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CT- 2022-002

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Annie Ruhlmann for / pour
REGISTRAR / REGISTRAIRE

OTTAWA, ONT.

Doc. # 136

THE COMPETITION TRIBUNAL

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

MOTION RECORD

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TAB 1

CT-2022-002

THE COMPETITION TRIBUNAL

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**

NOTICE OF MOTION

**(Commissioner's Motion for a further and better Affidavit of
Documents from Shaw)**

TAKE NOTICE THAT the Commissioner of Competition ("**Commissioner**") will make a motion to the Competition Tribunal ("**Tribunal**") on August 4, 2022, further to the Scheduling Order of June 17, 2022 ("**Scheduling Order**"), or on a date to be fixed by the Tribunal.

THE MOTION IS FOR an Order compelling Shaw Communications Inc. ("**Shaw**") to produce:

- a) accessible copies of any documents listed in Schedule A of its affidavit of documents that are inaccessible, as listed in **Schedule "A"** to this Notice of Motion;

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- b) legible copies of any documents listed in Schedule A of its affidavit of documents that are illegible, as listed in **Schedule “B”** to this Notice of Motion;
- c) copies of any SharePoint records that were replaced in its document productions by plain-text placeholders, as referenced in the documents listed in **Schedule “C”** to this Notice of Motion; and
- d) the documents listed in **Schedule “D”** to this Notice of Motion over which privilege has been claimed by Shaw, in full or partially redacted as necessary

THE GROUNDS FOR THE MOTION ARE:

The Discovery Plan

- a) On June 28, 2022, the Respondents and the Commissioner agreed to a discovery plan (the **“Discovery Plan”**).
- b) On July 15, 2022, Shaw served the Commissioner with its affidavit of documents and document production.

Shaw’s Document Production

- c) Shaw produced documents that are inaccessible.
- d) Shaw produced documents that are illegible in whole or part due to image quality.
- e) Shaw produced documents that include plain-text placeholders for SharePoint records that were not listed on Shaw’s affidavit of documents or included in Shaw’s document production.

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- f) Shaw claimed solicitor-client privilege over communications in which legal counsel was neither the sender, recipient, nor otherwise copied on the communication.
- g) Shaw claimed solicitor-client privilege, litigation privilege, or both over documents that, on their face, appear to be documents created in the ordinary course of business and not for the purpose of either the seeking or giving of legal advice, nor the dominant purpose of litigation.

General

- h) On July 26, 2022, the Commissioner requested that Shaw correct these deficiencies in a letter to counsel for Shaw.
- i) On July 28, 2022, Shaw's counsel responded by stating that six of the documents listed in **Schedule "A"** to this Notice of Motion are password-protected and that Shaw is undertaking reasonable efforts to determine the passwords. For the remainder of the documents listed in **Schedule "A"**, Shaw has identified technical issues and expects to either produce in short order accessible copies or provide an explanation of the issue. Shaw's counsel further stated that the documents listed in **Schedule "B"** to this Notice of Motion will be reproduced in short order to the extent that Shaw is able to locate legible copies. Shaw's counsel advised that it expected to provide a more detailed update by "the end of the week".
- j) As of the date of this motion, the Commissioner has not received the further productions as described by Shaw's counsel.
- k) An Order, as sought, from the Tribunal at this juncture would facilitate the expeditious and fair conduct of examinations for discovery.

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l) Sections 60, 63, 82 of the *Competition Tribunal Rules*, SOR/2008-141.

THE FOLLOWING EVIDENCE will be used at the hearing of the Motion:

- a) the affidavit of Kevin McWhinnie, affirmed July 27, 2022; and
- b) the affidavit of Dean Shaikh, affirmed July 15, 2022.

Dated at Toronto, Ontario this 28th day of July, 2022.



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Schedule "A"

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CT-2022-002

Schedule "D"

TAB 2

CT-2022-002

THE COMPETITION TRIBUNAL

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

AFFIDAVIT OF KEVIN MCWHINNIE

I, Kevin McWhinnie, a Competition Law Officer with the Competition Bureau (the "**Bureau**"), of the City of Toronto, in the Province of Ontario, **AFFIRM AND SAY AS FOLLOWS:**

1. I make this affidavit in support of the Commissioner of Competition's (the "**Commissioner**") motion concerning issues arising from the affidavit of documents and document production of Shaw Communications Inc. ("**Shaw**").
2. I have been employed as a Competition Law Officer with the Bureau since October 2021. During this time I have been involved in the review of mergers and proposed mergers to determine whether such transactions: (a) prevent or lessen or are likely

to prevent or lessen competition substantially, and (b) bring about any cognizable efficiencies under the Competition Act.

3. I am part of the case team working on a review of the proposed acquisition of Shaw Communications Inc. ("**Shaw**") by Rogers (the "**Proposed Merger**"). Except where otherwise indicated, I have personal knowledge of the matters referred to in this affidavit. Where I do not have personal knowledge, I have set out the grounds for my belief.

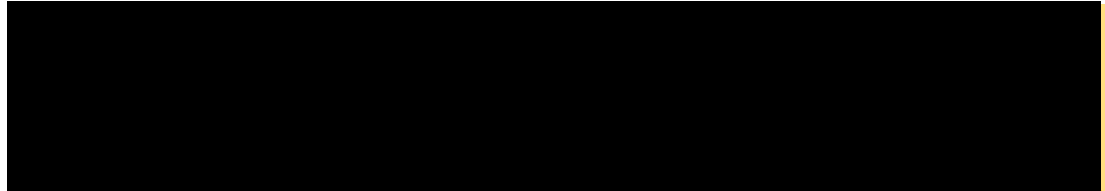
The Discovery Plan

4. On June 28, 2022, the parties to this application executed a discovery plan dated the same (the "**Discovery Plan**"), attached as **Exhibit "A"**. The Discovery Plan sets out the agreement reached by the Commissioner, Rogers and Shaw concerning certain matters relating to documentary discovery and oral discovery for the purposes of this application.
5. The discovery plan sets out the scope of document discovery to which the parties agreed. Among other things, the discovery plan requires that Rogers and Shaw list in their respective affidavit of documents relevant privileged and non-privileged documents prepared or received by a Senior Officer of Rogers or Shaw for the period from September 1, 2020 to May 9, 2022 relating to plans, projects or programs to improve productivity, cost-effectiveness, or efficiency without, or in the absence of, the Proposed Merger.

Shaw's Document Production

6. On July 15, 2022, Shaw electronically served its affidavit of documents and document production on the Commissioner via a FTP server. The affidavit of documents was accompanied with a cover letter, attached as **Exhibit "B"**.

