (Jos) LaRose  
Deputy Registrar / Registraire adjoint  
Competition Tribunal / Tribunal de la concurrence  
600-90 Sparks, Ottawa ON K1P 5B4  
Tel.: 613-954-0857 Fax: 613-952-1123