

Reference: *Nadeau Poultry Farm Limited v. Groupe Westco Inc. et al.*, 2008 Comp. Trib. 27
File No.: CT-2008-004
Registry Document No.: 0304

IN THE MATTER of the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER of an Application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited for an Order pursuant to section 75 of the *Competition Act*;

AND IN THE MATTER of an Application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited for an Interim Order pursuant to section 104 of the *Competition Act*.

B E T W E E N:

**Nadeau Ferme Avicole Limitée/
Nadeau Poultry Farm Limited**
(applicant)

and

Groupe Westco Inc. and Groupe Dynaco, Coopérative Agroalimentaire, and Volailles Acadia S.E.C. and Volailles Acadia Inc./Acadia Poultry Inc.
(respondents)

Decided on the basis of the written record.
Presiding Judicial Member: Blanchard J.
Date of Order: October 31, 2008
Order signed by: Justice Edmond P. Blanchard

**ORDER DATED OCTOBER 31, 2008 REGARDING MATTERS ARISING FROM
EXAMINATIONS FOR DISCOVERY**

[1] **FURTHER TO** the Competition Tribunal Order of May 12, 2008, granting Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited (“Nadeau”) leave to make an application under section 75 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the “Act”);

[2] **AND FURTHER TO** the Tribunal’s Scheduling Order of June 11, 2008, in which firm deadlines are set for the filing of documents including motions (the “Scheduling Order”);

[3] **AND FURTHER TO** the letter filed by the Respondent Groupe Westco Inc. (“Westco”) on October 28, 2008, in which it informally seeks relief with respect to an answer to an undertaking provided by Nadeau to Westco on August 29, 2008;

[4] **AND FURTHER TO** a letter filed by Nadeau on October 28, 2008, in which it objects to Westco’s request for relief;

[5] **AND WHEREAS** any motions regarding answers to undertakings were to be filed on or before September 3, 2008, pursuant to the Scheduling Order;

[6] **AND WHEREAS** Westco was in possession of the answer at issue for two months and, while it did bring motions regarding other matters arising from examinations for discovery during this period, it did not file a motion regarding the answer at issue;

[7] **AND WHEREAS** it was incumbent upon Westco to bring its concerns to the Tribunal in a timely way;

[8] **AND WHEREAS** Westco has failed to explain the delay in bringing this matter to the Tribunal’s attention;

[9] **AND WHEREAS** the delay in bringing this matter to the Tribunal’s attention is unexplained and extraordinary in the context of this litigation and its case management; especially 17 days before the commencement of the hearing;

THE TRIBUNAL ORDERS THAT:

[10] The relief sought by Westco in its letter filed on October 28, 2008, with respect to the answer to an undertaking provided by Nadeau to Westco on August 29, 2008, is denied.

DATED at Ottawa, this 31st day of October, 2008.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) Edmond P. Blanchard

COUNSEL:

For the applicant

Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited

Leah Price
Andrea McCrae

For the respondent

Groupe Westco Inc.

Éric C. Lefebvre
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