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Sara Pelletier for / pour
REGISTRAR / REGISTRAIRE

COMPETITION TRIBUNAL

OTTAWA, ONT.

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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.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

- and -

**ROGERS COMMUNICATIONS INC. AND
SHAW COMMUNICATIONS INC.**

Respondents

**RESPONSE OF THE COMMISSIONER OF COMPETITION TO A REQUEST OF
VIDEOTRON LTD. FOR LEAVE TO INTERVENE**

AND

**MEMORANDUM OF FACT AND LAW OF THE COMMISSIONER OF
COMPETITION ON A MOTION TO VARY THE SCHEDULING ORDER**

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PART I – OVERVIEW

1. Videotron has brought a motion for leave to intervene with broad participatory rights. As Videotron is the proposed purchaser of assets the Respondents propose to divest, the Commissioner does not generally oppose Videotron being granted intervenor status on the basis it proposes.
2. However, Videotron's intervention must be tempered in three ways.
3. First, fairness and expediency require that the Commissioner be granted the right to documentary discovery and oral examination of Videotron, so that the Commissioner knows the case to meet and to avoid surprise and delay at the hearing of this application.
4. Second, it is improper for Videotron to raise the issues of amelioration of anti-competitive effects and efficiencies accruing to itself as a result of the Proposed Divestiture, as these are not issues raised in the pleadings by any party.
5. Third, Videotron's attendance at oral examinations for discovery should be conditional on an amended Confidentiality Order permitting disclosure of confidential information to Videotron or its external counsel.
6. As a consequence of the broad nature of Videotron's proposed intervention, the Commissioner has brought a motion to vary the Scheduling Order. Additional time is necessary to account for the increased complexity of this application and the additional steps required to accommodate Videotron's broad participation.

PART II – FACTS

7. With respect to the Commissioner's Response to Videotron's motion for leave to intervene, the following facts are relevant.
 - a. On May 9, 2022, the Commissioner of Competition (the "**Commissioner**") brought an application for an order pursuant to section 92 of the *Competition Act* (the "**Act**") with respect to the proposed acquisition by Rogers Communications

Inc. (“**Rogers**”) of Shaw Communications Inc. (“**Shaw**”) (the “**Merger**”). The Commissioner seeks a full block of the Merger or, in the alternative, certain relief to eliminate the substantial prevention or lessening of competition that would result from the Merger.

- b. On June 17, 2022, the Respondents and Quebecor Inc. (“**Quebecor**”) entered into a binding Letter of Agreement and Term Sheet for the acquisition of Freedom Mobile Inc. (“**Freedom**”), a wholly-owned subsidiary of Shaw, by Quebecor through its wholly-owned subsidiary, Videotron Ltd. (“**Videotron**”) (the “**Proposed Divestiture**”).¹
- c. The Scheduling Order of Justice Little dated June 17, 2022 (the “**Scheduling Order**”) was issued on the same day as, the Proposed Divestiture agreement was signed. The pleadings in this matter were all filed before, and make no reference to, the proposed role of Videotron in the Proposed Divestiture.
- d. The Respondents’ responses to the notice of application make no reference to Videotron as a proposed divestiture purchaser.²
- e. Those responses also make no reference to the topics Videotron now proposes to intervene in respect of:
 - i. Videotron's operational abilities including its history as an effective and disruptive competitor in Quebec;
 - ii. whether the Proposed Divestiture provides Videotron with sufficient assets to compete effectively in Ontario, Alberta and British Columbia;
 - iii. whether the Proposed Divestiture enables Videotron to operate independently of Rogers;

¹ Affidavit of Jean-François Lescadres (7 July 2022), Motion Record of Videotron Ltd., Tab 2 at para 16.

² [Response of Rogers Communications Inc.](#) (3 June 2022), CT-2022-002/44 (Comp Trib); [Response of Shaw Communications Inc.](#) (3 June 2022), CT-2022-002/45 (Comp Trib).

