

**FILED / PRODUIT**

Date: November 27, 2025  
CT- 2025-006

Sarah Sharp-Smith for / pour  
REGISTRAR / REGISTRAIRE

Court File No.: \_\_\_\_\_

OTTAWA, ONT.

# 6

**COMPETITION TRIBUNAL**

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

**AND IN THE MATTER OF** an application by 8X Labs Inc. for an order pursuant to Section 103.1 of the Act granting leave to bring an application under Sections 75, 76, 77 and 79 of the Act.;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 75 of the Act.;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 76 of the Act.;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 77 of the Act.;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 79 of the Act.;

**BETWEEN:**

**8X LABS INC.**

Applicant

-and-

**VISTAR MEDIA INC.**

Respondent

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**PROPOSED NOTICE OF APPLICATION**

(Pursuant to Sections 75(1), 76(2), 77(2) and 79(1) of the *Competition Act*)

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**TAKE NOTICE THAT:**

The Applicant will make an application to the Competition Tribunal (the "**Tribunal**") pursuant to Section 103.1 of the *Competition Act* (Canada) (the "**Act**") for:

- a) an order pursuant to subsections 75(1) and 75(1.2) of the Act:
  - i. requiring the Respondent to accept the Applicant and any of its affiliates as a customer of the Respondent's supply side platform for programmatic ad serving on the terms that the Tribunal considers appropriate; and
  - ii. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its refusal to deal with the Applicant, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
  
- b) an order pursuant to subsections 76(2) and 76(11.1) of the Act, if an order has not been made against the Respondent under Section 79 of the Act:
  - i. requiring the Respondent to accept the Applicant and any of its affiliates as a customer of the Respondent's supply side platform for programmatic ad serving within within 15 days of the Tribunal's order, on usual terms;
  - ii. prohibiting the Respondent from continuing to engage in restrictive and discriminatory price maintenance related practices against the Applicant;
  - iii. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its restrictive price maintenance related conducts, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
  
- c) an order pursuant to subsections 77(2) and 77(3.1) of the Act:
  - i. prohibiting the Respondent from continuing to engage in tied selling with respect to its CMS ad server and ad exchange products and containing any

- other requirement that, in the opinion of the Tribunal, is necessary to overcome the effects thereof in the market or to restore or stimulate competition in the market;
- ii. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its conduct of tied selling, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
- d) an order pursuant to subsections 79(1), 79(2), 79(3.1) and 79(4.1) of the Act:
- i. prohibiting the Respondent from continuing to engage in the anti-competitive practice described herein and from engaging in any other practices with the same purpose and effect in Canada; and
  - ii. alternatively or additionally, requiring the Respondent to divest the Respondent's publisher CMS ad server, namely Vistar Cortex, from Vistar's ad exchange, namely its sell-side platform and demand-side platform, along with any additional structural relief as needed to restore competition and overcome the effects of the Respondent's anti-competitive practice in Canada;
  - iii. directing the Respondent to pay an administrative monetary penalty not exceeding the greater of (i) \$25 million dollars, (ii) three times the value of the benefit derived from the Respondent's anti-competitive practice, or if that amount cannot be reasonably determined, (iii) 3% of the Respondent's annual worldwide gross revenues;
  - iv. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its conduct of abuse of dominant position, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
- e) an order directing the Respondent to pay costs; and

f) such further and other relief as the Applicant may request and the Tribunal may consider appropriate.

**AND TAKE NOTICE** that the Applicant requests that the hearing of this matter be held in Montreal, Québec or in such other location determined by the Tribunal, and that it be heard in English and French and that the documents for this Application be filed in electronic form.

**AND TAKE NOTICE** that the timing and place of hearing of this matter shall be fixed in accordance with the practice of the Tribunal;

Dated at Montreal this 27<sup>th</sup> day of November, 2025

*LCM Attorneys Inc.*



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## I. OVERVIEW

1. The Applicant seeks leave to commence an application to the Competition Tribunal against the Respondent pursuant to Section 103.1 of the *Competition Act* (the “Act”). The Applicant’s proposed application alleges that the Respondent has violated Sections 75, 76, 77 and 79 of the Act by (i) refusing to supply digital advertisements through its programmatic supply side platform, (ii) implementing price maintenance schemes by refusing to offer access to its programmatic supply side platform because of the Applicant’s low pricing policies for its technology offering, (iii) requiring the Applicant to substitute its own ad server technology with the Respondent’s ad server technology in order to access its programmatic supply side platform (tied selling), (iv) abusing its position of dominance in the market concerned with this Application, and (v) implementing other practices of anti-competitive acts towards the Applicant and other persons involved in the market concerned with this Application.
2. The Respondent, Vistar Media, Inc. (“Vistar”), a U.S. company doing business in Canada, is the leading global provider of technology solutions for digital out-of-home (“DOOH”) media.
3. According to Vistar itself, Vistar hosts the world’s most extensive digital out-of-home inventory globally, offering the scale, data and expertise that allow brands to capture a better kind of attention. With a full suite of platforms to choose from – demand-side platform, supply-side platform, ad server, player, and traditional Out-of-Home (“OOH”) planning tool – Vistar has built the world’s largest marketplace for OOH transactions. Headquartered in New York, Vistar has a presence in more than 30 countries, including Canada, working with hundreds of brand marketers and media owner networks to power an OOH that’s both timeless and future-proof.
4. The Applicant was founded by Dionne and Benoit who spent seven years researching, developing and marketing products through 8X Labs Inc. for

better, more affordable and innovative ad serving technologies for the DOOH market. In the context of its business endeavor, the Applicant has had the support of private and public funding including funding from the Federal program of the National Research Council Canada (NRCC), the *Ministère de l'économie, de l'innovation et de l'énergie* (MEI) in the Province of Québec and the City of Montreal.

5. The Respondent, Vistar Media Inc. ("Vistar" or the "Respondent") is the leading global provider of technology solutions for digital out-of-home ("DOOH") media.
6. As will be shown below, the Respondent has deliberately and knowingly, at its highest instances, implemented restrictive trade practices in violation of the provisions of the *Competition Act (Canada)* including (i) by refusing to deal with the Applicant, (ii) by imposing tied selling requirements, (iii) through discriminatory price maintenance conduct and (iii) abusing its position of dominance in the programmatic DOOH market in respect of the Applicant and other persons.
7. These practices were implemented in order to, *inter alia*, squeeze the Applicant's business margin and prevent competition from the Applicant and other persons, therefore substantially lessening and preventing competition in the DOOH market as well as eliminating and forcing the Applicant out of the DOOH market both in Canada and in the United States. By restricting fair competition in the DOOH ad serving market in Canada, the Respondent has limited the access to more affordable and innovative technology ad serving offerings for media owners and public venues in Canada.
8. The analogy of this case with the Google abuse of dominance case in online advertising technology introduced by the Commissioner of Competition on

November 28, 2024 (“Google Programmatic Advertising Case”)<sup>1</sup>, is staggering. Similar to how Google used tactics to limit competition in Canada in the online advertising market, the Respondent’s conduct prevented fair and open competition in the DOOH ad serving market in Canada. But Vistar went further by deliberately and aggressively targeting the business of the Applicant to eliminate its competing offerings both in the Canadian and U.S. DOOH markets.

