



Reference: *United Grain Growers Limited v. Commissioner of Competition*, 2006 Comp.Trib.25
File No.: CT-2002-001
Registry Document No.: 0188

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

AND IN THE MATTER OF the acquisition by United Grain Growers Limited of Agricore Cooperative Ltd., a company engaged in the grain handling business;

AND IN THE MATTER OF an application by United Grain Growers Limited under section 106 of the *Competition Act*.

B E T W E E N:

United Grain Growers Limited
(applicant)

and

The Commissioner of Competition
(respondent)

and

The Canadian Wheat Board and Mission Terminal Inc.
(intervenors)



Date of hearing: 20060420
Presiding Judicial Member: Lemieux J.
Date of Reasons: May 10, 2006
Reasons signed by: Mr. Justice F. Lemieux

REASONS FOR ORDER DISMISSING COMMISSIONER'S MOTION FOR SUMMARY DISPOSITION

[1] On April 20, 2006, the Tribunal heard preliminary objections to a motion brought by the Commissioner of Competition (the “Commissioner”) for the summary disposition of the application filed by United Grain Growers Limited (“UGG”) on August 12, 2005, for an order pursuant to section 106 of the *Competition Act*, R.S.C. 1985, c. C-34, rescinding the consent agreement the Commissioner and UGG had entered into on October 17, 2002. At the conclusion of argument, I ruled that the motion should be dismissed on the basis that subsection 9(4) of the *Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd Supp.), as amended, the provision under which the motion was brought, is a pre-trial procedure, with reasons to follow. These are those reasons.

I. FACTS

[2] On November 1, 2001, UGG, a company engaged in the grain handling business, acquired Agricore Cooperative Ltd. pursuant to the terms of a merger agreement of July 30, 2001 (the “Acquisition”). The merger agreement provided that UGG, already the owner of a grain handling port terminal in Vancouver, would acquire control of all business assets of Agricore including its whole or partial interests in grain handling port terminal facilities in Vancouver. These included the Pacific Complex and the Cascadia Terminal. UGG, subsequent to the Acquisition, had consequently a direct interest in three of the five port terminals in Vancouver that offer port terminal grain handling services. Since the closing of the Acquisition, UGG has been carrying on business as Agricore United.

[3] Prior to the closing of the Acquisition on November 1, 2001, the Commissioner and UGG signed a letter agreement allowing the merger to proceed subject to certain conditions. In particular, this agreement, signed on October 31, 2001, provided the Commissioner would file a section 92 application with the Tribunal alleging a substantial lessening of competition (“SLC”) in port terminal grain handling services at the Port of Vancouver. This agreement sought a divestiture of either UGG’s grain terminal or UGG’s interest in the Pacific Complex. Although the letter agreement provided UGG would not contest the SLC allegation, the company could contest the Commissioner’s position as to the appropriate remedy.

[4] On January 2, 2002, the Commissioner filed an application with the Tribunal pursuant to section 92 of the *Competition Act* alleging the Acquisition would likely prevent or lessen competition substantially in the market for port terminal grain handling services in the Port of Vancouver. The Commissioner sought an order requiring UGG to divest, at its option, the UGG Terminal or its interest in the Pacific Complex. As agreed, UGG did not contest the Commissioner’s SLC allegation in its response but did allege the divestiture of part of the Pacific Complex also constituted an appropriate remedy.

[5] The Commissioner’s section 92 application was heard on September 10, 2002, and the evidence led by the Commissioner was not challenged by UGG. The Tribunal issued its findings on September 12, 2002. The Tribunal found that the Acquisition caused “an SLC as alleged by the Commissioner, and for the purposes of this proceeding, not contested by the Respondent, without the need for further evidence to establish an SLC or elements of an SLC” and that the divestiture of either the UGG Terminal or the interests in the Pacific Complex was sufficient to address the SLC (see *The Commissioner of Competition v. United Grain Growers Limited*, 2002

Comp. Trib. 33). The Tribunal left for determination at a later date the issue of whether the divestiture of a part of the Pacific Complex would also be sufficient to address the SLC.