- iv. whether the Proposed Divestiture produces any efficiencies that would accrue to Videotron;
 - v. Videotron's plans regarding entry, pricing, bundling, and competition; and
 - vi. the effect the Proposed Divestiture and Videotron's plans will have on competition in the Canadian wireless industry.³
- f. The Consent Agreement between the parties dated May 30, 2022 was also reached and filed prior to, and without reference to, a proposed divestiture to Videotron.⁴
- g. On July 7, 2022, Videotron brought this motion for leave to intervene in this proceeding.
8. In addition to the above, the following facts are also applicable to the Commissioner's motion to vary the Scheduling Order.
- a. As early as May 20, 2021, Quebecor's CEO publicly opposed Rogers' proposed acquisition of Freedom as part of the Merger on competition grounds and expressed interest in Quebecor acquiring Freedom.⁵
 - b. [REDACTED]
- c. The information from Videotron and Quebecor already in the Commissioner's possession does not address, or minimally addresses, the issues relating to

³ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 8.

⁴ [Registered Consent Agreement \(s. 104\)](#) (30 May 2022), CT-2022-002/43 (Comp Trib).

⁵ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 7.

⁶ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 11.

the competitive impacts and potential efficiencies resulting from the Proposed Divestiture.⁷

d. [REDACTED]

e. [REDACTED]

f. Should the Commissioner be granted the right to document discovery and oral examination of Videotron, reviewing and analyzing Videotron's affidavit of documents, preparing for oral examinations for discovery and providing information to the Commissioner's expert witnesses on the issues raised would require the Bureau to expend significant additional time.¹⁰

⁷ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 22.

⁸ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 19.

⁹ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 20.

¹⁰ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 21.

PART III – ISSUES

9. The issues on Videotron’s motion for leave to intervene are as follows:
 - a. whether the Competition Tribunal (the “**Tribunal**”) should grant Videotron intervenor status in this application;
 - b. the appropriate scope for Videotron’s intervention; and
 - c. whether the Commissioner should be allowed documentary discovery and oral examination of Videotron;
10. The issue on the Commissioner’s motion to vary the Scheduling Order is whether compelling reasons exist for a change in the Scheduling Order.

PART IV – SUBMISSIONS

A. The Commissioner does not Oppose Videotron Being Granted Intervenor Status

11. Section 9(3) of the *Competition Tribunal Act* allows the Tribunal to grant a person leave to intervene in any proceedings before the Tribunal, other than under Part VII.1 of the *Act*.¹¹
12. On a motion for leave to intervene, the onus is on the person seeking leave to intervene to establish the following:
 - a. the matter alleged to affect the person seeking leave to intervene must be legitimately within the scope of the Tribunal’s consideration or must be a matter sufficiently relevant to the Tribunal’s mandate;
 - b. the person seeking leave to intervene must be directly affected;
 - c. all representations made by a person seeking leave to intervene must be relevant to an issue specifically raised by the Commissioner; and

¹¹ [Competition Tribunal Act](#), RSC 1985, c 19 (2nd Supp), s 9(3); *Competition Act*, RSC 1985, c C-34.

- d. the person seeking leave to intervene must bring to the Tribunal a unique or distinct perspective that will assist the Tribunal in deciding the issues before it.¹²
13. The Commissioner accepts that Videotron meets the test for leave to intervene.
14. However, it is not appropriate for Videotron to raise the new issues of whether the Proposed Divestiture ameliorates the anti-competitive effects of the Merger and produces any efficiencies that would accrue to Videotron. Neither issue has been pleaded by any party. An intervenor may have pertinent information and a useful perspective about the issues, but an intervenor may not re-cast the case.¹³ Unless a party amends its pleadings to raise the issue, Videotron cannot expand the scope of this application.
15. Notwithstanding the Commissioner's position on this motion, the Commissioner reserves the right to take the position that the Proposed Divestiture does not alleviate the likely substantial lessening or prevention of competition resulting from the Merger. Furthermore, the Commissioner reserves the right to take the position that any efficiencies that would accrue to Videotron as a result of the Proposed Divestiture, if any, are not cognizable efficiencies in this application for the purpose of section 96 of the *Act*.¹⁴

B. Scope of Intervention

16. If leave to intervene is granted, Videotron may make representations relevant to the proceedings in respect of any matter that affects that it.¹⁵
17. Beyond the right to present argument, the Tribunal has the discretion to determine any further participation rights of Videotron.¹⁶ The scope of Videotron's participation as intervenor should be determined in the circumstances of this case, in accordance

¹² [Commissioner of Competition v Direct Energy Marketing Limited](#), 2013 Comp Trib 16 at paras 3 & 12.

