

Competition Tribunal



Tribunal de la Concurrence

Reference: *The Commissioner of Competition v. Superior Propane Inc.*, 2000 Comp. Trib. 19
File no.: CT1998002
Registry document no.: 202

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, and the *Competition Tribunal Rules*, SOR/94-290, as amended;

AND IN THE MATTER OF an inquiry pursuant to subsection 10(1)(b) of the *Competition Act* relating to the proposed acquisition of ICG Propane Inc. by Superior Propane Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition under section 92 of the *Competition Act*.

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Superior Propane Inc.
ICG Propane Inc.
(respondents)

Date of hearing: 20000908
Member: Nadon J. (presiding)
Date of order: 20000908
Order signed by: Nadon J.



**REASONS AND ORDER REGARDING THE COMMISSIONER'S MOTION FOR AN
ORDER STAYING THE TRIBUNAL'S ORDER WITH RESPECT TO SECTION 104 OF
THE *COMPETITION ACT***

[1] The Commissioner of Competition ("Commissioner") brought a motion for an order staying the order of the Competition Tribunal issued this day whereby the Tribunal held that it no longer had jurisdiction to hear and decide issues arising under section 104 of the *Competition Act* ("Act") ("order with respect to section 104 of the Act").

[2] By the order with respect to section 104 of the Act, the Tribunal declared that the Consent Interim Order dated December 11, 1998 was terminated by reason of its order dated August 30, 2000, which dismissed the Commissioner's application filed under section 92.

[3] The Commissioner submits that he intends to appeal the order with respect to section 104 of the Act as soon as possible and that this appeal will raise a serious issue. He further submits that unless a stay is granted, irreparable harm will result. Finally, the Commissioner submits that the balance of convenience favours him.

[4] The Tribunal is of the view that the intended appeal to the Federal Court of Appeal does not raise a serious issue and that the balance of convenience favours the respondents, Superior Propane Inc. and ICG Propane Inc.

[5] FOR THESE REASONS, THE TRIBUNAL ORDERS THAT the motion brought by the Commissioner for an order staying the Tribunal's order with respect to section 104 of the Act is denied.

DATED at Ottawa, this 8th day of September, 2000.

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

(s) Marc Nadon

APPEARANCES:

For the applicant:

The Commissioner of Competition

William J. Miller
Jo'Anne Strekaf

For the respondents:

Superior Propane Inc.
ICG Propane Inc.

Neil Finkelstein
Melanie L. Aitken
Russell Cohen
Brian Radnoff