

Competition Tribunal



Tribunal de la Concurrence

Citation: *Canada (Commissioner of Competition) v Parrish & Heimbecker, Limited*, 2020 Comp Trib 13

File No.: CT-2019-005

Registry Document No.: 124

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: November 12, 2020

Before: D. Gascon J. (Chairperson)

Date of order: November 13, 2020

ORDER ESTABLISHING A FURTHER AMENDED SCHEDULE FOR THE REMAINING PRE-HEARING STEPS AND THE 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 various subsequent amendments leading to a revised schedule for the remaining pre-hearing steps issued by way of a Tribunal Order on October 16, 2020;

[3] **AND FURTHER TO** the case management conference (“**CMC**”) held on October 28, 2020, at which counsel for the Respondent advised the Tribunal of the sudden and unexpected unavailability of the Respondent’s expert witness and the subsequent Order of the Tribunal issued on October 30, 2020 suspending the schedule for the remaining prehearing steps and adjourning the hearing as a result of this exceptional circumstance;

[4] **AND FURTHER TO** the CMC held on November 5, 2020, at which counsel for the Respondent stated that the Respondent’s expert would be unavailable until December 7, 2020;

[5] **AND WHEREAS** the parties have agreed to a new schedule for the remaining pre-hearing steps and the hearing in accordance with the Tribunal’s Direction issued on November 6, 2020;

[6] **AND FURTHER TO** the CMC held on November 12, 2020, at which counsel and the Tribunal discussed the new schedule as well as other matters pursuant to the Tribunal’s Direction of November 10, 2020;

[7] **AND WHEREAS** the Tribunal has examined the new schedule proposed by the parties and is satisfied that the dates set out therein are appropriate and respect the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd Supp);

THE TRIBUNAL ORDERS THAT:

[8] The revised schedule for the remaining pre-hearing steps, set out in the Tribunal Order of October 16, 2020, is amended as follows:

Tuesday, November 24, 2020	Deadline for responding to any Requests for Admissions
	Deadline to provide the Agreed Books of Documents and read-ins from examinations on discovery to the Tribunal
Friday, November 27, 2020	Deadline for filing any motions related to the evidence (documents relied upon, witness statements and expert reports), except for the Respondent’s reply expert report on matters related to efficiencies
Wednesday, December 2, 2020	Deadline to provide the Joint Briefs of Authorities and any agreed statement of facts to the Tribunal

Friday, December 4, 2020	Hearing of any motions related to the evidence (documents relied upon, witness statements and expert reports), except for the Respondent's reply expert report on matters related to efficiencies
Friday, December 11, 2020	Respondent to serve and file reply expert report on matters related to efficiencies
Tuesday, December 15, 2020	Deadline for the Applicant to file any motion arising from the Respondent's reply expert report on matters related to efficiencies
Friday, December 18, 2020	Hearing of any motion arising from the Respondent's reply expert report on matters related to efficiencies
	Deadline for filing a jointly prepared witness schedule
	Deadline to add to the Agreed Books of Documents any documents resulting from the filing of the Respondent's reply expert report on matters related to efficiencies

[9] The evidentiary portion of the hearing of the Application shall commence at 10:00 am EST on Wednesday, January 6, 2021. The schedule shall be as follows:

Wednesday, January 6, 2021- Thursday, January 7, 2021	First week of hearing – reserved for the testimony of lay witnesses (2 days)
Monday, January 11, 2021- Friday, January 15, 2021	Second week of hearing - reserved for the testimony of lay witnesses (5 days)
Tuesday, January 19, 2021- Thursday, January 21, 2021	Third week of hearing – reserved for the testimony of expert witnesses (3 days)

[10] The Tribunal will also be available on Monday, January 18, 2021 and Monday, January 25, 2021 should additional time be required for the hearing of the evidence due to technical difficulties or delays that may arise.

[11] The Tribunal will hear final oral argument on Wednesday, February 3, 2021 and Thursday, February 4, 2021.

[12] The format to be retained by the Tribunal for the first two weeks of the evidentiary portion of the hearing will be specified in a further order to be issued by the Tribunal in the week of November 30, 2020.

[13] The format of the hearing for the testimony of expert witnesses and for the final oral argument is already described in the Tribunal Order of October 16, 2020 and will be as follows:

For the testimony of expert witnesses, 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 which will be set up by the Tribunal. For the final oral argument, the Tribunal panel members will be in the Tribunal hearing room in Ottawa, and counsel may appear in person or virtually via the videoconferencing platform.

DATED at Ottawa this 13th day of November 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
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