¹³ [The Commissioner of Competition v Reliance Comfort Limited Partnership](#), 2013 CACT 17 at para 25.

¹⁴ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 8(d).

¹⁵ [Competition Tribunal Act](#), RSC 1985, c C-34, s 9(3).

¹⁶ [Canada \(Director of Investigation & Research\) v Canadian Pacific Ltd.](#), 1997 CarswellNat 3117 at para 3, [1997] CCTD No 14 (FCA).

with fairness and fundamental justice, and subject to statutory or regulatory requirements.¹⁷

18. The Commissioner does not oppose the scope of intervention proposed by Videotron in its Notice of Motion.¹⁸
19. However, the attendance of Videotron at the oral examinations of the parties should be conditional on Videotron or its external counsel obtaining access to confidential information under an amended confidentiality order. As requested by Videotron, such an order is to be discussed with the parties and agreed upon by the Tribunal.¹⁹
20. The Commissioner anticipates oral examinations will include extensive references to competitively-sensitive information of Rogers, Shaw and other (potential) competitors. In the absence of a confidentiality order applicable to Videotron, such information should not be disclosed to Videotron, a current market participant and competitor. The unrestrained sharing of competitively-sensitive information between competitors reduces the vigor and independence of competitive behaviour and harms the efficient functioning of competitive markets.

C. The Commissioner Should be Allowed to Discover Videotron

21. In addition to the participatory rights proposed by Videotron, the Commissioner also requests the right to documentary discovery and oral examination of Videotron. These rights are essential to the Commissioner's ability to properly advance this application.
22. In considering whether to allow parties to discover an intervenor, the Tribunal has previously allowed for such discovery in two, non-exhaustive situations:

¹⁷ [American Airlines, Inc. v Canada \(Competition Tribunal\)](#), [1989] 2 FC 88 at para 34, [1988] FCJ No 1049, aff'd [1989] 1 SCR 236 (FCA).

¹⁸ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 11.

¹⁹ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 28.

- a. where an intervenor likely has information sufficiently important to a party's case, because answers regarding that information should be provided directly by the intervenor so that it can be tested through cross-examination;²⁰ and
 - b. where discovery is necessary to avoid surprise and resulting delay.²¹
23. These circumstances reflect the fact that discovery is an essential right to satisfying considerations of fairness and expediency. Such considerations support granting the Commissioner discovery of Videotron.
24. First, fairness requires that the Commissioner be allowed to discover Videotron. The Respondents entered into the agreement for the Proposed Divestiture with Quebecor after the Commissioner filed this application and pleadings were closed. This development gives rise to critical and complex issues relevant to the case the Commissioner must meet. Insofar as Videotron supports the position of Rogers and Shaw, the Commissioner is entitled to "be informed as possible about the positions of the other parties and should not be put at a disadvantage by being taken by surprise at trial."²²
25. The centrality of Videotron's anticipated proposed intervention and potential related evidence means the Commissioner would be significantly disadvantaged and could be surprised at trial without discovery. Videotron proposes to lead evidence and make submissions in support of the Respondents on the sufficiency of the Proposed Divestiture (i.e., Videotron's ability to compete in the wireless services markets in British Columbia, Alberta, and Ontario as a result of the Proposed Divestiture).²³ This has not previously been raised in any pleading. This goes to determining a core issue in this application: namely, whether the Proposed Divestiture eliminates or

²⁰ [*Canada \(Competition Act, Director of Investigation and Research\) v AC Nielsen Company of Canada Limited*](#), [1994] CCTD No 15 at 5.

²¹ [*Canada \(Director of Investigation & Research\) v Canadian Pacific Ltd.*](#), 1997 CarswellNat 3117 at para 23, [1997] CCTD No 14.

²² [*Bell Helicopter Textron Canada Limitée v Eurocopter*](#), 2010 FCA 142 at para 14.

²³ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 18.

renders insubstantial the substantial prevention or lessening of competition resulting from the Merger.

