

Competition Tribunal



Tribunal de la Concurrence

Reference: *Gauthier v. Milliken, M.P.*, 2007 Comp. Trib. 20

File No.: CT-2007-007

Registry Document No.: 0014

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

AND IN THE MATTER OF an application under section 103.1 of the *Competition Act* by Robert Gilles Gauthier c.o.b. as The Capital News Canada for leave to make an application under section 75 of the *Competition Act*.

B E T W E E N :

Robert Gilles Gauthier c.o.b. as The Capital News Canada
(applicant)

and

**The Honourable Peter Milliken, M.P.,
Speaker of the House of Commons**
(respondent)



Decided on the basis of the written record.

Presiding Judicial Member: Dawson J.

Date of Order: June 20, 2007

Order signed by: Madam Justice Eleanor R. Dawson

ORDER IN RESPECT OF THE REQUEST TO AMEND THE "APPLICATION FOR LEAVE TO MAKE AN APPLICATION" AND TO AMEND THE SUPPORTING AFFIDAVIT OF ROBERT G. GAUTHIER SWORN JUNE 6, 2007.

[1] UPON the request of the applicant to amend the “application for leave to make an application” and the supporting affidavit of Robert G. Gauthier, both filed June 11, 2007.

[2] AND UPON noting that the *Competition Tribunal Rules*, SOR/94-290 ("Rules"), are silent with respect to the amendment of pleadings and documents, thus making Rule 72(1) applicable. Rule 72(1) reads as follows:

(1) Where, in the course of proceedings, a question arises as to the practice or procedure to be followed in cases not provided for by these Rules, the practice and procedure set out in the *Federal Court Rules*, C.R.C., 1978, c. 663, shall be followed, with such modifications as the circumstances require.

(1) *Les Règles de la Cour fédérale*, C.R.C. (1978), ch. 663, s'appliquent, avec les adaptations nécessaires, aux questions qui se posent au cours des procédures quant à la pratique ou la procédure à suivre dans les cas non prévus par les présentes règles.

[3] AND UPON noting that Rule 200 of the *Federal Courts Rules*, SOR/98-106, provides that:

Notwithstanding rules 75 and 76, a party may, without leave, amend any of its pleadings at any time before another party has pleaded thereto or on the filing of the written consent of the other parties.

Malgré les règles 75 et 76, une partie peut, sans autorisation, modifier l'un de ses actes de procédure à tout moment avant qu'une autre partie y ait répondu ou sur dépôt du consentement écrit des autres parties.

[4] THEREFORE, the “application for leave to make an application” shall be amended by replacing paragraph 12 with the wording contained in paragraph 12 as found in document 0005 filed with the Tribunal on June 12, 2007.

[5] AND UPON notice that Rule 75(1) of the Federal Court Rules provides that:

(1) Subject to subsection (2) and rule 76, the Court may, on motion, at any time, allow a party to amend a document, on such terms as will protect the rights of all parties.

(1) Sous réserve du paragraphe (2) et de la règle 76, la Cour peut à tout moment, sur requête, autoriser une partie à modifier un document, aux conditions qui permettent de protéger les droits de toutes les parties.

[6] AND UPON concluding that the proposed amendment to the supporting affidavit serves the interests of justice and that if allowed the rights of all parties may be protected by extending the time in which the respondent may reply to the application on the terms set below.

NOW THEREFORE THE TRIBUNAL ORDERS:

[7] The “application for leave to make an application” shall be amended by replacing paragraph 12 with the wording contained in paragraph 12 as found in document 0005 filed with the Tribunal on June 12, 2007.

[8] The applicant is given leave to file and serve the amended affidavit of Robert G. Gauthier delivered to the Tribunal on June 15, 2007.

[9] The respondent shall have 15 days from the date of service of the amended “application for leave to make an application” to make representations in writing to the Tribunal pursuant to subsection 103.1(6) of the Competition Act.

DATED at Ottawa, this 20th day of June, 2007

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

(s) Eleanor R. Dawson