

**FILED / PRODUIT**

Date: July 20, 2023  
CT- 2022-002

Sara Pelletier for / pour  
REGISTRAR / REGISTRAIRE

Court File No. CT-2022-002

OTTAWA, ONT.

# 856

**THE COMPETITION TRIBUNAL**

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

- and -

ROGERS COMMUNICATIONS INC. and SHAW COMMUNICATIONS INC.

Respondents

- and -

VIDEOTRON LTD.

Intervenor

**AFFIDAVIT OF ELIZABETH FIMIO**

Affirmed July 17, 2023

I, ELIZABETH FIMIO, of the City of Burlington, in the Regional Municipality of Halton,  
AFFIRM:

1. I am a law clerk at the law firm of Bennett Jones LLP ("**Bennett Jones**"), lawyers for the intervenor Videotron Ltd. ("**Videotron**"). As such, I have personal knowledge of the facts set out in this affidavit, except where I indicate herein that my knowledge is based on information provided to me by others or from reviewing a document, in which case I state the source of the information. In all such instances, I believe the information to be true.

2. I affirm this Affidavit in support of Videotron's Bill of Costs dated December 29, 2022 ("**Bill of Costs**"), which was prepared by me in this matter and is attached as **Exhibit "A"**, to establish the disbursements and taxes incurred by Videotron in these proceedings.

3. Pursuant to the Bill of Costs, Videotron is claiming \$103,122.50, as follows:

(a) Disbursements in the amount of \$91,989.41; and

(b) HST on disbursements in the amount of \$11,133.09.

4. These amounts are slightly lower than Videotron's actual disbursements because: (i) of minor calculation errors when totaling amounts and (ii) a minor typo resulted in a slightly lower claim for courier costs in the Bill of Costs. Regardless, Videotron is only claiming for the amount reflected in its Bill of Costs.

5. For purposes of preparing the Bill of Costs and this Affidavit, I relied on the accounting records and files maintained by the firm with respect to this matter.

6. All disbursements and taxes being claimed in the Bill of Costs were billed to Videotron by Bennett Jones with the exception of the e-discovery (database hosting) fees, which were billed directly to Videotron or an affiliate thereof. These disbursements are reflected in Bennett Jones' invoices to Videotron.

#### **PRINTING AND PHOTOCOPIES**

7. Videotron incurred disbursements in the aggregate amount of \$22,816.75 from printing and copying by Bennett Jones with respect to this application as reflected in the table below, but owing to a minor calculation error these costs were listed as \$22,849.60 in the Bill of Costs.

Description of Service	Amount (exclusive of taxes)
Printing	\$9,917.00
Colour Printing (including large documents)	\$12,243.00
Photocopying	\$335.75
Colour Photocopying (including large documents)	\$321.00

8. Bennett Jones charged the following amounts for its printing and copying services:

(a) Printing - \$0.25 per page

(b) Colour Printing - \$0.50 per page.

- (c) Photocopying - \$0.25 per page.
  - (d) Colour Photocopying - \$0.50 per page.
9. The printed and photocopied documents included, but are not limited to:
- (a) Printed copies of Videotron's materials as requested by the Competition Tribunal; and
  - (b) Copies of the parties' witness statements, expert reports, mediation materials, closing materials and other materials for use during the hearing.
10. The large charge for colour printing reflects the large number of exhibits that it was necessary to produce in colour (*e.g.*, presentations) and the need to use colour to indicate levels of confidentiality (*i.e.*, red for Confidential Level A, yellow for Confidential Level B).

### **COURIER CHARGES**

11. Videotron incurred courier charges of \$666.55 related to the delivery of Videotron's materials to Chief Justice Crampton. Attached as **Exhibit "B"** are the invoices in support of the disbursement for courier charges (partially redacted to exclude privileged information relating to other files).
12. However, owing to a typographical error in the Bill of Costs, Videotron only claimed \$66.55 rather than \$666.55. Although Videotron actually incurred costs of \$666.55, it is only seeking \$66.55 consistent with its Bill of Costs.

### **ONLINE LEGAL RESEARCH AND GOVERNMENT SEARCHES**

13. My review of the firm's invoices to Videotron indicates that \$34.00 in legal research costs were incurred with respect to this matter in connection with a request to the Federal Court of Appeal registry to provide copies of three documents in connection with a relevant case. Attached hereto and marked as **Exhibit "C"** are the receipts for the legal research costs.

### **COURT REPORTER/TRANSCRIPT FEES**

14. Videotron incurred disbursements in the aggregate amount of \$42,431.00 in connection with the court reporter and translation services provided by StenoTran Services Inc.

Service Date	Invoice Number	Amount
Week one of Competition Tribunal hearing (November 7-10, 2022)	W-001891	\$8,132.00
Week two of Competition Tribunal hearing (November 14-18, 2022)	W-001902	\$10,354.00
Week three of Competition Tribunal hearing (November 21-25, 2022)	W-001909	\$10,949.00
Week four of Competition Tribunal hearing (November 28-December 2, 2022)	W-001926	\$8,853.00
Week five of Competition Tribunal hearing (December 13-14, 2022)	W-001931	\$4,143.00

15. Each of StenoTran Services Inc.'s invoices sets out the quantity and unit cost of the services provided. Attached as **Exhibit "D"** are copies of the invoices provided by StenoTran Services Inc. in connection with the court reporting and translation services provided.