9. The Applicant will demonstrate to the Tribunal that its products had achieved a strong “product market fit” with media owners both in Canada and in the United States
10. The Applicant, its business model and its technology offering were deliberately targeted with restrictive and unlawful practices by Vistar with the goals of limiting the Applicant business opportunities and growth, choking its source of revenue, disparaging the Applicant’s innovative solutions with customers and prospective customers, and even force the Applicant out of the market in order to further grow Vistar’s dominant DOOH business in Canada and worldwide.
11. The Applicant brings this application to put an end to Vistar structural dominance and anti-competitive practices such as refusal to deal practices with competitors of its ad serving solutions, discriminatory price maintenance conduct and tied selling practices to force media owners to use its ad serving solutions to access its programmatic ad exchange. This application against Vistar is necessary to restore competition to DOOH advertising markets, and safeguard against further harm to competition in the future in the Canadian market. Absent an order from this Tribunal, Vistar will continue to engage in anti-competitive practices and conduct that will lead to increased market power. Vistar would thus be able to continue,

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<sup>1</sup> *Commissioner of Competition v Google Canada Corporation and Google LLC* [CT-2024-010]

unchecked, to reduce the rivalry between it and those competitors who remain in the relevant markets, or even force out further innovative technology from the market as it did with the Applicant and other Canadian companies, as well as prevent new competition from entering the market. Competition in the markets in question will continue to be substantially lessened and prevented, thereby raising costs, reducing choice, and stifling innovation, to the detriment of media owners, advertisers and Canadians more generally.

12. The recent acquisition of Vistar by T-Mobile, a giant U.S. telecommunication company, will further increase Vistar's dominant position in the DOOH market and may very well exacerbate its systemic policies of restrictive trade practices against competitors of ad serving technology in such markets.

## **II. MATERIAL FACTS AND CONTEXT**

### **A. The Business and Market Context**

13. 8X Labs Inc. ("8X") is a Canadian corporation incorporated on March 7, 2018 under the Canada Business Corporations Act. Its head office is located in Montreal (Québec).
14. Frédéric Dionne ("Dionne") is a corporate lawyer and entrepreneur who co-founded 8X together with Martin Benoit ("Benoit"), a software developer and technology entrepreneur. Dionne is a board member of 8X.
15. Together, Dionne and Benoit were the controlling shareholders of 8X – Dionne and Benoit held, directly or indirectly, 98.73% of the issued and outstanding shares of 8X – and full-time executives running the operations of 8X, Dionne being its former President and Benoit being its former Chief Technology Officer. Dionne and Benoit spent seven years researching, developing and marketing DOOH ad technology solutions through 8X Labs Inc.

16. 8X, as a new technology startup, was admitted to the CENTECH startup program in Montreal in September 2018. It was then selected with a few other finalists to join the CENTECH Propulsion program as a technology company showing great potential.
17. 8X was initially funded by Dionne, Benoit, as well as two private investors and various grants obtained from the CENTECH, the Federal government, the Québec Government and the City of Montréal.
18. The Applicant saw a business opportunity to bring programmatic advertising technology to the market of digital out-of-home (“DOOH”). DOOH refers to advertising and media displayed on digital screens owned or leased by media network owners (“Media Owners”) in public locations and venues, outdoor and indoor, but outside people’s homes. Unlike traditional static billboards, DOOH uses dynamic, digital displays—such as LED screens, digital billboards, and signage in venues like malls, airports, bus stops, gyms, sports centers, restaurants, clinics, elevators, and more.
19. 8X has developed a unique turnkey solution that allows Media Owners of traditional out-of-home media networks to upgrade and improve their advertising solutions in their venues. 8X provided Media Owners with a complete set of technological features as well as a new source of revenue with programmatic advertising.
20. Programmatic advertising is the automated buying and selling of digital ad space using technology, data, and algorithms.
21. Instead of relying on manual negotiations like Media Owners would do traditionally—like contacting publishers, sending insertion orders, and placing ads directly — programmatic advertising uses software platforms to instantly place ads across thousands of websites, apps, videos, and social media in (i) the online market (i.e. the market Google is operating in) and

(ii) the DOOH market (i.e. the market the Applicant, the Respondent and Media Owners are operating in).

22. To summarize how programmatic advertising works:
- a. Advertisers configure an ad campaign and set goals, budgets, and audience targets in a demand-side platform;
  - b. Publishers (in the DOOH market, these are the venues which are often managed by a Media Owner) set up and configure their display inventory, including the type of screens, their location and their audience data, on a supply-side platform (“SSP”);
  - c. Ad exchanges act as marketplaces between the demand-side platform and the SSPs, where impressions (opportunities to show ads) are auctioned in real-time;
  - d. A media player (i.e. a mini computer) is connected to each digital screen located in the venues managed by a Media Owner; the media player which runs content management systems and ad server software, will then make ad requests to all the SSPs the ad server is connected to; those SSPs then send their own ad requests to the Ad exchanges and standby for any bids that may come from advertisers;
  - e. The demand-side platform then bids, on behalf of advertisers, for an ad spot if the venue where the ad will be displayed matches the advertiser’s ad campaign requirements;
  - f. The highest bidder wins, and the ad is instantly shown on a screen located in the targeted venue;
  - g. The media player running the ad server returns a “proof of play” to confirm that the ad has been displayed on the targeted screen;
  - h. This whole process occurs in a few seconds only.

23. Generally speaking, in a programmatic ad sale, the demand-side platform earns revenue by taking a cut expressed as a percentage of the ad value from the advertiser buying the ad spot (ex: 10%), and the SSP earns revenue by taking a cut expressed as a percentage of the ad value from the publisher selling the ad spot (ex: 15%). The demand-side platform and SSP are often run and controlled by the same organisation.
24. The Respondent owns and operates its own proprietary demand-side platform for DOOH advertising.
25. The Respondent's demand-side platform is offered alongside its own proprietary SSP, enabling a full end-to-end programmatic ecosystem for out-of-home advertising.
26. The concept of programmatic advertising is discussed in length in the Google Programmatic Advertising Case.
27. The present case is very similar to the Google Programmatic Advertising Case but takes place in the programmatic DOOH market as opposed to the programmatic online market. The technology stacks in both cases are very similar, but the market players are different.
28. Figure 1 below provides a general overview of six (6) components of the programmatic and ad tech ecosystem in the DOOH market. The Respondent provides and controls an end-to-end ad technology solution that encompasses components A, B, C, D and E. The Applicant developed and commercialized ad technology solutions and related services for component D and E only. The F component highlights direct sales made by publishers (Media Owners) usually with local advertisers, which has been the traditional method of selling display advertising before the advent of programmatic advertising in the DOOH market.

