



Reference: *Commissioner of Competition v. Saskatchewan Wheat Pool Inc et al.*, 2006 Comp.39
File No.: CT2005009
Registry Document No.: 0092

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 for an Order pursuant to section 92 of the *Competition Act*;

AND IN THE MATTER OF a joint venture between Saskatchewan Wheat Pool Inc. and James Richardson International Limited in respect of port terminal grain handling in the Port of Vancouver.

B E T W E E N :

Commissioner of Competition
(applicant)

and

Saskatchewan Wheat Pool Inc.
James Richardson International Limited
6362681 Canada Ltd. and 6362699 Canada Ltd.
(respondents)

and

Canadian Pacific Railway Company
Canadian National Railway Company
Canadian Wheat Board and
Vancouver Port Authority
(intervenors)



Date of case management conference: 20061117
Presiding Judicial Member: Simpson J. (Chairperson)
Date of Order: November 21, 2006
Order signed by: Madam Justice S. Simpson

**ORDER DURING A CASE MANAGEMENT TELECONFERENCE OF NOVEMBER 17,
2006 RESCINDING THE SCHEDULING ORDER OF JUNE 19, 2006 AND SETTING A
DATE FOR A SCHEDULING CONFERENCE**

[1] FURTHER TO the application filed by the Commissioner of Competition (the “Commissioner”) pursuant to section 92 of the *Competition Act*, R.S.C. 1985, c. C-34, for an order dissolving a grain handling joint venture between the respondents at the Port of Vancouver;

[2] AND FURTHER TO the Scheduling Order of June 19, 2006 which provides that the oral discoveries of the parties and intervenors are to be finalized in early December 2006 (the “Schedule”);

[3] AND WHEREAS counsel for the parties and intervenors consented to the Schedule subject to developments in the UGG case (CT-2002-01) in which a trustee is trying to implement the divestiture of a port terminal grain handling facility in the Port of Vancouver (the “Trustee Sale”);

[4] AND FURTHER TO James Richardson International Limited’s (“JRI”) request that the discovery process as set out in the Schedule be suspended because:

- (i) The Trustee Sale was not completed in September 2006 and has yet to be completed;
- (ii) Saskatchewan Wheat Pool Inc. (“SWP”) announced on November 7, 2006 that it intends to make a formal offer for all of the outstanding common shares of Agricore United

(together the “Potential Ownership Changes”).

[5] AND WHEREAS it was anticipated, at the time the Schedule was made, that the Trustee Sale would have been completed before the commencement of the examinations for discovery in this case;

[6] AND WHEREAS it was not anticipated, at the time the Schedule was made, that a further potential shift in ownership of one of the five port terminal grain handling facilities in the Port of Vancouver could occur during this proceeding;

[7] AND WHEREAS it appears inevitable that if oral discoveries are held now as scheduled, further attendances will be required at considerable cost once the Potential Ownership Changes have been resolved;

[8] AND WHEREAS counsel for SWP supports the request made by JRI;

[9] AND WHEREAS counsel for the intervenors, the Canadian National Railway Company, the Canadian Wheat Board and the Vancouver Port Authority all agree that a postponement of the examinations for discovery is appropriate in this case given the Potential Ownership Changes; no position having been expressed by the Canadian Pacific Railway Company;

[10] AND WHEREAS the Tribunal finds that compelling reasons have been provided showing that the parties and intervenors will be unable to comply with the Schedule without the undue expense associated with later reattendances because of the Potential Ownership Changes;

THE TRIBUNAL ORDERS THAT:

[11] The Scheduling Order of June 19, 2006, is hereby rescinded.

[12] A scheduling conference (to be held by conference call) will be held on Tuesday, January 30, 2007, at 10:00 a.m.(EST).

[13] Counsel for the parties are to consult and, if possible, file an agreed suggested schedule for the completion of this matter which is to include hearing dates. If agreement cannot be reached, separate proposed schedules are to be filed. These filings are to be made on or before Friday, January 26, 2007, and copies of any documents filed are to be provided to counsel for the intervenors on the date filed.

DATED at Ottawa, this 21st day of November 2006.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

APPEARANCES:

For the applicant:

Commissioner of Competition

Jonathan Chaplan

Andrew Lenz

For the respondents:

Saskatchewan Wheat Pool Inc.

6362681 Canada Ltd. and

6362699 Canada Ltd.

Peter Bergbusch

James Richardson International Limited

Robert Russell

Adam Fanaki

For the intervenors:

Canadian National Railway Company

Darin J. Hannaford

Canadian Pacific Railway Company

Not represented

Canadian Wheat Board

Donald Houston

Vancouver Port Authority

David Edinger