



Reference: *Bank of Montreal v. The Commissioner of Competition*, 2000 Comp. Trib. 16

File no.: CT1995002

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IN THE MATTER OF an application by the Director of Investigation and Research under sections 79 and 105 of the Competition Act, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an abuse of dominant position in the supply of shared electronic network services for consumer-initiated shared electronic financial services;

AND IN THE MATTER OF a Consent Order granted by the Competition Tribunal dated June 20, 1996 and varied on March 25, 1998;

AND IN THE MATTER OF an application by Bank of Montreal, et al., under sections 105 and 106(b) of the *Competition Act*, R.S.C. 1985, c. C-34, as amended, to vary on consent the Consent Order granted by the Competition Tribunal on June 20, 1996 and varied on March 25, 1998.

BETWEEN:

**Bank of Montreal**  
**The Bank of Nova Scotia**  
**Canada Trustco Mortgage Company**  
**Canadian Imperial Bank of Commerce**  
**La Confédération des caisses populaires et**  
**d'économie Desjardins du Québec**  
**Credit Union Central of Canada**  
**National Bank of Canada**  
**Royal Bank of Canada**  
**The Toronto-Dominion Bank**  
**Interac Inc.**  
(applicants)

and

**The Commissioner of Competition**  
(respondent)

Date of hearing: 20000908

Members: McKeown J. (presiding), C. Lloyd, L.P. Schwartz

Date of order: 20000908

Order signed by: McKeown J.



**ORDER VARYING ON CONSENT THE JUNE 20, 1996 CONSENT ORDER**

[1] FURTHER TO the application of the Commissioner of Competition (the "Commissioner") pursuant to sections 79 and 105 of the *Competition Act* (the "Act") and further to the notice of application dated December 14, 1995 for a consent order directing the respondents to cease engaging in certain anti-competitive acts associated with the supply of shared electronic network services for shared electronic financial services and other remedies specified in the draft consent order;

[2] AND FURTHER TO the application of the Bank of Montreal, The Bank of Nova Scotia, Canada Trustco Mortgage Company, Canadian Imperial Bank of Commerce, La Confédération des caisses populaires et d'économie Desjardins du Québec, Credit Union Central of Canada, National Bank of Canada, Royal Bank of Canada, The Toronto-Dominion Bank, Interac Inc. pursuant to sections 105 and 106(b) of the Act for an order further varying the Consent Order granted by this Tribunal on June 20, 1996 and initially varied on March 25, 1998;

[3] AND ON CONSIDERING the notice of application, the statement of grounds and material facts, the affidavit of Fred J. Harris dated July 17, 2000, the consent order impact statement and the consent of the parties filed herein;

[4] AND ON CONSIDERING THAT the applicants and the Commissioner have reached an agreement which is reflected in the draft consent order;

[5] AND ON CONSIDERING the submissions of counsel;

[6] THE TRIBUNAL ORDERS THAT the Consent Order dated June 20, 1996 and varied on March 25, 1998 (the "Consent Order") shall be varied as follows:

(a) The following definitions shall be deleted from section 1 of the Consent Order:

- (i) "failed transaction";
- (ii) "lost transaction"; and
- (iii) "transaction".

(b) The following definition shall be added to paragraph 1 of the Consent Order dated June 20, 1996:

"Association rules" means the memorandum of association, the by-laws, the operating regulations and any policies adopted by the Interac board relating to the business and affairs of Interac.

(c) Section 3.1 shall be amended to read as follows:

3.1 Notwithstanding section 3, the memorandum of association and by-laws of Interac may permit the development of policies which impose monetary penalties on members for non-compliance with the Association rules, provided that such policies:

- (a) do not discriminate among members; and

(b) are rationally related to a legitimate business objective of the Association.

DATED at Toronto this 8<sup>th</sup> day of September, 2000.

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

(s) W.P. McKeown

APPEARANCES:

For the applicants:

Bank of Montreal  
The Bank of Nova Scotia  
Canada Trustco Mortgage Company  
Canadian Imperial Bank of Commerce  
La Confédération des caisses populaires et  
d'économie Desjardins du Québec  
Credit Union Central of Canada  
National Bank of Canada  
Royal Bank of Canada  
The Toronto-Dominion Bank  
Interac Inc.

Mark J. Nicholson

For the respondent:

The Commissioner of Competition

D. Martin Low, Q.C.  
Josephine A.L. Palumbo