



Reference: *Commissioner of Competition v. Sears Canada Inc.*, 2005 Comp. Trib. 13  
File no.: CT2002004  
Registry document no.: 0167

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

AND IN THE MATTER OF an inquiry pursuant to subparagraph 10(1)(b)(ii) of the *Competition Act* relating to certain marketing practices of Sears Canada Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition for an order pursuant to section 74.01 of the *Competition Act*.

B E T W E E N :

**The Commissioner of Competition**  
(applicant)

and

**Sears Canada Inc.**  
(respondent)



Decided on the basis of the written record.  
Member: Dawson J. (presiding)  
Date of order: April 1, 2005  
Order signed by: Madam Justice Eleanor R. Dawson

**ORDER WITH RESPECT TO  
REASONS FOR ORDER DATED JANUARY 11, 2005 AND  
ADMINISTRATIVE MONETARY PENALTY AND COSTS**

[1] **FURTHER TO** the Competition Tribunal's ("Tribunal") Reasons for Order dated January 11, 2005;

[2] **AND FURTHER TO** the Joint Submission of the Commissioner of Competition ("Commissioner") and Sears Canada Inc. ("Sears) with respect to the quantum of an administrative monetary penalty and costs to be paid by Sears to the Commissioner;

[3] **AND UPON** concluding that the Joint Submission properly considers and reflects the policy considerations applicable to the circumstances of the case as reflected in the Tribunal's reasons of January 11, 2005;

**THE TRIBUNAL ORDERS THAT:**

[4] Sears' challenge to the constitutional validity of subsection 74.01(3) of the *Competition Act*, R.S.C. 1985, c. C-34 ("Act") is dismissed.

[5] Sears is determined to have engaged in reviewable conduct under the Act, as more particularly described in the Tribunal's reasons of January 11, 2005.

[6] Sears shall not engage in the reviewable conduct described in the Tribunal's reasons of January 11, 2005, with respect to Ordinary Selling Price representations, or substantially similar reviewable conduct, with respect to tires or other automotive related products and services for a period of 10 years from the date of this order.

[7] Sears shall pay an administrative penalty of \$100,000.00 within 30 days of the date of this order.

[8] Sears shall pay to the Commissioner within 30 days of the date of this order, costs fixed in the amount of \$387,000.00, inclusive of fees, disbursement and taxes.

DATED at Ottawa, this 1<sup>st</sup> day of April, 2005.

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

(s) Eleanor R. Dawson

COUNSEL:

For the applicant:

The Commissioner of Competition

John L. Syme  
Leslie Milton

For the respondent:

Sears Canada Inc.

William W. McNamara  
Martha A. Healey  
Stephen Scholtz  
Philip Kennedy  
Teresa Walsh