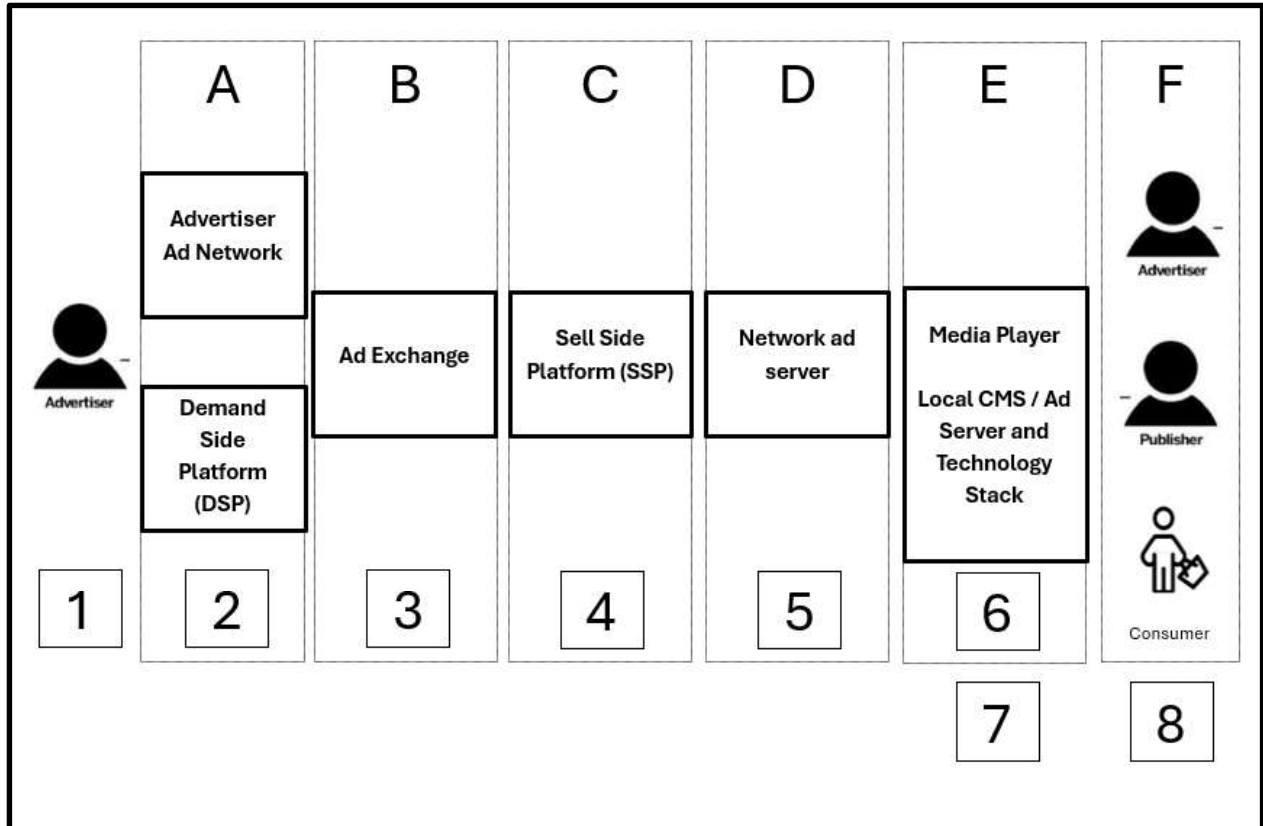


Figure 1 - Overview of Programmatic DOOH Components and Products and Related Services

29. In the DOOH market, we can summarize in a simplistic view the distribution process of an advertisement from an advertiser to a consumer, as displayed on digital screens located in a venue, through eight (8) products which include their related services as follows - see Figure 1:
- a. Product 1 is the advertisement which is represented with a digital file of a picture or video;
  - b. Product 2 is the demand side platform which receives the advertisement request;
  - c. Product 3 is the ad exchange which (i) connects the advertisement request with several supply requests and (ii) manages the real-time bidding process;
  - d. Product 4 is the sell side platform which sends a supply request;

- e. Product 5 is the network ad server which manages all advertisement supply requests across all connected platforms;
  - f. Product 6 is the CMS (Content Management System) ad server that runs the software on a media player installed at a venue;
  - g. Product 7 is the media player, a mini computer that turns on and off a digital screen and manages the display of content on such a screen as well as the measurement of audience data in some cases;
  - h. Product 8 is the digital screen that is connected to the media player and serves the advertisement to a consumer present in a venue managed by a Media Owner.
30. All these products used in the process of digital advertisement distribution cannot be dissociated from one to another. They are all connected and necessary to complete the end-to-end distribution of programmatic advertisement in a DOOH setting.
31. The Applicant's business model aggregates display inventory from several Media Owners (its customers) and then integrates its network ad server (Product 5) only once with programmatic supply side platforms, including the Respondent's SSP (Product 4). This approach creates economies of scale because the Applicant's customers do not have to handle a similar integration to the SSPs. Once that software integration is done, the Applicant onboards to the SSPs the display inventory of all Media Owners it signs up to its service.
32. This approach is beneficial to SSPs in a market with sufficient and fair competition because it helps them scale their network and speed up, at no extra costs for the owner of the SSP, the aggregation of display inventory which advertisers can then bid on to distribute advertisements to consumers via the 8X technology. It may however be detrimental to such owner's CMS

ad server division (if it operates one) because such product is no longer needed for Media Owners who use the 8X technology.

33. The revenues of the SSP division will necessarily fluctuate based on, among other things, the demand from advertisers and the available display inventory from Media Owners. However, the revenues of the CMS ad server division are more stable because they are fixed and recurring every month, whether the Media Owners earned any programmatic revenue or not. This is one reason why the Respondent wanted to aggressively pursue the growth of its CMS ad server: lock Media Owners for several years to increase its recurring revenue base. It would also please its venture capital investors.
34. Media Owners have three (3) options to access the Respondent's SSP:
  - a. Use their own software and integrate it to the Respondent's SSP and other SSPs;
  - b. Use the Respondent's proprietary CMS ad server; or
  - c. Use a competing CMS ad server, such as the 8X ad server, that is already integrated with the Respondent's SSP as well as other available SSPs.
35. Option 1 is prohibitive for the vast majority of Media Owners because of its overall complexity and integration costs from a software and hardware perspective.
36. Option 2 requires a significant financial commitment from Media Owners. This commitment can be prohibitive for new entrants in the market and those who operate small to mid-size networks, and it lacks an immediate connection to other competing SSPs and some popular features offered by option 3.

37. Option 3 is the most flexible and affordable option for most small and mid-size Media Owners because, inter alia, (i) the Applicant does not require any financial commitment from Media Owners - there is no monthly recurring fee to be paid for the CMS ad server but only a commission every time a programmatic ad is displayed on their screens (and most importantly, there is no fee for ads obtained through direct sales), (ii) the Applicant is connected to all competing SSPs, not only the Respondent's SSP, therefore increasing the odds for Media Owners of receiving programmatic revenue, (iii) the Applicant has integrated its technology into compatible media players which it provides to Media Owners, therefore offering a simple "plug and play" solution to Media Owners, (iv) the Applicant's onboard free of charge all the Media Owners's display inventory to its own CMS ad server and to the SSPs it is connected to (this requires a significant amount of work for the Applicant), (v) the CMS ad server offers free infotainment for their customers as well as additional features in the segment they operate (for instance the management and display of game schedule information in sports centers), and (VI) the Applicant offers related services free of charge such as network monitoring and network and media player support.
38. The technology developed by 8X was launched at a time where the share of programmatic advertising relative to all digital advertising in the DOOH market was in the low single digits (i.e. under 10% back in 2019). The growth of programmatic DOOH has been exponential since then and according to certain estimates the share of programmatic DOOH advertising automated by software relative to all categories of DOOH advertising is now more than 50% according to certain estimates (online, it is more than 80% according to certain estimates).
39. Vistar has been the no. 1 winner of this growth in the DOOH market. However, in order to achieve its leading and dominant position both in Canada and in the United States, Vistar, with the knowledge and the vetting of its executive team including the CEO of Vistar and the managing director

of Vistar in Canada, knowingly and intentionally implemented restrictive trade practices, anti competitive, disparaging, unfair and illegal conducts towards the Applicant and other persons involved in the DOOH market as is discussed further below.

