

Competition Tribunal



Tribunal de la Concurrence

Citation: *Canada (Commissioner of Competition) v Rogers Communications Inc. and Shaw Communications Inc.*, 2022 Comp Trib 10

File No.: CT-2022-002

Registry Document No.: 167

**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

**Rogers Communications Inc. and  
Shaw Communications Inc.**  
(respondents)

and

**Attorney General of Alberta  
Videotron Ltd.**  
(intervenors)



**ORDER ON CONSENT (Confidentiality Designations and Amendment of Confidentiality Order)**

[1] **WHEREAS** the Respondents filed a motion before the Tribunal requesting that all Protected Records designated by the Commissioner as Level “A” under the Confidentiality Order dated May 19, 2022 (the “Confidentiality Order”) be re-designated to Level “B”, including the Protected Records of persons who are not parties to this proceeding (a “non-party”);

[2] **AND WHEREAS** the Commissioner filed a motion to vary the terms of the Confidentiality Order, requesting confirmation from the Tribunal that it has the requisite authority under the current Confidentiality Order to designate all Protected Records to a Level “A”, where warranted;

[3] **AND WHEREAS** the parties have reached an agreement on the contents of this Order without adjudication by the Tribunal;

[4] **AND WHEREAS** nothing in this Order shall affect the Commissioner's Level "A" designation of any non-party's Protected Record;

[5] **AND WHEREAS** the Respondents and the Commissioner have agreed, on a without prejudice basis to their right to return their respective motions before this Tribunal, to adjourn the motions;

[6] **AND WHEREAS** the Respondents and the Commissioner have agreed that the Confidentiality Order requires an amendment to facilitate the exchange of information between the Respondents for the purposes of this proceeding, in the manner contained in this Order.

**THE TRIBUNAL ORDERS THAT:**

[7] Paragraphs 7(a) and (b) of the Confidentiality Order are renumbered as paragraph 7(a)(i) and (ii).

[8] The Confidentiality Order is amended to insert the following new paragraph 7(b):

*Notwithstanding paragraph 7(a)(ii) and the definition of the term "Designated Representatives" found in paragraph 1, as it relates to a Protected Record produced by either Rogers or Shaw and designated at Level "B", the said Protected Record may only be shared with in-house counsel at each of Rogers and Shaw who have executed the Confidentiality Undertaking in the form attached as Schedule A and shall not be disclosed to any other Designated Representative of the Respondents.*

[9] The Respondents' and the Commissioner's respective motions are adjourned, *sine die*; and

[10] The Respondents and the Commissioner shall each bear their own costs related to the issues addressed in this Order.

DATED at Toronto, this 10<sup>th</sup> day of August, 2022.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Andrew D. Little

**COUNSEL OF RECORD:**

For the applicant:

**Commissioner of Competition**

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For the respondents:

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