



Reference: *Commissioner of Competition v. Air Canada*, 2001 Comp. Trib. 031
File no.: CT2001002
Registry document no.: 084

IN THE MATTER of an application by the Commissioner of Competition under section 79 of the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER of the *Regulations Respecting Anti-Competitive Acts of Persons Operating a Domestic Service*, SOR/2000-324 made pursuant to subsection 78(2) of the *Competition Act*;

AND IN THE MATTER of certain practices of anti-competitive acts by Air Canada.

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Air Canada
(respondent)

and

WestJet Airlines Ltd.
(intervenor)



Date of pre-hearing conference call: 20011026
Member: Simpson J. (Presiding)
Date of order: 20011026
Order signed by: Simpson J.

SCHEDULING ORDER FOR RECOMMENCEMENT OF HEARING OF APPLICATION

[1] FURTHER TO the application brought by the Commissioner of Competition (the "Commissioner") pursuant to section 79 of the *Competition Act*, R.S.C. 1985, c. C-34 (the "Act") for an order prohibiting Air Canada from engaging in anti-competitive practices;

[2] AND FURTHER TO the Tribunal's decision of October 15, 2001 to adjourn sine die the preliminary proceeding in the application which deals only with the definition of avoidable costs;

[3] AND FURTHER TO the proposed schedule filed, on consent, by the participants on October 25, 2001;

[4] AND UPON DISCUSSING this order with counsel for the participants by conference call on October 26, 2001;

NOW THEREFORE THE TRIBUNAL ORDERS THAT:

[5] The hearing of the preliminary proceeding shall recommence on April 15, 2002 at 10:00 a.m. at the Competition Tribunal, Royal Bank Building, Suite 600, 90 Sparks Street, Ottawa, Ontario. The Tribunal shall sit from Monday, April 15 to Friday, June 7, 2002. The hearing of this matter may recommence earlier on Wednesday, April 10, 2002, if counsel can be available.

[6] The schedule for pre-hearing procedures shall be as follows:

November or early December, 2001	Discovery of Air Canada as per order dated October 22, 2001.
Friday, January 18, 2002	Further productions (if any)
Week of January 28, 2002	Pre-hearing conference by teleconference (if necessary)
Week of February 4, 2002	Further discoveries of Air Canada
Week of February 11, 2002	Further discoveries of Commissioner (if required)
Week of February 25, 2002	Further discoveries of WestJet (if required)
Tuesday, March 5, 2002 (2 p.m.)	Pre-hearing conference (if necessary) - discovery issues, confidentiality and apportionment of time for openings and final argument. Counsel to attend in Toronto, unless counsel for WestJet wishes to participate by telephone.

Friday, March 8, 2002	Complete answers to undertakings
Monday, March 25, 2002	Exchange of supplementary expert reports and "will says" (if any)
Monday, April 8, 2002	Exchange of supplementary expert rebuttal reports and "will says" (if any)
Thursday, April 11 or Friday April 12, 2002	Pre-hearing conference - regarding conduct of hearing, confidentiality (if necessary and subject to the availability of counsel).

[7] The schedule for the hearing of the preliminary proceeding shall be as follows:

Monday, April 15, 2002	Further openings
Tuesday, April 16, 2002	Commissioner's evidence
Thursday, May 2, 2002	WestJet's evidence
Monday, May 6 to Monday, May 27, 2002	Air Canada's evidence
Tuesday and Wednesday, May 28 and 29, 2002	Reply evidence
Monday, June 3, 2002	All participants' written argument
Wednesday, June 5 to Friday, June 7, 2002	Oral argument.

DATED at Ottawa, this 26th day of October, 2001.

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

(s) Sandra J. Simpson

APPEARANCES:

For the applicant:

The Commissioner of Competition

Donald B. Houston
Michael Osborne

For the respondent:

Air Canada

Katherine L. Kay
Eliot N. Kolers

For the intervenor:

WestJet Airlines Ltd.

Daniel J. McDonald, Q.C.