

Competition Tribunal



Tribunal de la Concurrence

Citation: *Canada (Commissioner of Competition) v Parrish & Heimbecker, Limited*, 2020 Comp Trib 11

File No.: CT-2019-005

Registry Document No.: 69

**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: October 15, 2020

Before: D. Gascon J. (Chairperson)

Date of order: October 16, 2020

**ORDER AMENDING THE REVISED SCHEDULE FOR THE REMAINING PRE-HEARING STEPS AND HEARING**

[1] **FURTHER TO** the 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, with respect to the acquisition by the Respondent of a primary grain elevator located in Virden, Manitoba (“**Application**”);

[2] **AND FURTHER TO** the Scheduling Order issued by the Tribunal on March 4, 2020, and its subsequent amendments leading to a revised schedule for the remaining pre-hearing steps issued by way of a Tribunal Order on October 9, 2020;

[3] **AND FURTHER TO** the Case Management Conference (“**CMC**”) held on October 15, 2020 at which the Tribunal and counsel discussed the manner in which this hearing will proceed, including location and logistical matters;

[4] **AND FURTHER TO** the parties’ request, made on consent at the CMC, to make minor changes to the dates of certain remaining pre-hearing steps as a result, in particular, of the late service of Mr. Heimbecker’s witness statement;

[5] **AND WHEREAS** the Tribunal has examined the proposed revised dates and is satisfied that the minor amendments discussed at the CMC (underlined in paragraph 6 of this Order) are appropriate and respect the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2<sup>nd</sup> Supp);

**THE TRIBUNAL ORDERS THAT:**

[6] The revised schedule for the remaining pre-hearing steps shall be as follows:

Friday, October 16, 2020	Respondent to serve and file redacted version(s) of expert report(s) <u>and of the witness statement of Mr. Heimbecker</u>
Monday, October 19, 2020	Deadline for delivering any Requests for Admissions
<u>Friday, October 23, 2020</u>	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	Deadline to provide the Applicant’s reply witness statements to the Tribunal
Friday, October 30, 2020	Deadline to provide the Agreed Books of Documents to the Tribunal
<u>Tuesday, November 3, 2020</u>	Respondent to serve and file reply expert report(s), if any, on matters related to efficiencies

Wednesday, November 4, 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
Thursday, November 5, 2020	Pre-hearing case management conference
Tuesday, November 10, 2020	Hearing of any motions related to the evidence (documents relied upon, witness statements and expert reports)
Thursday, November 12, 2020	Deadline to provide the read-ins from examinations on discovery to the Tribunal
	Deadline for delivering any agreed statement of facts
Friday, November 13, 2020	Deadline to provide the Joint Briefs of Authorities to the Tribunal.

[7] The evidentiary portion of the hearing of the Application shall commence at 10:00 am EST on Monday, November 16, 2020. The schedule shall be as follows:

Monday, November 16, 2020- Friday, November 20, 2020	First week of hearing – reserved for the testimony of lay witnesses
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Counsel and witnesses will appear in person in a hearing room facility located in the Fairmont Hotel in Winnipeg, Manitoba, while the Tribunal panel members will be in the Tribunal hearing room located at 90 Sparks Street in Ottawa. For greater certainty, it is understood that some counsel and witnesses may join virtually via a videoconferencing platform. All the participants will be connected via the videoconferencing platform. The Registry will provide further details to the parties on the videoconferencing platform and other logistical issues.

Tuesday, November 24, 2020- Friday, November 27, 2020	Second week of hearing - reserved for the testimony of expert witnesses
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Some counsel and witnesses will appear in person in the Tribunal hearing room located at 90 Sparks Street in Ottawa (where the Tribunal panel members will also be), with other participants joining the hearing virtually via the videoconferencing platform. For greater certainty, it is understood that some counsel and witnesses may join virtually via the videoconferencing platform.

**[8]** The Tribunal will continue to hear oral argument on Thursday, December 10, 2020 and Friday, December 11, 2020 in the Tribunal hearing room in Ottawa. For oral argument, counsel may appear in person or virtually via the videoconferencing platform.

**[9]** The hearing days of the week of November 16, 2020 will all start at 10:00 am EST while all other hearing days will begin at 9:30 am EST.

DATED at Montreal, this 16<sup>th</sup> day of October 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