[6] On October 17, 2002, four days before the hearing regarding this last remaining issue was scheduled to commence, the Commissioner and UGG registered a consent agreement with the Tribunal pursuant to section 105 of the *Competition Act* (the “Consent Agreement”). The Consent Agreement provided that UGG was to divest either the UGG Terminal or its interest in the Pacific Complex within a specified period (the “Initial Sale Period”).

[7] UGG was to advise the Commissioner in writing every 60 days during the Initial Sale Period of the progress of its efforts to accomplish the implementation of a divestiture, including a description of contacts or negotiations and the identity of all parties contacted and prospective purchasers who had come forward. If UGG was unsuccessful in implementing a divestiture in the Initial Sale Period, a trustee would be appointed by the Commissioner to carry out the required divestiture.

[8] UGG elected to divest the UGG Terminal but, after negotiating with several parties, was unsuccessful in its attempts to do so during the Initial Sale Period. After having agreed to various extensions of the Initial Sale Period, counsel for the Commissioner, in a letter dated August 10, 2005, finally advised UGG the Commissioner would not agree to any further extension beyond August 15, 2005.

[9] On August 12, 2005, UGG filed its application with the Tribunal pursuant to section 106 of the *Competition Act* seeking the rescission of the Consent Agreement. UGG alleged that the circumstances that led to the making of the Consent Agreement had changed and that, in the present circumstances, the agreement would not have been made or would have been ineffective in achieving its intended purpose.

[10] The hearing of this application by a three-member panel consisting of Dr. Lilla Csorgo, Mr. Frank Douglas Jones, Q.C., and myself commenced on March 27, 2006. After dealing with certain preliminary matters, the Tribunal heard UGG’s opening statement on March 29. From March 30 until April 7, several witnesses testified on behalf of UGG and over 400 documents were filed as exhibits.

[11] On Monday, April 10, counsel for UGG advised the Tribunal that UGG did not intend to proceed with the hearing as presently constituted as the problem he had mentioned to the members of the Tribunal in chambers the previous Thursday, April 6, had not been resolved over the weekend. Counsel explained he had received instructions from his client to bring a motion for an order adjourning the proceeding *sine die* or, in the alternative, for an order permitting UGG to discontinue the section 106 application without costs. The parties proposed that such a motion be argued on April 20. The Tribunal therefore adjourned the matter to that day for the sole purpose of hearing the motion to be filed by UGG.

[12] On April 13, counsel for the Commissioner filed under subsection 9(4) of the *Competition Tribunal Act* a notice of motion for the summary disposition seeking the dismissal

of UGG's section 106 application and asked that this motion be heard and decided before any determination by the Tribunal of UGG's proposed motion to adjourn or withdraw without costs.

[13] Counsel for UGG raised various objections to the Commissioner's motion and given these preliminary objections, it was decided that the Tribunal would hear on Thursday, April 20, arguments of the parties regarding these preliminary matters. In particular, the Tribunal would hear submissions of the parties regarding the nature of the procedure set out in subsection 9(4) of the *Competition Tribunal Act* and whether it permits a party to bring a motion for summary disposition after the commencement of a hearing.

II. APPLICABLE LEGISLATION

[14] The relevant provisions are as follows:

- Sections 8 and 9 of the *Competition Tribunal Act*

Jurisdiction

8. (1) The Tribunal has jurisdiction to hear and dispose of all applications made under Part VII.1 or VIII of the Competition Act and any related matters, as well as any matter under Part IX of that Act that is the subject of a reference under subsection 124.2(2) of that Act.

[...]

Court of record

9. (1) The Tribunal is a court of record and shall have an official seal which shall be judicially noticed.

Proceedings

(2) All proceedings before the Tribunal shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit.

[...]

Summary dispositions

(4) On a motion from a party to an application made under Part VII.1 or VIII of the Competition Act, a judicial member may hear and determine the application in a summary way, in accordance with any rules on summary dispositions.

Decision

(5) The judicial member may dismiss the application in whole or in part if the member finds that there is no genuine basis for it. The member may allow the application in whole or in part if satisfied that there is no genuine basis for the response to it.