7. Alain Archambault (Technical Specialist, Competition Bureau) conducted searches of Shaw's document production while sharing his screen with me via Microsoft Teams. Through his searches, he identified the following:
- a. examples of electronic documents that are inaccessible, as listed in **Schedule "A"** to this affidavit.
 - b. examples of electronic documents that include plain-text placeholders for electronic files located on Shaw's SharePoint platform, as listed in **Schedule "B"** to this affidavit. One such example from the document with document ID 'SJRB-CCB00877369' is reproduced below:



8. I identified the documents listed in **Schedule "C"** to this affidavit as examples of documents that are partially or completely illegible. Due to image quality, I am unable to read some or all of the text contained in these documents.

Correspondence with Counsel for Shaw

9. By letter to Shaw's counsel dated July 26, 2022, counsel to the Commissioner raised five deficiencies in Shaw's affidavit of documents and document production, including those raised above. Counsel for the Commissioner requested that Shaw address the deficiencies. I am informed by Miriam Varelalizardi (Paralegal, Competition Bureau Legal Services), and verily believe, that **Exhibit "C"** is a true copy of the letter dated July 26, 2022.

10. By letter dated July 28, 2022, Shaw's counsel responded to the letter dated July 26, 2022. I am informed by Miriam Varela Izardi, and verily believe, that **Exhibit "D"** is a true copy of the letter dated July 28, 2022.
11. With respect to the inaccessible documents listed in **Schedule "A"** to this affidavit, Shaw's counsel stated in his letter, "Of these documents, we have determined that six are in fact password protected, and we are undertaking reasonable efforts to determine those passwords. With respect to the remainder, these documents are not password protected, but had technical issues. We expect to reproduce a substantial number in short order. For any documents we are unable to produce, we will provide an explanation of the underlying issue."
12. With respect to the illegible documents listed in **Schedule "C"** to this affidavit, Shaw's counsel stated in his letter, "We will reproduce in short order these 23 documents to the extent we are able to locate legible copies."
13. Shaw's counsel stated in his letter that "We are carefully reviewing the points raised in your letter and expect to provide a more detailed update by the end of the week."
14. As of the date of this affidavit, the Commissioner has not received the further productions referred to in the letter from Shaw's counsel dated July 28, 2022.

AFFIRMED remotely by Kevin McWhinnie of the City of Toronto in the Province of Ontario, before me at the City of Gatineau, in the Province of Quebec, on July 28, 2022, in accordance with O.Reg. 431/20, *Administering Oath or Declaration Remotely*.



Commissioner for Oaths



Kevin McWhinnie

Raha Araz Mohammad
 Commissioner of Oaths etc.
 Province of Ontario
 LSO P15816.

Schedule "A"

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Schedule "C"

1. SJRB-CCB00211397
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21. SJRB-CCB00889805
22. SJRB-CCB00889993
23. SJRB-CCB00890647

THE COMPETITION TRIBUNAL

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.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

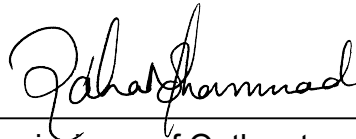
– and –

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

Respondent

AFFIDAVIT OF KEVIN MCWHINNIE

This is **Exhibit "A"** to the affidavit of Kevin McWhinnie, affirmed remotely by Kevin McWhinnie stated as being located in the city of Toronto in the province of Ontario, before me at the city of Gatineau in the province of Quebec, on July 28, 2022, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Commissioner of Oaths etc.

Raha Araz Mohammad
Commissioner of Oaths etc.
Province of Ontario
LSO P15816.

CT-2022-002

THE COMPETITION TRIBUNAL

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

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. of Shaw Communications Inc.; and

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*.

B E T W E E N :

COMMISSIONER OF COMPETITION

Applicant

- and -

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

Respondents

Discovery Plan

(June 28, 2022)

A. GENERAL

1. The parties to this Discovery Plan (the “**Discovery Plan**”) are the Applicant, the Commissioner of Competition (the “**Commissioner**”), and the Respondents, Rogers Communications Inc. (“**Rogers**”) and Shaw Communications Inc. (“**Shaw**”).
2. This Plan sets out the agreement reached by the Commissioner, Rogers and Shaw (the “**Parties**”, and each individually a “**Party**”) concerning certain matters relating to documentary discovery and oral discovery for the purposes of this proceeding.

3. Except as provided herein, nothing in this Discovery Plan derogates from: (i) the legal rights of the Parties with respect to documentary and oral discovery in this proceeding; or (i) the right of any Party to move before the Competition Tribunal for enforcement of those rights and nothing in this plan affects the legal obligations of each party to take reasonable steps to preserve relevant documents.
4. For the purposes of this Discovery Plan, “document” includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy or portion of that material. For greater certainty, a document includes any email or other correspondence, mobile phone text messages, and messages using third party messaging applications.
5. Any Party may make a motion to the Tribunal: (i) to compel another Party to take the steps contemplated by the Discovery Plan; or (ii) relating to any other discovery-related issue. Subject to the *Competition Tribunal Rules*, the *Practice Direction Regarding Timelines and Scheduling for Proceedings before the Tribunal*, and the *Practice Direction Regarding an Expedited Proceeding Process before the Tribunal*, the Parties agree that on any such motion, they will adhere to the following procedures:
 - a. Prior to bringing a motion contemplated in this section, a Party shall first make good faith efforts to resolve or limit the issues in dispute by holding a meeting or a telephone conference with the other Parties.
 - b. The Tribunal may take the existence of this Discovery Plan, and the extent to which the Parties have complied with it, into account in determining whether to grant the order sought.
 - c. Any responding Party on such a motion may seek to justify its non-compliance with the Discovery Plan on the basis of, among other things, any information that was unknown or unavailable to the Party at the time this Discovery Plan was entered into.

- 6. The definitions set out in the Supplementary Information Requests issued to Rogers and Shaw herein shall apply to this document.

B. SCOPE OF DOCUMENT DISCOVERY

- 7. [REDACTED]

¹ The Parties acknowledge and agree that this request relates to the documents of Rogers only, and that Shaw shall not be required to search for such documents or train its TAR algorithm to identify such documents as responsive.

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² The Parties acknowledge and agree that this request relates to the documents of Rogers only, and that Shaw shall not be required to search for such documents or train its TAR algorithm to identify such documents as responsive.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Rogers and Shaw shall discharge their obligations under paragraph 7 of this Discovery Plan by applying search terms and using technology-assisted review processes to identify documents that may be relevant to the issues in dispute. The technology-assisted review will be conducted in a manner consistent with practices used to identify documents responsive to the SIR issued to the Respondent on June 3, 2021. The agreed upon search terms are listed in Schedule "A", and the agreed upon custodians are set out immediately below.