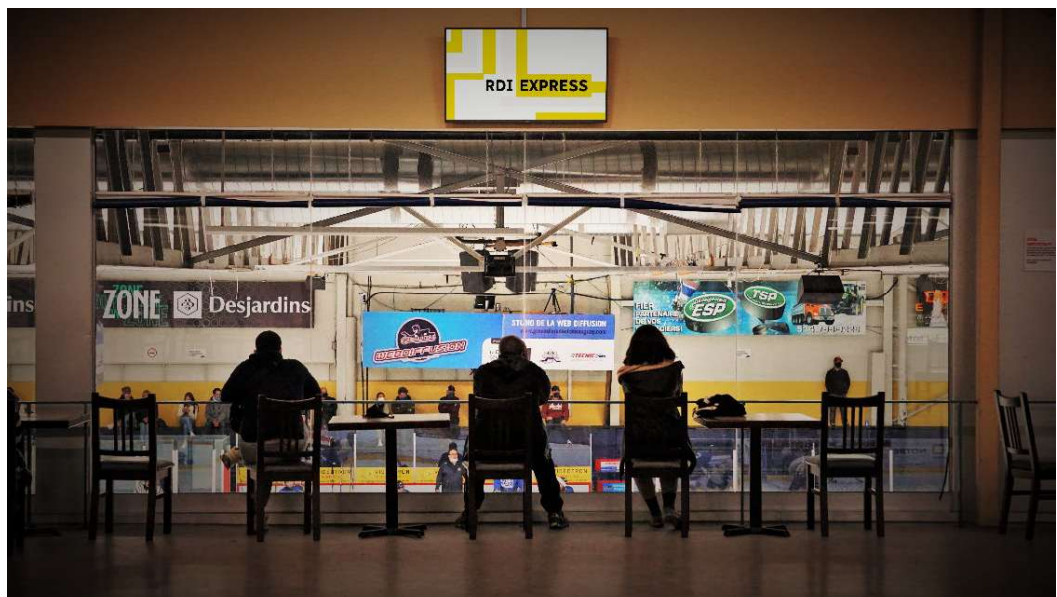
40. Programmatic advertising is usually requested to the ad serving platforms when display inventory has not been sold in full to local advertisers and ad agencies, directly by the Media Owner through its direct sales process. This unsold display inventory is often called “remnant inventory”. Depending on the network, remnant inventory may often represent up to 50% of all the display inventory available on each screen installed in a venue.
41. For indoor venues, the market in which 8X operated in, the odds that all the display inventory has been sold by the Media Owners through direct sales to local advertisers are extremely low. This is where programmatic advertising becomes relevant and important for Media Owners. Programmatic will automatically monetize any remnant inventory without affecting the inventory sold directly by Media Owners. This programmatic option represents a very important value for Media Owners because remnant inventory would not be monetized without it.
42. 8X made the bulk of its revenues by monetizing programmatically the remnant inventory available on screens managed by Media Owners. Depending on the terms of the contract entered into between 8X and a Media Owner, 8X could be entitled to (i) earn 100% of the revenues earned from programmatic advertising, up to a certain percentage of all available impressions or (ii) earn a portion of the revenues with the Media Owners on all the remnant inventory that was monetized through programmatic advertising. A portion of the screen time was also allocated to infotainment which included various news and entertainment content updated everyday through 8X MRSS (media RSS) internet feed as well as content provided by the Media Owner and its partners.

43. The ad server developed by 8X is a dynamic system as opposed to the loop-based system traditionally used in DOOH advertising. A loop-based system will have a pre-determined number of available slots to play content and ads. For instance, the loop-based system could be configured to have 7 slots for promotional content inserted by the Media Owner and 3 slots available for ads. A dynamic system adapts in real time the display of content and ads based on demand from the SSPs rather than based on fixed ad slot rotations.
44. With a dynamic ad server system powered by algorithms developed by 8X, 8X is able to provide a more efficient and optimized monetization system that increases programmatic ad serving requests in periods of high demand from SSPs and lower programmatic requests in periods of low demand from SSPs. 8X ensures to pre-cache (i.e. download in advance) all ad content on its media players in order to offer a seamless experience to the audience visiting venues, once an ad was requested to be served by an SSP.
45. 8X earns revenue, based on a CPM pricing (Cost per thousand ads) determined as part of the bidding process between the SSP and demand-side platform, for every programmatic ad that was served by the 8X ad server, multiplied by an audience multiplier applicable to each venue. Revenue would be paid to 8X by the SSPs usually 90 days after the ads were served.
46. From its business inception to the end of 2024, approximately 80% of all business revenue generated by 8X was from commissions earned on programmatic ad serving in venues managed by its Media Owner customers.
47. The 8X business model was a great fit with Media Owners as they could manage, at no cost from a technology perspective, their own promotional content and ad campaigns with local advertisers therefore improving their revenue and margins. Media Owners who earn more revenue this way

could then expand their business footprint to more venues, add more screens and improve the customers' experience at their venues. It was a win-win business relationship for all participants.

48. On March 20, 2020, 8X signed a first five-year contract with Sports Media Inc. ("Sports Media"), a leading Media Owner in the Province of Québec offering traditional and digital advertising in more than 50 venues (arenas) in more than 30 cities serving up to 500 million available impressions annually in the Province of Québec. The Sports Media contract provided that 8X would also provide the media players to Sports Media free of charge. In subsequent agreements with other Media Owners, media players had to be purchased by Media Owners for cost plus a small margin.
49. Below are three examples of how the 8X technology was used in the Sport Media arena network.





50. In March of 2020, most venues targeted by 8X, including those managed by Sports Media, were locked down by the government as a result of the COVID pandemic.
51. During that period, 8X continued the development of its technology based on Media Owner feedback and proceeded to connect its ad server to the then three DOOH SSP available in Canada: Vistar, Hivestack and

