



Reference: *The Commissioner of Competition v. Visa Canada Corporation and MasterCard International Incorporated*, 2012 Comp. Trib. 5

File No.: CT-2010-10

Registry Document No.: 159

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 76 of the *Competition Act*;

AND IN THE MATTER OF certain agreements or arrangements implemented or enforced by Visa Canada Corporation and MasterCard International Incorporated.

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Visa Canada Corporation
MasterCard International Incorporated
(respondents)

and

The Toronto-Dominion Bank
The Canadian Bankers Association
(intervenors)



Decided on the basis of the written record
Before Judicial Member: Simpson J.
Date of Order: January 24, 2012
Order signed by: Madam Justice Sandra J. Simpson

ORDER CREATING A RE-REVISED SCHEDULING ORDER

[1] **FURTHER** to the motion filed by the Commissioner of Competition (the "Commissioner") on January 10, 2012, regarding, among other things, undertakings and questions refused or taken under advisement during the examinations for discovery of MasterCard International Incorporated ("MasterCard") and Visa Canada Corporation ("Visa");

[2] **AND FURTHER** to the motions filed by MasterCard and Visa, respectively, on January 10, 2012, regarding, among other things, undertakings and questions refused or taken under advisement during the examination for discovery of the Commissioner;

[3] **AND UPON** being advised that the motions have been settled by the parties and that they have respectively agreed to provide answers to certain undertakings and/or certain questions that were refused or taken under advisement during the examinations for discovery of their respective representatives;

[4] **AND FURTHER** to the request of Justice Phelan during the hearing of January 16, 2012 that the parties provide the Tribunal with a draft order setting out the schedule of their agreement as regards to the motions;

[5] **AND UPON** receiving a draft order on consent from the parties setting out their agreement in respect of the motions which includes an amendment to the Tribunal's Order Creating a Revised Scheduling Order, dated August 26, 2011 ("Revised Scheduling Order"), to extend the date for follow-up examinations from January 27, 2012 to February 6, 2012;

[6] **AND WHEREAS** the judicial member responsible for the case management of the proceedings should review any proposed modifications to the Revised Scheduling Order;

[7] **AND WHEREAS** all parties consent to the amendment to the Revised Scheduling Order and the amendment preserves the hearing dates.

THE TRIBUNAL ORDERS THAT

[8] The Revised Scheduling Order is amended as follows:

Monday, February 6, 2012	Last day for follow-up examinations for discovery
Wednesday, February 22, 2012	Applicant to serve documents relied upon and witness statements Applicant to serve and file any expert reports
Friday, March 9, 2012	Applicant to serve list of documents proposed to be admitted without further proof
Friday, March 23, 2012	Respondents and intervenors to serve documents relied upon and witness statements Respondents and intervenors to serve and file any expert reports

Wednesday, March 28, 2012	Deadline for delivering any Requests for Admissions
Wednesday, April 4, 2012	Deadline for responding to any Requests for Admissions
Thursday, April 5, 2012	Applicant may serve reply documents and witness statements Applicant to serve and file any reply expert reports
Friday, April 13, 2012	Deadline for providing 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
Date to be set, if needed	Hearing of any pre-hearing motions not described above

[9] The hearing of the section 76 application will commence at 10:00 am on Monday, April 23, 2012, in the Hearing Room of the Competition Tribunal located at 600-90 Sparks Street, Ottawa. The schedule for the hearing shall be as follows:

Monday, April 23, 2012 - Thursday, April 26, 2012	First week of hearing (4 days)
Monday, April 30, 2012 – Thursday, May 3, 2012	Second week of hearing (4 days)
Monday, May 7, 2012- Thursday, May 10, 2012	Third week of hearing (4 days)
Monday, May 14, 2012 - Thursday, May 17, 2012	Fourth week of hearing (4 days)
Tuesday, May 22, 2012 - Friday, May 25, 2012	Fifth week of hearing (4 days)

Monday, June 4, 2012 -
Thursday, June 7, 2012

Argument (4 days)

DATED at Ottawa, this 24th day of January, 2012.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

COUNSEL:

For the applicant:

The Commissioner of Competition

Adam Fanaki

For the respondents:

MasterCard International Incorporated

Adam Chisholm

Visa Canada Corporation

Randall Hofley