Shaw Custodians	
1	Adel Awad – VP, Wireless Network Quality & Operations
2	Brad Shaw – Chief Executive Officer
3	Brian O'Shaughnessy – Senior Vice President Wireless & 5G Technology
4	Candice McLeod - Senior Vice President, Enterprise Business Solutions
5	Dale Turner - Vice President Marketing, Pricing and Packaging
6	Damian Poltz - SVP, Wireline Technology & Strategy
7	Dan Sumner - Vice-President, Customer Base Management / Marketing
8	Feiber Omana - SVP, Corporate Dev & Strategic Planning
9	Jay Gardner -VP, Product Management
10	Katherine Emberly - President, Business
11	Linda Thomas - SVP, Commercial Finance
12	Magued Sorial – VP, Wireless Network Engineering
13	Mathew Flanigan – VP, Wireless Growth
14	Pat Button - SVP Sales & Distribution
15	Paul Deverell - President, Consumer
16	Paul McAleese – President
17	Rob Myatt - VP, Enterprise Service Provider & Carrier Solutions
18	Tamer Morsy Saleh - SVP, Technical & CTO, Freedom
19	Trevor English - EVP, Chief Financial & Corporate Development Officer
20	Zoran Stakic -Chief Operating Officer & Chief Technology Officer

Rogers Custodians	
1	Aimee Debow – Sr. Director Strategy, Planning, Governance and Service Communications
2	Alexander Brock – SVP Strategy & Partnership
3	Anthony Staffieri – President & CEO
4	Bart Nickerson – SVP Marketing
5	Chris Smale - VP, Customer Base Management & (Former) VP Wireless Pricing
6	Christine Pop - Vice President, Wholesale Solutions

Rogers Custodians	
7	Cory Watson – Sr. Director, Network Technology Integration
8	Daniel Golberg – SVP Strategy and Corporate Development
9	David Fuller – President Wireless Services
10	Dean Prevost – President, Integration
11	Delia Pan – VP Customer Base Management
12	Drew Stevenson - Vice President, Brand
13	Eric Bruno – SVP, 5G, Content & Connected Home Products
14	Glenn Brandt – (Former) SVP Development
15	Joe Natale – (Former) President & CEO
16	John Mallovy, VP, Corporate Real Estate
17	Jorge Fernandes - Chief Technology Information Officer
18	Julie Gass – Marketing Director of Cross-Sell
19	Kye Prigg – SVP Access Networks and Operations
20	Lawrence Shum – Sr. Director, Shaw Integration
21	Lisa Shanoff - Director/Business Owner Fido Retention, Agile Marketing
22	Luciano Ramos - SVP Network Development & Core Engineering
23	Mahes Wickramasinghe – Chief Administration Officer
24	Marisa Fabiano – SVP Integration Lead
25	Matthew MacLellan - Integration Management Office
26	Mehrzad Ghassemi – VP Customer Base Management
27	Nancy Audette
28	Paul Carpino – VP of Investor Relations
29	Philip Hartling – President, Wireless Services
30	Sandra Pasquini – SVP HRBP Consumer & Talent Acquisition
31	Shailendra Gujarati – VP Prepaid
32	Shannon Bell, SVP, Information Technology
33	Simone Lumsden, SVP CMO, Wireless Services
34	Upinder Saini – SVP Product & Device
35	Vedran Petrusic – Sr. Dir. Wireless Pricing

9. Each Respondent shall provide the Commissioner with complete responses to the questions his counsel sent them on June 21, 2022 relating to its use of technology-assisted review. Questions 1-6 and 11-13 have been answered as of the date of this Plan and answers to questions 7-10 shall be a provided together with the AOD that is to be served on July 15, 2022.
10. The Commissioner shall list in his AOD that that will be served on July 15, 2022 relevant privileged and non-privileged records falling into the following subject areas:
 - a. documents relating to Proposed Transaction as it relates to Wireless Services, including, without limitation, all documents provided to the Commissioner by the Respondents or by other industry participants;
 - b. complaints, comments, reactions and feedback received by the Bureau in relation to the Proposed Transaction;
 - c. requests for information, production orders and/or subpoenas issued by the Bureau in connection with the Proposed Transaction and all responses received by the Bureau in relation thereto;
 - d. notes, transcripts and other records of meetings, interviews and/or examinations conducted with or of industry participants or other third parties, and documents pertaining to such meetings, interviews and/or examinations;
 - e. communications between the Bureau and industry participants or other third parties, and documents pertaining to such communications, to the extent not covered by subparagraph 10(d); and
 - f. documents relating to the Bureau's communications with any enforcement or regulatory agency or industry association, including the Canadian Radio-television and Telecommunications Commission and Innovation, Science and Economic Development Canada, in relation to the Proposed Transaction.
11. With respect to the production of electronically stored information ("**ESI**"), the Parties agree to follow the Competition Bureau's Enforcement Guidelines with respect to Production of Electronically Stored Information.

C. AFFIDAVITS OF DOCUMENTS AND DOCUMENT PRODUCTIONS

12. AODs shall be exchanged by July 15, 2022.
13. In conjunction with and at the same time as the delivery of their AODs, the Parties shall produce a list of documents over which they assert privilege ("**Privilege List**"). The list will identify the asserted privilege.
14. AODs and Privilege Lists shall list each document produced or withheld and the following information:
 - a. DOCID
 - b. DOCDATE
 - c. DOCTITLE
 - d. AUTHOR
 - e. TO
 - f. FROM
 - g. DOCTYPE
 - h. CONFIDENTIALITY LEVEL
15. Unless otherwise challenged not later than 60 days before trial, the Parties admit that all producible documents exchanged between them are authentic for purposes of the *Canada Evidence Act*. Where documents lack the necessary identifying information to establish the authenticity of the document, the Parties agree to provide the necessary identifying information, if available, in writing, within 30 days upon request. For greater certainty, the Parties admit the authenticity of any such document based on the identifying information that is provided.
16. Unless otherwise challenged not later than 60 days before trial, the Parties admit the integrity of all producible documents exchanged between them for purposes of complying with the best evidence provisions set out in section 31.2 of the *Canada Evidence Act*.
17. The Parties agree that in the event any privileged document(s) or any irrelevant confidential document(s) are inadvertently included in the productions of a Party, neither the listing of such document(s) nor the production of the actual document(s) will constitute, as the case may be, a waiver of privilege or a waiver of confidentiality over the document(s) or its subject matter.