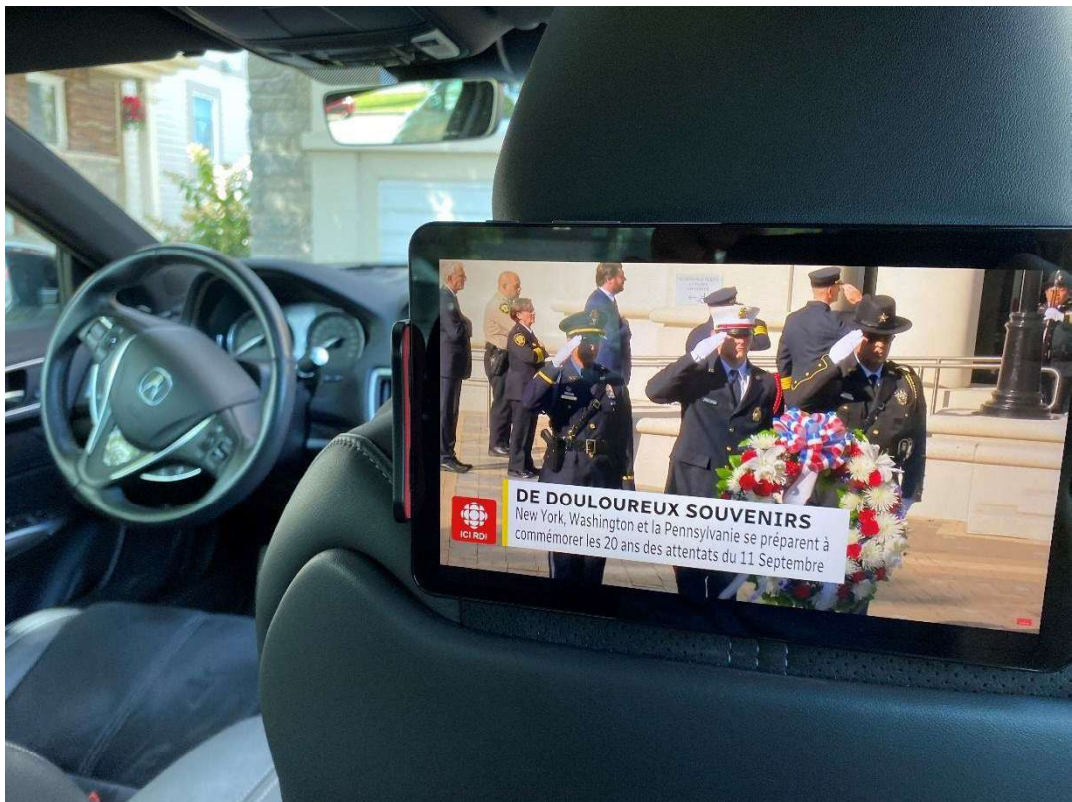
Broadsign (together, the “Canadian SSPs”). The Canadian SSPs were the only SSPs available in Canada for programmatic DOOH at that time.

52. All the Media Owners 8X had reached out to, requested that the 8X ad server technology be connected to all Canadian SSPs, in particular the Vistar SSP because of its dominant position in the DOOH programmatic market.
53. In the spring of 2020, 8X started to collaborate with Ads Alfresco (now called Bulletin). Ads Alfresco is an agency that saw an opportunity to monetize sports centers venues in Canada programmatically through Canadian SSPs. Ads Alfresco’s model was to sign up Media Owners in recreational venues (arenas and multi-sport centers) in Canada and help them monetize their screens with programmatic advertising, as an agent for ad agencies and large national advertisers who wanted to reach an active audience in sports centers across Canada. Ads Alfresco was effectively acting as an ad sales representative that would enter into private marketplace deals with ad agencies and large advertisers like Canadian Tire, Subway, GM, etc.
54. Private marketplace deals a type of programmatic advertising arrangement where select advertisers are invited to bid on premium digital ad inventory in a controlled, invitation-only auction—unlike open exchanges, where anyone can bid.
55. Ads Alfresco was led by two very experienced ad executives, Jesse Galal, an expert in the programmatic ad space, and Brian Wyatt, a former executive at Newad, a leading out-of-home agency before it was acquired by Bell Media in May 2019.
56. Ads Alfresco entered into ad sales representation agreements with two major Media Owners in sports centers in Ontario and Western Canada, namely FutureSign Multimedia Displays Inc. (“FutureSign”) and Visual Sports Image (“VSI”), which were two groups with business ties to Sports

Media, a customer of 8X in the Province of Québec. FutureSign, VSI and Sports Media created the NAMG Group, a group offering turnkey advertising solutions in community recreation facilities across Canada.

57. Ads Alfresco considered their national offering incomplete without a corresponding agreement with a Media Owner in the Québec recreational sector. Since 8X was managing the Media Owner Sports Media in the Province of Québec, it was a natural fit for Ad Alfresco and 8X to enter into an ad sales representation agreement in order to monetize its venues through programmatic private marketplace deals as well as through programmatic open exchange through the Canadian SSPs. The revenue share was established at 50%-50% between the two entities.
58. Ads Alfresco recommended that all of the display inventory from FutureSign, VSI and 8X be aggregated into one single account with each of the Canadian SSPs. Such accounts would be named “Community Reach Network” or “CRM” and would be managed by Ads Alfresco on behalf of FutureSign, VSI and 8X.
59. 8X signed an agreement with BroadSign on February 19, 2020 to connect the 8X inventory to the BroadSign SSP.
60. On September 11, 2020, Ads Alfresco and 8X entered into an exclusive ad representation agreement in respect of the Sport-Média display inventory managed by 8X.
61. 8X signed a Media Exchange Agreement with the Respondent on September 24, 2020 to connect the 8X inventory to the Vistar SSP. The Applicant has accepted Vistar’s usual terms.
62. 8X screen inventory was onboarded with BroadSign in the summer of 2020 and to Vistar and Hivestack in Q3 2020.

63. On November 30, 2020, 8X's innovative DOOH solution was selected by a startup program from the City of Montreal to run a pilot project in taxis in partnership with PAXI, a technology provider for the taxi industry. The pilot ran for approximately 6 months with a limited number of taxis. The recurring expenses (mostly the mobile data plan fees required inside of each taxi) were too high to make this a viable project.
64. The picture below shows a typical taxi installation of the 8X technology on Samsung tablets, playing CBC Radio Canada news content.



65. In March 2021, a new Canadian SSP emerged in Canada: PlaceExchange, a U.S. company. The PlaceExchange SSP account was connected to the 8X inventory in summer of 2021.
66. There were now four SSPs operating in Canada in the DOOH market.

67. In addition to being connected to the Canadian SSPs through Ads Alfresco, 8X had also opened direct accounts with Vistar and Broadsign in order to manage additional screen inventory that was not managed by Ads Alfresco. These would include screens managed by 8X in the U.S. market. The accounts with Hivestack and PlaceExchange were opened in the name of Ads Alfresco but it was understood that another account would be opened directly with 8X if needed. But Hivestack and PlaceExchange (which just launched its SSP) were not as important SSPs in the U.S. market as Vistar was and therefore the focus was put on Vistar and Broadsign.

## **B. The Competition in DOOH Ad Serving Technology**

68. The competing offerings in the DOOH ad server and ad exchanges markets both in Canada and in the United States are very similar and include mostly the same players.
69. Vistar is the leading and dominant player in the DOOH market. It offers an end to end solution to publishers and advertisers, including an ad server for publishers and an ad exchange where advertisers can bid on publishers' display inventory in both the Canadian and the US markets.
70. The other DOOH SSPs in Canada and in the U.S. are Hivestack, Broadsign, and PlaceExchange.
71. Among the Canadian SSPs, only Broadsign and Vistar offer an ad server solution for DOOH publishers that manage the media players installed at Media Owner venues. Such an ad server is often called a CMS (for Content Management System) in the DOOH industry. The CMS has evolved over the years to include many additional features beyond simply displaying a picture or playing a video on screens.
72. In the DOOH industry, ad servers or CMS provided by Vistar and Broadsign offer features similar to the features offered by 8X to its Media Owners. The

CMS ad server software is installed on media players (i.e. mini computers) and it can usually run on various operating systems. It is the technology that manages the serving of ads on digital screens installed at Media Owner's venues. Cortex is Vistar's ad server for DOOH publishers. Broadsign Control is Broadsign's ad server for DOOH publishers. These two ad servers are offered in consideration for a fee based on a software-as-a-service ("SaaS") licensing model, which charges a monthly fee to use the software irrespective of the ad revenue generated or not from such software.

