

Competition Tribunal



Tribunal de la Concurrence

Reference: *Nadeau Poultry Farm Limited v. Groupe Westco Inc.*, 2011 Comp. Trib. 9  
File No.: CT-2008-004  
Registry Document No.: 721

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

AND IN THE MATTER of an Application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited for an Order pursuant to section 75 of the *Competition Act*;

AND IN THE MATTER of an Application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited for an Interim Order pursuant to section 104 of the *Competition Act*;

B E T W E E N:

**Nadeau Ferme Avicole Limitée/  
Nadeau Poultry Farm Limited**  
(applicant)

and

**Groupe Westco Inc. and Groupe Dynaco,  
Coopérative Agroalimentaire, and Volailles  
Acadia S.E.C. and Volailles Acadia Inc./  
Acadia Poultry Inc.**  
(respondents)



Decided on the basis of the written record.  
Before Judicial Member: Blanchard J.  
Date of Order: August 30, 2011  
Order signed by: Justice Edmond P. Blanchard

**SCHEDULING ORDER FOR THE HEARING OF WESTCO'S MOTION REGARDING  
THE ENFORCEMENT OF AN UNDERTAKING AS TO DAMAGES**

[1] FURTHER TO the Tribunal's Direction of August 5, 2011, advising the Respondent Groupe Westco Inc. ("Westco") that if it wishes to proceed with a motion to enforce an undertaking as to damages given by the Applicant Nadeau Poultry Farm Limited ("Nadeau"), Westco should serve and file a formal motion ("Westco's Motion") addressing two questions (1. Does the Tribunal have jurisdiction to enforce an undertaking as to damages? 2. Assuming the Tribunal does have jurisdiction, should leave be granted to Westco so that it can proceed with an application for a hearing relating to the enforcement of the undertaking as to damages?)

[2] AND FURTHER TO that same Direction in which the parties were directed to file a proposed joint timetable for the hearing of Westco's Motion or, if no agreement could be reached, separate timetables;

[3] AND FURTHER to the letter filed by Nadeau on August 25, 2011, advising the Tribunal that Nadeau's counsel is out of the country from October 13 until October 31, 2011, and suggesting that Westco's Motion be heard the week of November 28, 2011;

[4] AND FURTHER to the letter filed by Westco on August 26, 2011, suggesting that its motion be heard on October 11 or 12, 2011, or, in the alternative, during the week of November 21 or November 28, 2011;

[5] AND ON noting that the procedure for the filing of a formal motion is set out in Rules 83 to 87 of the *Competition Tribunal Rules*, SOR/2008-141, and that the procedure is appropriate in the circumstances;

[6] AND UPON concluding that one day is sufficient for the hearing of Westco's Motion;

**THE TRIBUNAL ORDERS THAT:**

[7] Westco shall serve and file its notice of motion and any supporting affidavits or other admissible evidence on or before Tuesday, September 13, 2011.

[8] Nadeau shall serve and file a response stating the grounds on which the motion is opposed and any supporting affidavits on or before Tuesday, October 4, 2011.

[9] Cross-examinations on affidavits, if required, shall take place on Tuesday, October 11 and/or Wednesday, October 12, 2011.

[10] Nadeau and Westco shall, on or before Monday, November 14, 2011, serve and file their memoranda of fact and law and any supplementary evidence to be relied upon, including transcripts.

[11] Westco's motion shall be heard on Tuesday, November 29, 2011, commencing at 9:00 a.m. in the Hearing Room of the Competition Tribunal, located at 90 Sparks Street, Ottawa, Ontario. Any submissions the parties wish to make in response to the other's submissions will be heard during oral argument.

DATED at Ottawa, this 30th day of August, 2011.

SIGNED on behalf of the Tribunal by Justice Blanchard.

(s) Edmond P. Blanchard.

**COUNSEL:**

For the applicant:

Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited

Leah Price

For the respondent:

Groupe Westco Inc.

Martha A. Healey