



**Emrys Davis**  
Partner  
Direct Line: 416.777.6242  
e-mail: [davise@bennettjones.com](mailto:davise@bennettjones.com)  
Our File No.: 75753.1

September 4, 2020

**Via E-Mail**

Competition Tribunal  
90 Sparks Street  
Ottawa, ON K1P 5B4

Your Honour:

**Re: *Commissioner of Competition v. Moose International Inc.*, CT-2016-004  
Application to Vary a Consent Agreement filed on December 7, 2016 (the “Consent Agreement”)**

We represent the Respondent in this proceeding (“Moose”). Please accept this letter as an application by Moose to vary the Consent Agreement under paragraph 106(1)(b) of the *Competition Act*. Moose makes this application with the consent of the Commissioner.

The Consent Agreement currently provides as follows in paragraph 3:

The Respondent shall pay an amount of \$150,000.00 each year for 5 years in cash payable to charities that support the needs of underprivileged children in Canada such as the supply of outerwear clothing to be decided by the parties, the first installment to be paid within thirty (30) days of the Effective Date.

The current provision contemplates donations of \$150,000 per year to charities for five years. The nature of the charities is set out in the provision. Moose has advised the Bureau annually, and confirms to the Tribunal now, that donations have been made under this provision each year since December 2016 (i.e. in each of 2016, 2017, 2018 and 2019). The fifth and final donation is to be made this year.

Moose proposes in this application, and the Commissioner consents, to vary the Consent Agreement to alter the nature of the charities that will fulfil the donation obligation in paragraph 3. The change is proposed to ensure that the donations may assist with the response to the spread of the virus that causes COVID-19, of which the Tribunal is well aware. Owing to the urgent nature of the pandemic response, Moose has already made a portion of the donations and intends to make the balance before the end of 2020.

The parties have agreed to the addition of additional language to paragraph 3, underlined below:

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE  <b>FILED / PRODUIT</b> Date: September 4, 2020 CT- 2020-008  Annie Ruhlmann for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT.	# 1

The Respondent shall pay an amount of \$150,000.00 each year for 5 years (i) in the first four years, in cash payable to charities that support the needs of underprivileged children in Canada such as the supply of outerwear clothing to be decided by the parties, the first installment to be paid within thirty (30) days of the Effective Date; and (ii) in 2020, by paying \$50,000 in cash to charities or foundations such as hospital foundations (“Hospitals”) agreed by the Parties to support the supply of personal protective equipment or other health care initiatives in respect of COVID-19 in Canada; by donation in kind of \$78,000 worth of personal protective equipment to Hospitals agreed by the Parties; and by paying \$22,000 in cash to charities that support indigenous peoples in Canada agreed by the Parties.

The Tribunal has the power to vary the Consent Agreement under s. 74.13 of the *Competition Act*. Paragraph 74.13(b) provides, in relevant part, that the Tribunal may rescind or vary a Consent Agreement made under Part VII.1 of the Act on application by the Commissioner or the person who consented to the agreement if the Tribunal finds that the Commissioner and the person who consented to the agreement have consented to an alternative agreement.

Counsel for both parties agree that the proposed variation set out above falls within paragraph 74.13(b). On that basis, we ask that the Tribunal issue an Order varying paragraph 3 of the Consent Agreement. We submit that the form of the Order should read, in the operative parts:

1. Paragraph 3 of the Consent Agreement is hereby varied by inserting the underlined text:

The Respondent shall pay an amount of \$150,000.00 each year for 5 years (i) in the first four years, in cash payable to charities that support the needs of underprivileged children in Canada such as the supply of outerwear clothing to be decided by the parties, the first installment to be paid within thirty (30) days of the Effective Date; and (ii) in 2020, by paying \$50,000 in cash to charities or foundations such as hospital foundations (“Hospitals”) agreed by the Parties to support the supply of personal protective equipment or other health care initiatives in respect of COVID-19 in Canada; by donation in kind of \$78,000 worth of personal protective equipment to Hospitals agreed by the Parties; and by paying \$22,000 in cash to charities that support indigenous peoples in Canada agreed by the Parties.

2. All other terms in the Consent Agreement shall remain unchanged.

3. There shall be no costs of this application.

Attached as Appendix A is an acknowledgement of the Commissioner’s consent to these terms.

Counsel would of course be pleased to participate in a conference call with the presiding judicial member of the Tribunal if there are any questions.



September 4, 2020

Page 3

Yours very truly,

**BENNETT JONES LLP**



Emrys Davis

ADL:pc

cc: Jonathan Hood, *Competition Bureau Legal Services*