Compétence

8. (1) Les demandes prévues aux parties VII.1 ou VIII de la Loi sur la concurrence, de même que toute question s'y rattachant ou toute question qui relève de la partie IX de cette loi et qui fait l'objet d'un renvoi en vertu du paragraphe 124.2(2) de cette loi, sont présentées au Tribunal pour audition et décision.

[...]

Cour d'archives

9. (1) Le Tribunal est une cour d'archives et il a un sceau officiel dont l'authenticité est admise d'office.

Procédures

(2) Dans la mesure où les circonstances et l'équité le permettent, il appartient au Tribunal d'agir sans formalisme, en procédure expéditive.

[...]

Procédure sommaire

(4) Sur requête d'une partie à une demande présentée en vertu des parties VII.1 ou VIII de la Loi sur la concurrence et en conformité avec les règles sur la procédure sommaire, un juge peut entendre la demande et rendre une décision à son égard selon cette procédure.

Pouvoirs du juge

(5) Le juge saisi de la requête peut rejeter ou accueillir, en totalité ou en partie, la demande s'il est convaincu que, soit la demande, soit la réponse, n'est pas véritablement fondée.

- Section 72 of the *Competition Tribunal Rules*, SOR/94-290, as amended

72. (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.

(2) Where a person is uncertain as to the practice and procedure to be followed, the Tribunal may give directions on how to proceed.

72. (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.

(2) En cas d'incertitude quant à la pratique ou la procédure à suivre, le Tribunal peut donner des directives sur la façon de procéder.

- Rule 213 of the *Federal Courts Rules*, SOR/98-106, as amended

Summary Judgment

213. (1) A plaintiff may, after the defendant has filed a defence, or earlier with leave of the Court, and at any time before the time and place for trial are fixed, bring a motion for summary judgment on all or part of the claim set out in the statement of claim.

(2) A defendant may, after serving and filing a defence and at any time before the time and place for trial are fixed, bring a motion for summary judgment dismissing all or part of the claim set out in the statement of claim.

Jugement sommaire

213. (1) Le demandeur peut, après le dépôt de la défense du défendeur — ou avant si la Cour l'autorise — et avant que l'heure, la date et le lieu de l'instruction soient fixés, présenter une requête pour obtenir un jugement sommaire sur tout ou partie de la réclamation contenue dans la déclaration.

(2) Le défendeur peut, après avoir signifié et déposé sa défense et avant que l'heure, la date et le lieu de l'instruction soient fixés, présenter une requête pour obtenir un jugement sommaire rejetant tout ou partie de la réclamation contenue dans la déclaration.

III. PARTIES' SUBMISSIONS

[15] UGG submits that the Tribunal does not have the ability to entertain the Commissioner's motion for summary disposition. Relying on the rules of statutory interpretation and, in particular, the words used in subsection 9(4) appreciated in its context and its parliamentary history, UGG alleges that it is clear that subsection 9(4) only gives the Tribunal the discretion to grant summary disposition before the hearing of the application has started. The Tribunal should therefore dismiss the Commissioner's motion. UGG submits that the "genuine basis" test found in subsection 9(5) is indistinguishable from the "genuine issue" test found in the rules on summary judgment in the *Federal Courts Rules*.

[16] UGG also stresses that the Tribunal should decide any motion for summary disposition "in accordance with any rules on summary dispositions" as required by subsection 9(4). As the Tribunal has not yet promulgated any rules on summary dispositions, it must rely on Rule 213 of the *Federal Courts Rules* since section 72 of the *Competition Tribunal Rules* provides that the practice and procedure set out in the *Federal Courts Rules* must be followed in cases where the *Competition Tribunal Rules* are silent as to the practice or procedure to be followed. UGG alleges that the only rules in the *Federal Courts Rules* relating to summary dispositions are Rules

213 to 219 which govern summary judgment motions. Rule 213 precludes a party from bringing a motion for summary judgment after the commencement of a trial as it provides that a motion for summary judgment must be brought before the time and place for trial are fixed.

