



Reference: *Nadeau Poultry Farm Limited v. Groupe Westco Inc. et al.*, 2008 Comp. Trib. 31  
File No.: CT-2008-004  
Registry Document No.: 0330

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: November 7, 2008  
Order signed by: Justice Edmond P. Blanchard

**ORDER RELATING TO OBJECTIONS TO THE APPLICANT'S REPLY WITNESS  
STATEMENTS AND EXPERT REPORTS**

[1] **FURTHER TO** the Competition Tribunal Order of May 12, 2008, granting Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited (the “Applicant”) leave to make an application under section 75 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

[2] **AND FURTHER TO** the Tribunal’s Scheduling Order, dated June 11, 2008, directing the Respondents to file any objections regarding the admissibility of the Applicant’s reply witness statements or expert reports on or before October 29, 2008;

[3] **AND FURTHER TO** a letter filed by the Respondent Groupe Westco Inc. (“Westco”) on October 29, 2008, objecting to the admissibility of several paragraphs contained in the Applicant’s witness statements and expert reports;

[4] **AND UPON** reading the submissions filed by the Applicant on November 3, 2008, in response to the objections;

**THE TRIBUNAL ORDERS THAT:**

[5] Westco’s objections to paragraphs 6, 7, 12, and 21 of the reply affidavit of John Feenstra are dismissed. Paragraphs 6, 7, and 12 will be allowed because Westco has failed to convince the Tribunal that these paragraphs constitute argument. Paragraph 21 will also be allowed. The Respondents will have an opportunity to challenge paragraph 21 when cross-examining Mr. Feenstra.

[6] Westco’s objections to paragraphs 17(a), 17(b), 17(c), 19, 20(a), 24, and 25 of the reply affidavit of Yves Landry are dismissed. These paragraphs will be allowed because Westco has failed to convince the Tribunal that they constitute argument.

[7] The last three sentences of paragraph 16 and the second sentence of paragraph 17(d) of the reply affidavit of Yves Landry shall not be allowed on the basis that they consist of argument. The Applicant shall serve and provide to the Tribunal a revised reply affidavit of Yves Landry on or before Friday, November 14, 2008.

[8] Westco’s objections to paragraphs 10 and 11 of the reply affidavit of Andre Merks are dismissed. In the Tribunal’s view, they do not constitute opinion evidence.

[9] Westco’s objections to paragraphs 19 to 21 of the reply affidavit of Roger Ware and paragraphs 10, 18, 19, 24, 28 to 30, 34, and 37 of the reply affidavit of Grant Robinson are dismissed.

[10] While Westco alleges that certain paragraphs in the reply affidavits of Roger Ware and Grant Robinson go beyond merely replying to the responding affidavit of Margaret Sanderson, Westco fails to indicate what specific errors, inaccuracies and omissions are said to be corrected in the reply affidavits. In the exercise of my discretion, the confirmatory rebuttal evidence will be admitted. Westco will be granted latitude to address any new issues raised by this evidence in its examination in chief of Ms. Sanderson.

DATED at Ottawa, this 7<sup>th</sup> day of November, 2008.

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  
Andrea McCrae  
Joshua Freeman

For the respondents

Groupe Westco Inc.

Denis Gascon  
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Pierre Beaudoin  
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