

Competition Tribunal



Tribunal de la concurrence

Citation: *Canada (Commissioner of Competition) v Parrish & Heimbecker, Limited*, 2020 Comp Trib 2

File No.: CT-2019-005

Registry Document No.: 29

IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34 as amended.

BETWEEN:

The Commissioner of Competition
(applicant)

and

Parrish & Heimbecker, Limited
(respondent)



Date of case management conference: February 21, 2020

Before: D. Gascon J. (Chairperson)

Date of order: March 4, 2020

SCHEDULING ORDER

[1] **FURTHER TO** the application (“**Application**”) filed by the Commissioner of Competition (“**Applicant**”) on December 19, 2019 against the Respondent Parrish & Heimbecker, Limited (“**Respondent**”), pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34 (“**Act**”), with respect to the acquisition by the Respondent of a primary grain elevator located in Virden, Manitoba;

[2] **AND FURTHER TO** the jointly proposed timetables submitted by the parties on February 17 and 27, 2020 and to the discussions with counsel for both parties at a case management conference held on February 21, 2020;

[3] **AND FURTHER TO** the Tribunal’s *Practice Direction Regarding Timelines and Scheduling for Proceedings before the Tribunal* (“**Timelines Direction**”);

[4] **AND WHEREAS** the Tribunal is satisfied that the following scheduling order is appropriate and respects the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd supp), which direct the Tribunal to deal with all matters as informally and expeditiously as the circumstances and considerations of fairness permit, as well as the Timelines Direction;

THE TRIBUNAL ORDERS THAT:

[5] The schedule for the discovery and pre-hearing disclosure steps of the Application shall be as follows:

Friday, April 17, 2020	Service of Affidavits of Documents and delivery of documents by both Parties
Friday, May 8, 2020	Deadline for filing any motions arising from Affidavits of Documents and/or productions, including motions challenging claims of privilege
Monday, May 25, 2020	Hearing of any motions arising from Affidavits of Documents, productions and/or claims of privilege
Friday, June 12, 2020	Deadline for delivery of any additional productions resulting from any Affidavits of Documents, productions and/or claims or privilege motions
Monday, July 13, 2020 – Friday, July 24, 2020	Examinations for discovery according to a schedule to be settled between counsel Counsel for each Party shall have a maximum of three (3) days to conduct oral examination for discovery of a representative of the other Party

	The Tribunal will have a judicial member available on dates to be agreed to with counsel for the Parties to rule on objections arising during the examinations for discovery
Friday, August 7, 2020	Deadline for fulfilling answers to discovery undertakings
Friday, August 14, 2020	Deadline for filing any motions arising from examinations for discovery, answers to undertakings or refusals
Thursday, August 20, 2020	Hearing of any motions arising from examinations for discovery, answers to undertakings or refusals
Friday, August 28, 2020	Last day for follow-up examinations for discovery
Monday, August 31, 2020	Case management conference on pre-hearing disclosure steps and preliminary issues, if any
Friday, September 4, 2020	Applicant to serve documents relied upon and witness statements
	Applicant to serve and file expert report(s), if any
	Applicant to serve list of documents proposed to be admitted without proof
Monday, September 14, 2020	Deadline to exchange and file mediation briefs
Wednesday, September 23, 2020	Mediation
Monday, October 5, 2020	Respondent to serve documents relied upon and witness statements
	Respondent to serve and file expert report(s), if any, on all matters including efficiencies
Tuesday, October 13, 2020	Deadline for delivering any Requests for Admissions
Friday, October 16, 2020	Applicant to serve reply documents relied upon and reply witness statements
	Applicant to serve and file reply expert report(s), if any, and responding expert report on efficiencies
Monday, October 26, 2020	Respondent to serve and file reply expert report(s), if any, on matters related to efficiencies

Friday, October 30, 2020	Deadline for filing any motions related to the evidence (documents relied upon, witness statements and expert reports)
	Deadline for responding to any Requests for Admission
	Deadline to provide witness statements to the Tribunal
Monday, November 2, 2020	Pre-hearing case management conference
Friday, November 6, 2020	Hearing of any motions related to the evidence (documents relied upon, witness statements and expert reports)
Monday, November 9, 2020	Deadline to provide documents to the Tribunal for use at the hearing (e.g., Agreed Books of Documents and Joint Briefs of Authorities), including read-ins from examinations for discovery
	Deadline for delivering any agreed statement of facts

[6] Unless the parties and the Tribunal agree otherwise, the Tribunal shall hear all motions in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa.

[7] The evidentiary portion of the hearing of the Application shall commence at 10:00 am on Monday, November 16, 2020 in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa. The schedule shall be as follows:

Monday, November 16, 2020 – Friday, November 20, 2020	First week of hearing (5 days)
Monday, November 23, 2020 – Friday, November 27, 2020	Second week of hearing (5 days)

[8] The Tribunal will hear oral argument on Thursday, December 10, 2020, and Friday, December 11, 2020 in Ottawa.

DATED at Vancouver, this 4th day of March 2020.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Denis Gascon

COUNSEL OF RECORD:

For the applicant:

The Commissioner of Competition

Jonathan Hood
Ellé Nekiar

For the respondent:

Parrish & Heimbecker, Limited

Robert S. Russell
Davit Akman