73. This SaaS licensing model is different from the "no financial commitment" licensing model offered by 8X, which rather takes a cut or performance fee only when programmatic ads are actually served via the 8X ad server.
74. This means that the Applicant's CMS ad server requires no financial commitment from Media Owners, as opposed to the Respondent's ad server which charges a recurring monthly fee whether the Media Owner earns programmatic ad revenue or not. The Applicant's business model is viable as long as Media Owners commit to using the ad server for a period of time that is long enough for 8X to recoup its operating costs and make a reasonable profit (i.e. three to five years contract).
75. Vistar has been and is able to sell its products at the highest prices available in the market because it has a leading and dominant position in the programmatic DOOH market.
76. For instance, the Vistar SSP division charges a fee that is twice as much (30%) as the fee charged by the competing SSPs (15%). Vistar offers the most expensive ad server and ad exchange solution in the market for programmatic DOOH. Such elevated pricing is not because the Vistar offering is superior to the offering offered by the competition. Actually, customers of 8X found that the 8X CMS ad server was superior to the Vistar CMS ad server.

77. According to information obtained from Brian Wyatt, an expert in DOOH advertising, “[Vistar] are the largest player in the USA by a large percentage”, “closer to 75 or even 80%, was 90% [market share] in 2019”. In Canada it is also the leading and dominant player in the ad server and ad exchange for programmatic DOOH.
78. On January 13, 2025, T-Mobile announced its acquisition of Vistar in an all-cash deal valuing Vistar at USD\$600 million (CAD\$840 million).
79. The T-mobile acquisition further solidifies the leading and dominant position of Vistar in the Canadian and U.S. markets for DOOH advertising. This is very concerning for the competitive landscape in Canada and in the U.S., in light of the fact that Vistar has abused its position of dominance in the past with the Applicant and with other persons in the DOOH market. This acquisition contemplates an acquisition price that is close to 5 times the acquisition price of its closest competitor in the Canadian market, Hivestack.
80. Other CMS offerings are available in the out-of-home market to manage content delivery on digital screens but most of them were not built with the ad server architecture necessary to manage dynamic and programmatic ad serving. To the Applicant’s knowledge none of these CMS included extensive features offered by the 8X Offering and all of them were based on a SaaS revenue model (i.e. a recurring monthly licensing fee), as opposed to the free, ad supported model offered by 8X. The 8X Offering also offered the infotainment content and audience measurement free of charge which other CMS players did not offer as a feature.

### **C. The Launch and Distribution of 8X Technology in the US Market**

81. As a result of the COVID lockdowns in Canada and the accelerating growth of programmatic DOOH in the United States, and because 8X was extremely well positioned to address the technology needs of Media Owners in such market, the Applicant decided to explore business

opportunities in the United States, in particular in States where venues had not been locked down by COVID prevention policies (such as Texas and Florida). The grocery store market was identified as a promising market for the 8X programmatic solution as such venues would always remain open.

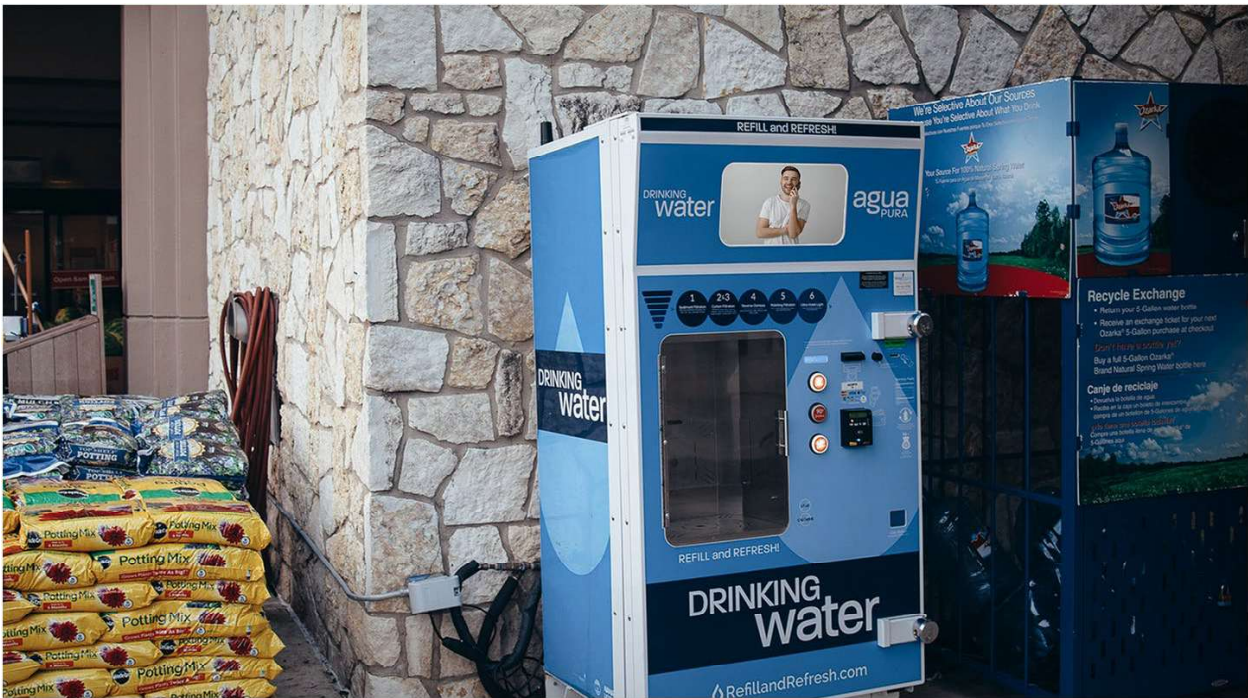
82. The U.S. market is critically important for Canadian technology companies, especially for companies operating in the adtech market like the Applicant:
- a. The U.S. is the world's largest and most advanced technology market, offering access to significantly more customers, partners, and revenue than the Canadian market alone;
  - b. U.S. enterprises and consumers tend to adopt new technologies quickly, making it an ideal market for launching innovative products and gaining early traction;
  - c. Success in the U.S. often boosts a company's reputation and legitimacy internationally, including back in Canada and in other regions;
  - d. Geographic closeness, shared language (primarily English), and trade agreements (like USMCA) make cross-border business more efficient than other global markets;
  - e. U.S. standards often set the benchmark for global technology compliance and interoperability, including in the advertising market;
  - f. According to the CEO of a prominent Canadian venture capital firm for technology companies, Canada represents only 10% of the revenue for their Canadian portfolio companies; It is therefore critical for Canadian technology companies to expand their operations outside of Canada and the U.S. market is their natural first choice.
  - g. For Canadian companies, the U.S. market may act as a growth engine, a launchpad for international expansion, a hub for innovation

and funding, and a validator for Canadian technology companies seeking to become global leaders.