[17] UGG further submits subsection 9(4) is a discretionary provision and even if the Tribunal has the jurisdiction to consider the Commissioner's motion, the Tribunal should decline to exercise that discretion. UGG submits that it has the absolute right to withdraw its section 106 application at any time during a proceeding pursuant to section 50 of the *Competition Tribunal Rules* and the Commissioner's request that its motion for summary disposition be heard before UGG's motion for adjournment would be inconsistent with UGG's absolute right to withdraw.

[18] On the other hand, the Commissioner, relying on the specific terms used in subsections 9(4) and (5), submits these provisions provide the Tribunal with a broad discretion to dispose of applications in a summary way in any given case. According to the Commissioner, if Parliament had intended subsection 9(4) to only empower the Tribunal to grant summary judgment before trial, it would have used those words and would have used language similar to that found in Rule 213 of the *Federal Courts Rules*. Instead, argues the Commissioner, Parliament opted for the words "summary disposition" (and not "summary judgment") and decided to set out a "genuine basis" test (as opposed to a "genuine issue" test) in subsection 9(5).

[19] The Commissioner also alleges subsections 9(4) and (5) do not restrict the time frame within which a motion for summary disposition may be brought. She strongly opposes UGG's submission that the Tribunal can rely on section 72 of the *Competition Tribunal Rules* so as to apply the time limits found in the *Federal Courts Rules* for filing a motion for summary judgment. She argues that those rules are not rules "on summary dispositions" but rules on "summary judgments". She also submits that reading in the time limit into subsection 9(4) would be akin to amending the *Competition Tribunal Act* as such an interpretation would directly affect a party's right when to bring a motion for summary disposition. According to the Commissioner, this is not a mere question of practice or procedure but rather a substantive issue.

IV. ANALYSIS

[20] The Commissioner brought her motion under subsection 9(4) of the *Competition Tribunal Act*. The sole issue to be determined by the Tribunal is therefore the proper interpretation of this subsection.

A. GENERAL PRINCIPLES OF STATUTORY INTERPRETATION

[21] When construing a provision, it is well established that a court or tribunal is to read the words of the provision "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament" (see *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, at par. 21, quoting E. A. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87).

[22] It is also well accepted that the parliamentary history of a provision and similar material may be properly considered when construing a provision as long as they are relevant and reliable

and not given undue weight (see *Reference re: Firearms Act (Can.)*, [2000] 1 S.C.R. 783, at par. 17; see also *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, at par. 35).

B. INTERPRETATION OF SUBSECTIONS 9(4) AND (5)

[23] Applying the above test to subsections 9(4) and (5), I find that these provisions set out a pre-hearing procedure the purpose of which is to streamline the Tribunal process by allowing a judicial member to summarily dispose of an application without proceeding to a full hearing. The contextual reasons for this conclusion are threefold:

- 1) The grammatical and ordinary sense of the words in subsections 9(4) and (5) in the scheme of the *Competition Tribunal Act*
- 2) The words “in accordance with any rules on summary dispositions” found in subsection 9(4)
- 3) The parliamentary debates

1) The Grammatical and Ordinary Sense in the Scheme of the *Competition Tribunal Act*

[24] The terms of subsections 9(4) and (5), when read in their grammatical and ordinary sense in the scheme of the *Competition Tribunal Act*, set out a pre-hearing procedure. Numerous key words or expressions in these provisions indicate the legislature’s intention to provide the Tribunal with the jurisdiction to summarily dispose of an application by allowing it or dismissing it at an early stage prior to the commencement of the full hearing.

[25] First, subsection 9(4) provides that a judicial member may “hear and determine the application in a summary way”. These words, read in their plain and ordinary sense, mean that a judicial member may dispose of the application without proceeding to a full hearing. Instead, the member hears and determines the application in a “summary way”. These words clearly contemplate a proceeding other than a full hearing. In that regard, I simply note that *Black’s Law Dictionary* defines “summary” as “short; concise; immediate; peremptory; off-hand; without a jury; provisional; statutory. The term as used in connection with legal proceedings means a short, concise, and immediate proceeding” (*Black’s Law Dictionary*, 6th ed., s.v. “summary”).

