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CT- 2023-003

Annie Ruhlmann for / pour
REGISTRAR / REGISTRARIE

OTTAWA, ONT.

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CT-2023-003

THE COMPETITION TRIBUNAL

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

AND IN THE MATTER OF an Application by the Commissioner of Competition for an order under sections 74.01 and 74.1 of the *Competition Act*, RSC 1985, c C-34.

BETWEEN:

COMMISSIONER OF COMPETITION

Applicant

- and -

CINEPLEX INC.

Respondent

AGREED STATEMENT OF FACTS

1. Cineplex¹ is a top-tier Canadian brand that operates in the film entertainment and content, amusement and leisure, and media sectors.
2. Cineplex is Canada's largest and most innovative film exhibitor.
3. As of December 31, 2023, Cineplex owned, leased or had a joint venture in 1,631 screens in 158 theatres from coast to coast.
4. In 2022, Cineplex had revenues of \$1,268,562,000.
5. In 2023, Cineplex had revenues of \$1,388,894,000.
6. Cineplex is a partner in Scene+, Canada's largest entertainment and lifestyle loyalty program.
7. Scene+ members earn points on a variety of movie, entertainment, refreshment and other purchases at Cineplex theatres across Canada.

¹ Defined terms have the meaning ascribed to them in the Notice of Application and Reply.

8. CineClub is Cineplex's movie subscription program.
9. CineClub was launched in the third quarter of 2021.
10. CineClub provides benefits to its members such as one free movie ticket every month, discounts at concessions and no Online Booking Fees.
11. Consumers must be Scene+ members to join CineClub.
12. CineClub members currently pay a monthly fee of \$9.99 plus tax or an annual fee of \$119.88 plus tax.
13. On June 15, 2022, Cineplex introduced an Online Booking Fee.
14. The Online Booking Fee generated \$11,678,336 in 2022.
15. The Online Booking Fee generated \$5,200,872 during the first quarter of 2023.
16. The Online Booking Fee generated \$7 million during the second quarter of 2023.
17. The Online Booking Fee generated \$9.9 million during the third quarter of 2023.
18. The Online Booking Fee generated \$5.2 million during the fourth quarter of 2023, for a total of \$27.3 million in 2023.
19. The Online Booking Fee is waived for CineClub members.
20. When the Online Booking Fee was introduced, Scene+ members, who were not CineClub members, were unable to redeem Scene+ points towards the Online Booking Fee, a payment was required in order to proceed. As of August 11, 2022, Scene+ points could be redeemed towards the payment of the Online Booking Fee.
21. The Online Booking Fee does not apply to movie tickets purchased at Cineplex's theatres (box office, concessions and kiosks).
22. The Commissioner did not receive any complaints, from any members of the public, regarding the Online Booking Fee prior to the issuance of the Notice of Application.
23. The Commissioner does not have any written record of any complaints from any members of the public regarding the online booking fee received prior to issuance of the Notice of Application.
24. After the Notice of Application was filed, the Commissioner received seven complaints regarding the Online Booking Fee.

25. Cineplex advertises the movies and event cinema titles on the landing page of Cineplex.com, but movie ticket prices are not displayed on that page.
26. Consumers must create a “Cineplex Connect” account in order to access the webpages or the App that advertise movie ticket prices.
27. Before entering the “Tickets” page, consumers must select a movie, movie theatre, the date and time of the movie, an experience type (e.g. IMAX, 3D etc.) and log into or already be logged into their Cineplex Connect account .
28. The “Tickets” page, on the Website or in the App, is the first page where Cineplex advertises movie ticket prices.
29. Consumers may enter additional information on the Tickets page, such as their Scene+ membership number and any promotional code which they wish to use.
30. Upon clicking on the information icon on the “Tickets” page, a pop-up window comes up on the screen.
31. A consumer cannot proceed with an online movie ticket purchase until they select a movie ticket on the “Tickets” page and also click “PROCEED”.
32. If a consumer clicks the PROCEED button without selecting a movie ticket a warning pop-up appears, and the consumer may not proceed with the purchase transaction until a movie ticket is selected.
33. The timer automatically resets on each new page as the consumer progresses through the purchase transaction.
34. Consumers who click on the PROCEED button in the floating ribbon on the “Tickets” page proceed to the “Seat Selection” page.
35. Consumers who click on the PROCEED button in the floating ribbon on the “Seat Selection” page proceed to the “Payment Options” page.
36. Consumers who click on the PROCEED button in the floating ribbon on the “Payment Options” page proceed to the “Payment” page.
37. If a consumer adds their Scene+ membership number to their Cineplex Connect account, the consumer’s status as a Scene+ member will be known to Cineplex, whenever the account is used, unless the Consumer subsequently removes the number from their profile.
38. Cineplex does not admit that it has made representations that fall under subsection 74.01 of the Act, but does not contest that it makes representations as

to the prices for movie tickets, and that they constitute representations for the purpose of promoting the supply of a product or any business interest.

39. Cineplex does not admit that it has made representations that fall under subsection 74.01 of the Act but does not contest that its prices for movie tickets constitute representations to the public.
40. Cineplex does not admit that it has made representations of a price that is not attainable under subsection 74.01(1.1) of the Act but admits that the Online Booking Fee is not imposed by or under an Act of Parliament or the legislature of a province.
41. A seat reservation must be made with both an online purchase of movie tickets or an at-theatre purchase of movie tickets (box office, concessions or kiosk).
42. Cineplex began offering advanced seat selection in all of its theatres to help ensure social distancing during the pandemic commencing in or around June 2020.
43. Consumers' ability to purchase movie tickets as close to, or as far in advance of a movie's showtime as possible is the same, whether the purchase is made at the theatre or online using the Website or App.

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