18. If a Party inadvertently produces a document that is privileged, it will provide notice of such to the other Parties within 7 days of learning of the inadvertent production. If a Party receives a document that appears to that Party to be privileged, it will notify the Party that produced the document within 7 days of becoming aware that the document appears to be privileged. Regardless of how an inadvertently produced privileged document comes to light, all copies of such a document (either electronic or otherwise) will be deleted or destroyed by the Party or Parties to which the document was inadvertently produced immediately upon receipt of a notice described above, or upon discovery by that Party of the privileged document to the extent technically feasible, and if not feasible the Parties shall make arrangements for the return and replacement of the electronic or other medium which cannot be deleted or destroyed. The destruction of an inadvertently produced privileged document will include the deletion of any associated OCR, extracted text, notes and work product made in relation to the inadvertently produced privilege document. Further, the media on which the inadvertently produced privilege document was produced will also be returned to the producing Party to the extent the receiving Party still possesses such media.
19. Should a Party dispute a claim of privilege made by another Party under paragraph 18, the Party disputing the privilege must still comply with paragraph 18, but shall give notice of their dispute to the Party that produced the document within 30 days of the initial notice describe in paragraph 18. The Party disputing the privilege will make the appropriate motion to the Tribunal to have the matter adjudicated.
20. A Party that has received an inadvertently produced document shall not rely on or otherwise use in any way any privileged information learned from such document; but for greater certainty, nothing in this paragraph shall be interpreted as an agreement to extend a privilege to facts having an independent existence of a privileged communication.
21. After serving their respective AODs on July 15, 2022, the Parties shall comply with their continuing production obligations.
 - a. To the extent that a Party discovers additional non-privileged documents that are relevant to a matter at issue in this proceeding, the Party shall produce said documents to the other Parties within 7 days after becoming aware of them.

- b. For greater certainty, paragraphs 15 and 16 of this Discovery Plan shall apply to any documents produced in accordance with subparagraph 21(a) hereof. To the extent that such documents are produced less than 60 days before trial, the Parties shall promptly agree upon the date by which the challenges contemplated by paragraphs 15 and 16 must be made, and failing such agreement shall immediately seek direction from the Tribunal.
- c. To the extent that additional documents are produced in accordance with subparagraph 21(a), each producing Party shall deliver a supplementary AOD. Any supplementary AOD will include the information set out in paragraph 14 of this Discovery Plan.
- d. Any Party may, in examining for discovery the representative of another Party, request production of additional documents or categories of documents.

D. ORAL DISCOVERIES

- 22. Examinations for discoveries shall be completed between August 15 and 26, 2022 and shall be conducted virtually.
- 23. A member of Rogers' Executive Leadership Team, to be identified by Rogers, shall be examined on behalf of Rogers, which examination shall be limited to no more than 2 days.
- 24. A member of Shaw's Executive Leadership Team, to be identified by Shaw, shall be examined on behalf of Shaw, which examination shall be limited to no more than 2 days.
- 25. A competition law officer shall be examined on behalf of the Commissioner, which examination shall be limited to no more than 2 days.
- 26. Each Party shall provide answers to undertakings given during the examination for discovery of its representative witness within 10 days after the date on which the examination for discovery in question is completed.
- 27. Any motions arising from examinations for discovery shall be brought by September 7, 2022.

28. Any follow-up examinations for discovery shall be completed by September 16, 2022.

PREPARED AND AGREED UPON BY:



Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau, QC J8X 3X1
Fax: (819) 953-9267
Tel: (613) 818-1611

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Derek Leschinsky
Katherine Rydel
Ryan Caron
Kevin Hong

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Toronto ON M5H 1J8

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Crawford Smith
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Bradley Vermeersch

Counsel to the Respondent, Rogers Communications Inc.



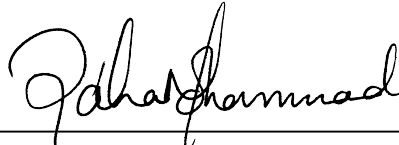
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Kent E. Thomson
Derek D. Ricci
Steven G. Frankel
Chanakya A. Sethi

Counsel to the Respondent, Shaw Communications Inc.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

This is **Exhibit “B”** to the affidavit of Kevin McWhinnie, affirmed remotely by Kevin McWhinnie stated as being located in the city of Toronto in the province of Ontario, before me at the city of Gatineau in the province of Quebec, on July 28, 2022, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Commissioner of Oaths etc.

Raha Araz Mohammad
Commissioner of Oaths etc.
Province of Ontario
LSO P15816.

DAVIES155 Wellington Street West
Toronto, ON M5V 3J7 Canada

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File 281820

July 15, 2022

BY EMAILDepartment of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau, QC J8X 3X1**Attention: John Tyhurst, Derek Leschinsky, Katherine Rydel, Ryan Caron and Kevin Hong**

Dear Sirs/Madam:

**Commissioner of Competition v Rogers Communications Inc. and Shaw Communications Inc.
CT-2022-002**

Pursuant to the Scheduling Order dated June 17, 2022, please find attached Shaw's sworn Affidavit of Documents. The production load files associated with Schedule A to the Affidavit of Documents (the "**Document Production**") have been uploaded to an FTP provided by Shaw's eDiscovery vendor Consilio, and are available for download as follows:

Production Name	LINK
SJRБ_CCB008	[REDACTED]
SJRБ_CCB014	[REDACTED]
SJRБ_CCB015	[REDACTED]
CHECKSUM Files	[REDACTED]

DAVIES

Passwords will follow in a separate email.

In addition, data produced by Shaw to the Commissioner in response to paragraph 7(b) of the Discovery Plan (the “**Data Production**”) will be provided through secure file transfers today using Davies Share File and a Snowflake data transfer.

The refreshed data for Specifications 24, 25, and 28 have been uploaded to the Davies ShareFile with the exception of Specification 25(f), which will be updated in Snowflake.

ShareFile access has been made available to Nicholas Saumure and Carl Letourneau on the Davies ShareFile. A direct link to the folder will be provided by email. Snowflake access has also been provided to Nicholas Saumure and Carl Letourneau.

PRODUCTION OF PROTECTED RECORDS

Pursuant to paragraph 5(a) of the Confidentiality Order dated May 19, 2022, please note that Shaw’s production includes Protected Records.

- **Document Production:** Shaw intends to designate the vast majority of the Document Production as Confidential – Level B, except for certain documents relating to wireless spectrum auctions that warrant a Confidential – Level A designation. Because Shaw’s effort to identify this subset of Level A documents is ongoing, out of an abundance of caution and for a limited time period, Shaw has marked the entirety of the Document Production as Level A in the manner set forth in the Bureau’s Enforcement Guidelines regarding the Production of Electronically Stored Information. Shaw expects to complete its confidentiality review shortly and will provide the Commissioner with a .DAT overlay file reflecting the revised confidentiality designations promptly after its confidentiality review is complete.
- **Data Production:** Shaw designates the Data Production as Confidential – Level B.

In addition, as you are aware, Shaw has made multiple productions to the Commissioner as part of its SIR response. Because the SIR productions were made prior to the issuance of the Confidentiality Order, Shaw did not have occasion to designate those materials as Protected Records within the meaning of the Confidentiality Order. Consistent with its approach to the Document Production, Shaw intends to designate the entirety of its prior document productions and any document voluntarily submitted to the Commissioner as Level B, except for certain spectrum auction documents that Shaw intends to designate as Level A. Shaw will advise the Commissioner of these respective designations as soon as its confidentiality review is complete. Further, consistent with its approach to the Data Production, Shaw hereby designates the entirety of its prior data productions as Level B.

