

Competition Tribunal



Tribunal de la concurrence

Citation: *Canada (Commissioner of Competition) v Parrish & Heimbecker, Limited*, 2020 Comp Trib 4

File No.: CT-2019-005

Registry Document No.: 38

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: April 21, 2020

Before: D. Gascon J. (Chairperson)

Date of order: April 21, 2020

ORDER AMENDING THE 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 Scheduling Order issued by the Tribunal on March 4, 2020;

[3] **AND FURTHER TO** the Case Management Conference held on April 21, 2020 to discuss possible amendments and modifications to the Scheduling Order in light of the Tribunal’s *Updated Notice regarding the COVID-19 Pandemic* dated April 15, 2020;

[4] **AND WHEREAS** counsel for the parties have reached an agreement to modify the dates for the first four steps contemplated in paragraph 5 of the Scheduling Order;

[5] **AND WHEREAS** the Tribunal has examined the proposed revised dates and, in the particular circumstances of this case, is satisfied that the minor amendments proposed by the parties (underlined hereafter in paragraph 7 of this Order) are appropriate and respect the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd Supp);

[6] **AND WHEREAS** the Tribunal has agreed to convene another Case Management Conference around May 21, 2020, at a date and time to be determined after consultation with counsel for the parties, to further discuss the Scheduling Order in light of the developments that will have occurred by then regarding the COVID-19 pandemic;

THE TRIBUNAL ORDERS THAT:

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

Friday, April 17, 2020	Service of Affidavit of Documents and delivery of documents by <u>the Applicant</u>
<u>Friday, May 29, 2020</u>	<u>Service of Affidavit of Documents and delivery of documents by the Respondent</u>
Friday, <u>June 12</u> , 2020	Deadline for filing any motions arising from Affidavits of Documents and/or productions, including motions challenging claims of privilege
<u>Friday, June 19</u> , 2020	Hearing of any motions arising from Affidavits of Documents, productions and/or claims of privilege
Friday, <u>July 3</u> , 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

[8] 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.

[9] 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)

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

[11] The Tribunal will shortly issue a Direction setting out a date and time for another Case Management Conference around May 21, 2020 to further discuss the schedule of this Application in light of the developments that will have occurred regarding the COVID-19 pandemic.

DATED at Ottawa, this 21st day of April 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