

Tribunal File No. CT-98/2

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

**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 for orders pursuant to s.92 and other provisions of the *Competition Act* consequential thereto.

**BETWEEN:**

**THE COMMISSIONER OF COMPETITION**

Applicant

- and -

**SUPERIOR PROPANE INC. and ICG PROPANE INC.**

Respondents

**AFFIDAVIT OF DONALD G. McFETRIDGE**

I, DONALD G. McFETRIDGE, of the City of Ottawa, in the Province of Ontario, Professor of Economics, MAKE OATH AND SAY:

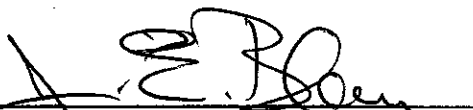
- I am a Professor of Economics at Carleton University, and have consulted and written extensively on various economic aspects of mergers which are reviewable pursuant to Part VIII of the Competition Act. Attached hereto and marked as Exhibit "A" is a copy of my resumé.

2. I have been retained by the Respondents to perform the tradeoff analysis required by s.96 of the Competition Act which requires that any substantial lessening of competition caused by the merger be balanced against any efficiencies generated by the merger which would not likely have been achieved otherwise.

3. I have participated in numerous meetings and discussions with Professor Carlton and his colleagues concerning the methodology and analyses employed, and the econometric testing of the available data conducted in the preparation of his expert's report, dated August 17, 1999. I agree that the methodology he used, his analyses and his conclusions are reasonable. As Professor Carlton did not find evidence of a substantial lessening of competition, and as I understand from counsel to the Respondents that the Bureau has not yet provided any quantification of a substantial lessening of competition, by econometric evidence or otherwise, I have so far not been called upon to provide any report which does such a s.96 tradeoff analysis.

SWORN BEFORE ME at the City of )  
 Ottawa, in the Province of Ontario, )  
 this 18 day of August, 1999 )  
 )

  
 \_\_\_\_\_  
 DONALD G. McFETRIDGE

  
 \_\_\_\_\_  
 Commissioner for taking Affidavits, etc.

**JANET ELIZABETH BLAIR,**  
**a Commissioner, etc., Province of Ontario,**  
**while a student-at-law.**  
**Expires May 31, 2002.**

This is Exhibit "A" referred to in the Affidavit of DONALD G. MCFETRIDGE, sworn before me this 18 day of August, 1999.

  
A Commissioner for Taking Affidavits

**JANET ELIZABETH BLAIR,**  
a Commissioner, etc., Province of Ontario,  
while a student-at-law.  
Expires May 31, 2002.

**DONALD G. MCFETRIDGE****BIOGRAPHICAL NOTE**

Donald G. McFetridge is a Professor in the Department of Economics at Carleton University in Ottawa, Canada. He is a former holder of the T.D. MacDonald Chair in Industrial Economics at the Competition Bureau in Ottawa and former Chair of the Economics and Law Committee of the National Competition Law Section of the Canadian Bar Association. Professor McFetridge also served as Research Coordinator on the Economics of Industrial Structure for the Royal Commission on the Economic Union and Development Prospects for Canada.

Professor McFetridge has been teaching and writing in the fields of industrial economics and competition policy for twenty-five years. His research has been published in *The Canadian Bar Review*, *The Canadian Business Law Journal*, *The Antitrust Bulletin*, *The Journal of Law and Economics*, *The Journal of Industrial Economics* and many other economics and business journals. He is also a member of the editorial board of *The Canadian Competition Record*.

Professor McFetridge has advised both the Competition Bureau and numerous Canadian and international companies on such competition matters as horizontal restraints, predatory pricing, abuse of dominance and mergers. He has been retained in more than forty merger cases and has considerable experience in product and geographic market definition, measurement of entry barriers, estimation of price effects of mergers, collection and presentation of efficiencies evidence and trade-off analysis. He has appeared as an expert witness before the Competition Tribunal on two occasions and before the Canadian International Trade Tribunal on two occasions.

**DONALD G. MCFETRIDGE  
CURRICULUM VITAE**

**Position**

Professor, Department of Economics, Carleton University, Ottawa, Canada

**Education**

B.Comm.	University of Saskatchewan	1967
M.A.	University of Toronto	1968
M.Sc.	London School of Economics and Political Science	1969
Ph.D.	University of Toronto	1972

**Positions Held**

Chair, Department of Economics, Carleton University, 1994-98

Member, Editorial Board, Canadian Competition Record 1990-

Chair, Economics and Law Committee, National Competition Law Section, Canadian Bar Association, 1995-97.

T. D. MacDonald Chair in Industrial Economics, Bureau of Competition Policy, Consumer and Corporate Affairs Canada, 1992-3

Research Coordinator, Economics of Industrial Structure, Royal Commission on the Economic Union and Development Prospects for Canada, Ottawa, 1986.

**Selected Publications on Industrial Organization, Competition Policy and Intellectual Property**

"Efficiency Defences" in A Framework for the Design and Implementation of Competition Law and Policy (Paris and Washington D.C.; Organization for Economic Cooperation and Development and the World Bank, 1999) pp.124-40

"Competition Policy and Cooperative Innovation" in Richard J. Braudo and Jeffrey G. MacIntosh eds. Competitive Industrial Development in the Age of Information (London, Routledge, 1999) pp.179-98

Competition Policy Issues (Ottawa, Research Paper Prepared for the Task Force on the Future of the Canadian Financial Services Sector, Department of Finance Distribution Centre, 1998)

"Merger Enforcement in Canada: Experience with the Competition Act after Ten Years" Review of

Industrial Organization 13 (April, 1998) pp.25-56

"Intellectual Property, Technological Change and Economic Growth" in Robert D. Anderson and Nancy T. Gallini eds. Competition Policy and Intellectual Property Rights in the Knowledge-Based Economy (Calgary, University of Calgary Press, 1998) pp.65-103.

