

SCHEDULE "D"

THE COMPETITION TRIBUNAL

CT-95/02

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;

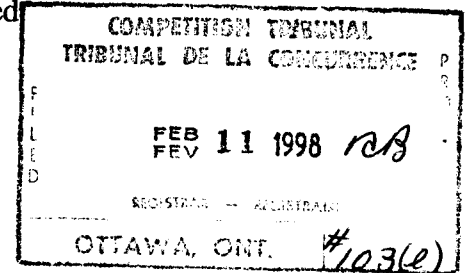
AND IN THE MATTER OF an abuse of dominant position in the supply of shared electronic network services for consumer-initiated shared electronic financial services;

AND IN THE MATTER OF a Consent Order granted by the Competition Tribunal dated June 20, 1996;

AND 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 the Consent Order granted by the Competition Tribunal dated June 20, 1996.

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 Quebec
Credit Union Central of Canada
National Bank of Canada
Royal Bank of Canada
The Toronto-Dominion Bank
Interac Inc.**



Applicants

- and -

The Director of Investigation and Research

Respondent

CONSENT ORDER IMPACT STATEMENT

1. The basis for the original Consent Order was that the Applicants' actions had prevented or lessened competition substantially in two markets:
 - a. the market for the supply of shared electronic network services; and
 - b. the market for the provision of consumer-initiated shared electronic financial services.

2. The proposed amendments have no anti-competitive purpose or effect in either of these markets.

3. The proposed amendments are designed to allow the Board of the Interac Association to adopt objective, non-discriminatory policies which provide for monetary sanctions to be imposed on Direct Connectors whose performance is not up to appropriate standards.

4. The language of the proposed amendments protects against the anti-competitive use of these policies in a number of ways. First, the prohibition against discrimination means that no identifiable group of competitors can be targeted for disciplinary, punitive or exclusionary action by a majority of the Board.

5. Second, the requirement that the policy be rationally related to a legitimate business purpose of the Association means that a group of the Applicants could not jointly act in the interests of their own organizations, but would have to act in the best interests of the Association. Moreover, the Board would have to identify the business purpose which the policy furthered.

6. Since the proposed amendments only permit sanctions policies to be applied to Direct Connectors, the amendments do not affect Indirect Connectors. With respect to

Direct Connectors, some of the smaller Direct Connectors have demonstrated the best performance. Moreover, new Direct Connectors are likely to have new systems that will outperform the older systems currently used by some Direct Connectors. Consequently, performance sanctions policies are not likely to create barriers to entry for new Direct Connectors.

7. Both consumers and merchants stand to benefit from improved performance that the proposed amendments would permit in the Shared Service. Policies which promote improved performance should be encouraged provided that they do not raise barriers to entry into the relevant markets.