26. Videotron also proposes to raise the issue of efficiencies accruing to it by virtue of the Proposed Divestiture.²⁴ This has not previously been raised in any pleading. Given that efficiencies can be a determinative issue, if the pleadings are amended to allow Videotron to intervene on the issue, the Commissioner is entitled to know and fully test, prior to the hearing, the quantum and basis for the efficiencies being claimed.
27. Thus, Videotron asserted having direct knowledge and possession of information that is sufficiently important to the Commissioner's case to warrant discovery of Videotron. Answers to the Commissioner's questions regarding that information should be provided directly by Videotron on discovery so that it can be examined and tested through cross-examination.²⁵ The Commissioner cannot meaningfully respond to Videotron's fact and expert evidence without access to the oral and documentary discovery that underpins it.
28. Second, discovery of Videotron by the Commissioner would also be in the interest of expediency. The Supreme Court of Canada described discovery as "essential to prevent surprise or 'litigation by ambush', to encourage settlement once the facts are known, and to narrow issues even where settlement proves unachievable."²⁶ Similarly, the Tribunal has previously granted the Commissioner the right to discover an intervenor in order to avoid surprises at the hearing and the consequent delays and disruptions.²⁷

²⁴ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 8(d).

²⁵ [*Canada \(Competition Act, Director of Investigation and Research\) v AC Nielsen Company of Canada Limited*](#), [1994] CCTD No 15 at 5.

²⁶ *Juman v Doucette*, 2008 SCC 8 at 24.

²⁷ [*Canada \(Director of Investigation & Research\) v Canadian Pacific Ltd.*](#), 1997 CarswellNat 3117 at 12, [1997] CCTD No 14.

29. The Commissioner is unable to ascertain all relevant facts regarding the Proposed Divestiture without discovery of Videotron. In its written submissions on this motion, Videotron itself submits that:

No other party can provide the Tribunal with the direct, first-hand evidence of Videotron's operational history and experience; what assets and other rights Videotron requires to adequately compete in British Columbia, Alberta and Ontario; what plans Videotron has to immediately and effectively compete upon completing the Divestiture; and what effect Videotron's entry will have on competition.²⁸

30. The exclusive possession by Videotron of this information supports discovery by the Commissioner in order to prevent ambush, encourage settlement, and narrow the issues. Given the complexity of assessing issues relating to a substantial prevention or lessening competition as well as efficiencies, the Commissioner will necessarily be ambushed without the right to discover and examine Videotron.

D. The Scheduling Order Will Have to Be Amended to Account for Videotron's Intervention

31. As a consequence of both Videotron's new role as purchaser in the Proposed Divestiture and its proposed intervention, the Scheduling Order will have to be amended to accommodate Videotron's participation in this proceeding.

i. It is Appropriate for the Tribunal to Amend the Scheduling Order

32. Although dates set by case management orders are firm, the Tribunal may amend the Scheduling Order if it is satisfied that compelling reasons exist for a change in the order.²⁹ In this case, a material change in circumstances has occurred since the issuance of the Scheduling Order as a result of: (i) the binding agreement on June 17, 2022 between the Respondents and Quebecor for the Proposed Divestiture; and (ii) the proposed intervention of Videotron, including the scope of its participation.

²⁸ Written Submissions, Motion Record of Videotron Ltd., Tab 3 at para 5.

²⁹ [Competition Tribunal Rules](#), SOR/2008-141, s 139(3).

Both events occurred after the current schedule was discussed at case management conferences and the Scheduling Order was issued.

