# Competition Tribunal



## Tribunal de la concurrence

Citation: Canada (Commissioner of Competition) v Cineplex Inc., 2023 Comp Trib 05

File No.: CT-2023-003 Registry Document No.: 17

**IN THE MATTER OF** an application by the Commissioner of Competition for one or more orders under sections 74.01 and 74.1 of the *Competition Act*, RSC 1985, c C-34 as amended.

BETWEEN:

**Commissioner of Competition** (applicant)

and

Cineplex Inc. (respondent)



Date of case management conference: July 27, 2023 Before: Mr. Justice Andrew D. Little (Chairperson)

Date of order: August 31, 2023

**SCHEDULING ORDER** 

- [1] **FURTHER TO** an application filed by the Commissioner of Competition (the "**Applicant**" or the "**Commissioner**") on May 18, 2023 against Cineplex Inc. (the "**Respondent**" or "**Cineplex**") (collectively, the "**Parties**") for an order under sections 74.01 and 74.1 of the *Competition Act*, RSC 1985, c C-34 (the "**Application**");
- [2] **AND CONSIDERING** the Tribunal's *Practice Direction Regarding Timelines and Scheduling for Proceedings before the Tribunal* (the "**Timelines Direction**");
- [3] AND CONSIDERING the discussions prior and during a Case Management Conference held on July 27, 2023; the Parties' submission, on August 22, 2023, of a joint proposed schedule for the pre-hearing steps and the hearing of the Application; the Tribunal's suggestions on August 23, 2023, for revisions to the Parties' proposal; and the Parties' agreement to the Tribunal's revisions as confirmed on August 30, 2023;
- [4] AND BEING SATISFIED that the schedule in this Order is appropriate for the proceeding and that it respects the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2<sup>nd</sup> Supp), which direct the Tribunal to deal with all matters as informally and expeditiously as the circumstances and considerations of fairness permit, as well as the Timelines Direction;

#### THE TRIBUNAL ORDERS THAT:

[5] The schedule for the discovery and pre-hearing disclosure steps of the Application shall be as follows:

Friday, August 18, 2023	Service of Affidavits of Documents and delivery of documents by both Parties
Thursday, August 31, 2023	Deadline for filing any motions arising from Affidavits of Documents and/or productions, including motions challenging claims of privilege
Thursday, September 7, 2023	Hearing of any motions arising from Affidavits of Documents, productions and/or claims of privilege
Thursday, September 14, 2023	Deadline for delivery of any additional productions resulting from any Orders on Affidavits of Documents productions and/or claims of privilege motions (or such other date as may be ordered by the Tribunal)
Thursday, October 12, 2023 – Tuesday, October 17, 2023	Examinations for discovery
	The Applicant will have two days of examinations for

discovery on October 16 or 17, 2023

discovery on October 12 and October 13, 2023. The Respondent expects to have one day of examinations for

	discovery
Tuesday, November 14, 2023	Deadline for fulfilling answers to discovery undertakings
Thursday, November 16, 2023	Case Management Conference (if required)
Monday, November 20, 2023	Deadline for filing any motions arising from examinations for discovery, answers to undertakings or refusals
Tuesday, November 28, 2023	Hearing of any motions arising from examinations for discovery, answers to undertakings or refusals
Friday, December 1, 2023	Parties to exchange proposed Agreed Statements of Fact
	Deadline to serve and file Requests to Admit
Thursday, December 7, 2023	Last day for follow-up examinations for discovery arising from undertakings given
Friday, December 8, 2023	Case Management Conference (if required)
Friday, December 15, 2023	Deadline for responding to any Requests to Admit
Monday, January 8, 2024	Applicant to serve documents relied upon and witness statements
	Applicant to serve and file expert report(s), if any
	Applicant to serve list of documents proposed to be admitted without proof, if any
	Witness statements and experts reports to include confidentiality designations; confidentiality designations shall be supported by affidavit evidence justifying confidentiality designations, and the affidavit evidence shall be filed with the Tribunal
Friday, January 12, 2024	Respondent to serve documents relied upon and witness statements.
	Respondent to serve and file expert report(s), if any, on all matters

The Tribunal will have a judicial member available on dates and at times to be agreed to with counsel for the Parties to rule on objections arising during the examinations for

Witness statements and expert reports to include

confidentiality designations; confidentiality designations shall be supported by affidavit evidence justifying confidentiality designations, and the affidavit evidence shall be filed with the Tribunal

Wednesday, January 17, 2024

Deadline for Parties to exchange Mediation Briefs and to deliver them to the Mediator via the Tribunal Registry

Monday, January 22, 2024

Mediation

Monday, January 29, 2024 Applicant to serve reply documents relied upon and reply witness statements

Applicant to serve and file reply expert report(s), if any

Reply witness statements and expert reports to include confidentiality designations; confidentiality designations shall be supported by affidavit evidence justifying confidentiality designations, and the affidavit evidence shall be filed with the Tribunal

Deadline for filing any motions related to the evidence (documents relied upon, witness statements and expert reports, and confidentiality designations)

Deadline to provide witness statements to the Tribunal

Noon (12 pm) deadline to provide documents to the Tribunal for use at the hearing (e.g., Agreed Books of Documents and Joint Briefs of Authorities), including read-ins from examinations for discovery

Deadline for delivering any Agreed Statement of Facts

Hearing of any motions related to the evidence (documents relied upon, witness statements and expert reports, and confidentiality designations)

The Tribunal will also hear Parties' submissions on their respective proposed confidentiality designations to determine whether they should be maintained

Pre-hearing Case Management Conference (if required)

Friday, February 2, 2024

Monday, February 5, 2024

Wednesday, February 7, 2024

Friday, February 9, 2024

- [6] The evidentiary portion of the hearing of the Application shall commence at 10:00 am on Wednesday, February 14 and conclude on Wednesday, February 21, 2024, in person in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa. The Tribunal will not sit on Monday, February 19, 2024.
- Parties will serve and file written argument as directed by the Tribunal (but no later than noon on Monday, February 26, 2024). The Tribunal will hear oral argument on Wednesday, February 28<sup>th</sup> and Thursday, February 29, 2024, in person in the Hearing Room of the Tribunal located at 600-90 Sparks Street, Ottawa.

DATED at Ottawa this 31st day of August 2023

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Andrew D. Little

#### **COUNSEL OF RECORD:**

For the applicant:

#### **Commissioner of Competition**

Jonathan Hood Irene Cybulsky Adam Newman

For the respondent:

### **Cineplex Inc.**

Robert S. Russell Martin Abadi Joshua Abaki Raymond Ashurov