"Efficiencies Considerations in the *Competition Act*: Where Now?" Policy Options (October, 1997) pp.13-15.

"The Prospects for the Efficiencies Defence" Canadian Business Law Journal 26 (April, 1996) pp.321-57

"The Efficiencies Defence in Merger Cases" in M.B. Coate and A.N. Kleit eds. The Economics of the Antitrust Process (Norwell, MA., Kluwer Academic, 1996) pp.89-116

(with Keith Acheson) "Intellectual Property and Endogenous Growth" in P. Howitt ed. Implications of Knowledge-Based Growth for Micro-Economic Policies (Calgary, University of Calgary Press, 1996)

"The Role of Economists in Merger Cases" Canadian Competition Record 14 (December, 1993) pp.65-74

"Mergers, Competition and Innovation" in E. Katzenbach, H. Scharrer and L. Waverman eds. Competition in an Interdependent World Economy (Baden-Baden, Nomos Verlagsgesellschaft, 1993) pp.201-220

with Keith Acheson, "Controlling Market Power in Weakly Contestable Canadian Airline Markets" in Directions: The Final Report of the Royal Commission on National Passenger Transportation (Ottawa, 1992) pp. 723-90.

"Competition Policy and Globalization" in T.J. Courchene and D.D. Purvis eds. Productivity, Growth and Canada's International Competitiveness *Bell Canada Papers on Economic and Public Policy* 1, 1992

"Predatory and Discriminatory Pricing" in Frank Mathewson, Michael Trebilcock and Michael Walker eds. The Law and Economics of Competition Policy (Vancouver, The Fraser Institute, 1990).

"The Effects of Concentrated Ownership and Cross-Ownership on the Stability and Efficiency of the Financial System" in R.S. Khemani, D.M. Shapiro and W.T. Stanbury eds. Mergers, Corporate Concentration and Power in Canada (Halifax, Institute for Research on Public Policy, 1988).

with M.H. Rafiquzzaman, "The Scope and Duration of the Patent Right and the Nature of Research Rivalry", Research in Law and Economics, 8 (1986), pp. 91-120.

with E. Hughes, "A Theoretical Analysis of Incremental Investment Incentives with an Application to the case of Industrial R&D", Journal of Public Economics 27 (1985), pp. 311-329.

with Stanley Wong, "Predatory Pricing in Canada: The Law and the Economics", Canadian Bar Review 63 (December, 1985), pp. 685-733.

with W.H. Davidson, "International Technology Transactions and the Theory of the Firm", Journal of Industrial Economics, 32, (March, 1984), pp. 253-264.

with V.A. Dickson, "Concentration, Unionization and the Distribution of Income in Canadian Manufacturing Industry", Managerial and Decision Economics, Vol. 4, No. 4 (1983) pp. 278-280.

with Stanley Wong "Agreements to Lessen Competition After Atlantic Sugar", Canadian Business Law Journal, 5, (June, 1981), pp. 329-345.

with D.A. Smith, "Patents Prospects and Economic Surplus: A Comment on Kitch", Journal of Law and Economics, 23, (April, 1980), pp. 197-203.

"Studies in Canadian Industrial Organization: A Review", in P.K. Gorecki and W.T. Stanbury, eds., Perspectives on the Royal Commission on Corporate Concentration (Butterworth, Toronto, 1979), pp. 163-180.

"The Efficiency Implications of Earnings Retentions", Review of Economics and Statistics, 60, (May, 1978), pp. 218-224.

with L.J. Weatherley, Notes on the Economics of Large Firm Size (Study No. 20, Royal Commission on Corporate Concentration, 1977).

with G.O. Gaudet and J.D. May, "Optimal Capital Accumulation: The Neo-classical Framework in a Canadian Context", Review of Economics and Statistics, 58, (August, 1976), pp. 269-273.

with J.D. Howe, "The Determinants of R&D Expenditures" Canadian Journal of Economics, 9, (February, 1976), pp. 57-71.

"The Emergence of a Canadian Merger Policy: The Eroo Case", Antitrust Bulletin, (Spring, 1974), pp. 1-11.

"The Determinants of Pricing Behaviour: A Study of the Canadian Cotton Textile Industry", Journal of Industrial Economics, 22, (December, 1973), pp. 141-152.

"Market Structure and Price-Cost Margins: An Analysis of the Canadian Manufacturing Sector", Canadian Journal of Economics, 6, (August, 1973)

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**THE COMPETITION TRIBUNAL**

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

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

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**SUPERIOR PROPANE INC. and  
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Respondents

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**AFFIDAVIT OF DONALD G. McFETRIDGE**

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**DAVIES, WARD & BECK**  
Barristers and Solicitors  
P.O. Box 63, 44th Floor  
1 First Canadian Place  
Toronto, Ontario  
M5X 1B1

**Neil Finkelstein  
Melanie Aitken  
Russell Cohen  
David Stevens**

Tel: (416) 863-0900  
Fax: (416) 863-0871

Counsel to Superior Propane Inc. and ICG Propane Inc.