33. It is well-settled that interventions may result in disruption caused by an increase in the magnitude, timing, complexity, and costs of a proceeding.³⁰ That is particularly true here given the scope of the issues Videotron has raised in its intervention. The impact of such disruption must be accounted for in an amended Scheduling Order.
34. Even though this application is proceeding under the Expedited Proceeding Process, the Tribunal should “err on the side of caution and ensure that considerations of procedural fairness are not sacrificed for the sake of trial efficiency and expeditiousness.”³¹ Expeditiousness must be balanced against the right to fairness.³²

ii. Additional Time is Required for the Commissioner to Know the Case to Meet

35. Unfairness, and possibly injustice, will result from continuing with the current schedule. In order for the Commissioner to know the case to be met, additional time is required for the Commissioner to obtain and review relevant information from Quebecor and Videotron.
36. The Commissioner does not currently have sufficient information about the “direct, first-hand evidence of Videotron's operational history and experience; what assets and other rights Videotron requires to adequately compete in British Columbia, Alberta and Ontario; what plans Videotron has to immediately and effectively compete upon completing the Divestiture; and what effect Videotron's entry will have on competition” that Videotron intends to introduce.³³
37. The announcement of the Proposed Divestiture with Videotron as the purchaser occurred after the Commissioner filed this application. [REDACTED]

³⁰ See e.g. *M v H*, 1994 CarswellOnt 473 at para 37, 20 OR (3d) 7.

³¹ *The Commissioner of Competition v Vancouver Airport Authority*, 2017 Comp Trib 18 at para 47.

³² *The Commissioner of Competition v Vancouver Airport Authority*, 2017 Comp Trib 18 at para 54.

³³ Written Submissions (7 July 2022), Motion Record of Videotron Ltd., Tab 3 at para 5.

[REDACTED]

[REDACTED]³⁴ Resultingly, the Commissioner's inquiry into the Merger did not include information gathering efforts with respect to the impact Videotron would have as a purchaser of Freedom.³⁵

38. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]³⁶

39. The Commissioner's usual route of issuing a Supplementary Information Request is not available at this time because the parties to the Proposed Divestiture have not filed with the Commissioner the requisite pre-merger notifications pursuant to subsection 114(1) of the *Act*.³⁷

40. Fairness requires that additional time be added to the schedule of this application to allow the Commissioner to obtain the requisite information to know the parties' case, whether through discovery or other means; review that information; and prepare the Commissioner's case.

41. The Commissioner's process for reviewing the impact of a merger absent litigation is normally extensive.³⁸ The Bureau is already constrained by the litigation process from conducting an expansive review of the Proposed Divestiture. Further compression of the schedule prejudices the Commissioner's ability to know, analyze, and test the impacts of the Proposed Divestiture on the substantial lessening and prevention of competition arising from the Merger and any cognizable efficiencies for the purposes of this application.

³⁴ Affidavit of Stephen Moon (21 July 2022), Motion Record of the Commissioner of Competition, Tab 2 at para 11.

³⁵ Affidavit of Stephen Moon (21 July 2022) at para 22.

³⁶ Affidavit of Stephen Moon (21 July 2022) at para 19.

³⁷ Affidavit of Stephen Moon (21 July 2022) at para 22(c).

³⁸ Affidavit of Stephen Moon (21 July 2022) at paras 26-30.

iii. Additional Time is Required to Address the New Issues Raised by Videotron

42. Videotron proposes to intervene with respect to new issues; specifically, whether the Proposed Divestiture eliminates the substantial prevention or lessening of competition resulting from the Merger and produces any cognizable efficiencies that would accrue to Videotron.³⁹ The issues of whether the Proposed Divestiture remedies the anti-competitive effects of the Merger and whether cognizable efficiencies for the purposes of section 96 of the Act accrue to a non-party to the Merger have not been raised in the pleadings by any party.
43. While the Commissioner opposes the raising of these issues without appropriate amendments to the pleadings, if Videotron is ultimately granted leave to intervene on these issues, its introduction will add to the complexity of this application. Consequently, additional time is required for the parties to address these new issues procedurally (including the need for amendments to the pleadings) and substantively (through discovery on the issue and the presentation of factual and expert evidence at the hearing).

iv. The Current Schedule Cannot Accommodate the Additional Litigation Steps Required

44. The current Scheduling Order already follows an expedited process. Practically, the Scheduling Order's tight deadlines cannot feasibly accommodate the additional litigation steps, required both pre-trial and at the hearing, stemming from Videotron's intervention without prejudice to the Commissioner. These steps include the leading of factual and expert evidence by Videotron at the hearing and those related to the added complexity of issues relating to the Proposed Divestiture.
45. To shoehorn Videotron's intervention into the current schedule would unreasonably detract from, or conflict with, the time scheduled for other steps in this application.

