

Competition Tribunal



Tribunal de la Concurrence

Reference: *Nadeau Poultry Farm Limited v. Groupe Westco Inc. et al.*, 2009 Comp. Trib. 11  
File No.: CT-2008-004  
Registry Document No.: 516

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.  
Presiding Judicial Member: Blanchard J.  
Date of Order: July 31, 2009  
Order signed by: Justice Edmond P. Blanchard

**ORDER RELATING TO A PUBLIC VERSION OF THE TRIBUNAL'S  
CONFIDENTIAL REASONS FOR ORDER AND ORDER OF JUNE 8, 2009**

[1] **FURTHER TO** the Tribunal's Confidential Reasons for Order and Order dated June 8, 2009 (the "Confidential Decision"), in which it dismissed the Applicant's application under section 75 of the *Competition Act*, R.S.C. 1985, c. C-34, and in which it stated that the parties should meet and endeavour to reach agreement upon the redactions that must be made to the Confidential Decision;

[2] **AND FURTHER TO** the Tribunal's Order Relating to Matters Considered at the Case Management Conference of July 13, 2009, granting the parties additional time to reach an agreement with respect to redactions to be made to the Confidential Decision and directing them to file separate submissions if no agreement could be reached;

[3] **AND WHEREAS** the Applicant and Groupe Westco Inc. ("Westco") have been unable to reach an agreement with respect to certain redactions;

[4] **AND FURTHER TO** the Applicant's written submissions dated July 20, 2009, and Westco's written submissions dated July 24, 2009;

[5] **AND WHEREAS** paragraph 24 of the Tribunal's Confidentiality Order of June 26, 2008, states that it is subject to further direction of the Tribunal and may be varied by order;

[6] **AND WHEREAS** the Tribunal held in *Commissioner of Competition v. Sears Canada Inc.*, 2003 Comp. Trib. 27, that "...when considering whether to declare a document confidential or restrict access to it, the Tribunal is to balance the salutary effects of a confidentiality order against the deleterious effects of the order..." (at para. 5);

[7] **AND WHEREAS** the Tribunal also held in *Commissioner of Competition v. Sears Canada Inc.*, 2003 Comp. Trib. 27, that in the absence of evidence of specific, direct harm that would allegedly result from the disclosure of certain portions of documents, the Tribunal can read the paragraphs at issue in order to see if on their face it is evident that there would likely be a specific, direct harm if those portions of the documents were made public;

[8] **AND UPON** reading the parties' submissions and the contested severances, as well as the public version of the Reply Affidavit of Grant C. Robinson, sworn October 27, 2008 (exhibit A-92);

**THE TRIBUNAL ORDERS THAT:**

- [9] (i) Paragraphs 166, 189, 193, 196, 202, 203, 204, 209, 210, 211, 399, 455 and 456, except for the agreed-upon severances, shall be included in the public version of the Confidential Decision.
- (ii) The contested redaction found in paragraph 179 shall remain confidential.

- (iii) The second part of the first sentence of paragraph 205, starting after the words “to operate”, shall remain confidential. The remainder of the paragraph shall be included in the public version of the Confidential Decision
- (iv) The specific percentages in paragraphs 208, 217 and 221 shall remain confidential.
- (v) The beginning of the first sentence of paragraph 465, starting with “Mr. Robinson” and ending with “states that” shall be included in the public version of the Confidential Decision. The remainder of the paragraph shall remain confidential.

**[10]** A public version of the Confidential Decision shall be released the week of August 4, 2009, after receipt of the parties’ submissions with respect to the Direction issued today seeking clarification on certain agreed-upon severances.

DATED at Ottawa, this 31<sup>st</sup> day of July, 2009.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) Edmond P. Blanchard

**COUNSEL:**

For the applicant

Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited

Leah Price  
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Ron Folkes

For the respondents

Groupe Westco Inc.

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