83. 8X hired Jean-Philippe Leduc (“Leduc”), a former executive of Newad, after his non-compete covenants expired with Bell Media. Newad was a leading out-of-home company acquired by Bell Media in May 2019.
84. Leduc introduced the Applicant to Dave Abelson (“Abelson”), a leading consultant in the DOOH space in the United States.
85. 8X hired Abelson to assist in the marketing and distribution of the 8X DOOH solution to Media Owners in the United States. Abelson saw a great product market fit for the 8X ad technology in the US market.
86. Abelson first introduced 8X to a company called Kolvanta. Abelson informed the Applicant that Kolvanta had an agreement with a waterstation company to manage DOOH advertisements on screens installed on top of water refill stations. These stations were installed at the entrance of grocery stores and convenience stores in the US with leading chains such as HEB, Korger, Circle K and Family Dollar in Texas and elsewhere in the southern part of the US.
87. Abelson informed the Applicant that Kolvanta was dissatisfied with their technology suppliers. Kolvanta had agreed to purchase more than 500 bluefin screens into which a company called Brightsign was to embed the Vistar CMS ad server. Complications and delays in the integration arose and Kolvanta began looking for an alternative. Abelson scheduled an introduction between the team at Kolvanta and the Applicant in early 2021. The Kolvanta team was immediately hooked on the 8X offering, calling it “amazing” and “everything we need”. The 8X offering would rapidly resolve all of the issues that Kolvanta had experienced with the Brightsign and Vistar integration on SoC (system on a chip) in bluefin screens. 8X would provide media players which run the 8X CMS ad server. These media

players would be connected inside the waterstation to the bluefin screens via a HDMI connection, and the 8X ad server would manage the ad serving with the SSPs connected to 8X.

88. On April 14, 2021, 8X and Kolvanta entered into a Master Service Agreement to provide the 8X Solution to Kolvanta on water stations installed at the entrance of thousands of grocery stores and convenience stores in the U.S. A first deployment would be done on a few hundreds of water stations.
89. The Kolvanta network was expected to generate programmatic advertising (net) revenue for 8X of more than \$4,000,000 during the full duration of the contract.
90. The onboarding of the 8X solution was done very quickly and began in the following months.
91. The monetization of the Kolvanta screens first started with the Broadsign SSP in June 2021 with a private marketplace deal for a large advertising campaign. The onboarding of the Kolvanta screens with Vistar was to follow shortly thereafter.
92. Further deployments were planned with Kolvanta on thousands of additional screens to reach a minimum of 5 billion available ad impressions per year. By June 2021, Kolvanta had purchased more than 700 media players from 8X (for approximately USD\$200,000) to begin the first phase of the deployment in various grocery stores and convenience stores in the United States.
93. The pictures below show water stations with digital screens installed on top at an HEB in Texas. Such screens were managed by Kolvanta and 8X.



94. Meanwhile, the Applicant's business development efforts with the assistance of Abelson were accelerating rapidly in the U.S. market as many

Media Owners showed clear interest in the 8X offering. 8X had found a “product market fit” in the US with various Media Owners.

95. On July 20, 2021, after many months of back and forth on a potential partnership between Hispanic indoor and 8X, Dean Koby the CEO of Hispanic Indoor informed the Applicant that he “would like to move the process forward”.
96. The Hispanic Indoor network was expected to generate programmatic advertising (net) revenue for 8X of more than USD\$1,400,000 during the full duration of the contract.
97. On September 9, 2021, Kolvanta informed the Applicant that Vistar was claiming \$60,000 from Kolvanta for breach of contract for its CMS ad server offering, which Kolvanta had committed to use. The Applicant was unaware that Kolvanta was still bound by such a contract with Vistar.
98. Kolvanta inquired if 8X was willing to collaborate to resolve the issue with Vistar. 8X agreed in good faith. A first call was held with Vistar on September 13, 2021 to discuss the Kolvanta / 8X situation. Jason Fraser who led the call on behalf of Vistar sent an email summarizing Vistar’s position:

*“To be clear about Vistar's position:  
Kolvanta is in breach of its agreement with Vistar  
Vistar is willing to continue working with Kolvanta under new terms  
and waive the outstanding SaaS payments due and owed under  
the existing agreement  
Our focus is to raise the revenue share on the Kolvanta network  
and we propose 60% to Kolvanta and 40% to Vistar.  
Exclusivity is preferred, but we now understand that it might not be  
a good option for you and we are willing to be flexible on that  
term.”*

99. On September 15, 2021, Abelson, in his capacity as a consultant to Kolvanta and 8X, wrote to Vistar by email:

*“Jordan + Team,  
I want to thank you all for being flexible and working with us through this process. As a start up, missteps happen and Kolvanta made one by initially engaging Brightsign for our players. We tried hard to make the relationship work and had the best of intentions, but in the end, Brightsigns inability to work efficiently (7 months waiting on the integrations), inability to connect to multiple partners, and high licensing costs forced us to pivot. This was not a reflection on the Vistar software and the hard work Amanda provided, but rather the mistake Kolvanta made by initially choosing to use the Brightsign players. We are committed to making this right and building a fruitful partnership between Kolvanta and Vistar.*

*Here is what we suggest:*

*Settlement Price - \$40,000. Though the contract was for \$60,000, we feel it's fair to assess this issue based on the "damage done." In this case, the damage was the time committed by the Vistar staff who worked on the integration. There is also the lost revenues of the licensing. Because the software, Vistar support, etc. won't be used going forward, we feel like this is fair compensation.*

*RevShare Increase - Increase the RevShare from 30 to 35%. The increase should pay off the debt in roughly 6 months based on our calculations (Once 1,000 screens are live - we project to have this volume of screens by the end of 2021). Once the debt has been paid, the rev share will return to 30%.*

*Term - Kolvanta has 3 years to pay off the \$40,000 debt. As stated above, our intention is to settle this far quicker.*

*We appreciate your partnership and for working with us on this matter.*

*Please let us know your thoughts,  
Dave”*

100. Following a question from Jason Fraser as to whether 8X had agreed to such proposal, Abelson replied on September 17, 2021:

*“The proposal was made in consultation with 8X to make sure all parties are in agreement. This resolution would only relate to the Kolvanta screens within the 8X account. 8X's other screens would remain unchanged.”*

101. Further email exchanges followed between Jason Fraser and Abelson. On September 23, Jason Fraser wrote:

*“Hi Dave,  
I have circulated the new terms across our stakeholders. Here is Vistar's response:  
Target amount*

*We are good with a target amount of \$40K revenue share to Vistar*

*Rev share change*

*We ask for an increase of 60% to Kolvanta, 40% to Vistar share*

*Our logic here is 10% of \$400,000 is \$40K*

*Revenue share will change to 70% to Kolvanta, 30% to Vistar under the following scenarios, whichever comes first:*

*Two years*

*Kolvanta earns \$400,000 in gross revenue on the SSP*

*SaaS fees for usage of the Vistar Ad Server*

*Vistar to write off all fees owed and future fees*

*Accounts*

*We will not apply these changes to a portion of inventory on the 8x account. It will cause a deviation to our reconciliation process.*

*Option A*

*Addendum to the existing Kolvanta agreement*

*The inventory migrates back to the Kolvanta account*

*Kolvanta may designate the payee of its preference for SSP revenue. This can be 8x's entity or a Kolvanta+8x joint venture entity, your choice.*

*Option B*

*Cancel the existing Kolvanta agreement*

*Addendum to the existing 8x agreement*

*The inventory stays in the 8x account but the new terms apply to the entirety of the 8x account*

*In anticipation of this applying to the existing Kolvanta agreement, I have attached a copy of the amendment that reflects these new terms. Please take a look and let us know if you are in agreement?"*