DAVIES

Please do not hesitate to contact me should you have any questions or concerns with respect to this matter.

Yours very truly,

Tanya Barbiero

Tanya Barbiero
Senior Case Manager
Law Clerk/Manager of Litigation Technology

Enclosure

This is **Exhibit “C”** to the affidavit of Kevin McWhinnie, affirmed remotely by Kevin McWhinnie stated as being located in the city of Toronto in the province of Ontario, before me at the city of Gatineau in the province of Quebec, on July 28, 2022, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Commissioner of Oaths etc.

Raha Araz Mohammad
Commissioner of Oaths etc.
Province of Ontario
LSO P15816.



Ministère de la Justice
Canada

Department of Justice
Canada

Bureau de la concurrence
Services juridiques

Competition Bureau
Legal Services

Place du Portage, Tour I
22e étage
50, rue Victoria
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Place du Portage, Phase I
22nd Floor
50 Victoria Street
Gatineau, QC K1A 0C9

Téléphone/Télocopieur
613-897-7682

Telephone/Fax
(819) 953-9267

26 July 2022

VIA EMAIL

Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON, M5V 3J7

Attention: Kent E. Thomson, Derek D. Ricci, Steven G. Frankel

Dear Counsel:

Re: CT-2022-002 Commissioner of Competition v. Rogers Communications Inc. and Shaw Communications Inc.

We are continuing to review your productions. There appear to be many deficiencies and areas for which information is missing. We are writing to advise you of these deficiencies in order to provide you with an opportunity to address them and avoid the necessity of a contested motion. The following list of areas concern us at this stage:

1. Schedule B

There are several hundred documents related to the Respondents' integration plan or that otherwise appear from their titles to be ordinary course business documents, most of which do not have counsel listed as authors, senders nor receivers. We have attached a spreadsheet with such documents. Please provide these documents or the basis upon which Shaw claims that these documents are privileged. For the ones that are privileged, please provide the documents with the privileged portions redacted. In addition, to help assess privilege claims, please provide a list of Shaw's legal counsel who are listed in Schedule B.

2. Specification 7(k)(vii) of the Discovery Plan

There appear to be documents missing in Shaw's production that would be responsive to specification 7(k)(vii) of the Discovery Plan, [REDACTED]

[REDACTED]

3. Documents that cannot be viewed and may be password protected

Shaw's production contains at least 253 documents that cannot be viewed, and contain very limited document properties (including document title and document type). A number of these records in Shaw's production are password protected (such as SJRB-CCB00790183, SJRB-CCB00850346 and SJRB-CCB00850348). Please produce these records in native format or explain why they cannot be produced. Please provide passwords for password protected documents.

Examples of these documents include:

SJRB-CCB00790183	SJRB-CCB00868895
SJRB-CCB00794481	SJRB-CCB00868896
SJRB-CCB00796600	SJRB-CCB00868897
SJRB-CCB00798022	SJRB-CCB00868898
SJRB-CCB00798047	SJRB-CCB00868899
SJRB-CCB00799690	SJRB-CCB00868900
SJRB-CCB00803138	SJRB-CCB00868901
SJRB-CCB00803917	SJRB-CCB00868902
SJRB-CCB00808971	SJRB-CCB00868903
SJRB-CCB00809369	SJRB-CCB00868904
SJRB-CCB00824769	SJRB-CCB00868905
SJRB-CCB00841972	SJRB-CCB00868911
SJRB-CCB00841973	SJRB-CCB00868912
SJRB-CCB00844898	SJRB-CCB00868913
SJRB-CCB00850346	SJRB-CCB00868914
SJRB-CCB00850348	SJRB-CCB00868915
SJRB-CCB00853871	SJRB-CCB00868916
SJRB-CCB00853887	SJRB-CCB00868917
SJRB-CCB00863295	SJRB-CCB00868918
SJRB-CCB00864357	SJRB-CCB00868919
SJRB-CCB00867579	SJRB-CCB00868920
SJRB-CCB00868877	SJRB-CCB00868921
SJRB-CCB00868893	SJRB-CCB00868922
SJRB-CCB00868894	SJRB-CCB00868923

SJRB-CCB00868928	SJRB-CCB00869347
SJRB-CCB00868929	SJRB-CCB00869351
SJRB-CCB00868930	SJRB-CCB00869353
SJRB-CCB00868931	SJRB-CCB00869440
SJRB-CCB00868932	SJRB-CCB00869442
SJRB-CCB00868933	SJRB-CCB00869445
SJRB-CCB00868934	SJRB-CCB00869446
SJRB-CCB00868935	SJRB-CCB00869449
SJRB-CCB00868936	SJRB-CCB00869450
SJRB-CCB00868937	SJRB-CCB00869453
SJRB-CCB00868938	SJRB-CCB00869454
SJRB-CCB00868939	SJRB-CCB00869455
SJRB-CCB00868940	SJRB-CCB00869458
SJRB-CCB00868941	SJRB-CCB00869459
SJRB-CCB00868946	SJRB-CCB00869461
SJRB-CCB00868947	SJRB-CCB00869462
SJRB-CCB00868948	SJRB-CCB00869463
SJRB-CCB00868949	SJRB-CCB00869467
SJRB-CCB00868950	SJRB-CCB00869469
SJRB-CCB00868951	SJRB-CCB00869536
SJRB-CCB00868952	SJRB-CCB00869538
SJRB-CCB00868953	SJRB-CCB00869541
SJRB-CCB00868954	SJRB-CCB00869542
SJRB-CCB00868955	SJRB-CCB00869545
SJRB-CCB00868956	SJRB-CCB00869546
SJRB-CCB00868957	SJRB-CCB00869549
SJRB-CCB00868958	SJRB-CCB00869550
SJRB-CCB00868959	SJRB-CCB00869551
SJRB-CCB00869111	SJRB-CCB00869554
SJRB-CCB00869112	SJRB-CCB00869555
SJRB-CCB00869159	SJRB-CCB00869557
SJRB-CCB00869194	SJRB-CCB00869558
SJRB-CCB00869256	SJRB-CCB00869559
SJRB-CCB00869324	SJRB-CCB00869563
SJRB-CCB00869326	SJRB-CCB00869565
SJRB-CCB00869329	SJRB-CCB00869603
SJRB-CCB00869330	SJRB-CCB00869882
SJRB-CCB00869333	SJRB-CCB00870064
SJRB-CCB00869334	SJRB-CCB00870197
SJRB-CCB00869337	SJRB-CCB00870255
SJRB-CCB00869338	SJRB-CCB00870262
SJRB-CCB00869339	SJRB-CCB00870368
SJRB-CCB00869342	SJRB-CCB00870492
SJRB-CCB00869343	SJRB-CCB00870743
SJRB-CCB00869345	SJRB-CCB00871150
SJRB-CCB00869346	SJRB-CCB00871196