[26] Second, subsection 9(5) provides that after hearing the motion for summary disposition, the judicial member may dismiss or allow the application “in whole or in part”. Again, these terms contemplate a pre-hearing procedure since a judicial member may dismiss the application only in part. In such a case, the hearing of the motion for summary disposition could be followed by a full hearing of part of the application. These terms certainly indicate that the motion for summary disposition is meant to be a preliminary procedure allowing a judicial member to either bring some applications to an early close where the member finds that the application or the response to it is without a genuine basis, or to resolve, certain matters at the outset.

[27] Third, the legislature decided that only a “judicial member”, as opposed to a full panel, may hear and determine a motion for summary disposition pursuant to subsection 9(4) of the *Competition Tribunal Act*. As instructed by the Supreme Court of Canada, subsections 9(4) and (5) must be interpreted in light of the scheme of the *Competition Tribunal Act*. The *Competition Tribunal Act*, in section 3, provides that the Tribunal is composed of judicial members and lay members. Section 10 provides that every application to the Tribunal shall, subject to section 11, be heard before not less than three or more than five members sitting together. Most of the applications brought under part VIII, such as UGG’s application for an order rescinding the Consent Agreement, are heard by a full panel.

[28] Parliament could not have intended to allow a party to bring a motion for summary disposition pursuant to subsection 9(4) at any time after the commencement of the hearing of the application before a full panel. Such a procedure would certainly not be “summary” as the full hearing would have already commenced before a panel.

[29] The fact that Parliament used the words “summary dispositions” and “genuine basis” in subsections 9(4) and (5) cannot be ignored. These terms, although not identical, are undoubtedly similar to the language found in legislative provisions on summary judgments in the *Federal Courts Rules*. While it is true that the term “disposition” is different from the term “judgment”; they are substantially the same. In both cases, the Tribunal renders a decision regarding the application; the judicial member may dismiss or allow the application in whole or in part. I find therefore that motions for summary disposition filed pursuant to subsection 9(4) are strongly analogous to motions for summary judgment in the *Federal Courts Rules*.

[30] The interpretation advocated by the Commissioner requires, in my view, the Tribunal to read the words “at any time” into subsection 9(4). These words, although not found in subsection 9(4), are present in other legislative provisions related to competition matters. For example, subsection 124.2(2) of the *Competition Act*, a provision which was enacted at the same time as subsections 9(4) and (5), provides that the “Commissioner may, at any time, refer to the Tribunal for determination a question of law, jurisdiction, practice or procedure, in relation to the application or interpretation of Parts VII.1 to IX” (emphasis mine).

[31] Parliament did not include the words “at any time” in subsection 9(4) of the *Competition Tribunal Act*. Instead, it used contextual terms indicating a motion for summary disposition be launched prior to the commencement of the hearing of the application.

[32] While the analysis on this point is sufficient by itself to lead to the conclusion subsection 9(4) of the *Competition Tribunal Act* is a pre-hearing procedure, this interpretation is supported by two other elements discussed below.

2) **The words “in accordance with any rules on summary dispositions” found in subsection 9(4)**

[33] Subsection 9(4) of the *Competition Tribunal Act* provides that a summary disposition motion is to be heard by the judicial member in a summary way “in accordance with any rules on summary dispositions”.

[34] Section 72 of the *Competition Tribunal Rules* provides “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* [...] shall be followed, with such modifications as the circumstances require.”

[35] The intent of these two interlocking provisions when read together seems clear. They provide flexibility in matters of practice and procedure. On the one hand, the Tribunal may make rules related to practice and procedure (see paragraph 16(1)(a) of the *Competition Tribunal Act*). On the other hand, if a point of practice or procedure is not covered by the *Competition Tribunal Rules*, for whatever reason, reference can and must be had to the *Federal Courts Rules* with the power of the Tribunal to modify the practice or procedure rules as the circumstances require.

[36] The timing of a motion for summary disposition is certainly a matter of procedure. The *Competition Tribunal Rules* are silent when a motion for summary disposition can be made. The *Federal Courts Rules* provide the answer: such motions must be made prior to the hearing before a full panel.

