

THE COMPETITION TRIBUNAL

Ottawa, Ontario, this 13th day of May, 1999

IN THE MATTER OF an application by the Commissioner of Competition for a consent interim order pursuant to sections 92, 104 and 105 of the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF the merger of British American Tobacco p.l.c. and Rothmans International B.V. whereby British American Tobacco p.l.c. will acquire, *inter alia*, indirect control of Rothmans Inc. and thereby the controlling interest of Rothmans Inc. in Rothmans, Benson & Hedges Inc.;

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

- and -

BRITISH AMERICAN TOBACCO P.L.C.

Respondent

NOTICE OF APPLICATION FOR A CONSENT INTERIM ORDER

TAKE NOTICE THAT:

1. Pursuant to sections 92, 104 and 105 of the *Competition Act*, R.S.C. 1985, c. C-34 (the "Act"), the applicant, the Commissioner of Competition, will make an application, on consent of the respondent, to the Competition Tribunal (the "Tribunal") for:

- (a) an interim order pursuant to section 104 of the Act in the form of the draft consent interim order attached hereto; and,
- (b) such further or other order as the applicant and the respondent, on consent, may advise and the Tribunal considers appropriate.

AND TAKE NOTICE THAT:

- 2. In support of this application, the applicant will rely upon its application for a consent order pursuant to sections 92 and 105 of the Act, the draft consent interim order, the affidavit of Gerry Birks dated the 13th day of May, 1999, the applicant's memorandum of argument on interim relief and the consent of the parties to this application, all filed herein and such other material as may be filed or counsel may advise.
- 3. The name and address of the person against whom a consent interim order is sought is listed below.
- 4. The applicant and respondent request that this application be heard in the English language.
- 5. The applicant and respondent request, in accordance with Rule 68 of the *Competition Tribunal Rules* and Rule 8 of the *Federal Court Rules*, that the service requirements of the *Competition Tribunal Rules* be dispensed with and the 48 hour time limit for service provided for in Rule 24 (1) of the *Competition Tribunal Rules* be abridged.
- 6. The applicant and respondent agree that no oral evidence will be given at the hearing of this application and that the evidence will be limited to the testimony by affidavit of Gerry Birks dated the 13th day of May, 1999, attached hereto.

DATED at Hull, Quebec this 13th day of May, 1999.

Konrad von Finckenstein, Q.C.
Commissioner of Competition
Place du Portage, Phase I
50 Victoria Street, 21st Floor
Hull, Quebec
K1A 0C9
Telephone: (819) 997-3301
Facsimile: (819) 953-5013

ADDRESS FOR SERVICE OF THE APPLICANT:

D. Martin Low, Q.C.
Elspeth Gullen
Department of Justice
Counsel to the Commissioner of Competition
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Hull, Quebec
K1A 0C9

TO: The Registrar of the Competition Tribunal
90 Sparks Street, Suite 600
Ottawa, Ontario
K1P 5B4

AND TO: British American Tobacco p.l.c.
Globe House
4 Temple Place
London, WC2R2PG
United Kingdom

ADDRESS FOR SERVICE OF THE RESPONDENTS:

Stikeman, Elliott
50 O'Connor Street, Suite 914
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Attention: Lawson A.W. Hunter, Q.C.
Nicholas P. McHaffie

and

Stikeman, Elliott
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Toronto, ON M5L 1B9

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Attention: Katherine L. Kay

Counsel for the respondent

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