



Reference: *The Commissioner of Competition v. Air Canada et al.*, 2012 Comp. Trib. 9

File No.: CT-2011-004

Registry Document No.: 91

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

AND IN THE MATTER OF the proposed transborder joint venture between Air Canada and United Continental Holdings, Inc.;

AND IN THE MATTER OF the “Marketing Cooperation Agreement” between Air Canada and United Air Lines, Inc.;

AND IN THE MATTER OF the “Alliance Expansion Agreement” between Air Canada and United Air Lines, Inc.;

AND IN THE MATTER OF the “Air Canada/Continental Alliance Agreement” between Air Canada and Continental Airlines Inc.;

AND IN THE MATTER OF an Application by the Commissioner of Competition for one or more Orders pursuant to sections 90.1 and 92 of the *Competition Act*;

B E T W E E N:

**The Commissioner of Competition**  
(applicant)

and

**Air Canada, United Continental Holdings, Inc.,  
United Air Lines, Inc., and Continental Airlines Inc.**  
(respondents)

and

**WestJet (an Alberta Partnership)**  
(intervenor)

Date of case management conference: 20120228

Before Judicial Member: Simpson J. (Chairperson)

Date of Order: March 6, 2012

Order signed by: Madam Justice Sandra J. Simpson



**SCHEDULING ORDER**

[1] FURTHER TO the application filed by the Commissioner of Competition (the “Applicant”) pursuant to sections 90.1 and 92 of the Competition Act, R.S.C., c. C-34, against the respondents Air Canada and United Continental Holdings, Inc., United Air Lines, Inc., and Continental Airlines, Inc. (collectively, the “Respondents”) (the “Application”);

[2] AND FURTHER TO the Tribunal’s Notice of Hearing dated February 23, 2012;

[3] AND FURTHER TO the discussion held with counsel for all parties, during the case management teleconference on February 28, 2012, about a timetable for the disposition of the Application;

**THE TRIBUNAL ORDERS THAT:**

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

Friday, March 2, 2012	Service of Affidavits of Documents and delivery of documents by all parties and the intervenor
Friday, March 30, 2012	Last day for the filing of motions arising from Affidavits of Documents and/or productions and/or in respect of the scope of examinations for discovery
Monday, April 9, 2012	Deadline for delivery of any additional productions resulting from any Affidavits of Documents/production motions
Thursday, April 5, 2012	Deadline for Intervenor to identify documents related to WestJet Topics (as that term is defined in the Tribunal’s Order dated October 20, 2011 (the “Intervenor Order”), pursuant to which WestJet was granted leave to intervene in this proceeding)
Monday, May 7, 2012	Last day for Respondents and Applicant to give notice to Intervenor if they do not agree with the assessment of documents related to WestJet Topics
Friday, May 11, 2012	Last day for the filing of motions arising from the determination of whether documents are related to WestJet Topics
Wednesday, June 13, 2012 – Tuesday, July 10, 2012	Examinations for discovery according to a schedule to be settled between counsel
Monday, July 30, 2012	Deadline for fulfilling answers to discovery undertakings

Wednesday, August 1, 2012	Subject to the Intervenor Order, Intervenor to give notice to the Applicant if, and on what issues, the Intervenor proposes to file expert evidence
Friday, August 3, 2012	Subject to the Intervenor Order, Applicant to notify Intervenor whether it consents to the Intervenor filing expert evidence
Wednesday, August 15, 2012	Hearing of motion, if any, arising from Intervenor's proposed expert evidence
Friday, August 17, 2012	Last day for the filing of motions arising from answers to undertakings and refusals
Friday, August 31, 2012	Last day for follow-up examinations for discovery
Wednesday, September 12, 2012	Applicant and Intervenor to serve documents relied upon and witness statements  Applicant to serve and file expert reports, if any, on all matters  Subject to determination of Intervenor's ability to file expert evidence, Intervenor to serve and file expert reports, if any
Thursday, September 27, 2012	Applicant to serve list of documents proposed to be admitted without further proof
Friday, October 12, 2012	Respondents to serve documents relied upon and witness statements  Respondents to serve and file expert reports, if any, in response to the Applicant's and Intervenor's expert reports
Monday, October 15, 2012	Deadline for delivering any Requests for Admissions
Thursday, October 25, 2012	Deadline for the filing of motions related to evidence except evidence to be filed on October 26, 2012
Friday, October 26, 2012	Applicant and Intervenor may serve list of reply documents and witness statements  Applicant and Intervenor to serve and file any reply expert reports

Thursday, November 1, 2012

Deadline for responding to any Requests for Admissions

Deadline to provide documents to the Tribunal for use at the hearing (e.g., Briefs of Authorities, witness statements and Agreed Books of Documents)

Deadline for dividing up the hearing time – see paragraph 6 below

Deadline for the filing of any motions for Summary Disposition and/or any motions related to the evidence filed on October 26, 2012

[5] The hearing of the Application will commence at 10:00 am on Tuesday, November 13, 2012, in the Hearing Room of the Competition Tribunal located at 600-90 Sparks Street, Ottawa, Ontario. The schedule for the hearing shall be as follows:

Tuesday, November 13, 2012 –  
Friday, November 16, 2012

First week of hearing (4 days)

Monday, November 19, 2012 –  
Thursday, November 22, 2012

Second week of hearing (4 days)

Monday, November 26, 2012 –  
Thursday, November 29, 2012

Third week of hearing (4 days)

Monday, December 3, 2012 –  
Thursday, December 6, 2012

Fourth week of hearing (4 days)

Monday, December 10, 2012 –  
Thursday, December 13, 2012

Fifth week of hearing (4 days)

Monday, January 21, 2013 –  
Thursday, January 24, 2013

Argument (4 days)

**[6]** The hearing will be electronic (see Tribunal's Practice Direction regarding Electronic Hearings dated March 2011) and will proceed using chess clock timing. The parties and intervenor will advise the Tribunal Registry, on or before Thursday, November 1, 2012, of their agreement about the division of the total hearing time between them for the purposes of the chess clock proceeding. The total time is 4.5 hours per day x 24 days = 108 hours.

DATED at Ottawa, this 6th day of March, 2012.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

COUNSEL:

For the Applicant:

The Commissioner of Competition

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Nicholas J. Cartel  
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For the Respondents:

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