

CT-88/3

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THE COMPETITION TRIBUNAL

IN THE MATTER OF an application by the Director of Investigation and Research for an interim order pursuant to section 72 (1) of the Competition Act, R.S.c.C-23, as amended;

AND IN THE MATTER OF a proposed partnership between Pepsi-Cola Canada Ltd and Hostess Food Products Limited

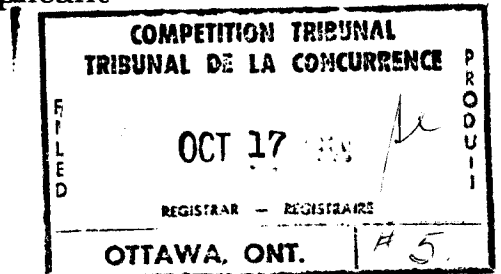
B E T W E E N:

THE DIRECTOR OF INVESTIGATION AND RESEARCH

Applicant

- and -

PEPSI-COLA CANADA LTD.
HOSTESS FOOD PRODUCTS LIMITED.



Respondents

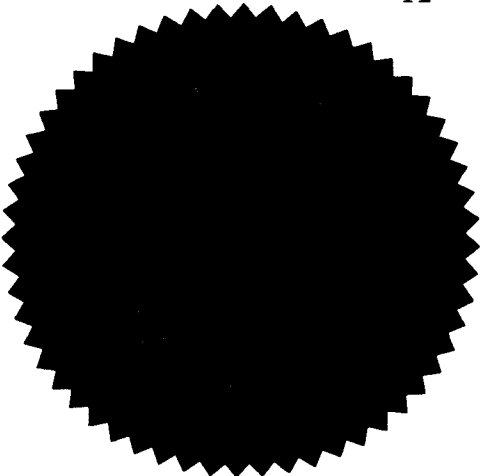
NOTICE OF APPLICATION

1. TAKE NOTICE that an application will be made for an interim order prohibiting the closing of the proposed partnership transaction between the respondents on Tuesday, October 25th at 10 o'clock in the morning in the Competition Tribunal Hearing Room, 6th Floor, 90 Sparks Street, Ottawa, Ontario, or at such other time and place as the Competition Tribunal may advise.

2. AND TAKE NOTICE that, in support of this application, the applicant will file the affidavit of Robert G. Lancop and such further and other material as counsel may advise.


3. THE GROUNDS for the application are as follows:

- A The Director has been advised that, on October 26, 1988, the respondents intend to close a partnership transaction which will merge their salty snack businesses across Canada. Once closing has occurred, the Director submits that the parties will be free to take actions which would have effects on competition which will be difficult to reverse if the partnership is later dissolved. For example, the partnership will be free to terminate redundant management, close duplicate manufacturing plants and merge their distribution systems.



- B. The affidavit of Robert G. Lancop will demonstrate that the merger of the two principle salted snack producers in Canada is reasonably likely to lessen competition substantially in the market for salted snacks in certain regions of Canada. The affidavit will review the factors set out in section 65 of the Act and will demonstrate that, in the post merger environment, the partnership's market shares will be high and there will be few offsetting market conditions. Barriers to entry are high, foreign competition is not significant, substitutes are not available and there will be little remaining competition to oppose the market power of the combined operations of two very strong and previously vigorous competitors.

DATED AT OTTAWA this
17th day of October 1988

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