3) The parliamentary debates

[37] Four Private Members’ Bills proposing changes to the *Competition Act* and the *Competition Tribunal Act* as well as the Final Report of a Public Policy Forum national consultation on those changes (the “Final Report”) (see Public Policy Forum, *Amendments to the Competition Act and the Competition Tribunal Act: A Report on Consultations*, Final Report Submitted to the Commissioner of Competition, Ottawa, December 20, 2000) are the background to the new summary disposition provisions which were introduced into the *Competition Tribunal Act* as subsections 9(4) and (5).

[38] The Final Report identified a consensus which favoured the introduction of a summary disposition procedure in order to enable the Tribunal to streamline its procedure by safeguarding against frivolous or other litigation without merit.

[39] That purpose found favour with the Government when on April 4, 2001, Bill C-23 was tabled (see Bill C-23, *An Act to amend the Competition Act and the Competition Tribunal Act* (1st. Sess., 37th Parl., 2001 (assented to 4 June 2002), S.C. 2002, c. 16). It contained subsections 9(4) and 9(5). This is what the Parliamentary Secretary to the Minister of Industry stated in the House of Commons before second reading (see House of Commons Debates, 054 (3 May 2001) (Mr. Cannis)):

On behalf of the Minister of Industry I am very pleased that Bill C-23, an act to amend the Competition Act and its related statute, the Competition Tribunal Act, will be referred forthwith to the Standing Committee on Industry, Science and Technology.

[...]

Last year the competition bureau, with the assistance of the public policy forum, undertook extensive consultations on the principles underlying four private members' bills that proposed amendments to the Competition Act. Stakeholders representing consumers, businesses, and the legal and academic communities were encouraged to provide their views. The bill is the product of that consultation process.

The bill proposes improvements to the Competition Act and the Competition Tribunal Act in four key areas: first, prohibiting deceptive contests; second, broadening the scope under which the tribunal may make temporary orders; third, streamlining the competition tribunal processes; and, fourth, facilitating co-operation with foreign competition authorities.

[...]

Turning to streamlining competition tribunal processes, it is important that the Competition Tribunal not be impaired in its ability to make timely and relevant decisions. The proposals in the bill would amend the Competition Act and the Competition Tribunal Act to streamline the tribunal processes in three key areas.

First, the tribunal would be empowered to make an award of costs in order to discourage frivolous or vexatious litigation.

Second, the tribunal would be able to summarily dispose of an application without having gone through a full hearing in cases where there is no genuine issue or genuine defence.

Third, a means would be created by which references would be brought to the tribunal on a specific issue. In some cases the outcome of a tribunal case might depend on a single pivotal issue such as the appropriate definition of the market. An early ruling might obviate the need for a full hearing on all the remaining issues. These streamlining measures are consistent with similar procedures followed by most courts.

[emphasis mine]

[40] It appears from the above statement that the main purpose of the summary disposition provision was to streamline the Tribunal's process and to allow a judicial member to bring an application to an early close without the need for a full hearing if there is no genuine basis for the application or a response to the application.

[41] The parliamentary history of subsections 9(4) and (5) is therefore consistent with the Tribunal's conclusion that subsection 9(4) is a pre-hearing procedure.

V. CONCLUSION

[42] The plain language of subsections 9(4) and 9(5), together with the scheme of the *Competition Tribunal Act* and parliamentary debates, provides a solid foundation for the conclusion that subsection 9(4) taken with its companion section of 9(5) is a pre-hearing procedure. They provide the Tribunal with the jurisdiction to summarily dispose of an application at an early stage in the proceeding when it finds that the application or response to it is without a genuine basis.

[43] I therefore dismissed the Commissioner's motion for summary disposition on April 20, 2006, with costs. Given this conclusion, it is unnecessary for me to examine UGG's other submissions including its submissions regarding the proper characterization of the Commissioner's motion as truly a motion for non-suit and the Commissioner's request that her motion be heard before UGG's motion to adjourn.

DATED at Ottawa, this 10th day of May, 2006.

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

(s) François Lemieux

APPEARANCES:

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The Commissioner of Competition

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