³⁹ Notice of Motion (7 July 2022), Motion Record of Videotron Ltd., Tab 1 at para 8(d).

This would detrimentally impact the Commissioner's ability to know, meet, and present his case.

46. Consideration should be given in an amended Scheduling Order to the following:
 - a. Videotron's introduction of issues relating to the elimination of the substantial prevention or lessening of competition resulting from the Merger and the accrual of efficiencies to itself as a result of the Proposed Divestiture;
 - b. Videotron's request to amend the confidentiality order and requisite notice to affected third parties;
 - c. preparation of an Affidavit of Documents and document production by Videotron, if granted by the Tribunal;
 - d. oral examination for discovery of Videotron by the Commissioner, if granted by the Tribunal;
 - e. the leading of factual and expert evidence by Videotron prior to and at the hearing of this application; and
 - f. written and oral argument by Videotron at the hearing.

47. The scope of participation by Videotron in these proceedings presents a disruption that can only be fairly remedied by an amendment to the Scheduling Order. While the Respondents may desire a commitment to the current schedule, unrealistic expectations would only cause further delay. Nonetheless, in the spirit of expediting the resolution of this application, the Commissioner is seeking only a limited extension of the schedule necessary to accommodate the intervention.

PART V – ORDER SOUGHT

48. With respect to Videotron's motion for leave to intervene, the Commissioner requests that:

- a. Videotron be granted leave to intervene in this application with respect to the issues described at paragraph 8 of Videotron's Notice of Motion;
 - b. Videotron be granted the participatory rights described at paragraph 11 of Videotron's Notice of Motion, subject to any limitations that the Tribunal sees fit arising from the impact on the schedule for this application as set out in the Scheduling Order;
 - c. the Commissioner be granted the right of documentary discovery and oral examination for discovery of Videotron; and
 - d. the attendance of Videotron or its external counsel at the oral examinations for discovery of the parties be conditional on the Confidentiality Order dated May 19, 2022 being amended to permit disclosure of confidential information to Videotron or its external counsel.
49. With respect to the Commissioner's motion to vary the Scheduling Order, the Commissioner requests an order:
- a. requiring Videotron to serve its Affidavit of Documents and production of documents by August 15, 2022;
 - b. putting over oral examinations for discovery by four weeks to the period of September 19, 2022 to October 7, 2022
 - c. extending the time provided for oral examinations by one week;
 - d. extending the time for the hearing of this Application by one week; and
 - e. modifying the other dates for the pre-hearing steps and the hearing of this application in consequence of the foregoing in the manner to be directed by the Tribunal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21st day of July 2022.

Kevin Hong

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LIST OF AUTHORITIES, STATUTES, AND REGULATIONS**Authorities**

1. [*American Airlines, Inc. v Canada \(Competition Tribunal\)*](#), [1989] 2 FC 88 at para 34, [1988] FCJ No 1049, aff'd [1989] 1 SCR 236 (FCA).
2. [*Bell Helicopter Textron Canada Limitée v Eurocopter*](#), 2010 FCA 142.
3. [*Canada \(Competition Act, Director of Investigation and Research\) v AC Nielsen Company of Canada Limited*](#), [1994] CCTD No 15.
4. [*Canada \(Director of Investigation & Research\) v Canadian Pacific Ltd.*](#), 1997 CarswellNat 3117 at para 3, [1997] CCTD No 14 (FCA).
5. [*Commissioner of Competition v Direct Energy Marketing Limited*](#), 2013 Comp Trib 16.
6. [*Juman v Doucette*](#), 2008 SCC 8.
7. [*M v H*](#), 1994 CarswellOnt 473 at para 37, 20 OR (3d) 7.
8. [*The Commissioner of Competition v Reliance Comfort Limited Partnership*](#), 2013 CACT 17.
9. [*The Commissioner of Competition v Vancouver Airport Authority*](#), 2017 Comp Trib 18.

Statutes and Regulations

1. [*Competition Tribunal Act*](#), RSC 1985, c 19 (2nd Supp), section 9(3).
2. [*Competition Tribunal Rules*](#), SOR/2008-141, s 139(3).