



Reference: *The Commissioner of Competition v. Visa Canada Corporation and MasterCard International Incorporated*, 2011 Comp. Trib. 3

File No.: CT-2010-10

Registry Document No.: 52

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*.

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: April 7, 2011
Order signed by: Madam Justice Sandra J. Simpson

SCHEDULING ORDER

[1] **FURTHER TO** the application filed by the Commissioner of Competition pursuant to section 76 of the *Competition Act*, R.S.C. 1985, c. C-34, alleging that the respondents Visa Canada Corporation and MasterCard International Incorporated are engaging in price maintenance;

[2] **AND WHEREAS** counsel for the parties advised the Tribunal on March 29, 2011, that they had reached an agreement on a timetable for the disposition of the application;

[3] **AND WHEREAS** the Tribunal has examined the proposed timetable and is of the view that it is appropriate and respects the principles found in subsection 9(2) of the *Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd Supp.);

THE TRIBUNAL ORDERS THAT:

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

Friday April 29, 2011	Deadline for production of first tranche of the parties' respective documents
Tuesday, May 31, 2011	Deadline for production of second tranche of the parties' respective documents, constituting, together with the first tranche, at least 50% of each party's total documents
Thursday, June 30, 2011	Deadline for production of third tranche of the parties' respective documents, constituting together with the first and second tranches, at least 75% of each party's total documents
Monday, August 15, 2011	Deadline for production of all remaining documents and for delivery of the parties' and intervenors' respective Affidavits of Documents
Monday, August 29, 2011	Deadline for serving and filing any motions arising from Affidavits of Documents and/or productions and any motions regarding the scope of examinations for discovery
Date to be set, if needed	Hearing of any motions arising from Affidavits of Documents and/or productions and/or in respect of the scope of examinations for discovery
Monday, September 26, 2011	Deadline for delivery of any additional productions resulting from any Affidavits of Documents/productions motions

Monday, October 17 – Friday, November 25, 2011	Examinations for discovery according to a schedule to be settled between counsel
Monday, December 12, 2011	Deadline for fulfilling answers to discovery undertakings
Friday, January 13, 2012	Last day for the hearing of motions arising out of examinations for discovery
Friday, January 27, 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 – see paragraph 6 below
Date to be set, if needed	Hearing of any pre-hearing motions not described above

[5] 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)

[6] The hearing will proceed using chess clock timing. The parties and intervenors will advise the Tribunal Registry, on or before Friday, April 13, 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 7th day of April, 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:

MasterCard International Incorporated

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