SJRB-CCB00871416
SJRB-CCB00874561
SJRB-CCB00874819
SJRB-CCB00874884
SJRB-CCB00875222
SJRB-CCB00875223
SJRB-CCB00876204
SJRB-CCB00880959
SJRB-CCB00880983
SJRB-CCB00880984
SJRB-CCB00880986
SJRB-CCB00881086
SJRB-CCB00882924
SJRB-CCB00882929
SJRB-CCB00884732
SJRB-CCB00884733
SJRB-CCB00885168
SJRB-CCB00885169
SJRB-CCB00885170
SJRB-CCB00885171
SJRB-CCB00885469
SJRB-CCB00885539
SJRB-CCB00885657
SJRB-CCB00885702
SJRB-CCB00885703
SJRB-CCB00885704
SJRB-CCB00885705
SJRB-CCB00886665
SJRB-CCB00886667
SJRB-CCB00886668
SJRB-CCB00886669
SJRB-CCB00886694
SJRB-CCB00886895
SJRB-CCB00887067
SJRB-CCB00887068
SJRB-CCB00887069
SJRB-CCB00887070
SJRB-CCB00887071
SJRB-CCB00887072
SJRB-CCB00887076
SJRB-CCB00887077
SJRB-CCB00887078
SJRB-CCB00887079
SJRB-CCB00887080
SJRB-CCB00887081
SJRB-CCB00887082
SJRB-CCB00887089
SJRB-CCB00887090
SJRB-CCB00887091
SJRB-CCB00887092
SJRB-CCB00887093
SJRB-CCB00887094
SJRB-CCB00887095
SJRB-CCB00887102
SJRB-CCB00887103
SJRB-CCB00887104
SJRB-CCB00887105
SJRB-CCB00887106
SJRB-CCB00887107
SJRB-CCB00887108
SJRB-CCB00887110
SJRB-CCB00887111
SJRB-CCB00887112
SJRB-CCB00887113
SJRB-CCB00887114
SJRB-CCB00887115
SJRB-CCB00887116
SJRB-CCB00887125
SJRB-CCB00887126
SJRB-CCB00887127
SJRB-CCB00887128
SJRB-CCB00887129
SJRB-CCB00887130
SJRB-CCB00887147
SJRB-CCB00887148
SJRB-CCB00887149
SJRB-CCB00887150
SJRB-CCB00887151
SJRB-CCB00887152
SJRB-CCB00887718
SJRB-CCB00887719
SJRB-CCB00887720
SJRB-CCB00887721
SJRB-CCB00887722
SJRB-CCB00887723
SJRB-CCB00887724
SJRB-CCB00887725
SJRB-CCB00887726
SJRB-CCB00887727
SJRB-CCB00887728
SJRB-CCB00887729
SJRB-CCB00887730

SJRB-CCB00887731	SJRB-CCB00891807
SJRB-CCB00887732	SJRB-CCB00891809
SJRB-CCB00889588	SJRB-CCB00891810
SJRB-CCB00889589	SJRB-CCB00892197
SJRB-CCB00889590	SJRB-CCB00892773
SJRB-CCB00889796	SJRB-CCB00892775
SJRB-CCB00890910	SJRB-CCB00892780
SJRB-CCB00890911	SJRB-CCB00892782
SJRB-CCB00890912	SJRB-CCB00892786
SJRB-CCB00890913	SJRB-CCB00892788
SJRB-CCB00891806	

4. Illegible documents

There are a number of completely or partially illegible documents, in particular those provided in .tif format. Examples include:

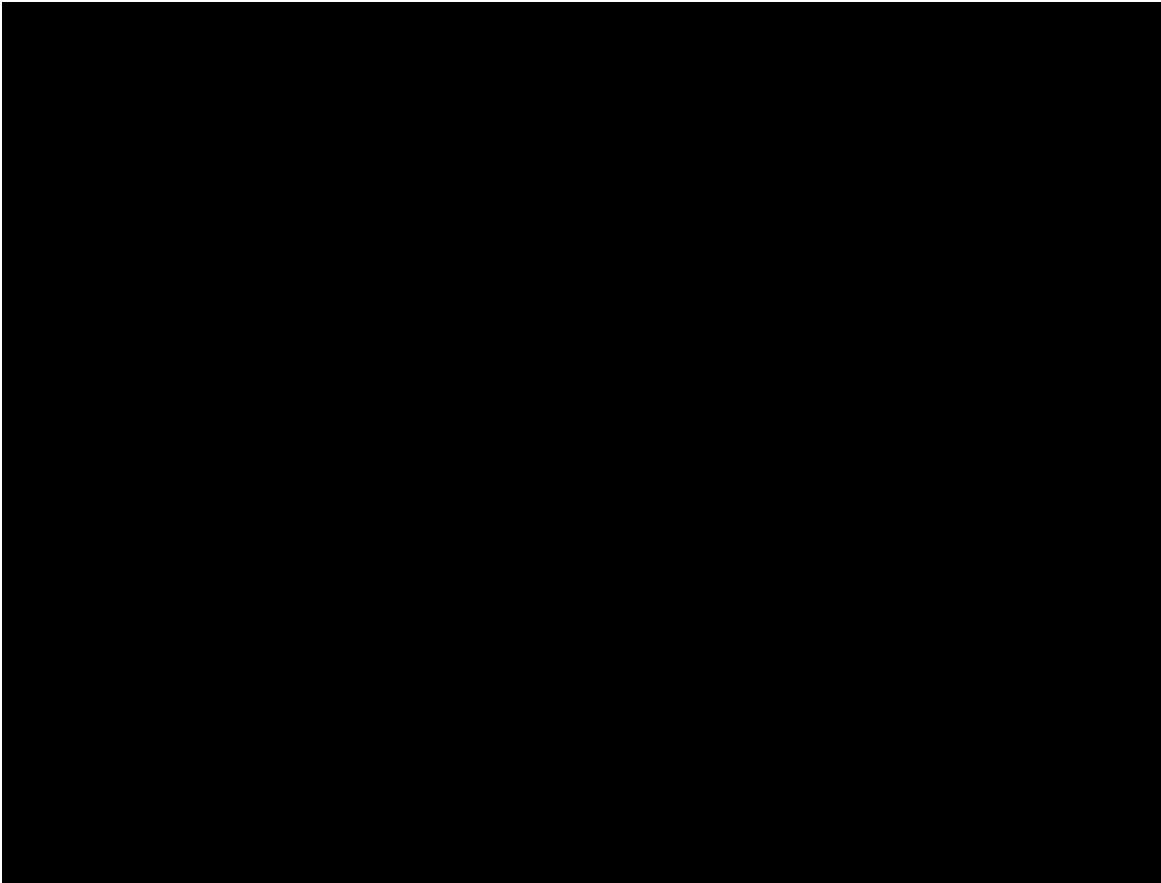
SJRB-CCB00211397	SJRB-CCB00881314
SJRB-CCB00515540	SJRB-CCB00881316
SJRB-CCB00696074	SJRB-CCB00881519
SJRB-CCB00696154	SJRB-CCB00883953
SJRB-CCB00868814	SJRB-CCB00885194
SJRB-CCB00868862	SJRB-CCB00885234
SJRB-CCB00868890	SJRB-CCB00885256
SJRB-CCB00871414	SJRB-CCB00885260
SJRB-CCB00881297	SJRB-CCB00889805
SJRB-CCB00881301	SJRB-CCB00889993
SJRB-CCB00881304	SJRB-CCB00890647
SJRB-CCB00881311	

Please provide legible copies of these documents if they exist.

