



Reference: *The Commissioner of Competition v. Visa Canada Corporation and MasterCard International Incorporated*, 2011 Comp. Trib. 14
File No.: CT-2010-10
Registry Document No.: 86

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. (Chairperson)
Date of Order: September 29, 2011
Order signed by: Madam Justice Sandra J. Simpson



ORDER REGARDING THE MOTIONS TO BE HEARD ON OCTOBER 4, 2011

[1] **FURTHER TO** the motions filed by the Commissioner of Competition (the “Commissioner”) and MasterCard International Incorporated (“MasterCard”) on September 19, 2011, regarding the affidavits of documents served by all parties and intervenors (the “Motions”).

[2] **AND FURTHER TO** the Commissioner’s request for an expedited hearing of her motion on the basis that the Tribunal’s Revised Scheduling Order of August 26, 2011, provides that any additional productions resulting from the Motions shall be delivered by October 17, 2011;

[3] **AND FURTHER TO** the Tribunal’s Direction dated September 21, 2011, advising counsel for all parties and intervenors that the Motions will be heard on October 4, 2011, in Ottawa;

[4] **AND FURTHER TO** the letters filed by counsel for MasterCard, Visa Canada Corporation, and the Canadian Bankers Association, in which they request that the Motions be heard on October 17, 2011. This was the hearing date originally set in the Tribunal’s Direction of September 20, 2011. However, the next day, the Tribunal was able to free up an earlier date which is now the hearing date of October 4;

[5] **AND FURTHER TO** the letter filed by counsel for the Commissioner opposing an adjournment of the hearing of the Motions;

[6] **AND UPON** reading the notices of motion filed by the Commissioner and MasterCard;

[7] **AND UPON** concluding that the motions should be heard on an expedited basis so that the dates set out in the Revised Scheduling Order can be preserved;

THE TRIBUNAL ORDERS THAT:

[8] The Motions shall be heard on October 4, 2011, at 10:00 a.m., in the Tribunal Hearing Room, located at 90 Sparks Street, Ottawa, Ontario.

[9] If lead counsel for a party or intervenor is unavailable on October 4, they are asked to brief a colleague to deal with the matter.

[10] The parties and intervenors are relieved from the obligation to file formal memoranda of fact and law. Instead, the parties and intervenors shall serve and file, on or before Friday, September 30, 2011, a short document setting out the party’s or intervenor’s position and case law with respect to each issue.

DATED at Ottawa, this 29th day of September, 2011.

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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For the respondents:

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