



Reference: *Kobo Inc. v. The Commissioner of Competition*, 2014 Comp. Trib. 1
 File No.: CT-2014-02
 Registry Document No.: 034

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

AND IN THE MATTER OF an inquiry commenced under section 10 of the *Competition Act*, relating to certain alleged anti-competitive conduct in the markets for E-books in Canada;

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 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:

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)



Date of hearing: 20140317
 Before Judicial Member: Rennie J. (Chairperson)
 Date of Order: March 18, 2014
 Order signed by: Mr. Justice Donald J. Rennie

ORDER GRANTING THE APPLICANT'S MOTION FOR A STAY

[1] **UPON** motion by Kobo Inc. (“Kobo”) for an order staying the registration of the Consent Agreement entered into by the Respondents filed and registered with the Competition Tribunal on February 7, 2014, pending the determination of Kobo’s application under section 106 of the *Competition Act*, R.S.C., 1985, c. C 34 as amended;

[2] **AND UPON** reviewing the materials filed by Kobo and the Commissioner of Competition (the “Commissioner”) in respect of Kobo’s motion and hearing the submissions of counsel for Kobo and the Commissioner on March 17, 2014;

[3] **AND WHEREAS** a decision on this matter is urgent as the 40-day period referred to in paragraph 2 of the Consent Agreement will expire on March 19, 2014;

[4] **AND WHEREAS** the Tribunal, for reasons to follow, finds that an Order granting a stay of the registration of the Consent Agreement should issue but that Kobo’s application should proceed swiftly;

THE TRIBUNAL ORDERS THAT:

[5] The registration of 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 with the Tribunal on February 7, 2014, is stayed pending the determination of Kobo’s application under section 106 of the *Competition Act*;

[6] The parties shall consult and, if a timetable is agreed to, file the proposed timetable setting out all pre-hearing steps, including any proposed preliminary legal questions and dates for hearing thereof, and a suggested start date and duration of the main hearing, no later than the close of the Registry on Thursday, March 20, 2014;

[7] If the parties cannot agree on a timetable, each party shall serve on the other parties a proposed timetable and file it by no later than the close of the Registry on Friday, March 21, 2014;

DATED at Ottawa, this 18th day of March, 2014.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Donald J. Rennie

APPEARANCES:

For the applicant:

Kobo Inc.

Nikiforos Iatrou
Mandy L. Seidenberg
Bronwyn Roe

For the respondents:

Commissioner of Competition

Jonathan Chaplan
Parul Shah
Esther Rossman

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

James Gotowiec

HarperCollins Canada Limited

Katherine L. Kay

Holtzbrinck Publishers, LLC

Emrys Davis

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

Peter Franklyn