5. Missing records

The production references SharePoint records that have not been produced. Some of these records have been replaced with plain text references to the document that say “this is a placeholder.” At this stage in our review we have found over 600 documents containing this placeholder language.

One example is the shown in the following screen captures (SJRB-CCB00877368 and SJRB-CCB00877369):



Some additional examples of documents that contain the same error message include:

SJRB-CCB00789590	SJRB-CCB00800797
SJRB-CCB00789591	SJRB-CCB00802089
SJRB-CCB00790539	SJRB-CCB00802091
SJRB-CCB00791447	SJRB-CCB00802615
SJRB-CCB00791448	SJRB-CCB00802617
SJRB-CCB00791449	SJRB-CCB00802643
SJRB-CCB00792932	SJRB-CCB00803135
SJRB-CCB00792990	SJRB-CCB00803137
SJRB-CCB00793940	SJRB-CCB00803355
SJRB-CCB00793941	SJRB-CCB00803379
SJRB-CCB00795860	SJRB-CCB00803652
SJRB-CCB00797347	SJRB-CCB00803655
SJRB-CCB00798339	SJRB-CCB00803656
SJRB-CCB00798340	SJRB-CCB00803657
SJRB-CCB00798341	SJRB-CCB00803658
SJRB-CCB00800376	SJRB-CCB00804484
SJRB-CCB00800535	SJRB-CCB00804546
SJRB-CCB00800606	SJRB-CCB00804716
SJRB-CCB00800607	SJRB-CCB00804717

SJRB-CCB00804965	SJRB-CCB00815053
SJRB-CCB00805209	SJRB-CCB00820398
SJRB-CCB00805210	SJRB-CCB00820399
SJRB-CCB00805211	SJRB-CCB00820400
SJRB-CCB00806091	SJRB-CCB00820401
SJRB-CCB00806092	SJRB-CCB00820462
SJRB-CCB00806094	SJRB-CCB00820492
SJRB-CCB00806175	SJRB-CCB00820746
SJRB-CCB00806176	SJRB-CCB00821146
SJRB-CCB00806177	SJRB-CCB00821174
SJRB-CCB00806364	SJRB-CCB00821755
SJRB-CCB00806709	SJRB-CCB00821756
SJRB-CCB00807101	SJRB-CCB00821757
SJRB-CCB00807102	SJRB-CCB00821828
SJRB-CCB00807103	SJRB-CCB00822488
SJRB-CCB00807104	SJRB-CCB00822864
SJRB-CCB00807317	SJRB-CCB00822865
SJRB-CCB00807423	SJRB-CCB00822905
SJRB-CCB00807424	SJRB-CCB00822981
SJRB-CCB00807426	SJRB-CCB00823965
SJRB-CCB00807428	SJRB-CCB00823967
SJRB-CCB00807740	SJRB-CCB00824003
SJRB-CCB00808419	SJRB-CCB00824359
SJRB-CCB00808420	SJRB-CCB00824766
SJRB-CCB00808423	SJRB-CCB00824768
SJRB-CCB00808424	SJRB-CCB00825704
SJRB-CCB00808873	SJRB-CCB00826066
SJRB-CCB00808963	SJRB-CCB00826068
SJRB-CCB00809158	SJRB-CCB00826113
SJRB-CCB00809403	SJRB-CCB00826277
SJRB-CCB00809405	SJRB-CCB00826278
SJRB-CCB00809639	SJRB-CCB00826461
SJRB-CCB00810488	SJRB-CCB00826754
SJRB-CCB00810490	SJRB-CCB00827165
SJRB-CCB00810531	SJRB-CCB00827658
SJRB-CCB00810615	SJRB-CCB00827659
SJRB-CCB00810999	SJRB-CCB00827666
SJRB-CCB00811000	SJRB-CCB00828385
SJRB-CCB00811596	SJRB-CCB00828998
SJRB-CCB00811597	SJRB-CCB00829000
SJRB-CCB00812221	SJRB-CCB00829001
SJRB-CCB00812222	SJRB-CCB00829003
SJRB-CCB00812509	SJRB-CCB00829069
SJRB-CCB00814824	SJRB-CCB00829121
SJRB-CCB00814825	SJRB-CCB00829214
SJRB-CCB00814827	SJRB-CCB00829271

SJRB-CCB00829272	SJRB-CCB00838134
SJRB-CCB00829273	SJRB-CCB00838136
SJRB-CCB00829274	SJRB-CCB00838289
SJRB-CCB00829277	SJRB-CCB00838622
SJRB-CCB00829310	SJRB-CCB00839190
SJRB-CCB00829385	SJRB-CCB00839197
SJRB-CCB00829491	SJRB-CCB00839200
SJRB-CCB00829493	SJRB-CCB00839201
SJRB-CCB00829495	SJRB-CCB00840459
SJRB-CCB00829553	SJRB-CCB00840970
SJRB-CCB00829570	SJRB-CCB00841289
SJRB-CCB00829854	SJRB-CCB00841688
SJRB-CCB00829856	SJRB-CCB00841853
SJRB-CCB00829973	SJRB-CCB00842085
SJRB-CCB00829975	SJRB-CCB00842126
SJRB-CCB00829977	SJRB-CCB00842318
SJRB-CCB00833193	SJRB-CCB00842324
SJRB-CCB00834639	SJRB-CCB00842331
SJRB-CCB00835667	SJRB-CCB00842398
SJRB-CCB00835669	SJRB-CCB00842399
SJRB-CCB00837602	SJRB-CCB00842400
SJRB-CCB00837930	SJRB-CCB00842405
SJRB-CCB00838044	SJRB-CCB00842513
SJRB-CCB00838045	SJRB-CCB00842515
SJRB-CCB00838046	SJRB-CCB00842545
SJRB-CCB00838048	SJRB-CCB00842615
SJRB-CCB00838050	SJRB-CCB00842616
SJRB-CCB00838051	SJRB-CCB00842617
SJRB-CCB00838052	SJRB-CCB00842734
SJRB-CCB00838053	SJRB-CCB00842735
SJRB-CCB00838054	SJRB-CCB00842757
SJRB-CCB00838055	SJRB-CCB00842926
SJRB-CCB00838056	SJRB-CCB00842972
SJRB-CCB00838104	SJRB-CCB00843764
SJRB-CCB00838105	SJRB-CCB00844755
SJRB-CCB00838112	SJRB-CCB00845480
SJRB-CCB00838114	SJRB-CCB00846452
SJRB-CCB00838116	SJRB-CCB00846572
SJRB-CCB00838119	SJRB-CCB00846606
SJRB-CCB00838120	SJRB-CCB00848483
SJRB-CCB00838121	SJRB-CCB00848525
SJRB-CCB00838122	SJRB-CCB00848642
SJRB-CCB00838123	SJRB-CCB00848660
SJRB-CCB00838124	SJRB-CCB00850100
SJRB-CCB00838125	SJRB-CCB00850110
SJRB-CCB00838126	SJRB-CCB00850111

