

Competition Tribunal



Tribunal de la Concurrence

CT-1997/003 – Doc # 12

IN THE MATTER OF an application by the Director of Investigation and Research pursuant to section 75 of the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF an inquiry relating to the refusal of Warner Music Canada Ltd. and its affiliates, Warner Music Group Inc. and WEA International Inc., to deal with BMG Direct Ltd.

B E T W E E N:

The Director of Investigation and Research

Applicant

- and -

**Warner Music Canada Ltd.
Warner Music Group Inc.
WEA International Inc.**

Respondents

- and -

BMG Direct Ltd.

Applicant for Leave to Intervene



**ORDER REGARDING SCHEDULING OF JURISDICTIONAL MOTION AND
RELATED MATTERS**

Date of Pre-hearing Conference:

October 31, 1997

Member:

McKeown J. (presiding)

Counsel for the Applicant:

Director of Investigation and Research

D. Martin Low, Q.C.

Counsel for the Respondents:

**Warner Music Canada Ltd.
Warner Music Group Inc.
WEA International Inc.**

David W. Stratas
Ronald G. Atkey, Q.C.

Counsel for the Applicant for Leave to Intervene:

BMG Direct Ltd.

Gavin Mackenzie
Crystal L. Witterick

COMPETITION TRIBUNAL
ORDER REGARDING SCHEDULING OF JURISDICTIONAL MOTION AND
RELATED MATTERS

The Director of Investigation and Research

v.

Warner Music Canada Ltd. et al.

FURTHER TO the respondents' notice of motion filed October 27, 1997, challenging the Tribunal's jurisdiction over the application ("jurisdictional motion");

AND UPON HEARING the submissions of counsel for the parties and counsel for the proposed intervenor BMG Direct Ltd.;

THE TRIBUNAL ORDERS THAT:

1. The jurisdictional motion shall be heard on December 3rd and 4th, 1997, commencing at 10:00 a.m. in the hearing room of the Competition Tribunal at 90 Sparks Street, Ottawa, Ontario.

- 2.(1) Subject to subparagraph (2), the Director shall serve and file his response to the jurisdictional motion by 5:00 p.m. on November 14, 1997. The respondents shall served and file any reply by 5:00 p.m. on November 28, 1997.

2.(2) In the event that by November 7, 1997, the Director notifies the respondents that he will neither file any affidavits in support of his response to the jurisdictional motion nor conduct any cross-examinations on the affidavits filed by the respondents in support of the jurisdictional motion, the Director shall serve and file his response to the jurisdictional motion by 5:00 p.m. on November 21, 1997. The respondents shall serve and file any reply by 5:00 p.m. on November 28, 1997.

3. With the consent of the Director, the deadline for serving and filing responses to the notice of application is extended to no later than 30 days after the Tribunal's decision on the jurisdictional motion has been rendered.

4. The existing deadline for serving and filing requests for leave to intervene, November 10, 1997, is unchanged. No request for leave to intervene will be heard until after the Tribunal's decision on the jurisdictional motion has been rendered. In particular, in accordance with the reasons given on October 31, 1997, BMG Direct Ltd.'s request for leave to intervene will be heard after the Tribunal's decision on the jurisdictional motion has been rendered.

DATED at Ottawa, this 31st day of October, 1997.

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

(s) W.P. McKeown
W.P. McKeown