#### **TRAVEL**

16. My review of the firm's accounting records indicate that Videotron incurred disbursements in the aggregate amount of \$6,350.25, in respect of expenses relating to travel, as follows:

Date	Counsel	Description	Amount	Amount charged to client (excluding GST)	Reason
09/07/2022	Davis, Emrys	Westin Hotel Montreal	CAD \$766.34	CAD \$733.02	Attending discovery with witness
09/07/2022	Davis, Emrys	Beck Taxi	CAD \$22.00	CAD \$19.93	Attending discovery with witness

09/07/2022	Davis, Emrys	Unipayment SVCLimo Taxi	CAD \$50.00	CAD \$48.17	Attending discovery with witness
09/09/2022	Davis, Emrys	Montreal taxi Service	CAD \$52.30	CAD \$50.46	Attending discovery with witness
09/09/2022	Davis, Emrys	Ambassador Taxi	CAD \$40.80	CAD \$36.89	Attending discovery with witness
09/20/2022	Davis, Emrys	Porter Airlines	CAD \$1,038.31	CAD \$983.63	Attending discovery with witness
10/25/2022	Davis, Emrys	Porter Airline	USD \$487.00 (CAD 666.99)	\$666.99	Attending discovery with witness
10/26/2022	Rook, John	Porter Airlines	CAD \$1,150.62	CAD \$1,018.25	Attending mediation in Ottawa
10/26/2022	Rook, John	Ottawa Marriott Hotel	CAD \$382	CAD \$341.58	Attending mediation in Ottawa
10/26/2022	Davis, Emrys	Courtyard by Marriott Ottawa	CAD \$399.23	CAD \$356.10	Attending mediation in Ottawa
10/26/2022	Davis, Emrys	Blue Line Taxi Ottawa	CAD \$37.49	CAD \$33.74	Attending mediation in Ottawa
10/26/2022	Davis, Emrys	Blue Line Taxi	CAD \$8.53	CAD \$7.55	Attending mediation in Ottawa
10/26/2022	Rook, John	Marriott Ottawa Spin Kitchen & Bar	CAD \$59.78	CAD \$53.80	Attending mediation in Ottawa
10/27/2022	Rook, John	Blue Line Taxi Ottawa	CAD \$38.53	CAD \$34.68	Attending mediation in Ottawa

10/27/2022	Davis, Emrys	Capital Taxi	CAD \$23.65	CAD \$21.47	Attending mediation in Ottawa
10/27/2022	Rook, John	Angelo Taxi Service	CAD \$42.55	CAD \$38.29	Attending mediation in Ottawa
11/14/2022	Davis, Emrys	Air Canada	CAD \$1073.34	CAD \$952.74	Attending witness testimony in Montreal
11/16/2022	Davis, Emrys	Ambassador Taxi	CAD \$20.00	CAD \$18.33	Attending witness testimony in Montreal
11/16/2022	Davis, Emrys	Services De Transportation Trust	CAD \$64.86	CAD \$62.29	Attending witness testimony in Montreal
11/18/2022	Davis, Emrys	AC Hotels by Marriott Montreal	CAD \$779.74	CAD \$747.61	Attending witness testimony in Montreal
11/18/2022	Davis, Emrys	Hypra Taxi Quebec	CAD \$57.11	CAD \$55.01	Attending witness testimony in Montreal
11/18/2022	Davis, Emrys	Beck Taxi	CAD \$32.10	CAD \$29.02	Attending witness testimony in Montreal
12/14/2022	Pannu, Alysha	A4U Taxi	CAD \$31.75	CAD \$28.67	File related to travel in Toronto
12/14/2022	Pannu, Alysha	Uber	CAD \$13.59	CAD \$12.03	File related to travel in Toronto

17. Collectively attached as **Exhibit "E"** are copies of the invoices and receipts for travel expenses listed in paragraph 16 in support of the \$6,350.25 disbursement for travel.

### **E-DISCOVERY (DATABASE HOSTING)**

18. I understand, based on my review of invoices issued by Epiq Systems Canada ULC ("**Epiq**") directly to Videotron, that Videotron incurred costs in the aggregate amount of \$47,806.66 in connection with the e-discovery, database hosting services provided by Epiq. With respect to hosting the document database, Epiq charges a monthly fee of \$10 per gigabyte of data per month for a total of approximately 165 gigabytes of data by the end of the trial. Videotron also incurred fees from Epiq for project management services, including processing the documents, and consulting.

19. The disbursement amount is higher than the amount claimed in Videotron's original bill of costs by \$4,699.05 as Epiq's November and December 2022 invoices had not been issued at the time that Videotron delivered its Bill of Costs. Attached as **Exhibit "F"** are copies of the invoices (partially redacted for privilege) provided by Epiq in connection with the e-discovery and database hosting services.

20. Although Videotron incurred total e-discovery costs of \$47,806.66, it is only claiming \$43,107.61 as reflected on its Bill of Costs.

### **HST ON DISBURSEMENTS**

21. Videotron is seeking \$11,133.09 for HST incurred in respect of the disbursements as reflected in its Bill of Costs. For the reasons described above, this is less than the actual HST incurred.

**SWORN** Remotely by Elizabeth Fimio of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on July 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits  
(or as may be)

**Kolding Larson (LSO#85542G)**



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**ELIZABETH FIMIO**