

Competition Tribunal



Tribunal de la Concurrence

CT - 1994 / 001 – Doc # 113

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

AND IN THE MATTER OF certain practices by
The D & B Companies of Canada Ltd.

B E T W E E N:

The Director of Investigation and Research

Applicant

- and -

The D & B Companies of Canada Ltd.

Respondent

- and -

Information Resources, Inc.
Canadian Council of Grocery Distributors

Intervenors



ORDER REGARDING CONFIDENTIALITY ISSUES

Date of Hearing:

October 19, 1994

Presiding Member:

The Honourable Mr. Justice William P. McKeown

Lay Members:

Dr. Frank Roseman
Mr. Victor L. Clarke

Counsel for the Applicant:

Director of Investigation and Research

Donald B. Houston
Bruce C. Caughill

Counsel for the Respondent:

The D & B Companies of Canada Ltd.

John F. Rook, Q.C.
Randal T. Hughes
Lawrence E. Ritchie
Karen B. Groulx

Counsel for the Intervenor:

Information Resources, Inc.

Gavin MacKenzie
Geoffrey P. Cornish

COMPETITION TRIBUNAL

ORDER REGARDING CONFIDENTIALITY ISSUES

The Director of Investigation and Research

v.

The D & B Companies of Canada Ltd.

After balancing the direct commercial harm to Information Resources, Inc. ("IRI") and the ability of the respondent ("Nielsen") to make a proper defence, the Tribunal has decided to adopt the proposal put forward by counsel for the Director in a slightly modified form.

With respect to the four individual documents in dispute today:

1. The document located at tab 318 of volume 8 of the joint book of documents shall remain confidential in its entirety.
2. The document located at tab 316 of volume 8 shall become public except for pages 77 to 79 which shall remain confidential.
3. The document located at tab 317 of volume 8 shall remain confidential from page 85 to the end of the document, inclusive. The pages before page 85 shall become public.

4. The document located at tab 479 of volume 11 shall become public except for the middle paragraph on page 197 and the last paragraph on page 199 of that document which shall remain confidential.

The disclosure of IRI confidential documents to Mr. Carter as a representative of the respondent and the question of his presence at *in camera* sessions during the hearing will be dealt with as follows. Mr. Carter may not be present for nor may he receive access to any confidential evidence relating to IRI's current business plans, recent IRI financial information and recent IRI dealings with customers and suppliers. For greater certainty, this restriction applies irrespective of whether confidential information about those current business plans is found in the four documents identified above or in any other documents or the testimony of witnesses. With respect to the transcript of the examination for discovery of Mr. Fulgoni, counsel for IRI shall advise counsel for Nielsen by 6 p.m. tonight of the portions of that transcript which, under the terms of this order, cannot be disclosed to Mr. Carter.

If, as we proceed, it becomes apparent that further portions of any documents or of testimony should be made public, the Tribunal reserves the right to make those portions public.

DATED at Ottawa, this 19th day of October, 1994.

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

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