SJRB-CCB00850113	SJRB-CCB00856708
SJRB-CCB00850134	SJRB-CCB00856814
SJRB-CCB00850135	SJRB-CCB00856817
SJRB-CCB00850144	SJRB-CCB00856818
SJRB-CCB00850151	SJRB-CCB00856819
SJRB-CCB00850159	SJRB-CCB00856820
SJRB-CCB00850160	SJRB-CCB00857150
SJRB-CCB00850162	SJRB-CCB00857228
SJRB-CCB00850163	SJRB-CCB00857229
SJRB-CCB00850165	SJRB-CCB00857230
SJRB-CCB00850195	SJRB-CCB00857238
SJRB-CCB00850204	SJRB-CCB00857245
SJRB-CCB00850205	SJRB-CCB00857246
SJRB-CCB00850239	SJRB-CCB00857481
SJRB-CCB00850240	SJRB-CCB00857553
SJRB-CCB00850241	SJRB-CCB00857554
SJRB-CCB00850248	SJRB-CCB00859081
SJRB-CCB00850282	SJRB-CCB00859095
SJRB-CCB00850284	SJRB-CCB00859096
SJRB-CCB00850775	SJRB-CCB00859098
SJRB-CCB00850885	SJRB-CCB00859235
SJRB-CCB00850895	SJRB-CCB00859752
SJRB-CCB00850997	SJRB-CCB00859753
SJRB-CCB00851105	SJRB-CCB00859755
SJRB-CCB00851306	SJRB-CCB00860033
SJRB-CCB00851456	SJRB-CCB00860210
SJRB-CCB00851547	SJRB-CCB00860453
SJRB-CCB00851633	SJRB-CCB00860454
SJRB-CCB00851634	SJRB-CCB00860461
SJRB-CCB00851876	SJRB-CCB00860462
SJRB-CCB00851918	SJRB-CCB00860465
SJRB-CCB00851919	SJRB-CCB00860466
SJRB-CCB00852089	SJRB-CCB00860516
SJRB-CCB00852902	SJRB-CCB00860518
SJRB-CCB00855114	SJRB-CCB00860806
SJRB-CCB00855119	SJRB-CCB00860985
SJRB-CCB00855259	SJRB-CCB00860986
SJRB-CCB00855265	SJRB-CCB00861014
SJRB-CCB00855391	SJRB-CCB00861220
SJRB-CCB00856032	SJRB-CCB00861222
SJRB-CCB00856034	SJRB-CCB00861878
SJRB-CCB00856305	SJRB-CCB00861885
SJRB-CCB00856307	SJRB-CCB00862117
SJRB-CCB00856320	SJRB-CCB00862199
SJRB-CCB00856566	SJRB-CCB00862200
SJRB-CCB00856568	SJRB-CCB00862201

SJRB-CCB00862232	SJRB-CCB00876813
SJRB-CCB00862351	SJRB-CCB00876834
SJRB-CCB00862401	SJRB-CCB00876835
SJRB-CCB00862403	SJRB-CCB00876837
SJRB-CCB00862712	SJRB-CCB00876893
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SJRB-CCB00862714	SJRB-CCB00876895
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SJRB-CCB00891309	SJRB-CCB00891774
SJRB-CCB00891362	SJRB-CCB00891875

Please provide the missing records or explain why they cannot be produced.

Thank you,




Katherine Rydel
Counsel, Competition Bureau Legal Services

Encl.

cc. John Tyhurst, Derek Leschinsky, Ryan Caron, Jonathan Bitran, Kevin Hong,
Competition Bureau Legal Services

This is **Exhibit "D"** to the affidavit of Kevin McWhinnie, affirmed remotely by Kevin McWhinnie stated as being located in the city of Toronto in the province of Ontario, before me at the city of Gatineau in the province of Quebec, on July 28, 2022, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Commissioner of Oaths etc.

Raha Araz Mohammad
Commissioner of Oaths etc.
Province of Ontario
LSO P15816.

Chanakya Sethi
T 416.863.5516
csethi@dwpv.com

File 281820

July 27, 2022

BY EMAIL

Katherine Rydel
Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau, QC J8X 3X1

Dear Ms. Rydel:

**Commissioner of Competition v. Rogers Communications Inc. and Shaw Communications Inc.
(Case No. CT-2022-002)**

We are in receipt of your letter of July 26 identifying the Commissioner's concerns with certain aspects Shaw's production of July 15, 2022.

We are carefully reviewing the points raised in your letter and expect to provide a more detailed update by the end of the week. At this time, we are able to share the following:

3. Documents that cannot be viewed and may be password protected

We have reviewed each of the 253 documents identified in your letter. Of these documents, we have determined that six are in fact password protected, and we are undertaking reasonable efforts to determine those passwords. With respect to the remainder, these documents are not password protected, but had technical issues. We expect to reproduce a substantial number in short order. For any documents we are unable to produce, we will provide an explanation of the underlying issue.

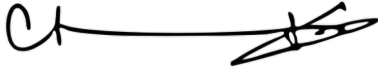
4. Illegible documents

We will reproduce in short order these 23 documents to the extent we are able to locate legible copies.

DAVIES

We hope the above information is helpful. Please do not hesitate to contact me should you wish to discuss further.

Yours very truly,

A handwritten signature in black ink, appearing to be 'C' followed by a long horizontal line and a stylized flourish.

Chanakya Sethi

cc Jonathan Lissus, Crawford Smith, Matthew Law, Bradley Vermeersch,
Lax O'Sullivan Lissus Gottlieb LLP

TAB 3

TAB 3

**The Affidavit of Dean Shaikh affirmed July 15, 2022
has been filed and served separately due to file size.**

CT-2022-002

THE COMPETITION TRIBUNAL

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

MOTION RECORD

**ATTORNEY GENERAL OF
CANADA**

DEPARTMENT OF JUSTICE
CANADA
COMPETITION BUREAU LEGAL
SERVICES

Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau, QC K1A 0C9
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**Counsel to the Commissioner of
Competition**