102. On September 23, 2021, Abelson replied:

*"Jordan,*

*Thank you for this. It all looks good other than options A + B.*

*I wanted to suggest an option "C" - Create a second 8X account that contains only the Kolvanta screens?*

*If we can do that, I think we're good to go."*

103. On September 30, 2021, Jason Fraser made a new settlement proposal to Kolvanta and 8X:

*"Hi Dave,  
In reviewing applying these changes to 8x, we have come up with two decisions:  
We are fine with creating a second 8x account that only features Kolvanta inventory*

*In this scenario, we will require an addendum to the 8x agreement*

*To ensure the amount is paid after two years, the following will be required of the payment terms, regardless of if the agreement is with Kolvanta or 8x.*

*60% to 8x/Kolvanta, 40% to Vistar for all SSP transactions for two years or until \$400k in gross SSP revenue is earned for the 8x-Kolvanta account, whichever comes first  
At the end of two years, if \$400,000 in gross revenue has not been earned, 8x or Kolvanta (whomever the agreement is with) will pay Vistar the difference between \$40,000 and 10% of the gross revenue earned on the SSP*

*For example, if \$350,000 gross is earned on the SSP at the end of two years, \$35,000 would have been earned to Vistar in incremental revenue. A payment of \$5,000 will be issued to Vistar to make up the difference*

*When the \$40k to Vistar has been earned, then the rates on the SSP for the 8x-Kolvanta account go to 70% to 8x-Kolvanta, 30% to Vistar*

*Please let me know your thoughts and if this is agreeable."*

104. Discussions were ongoing between 8X and Kolvanta to iron out the details of a settlement agreement between Kolvanta and Vistar. The Applicant felt that, although the situation arose because of a stalled integration process between Kolvanta, Vistar and BrightSign, they had no alternative but to be aligned with the terms and conditions of the deal terms proposed by Vistar. However, the Applicant wanted to iron out a few details and make sure that Vistar would not cause additional issues with other Media Owners that would use the 8X technology to connect with the Vistar SSP.

105. On October 15, 2021, Vistar suspended the onboarding of the Kolvanta screens in the 8X account on the Vistar SSP. The 8X account with Vistar was made inactive. Vistar acted unilaterally without notice and in violation of the terms and conditions of the SSP agreement signed between Vistar and 8X.

106. Jason Fraser wrote on October 19, 2021 after the Applicant inquired about the situation:

*“Hi Fred,  
Following up on this thread. We are holding on activating the Kolvanta inventory until we can come to an agreement on the settlement terms with Kolvanta.”*

107. This was a surprise because both Kolvanta and 8X were in agreement with the general terms of the settlement agreement, which had been revised between the parties. Meanwhile, Kolvanta was having discussions with its client, Waterstation, to confirm the terms of a broader deployment with them. This is what caused a few weeks of delays to confirm the terms with Vistar.

108. It later became apparent that Vistar did not want to honor the settlement terms it had proposed with 8X and Kolvanta. Vistar would rather look to enter a deal directly with Kolvanta for the monetization of the waterstation inventory.

109. Meanwhile, the partnership discussions stalled with Hispanic Indoor as the Applicant learned that Dean Koby, its CEO, was told by a representative of Vistar that 8X had no account with Vistar. It was not the first time that the Applicant heard from prospective customers that Vistar would not work with 8X or 8X had no authorized account with Vistar.

110. On October 27, 2021, while the Vistar situation was deteriorating and 8X could no longer onboard any U.S. screens on the Vistar SSP as the account had been made inactive by Vistar, Abelson wrote to Dean Koby explaining

him that 8X still had access to the Vistar SSP but through its Canadian partner Ads Alfresco:

*“Dean,  
Attached is a screenshot of our Vistar account. Please review. Our account with Vistar is under Ads alfresco which is our sister agency which focuses on the direct selling to our screens.*

*It's for this reason that whoever was manning the booth for Vistar wasn't familiar with 8X.*

*Secondly, the folks at Vistar are trying to get media owners to use their Cortex CMS product. On this level they compete with 8X and I'm sure aren't super excited to be discussing our technology. If you recall, in our very early discussions right before I began to consult for 8X, I set up a call for you and the people at Vistar and Broadsign to help you learn more about the programmatic space, and we also discussed both of their CMS products.*

*The end result of those calls was that their products were not ideal for the following reasons:*

- 1. They primarily block off other SSP's from accessing the inventory*
- 2. Hefty licensing fees*
- 3. They are only a CMS and some ad serving - They lack: Audience measurement, content, connections to all SSP's/demand-side platform's, self serve buying, players and screens. Feel free to validate this with whomever at Vistar.”*

111. Shortly thereafter, Dionne was invited to join a call with Jason Fraser who informed him that Vistar was making a significant push to increase their sales of the Cortex CMS ad server to venue owners and Media Owners.
112. Fraser informed Dionne that the Respondent did not like 8X's low pricing policy because the 8X solution, which gave access to the Respondent's SSP, was offered to Media Owners as a "free product". 8X was offering a less expensive, competing product to the Respondent's Cortex CMS ad server.
113. As Fraser put it: "8X is disrupting Vistar's SaaS business" and "Vistar didn't want to work with 8X anymore". Therefore, Vistar had decided to terminate the relationship with 8X unless it considered switching from its own proprietary ad server to the Vistar Cortex solution.

114. How could “8X be disrupting Vistar’s SaaS business”, as Fraser put it? 8X was a new entrant in the market with a small network of Media Owners but offered a strong “plug and play”, turnkey solution with a business model that was significantly more appealing for the vast majority of small and medium-size Media Owners because it did not require any financial commitment from them to launch their new network or upgrade their traditional out-of-home network to digital advertising including programmatic advertising. If 8X had adopted a SaaS model similar to Vistar’s SaaS model, which charges a recurring monthly fee to Media Owners, whether they earn programmatic ad revenue or not, 8X would not have been able to disrupt Vistar’s SaaS model because it had no significant market power. The only option for 8X to take market share was to adopt a significantly different pricing model with a commission-based only fee, and low pricing policy for its ad server and “plug and play” offering.
115. This tied selling requirement had never been mentioned to the Applicant before. Obviously, should 8X have accepted it, i.e. substitute its own ad server with the ad server of the Respondent, it would have killed its business model, have significantly devalued its intellectual property and basically precluded it from carrying on business. It would also penalize all media owners who had chosen the 8X technology.
116. It quickly became apparent to the Applicant that Vistar was going to shut down the 8X account with their SSP division to prevent 8X from competing with the Vistar CMS ad server division. The Respondent did not like the 8X’s pricing model and the fact that 8X was able to gain market share so quickly.
117. Realizing the gravity of the Vistar decision, as shutting down the 8X account with Vistar in the U.S. market would lead to catastrophic consequences for 8X, Dionne wrote to Jason Fraser on November 4, 2021 and showed an

openness to consider the Vistar ad server if it could be used as a complement to the 8X technology:

*“WITHOUT PREJUDICE*

*I understand from our discussion that you will shut down the 8X account because we are not using your ad server to access the Vistar SSP. As I told you during our call - before you informed us about the unilateral termination - we would be happy to learn more about your ad server. Therefore, please send me all the info (specs and pricing) on your ad server and we will review.”*

118. Dionne did not hear back from Jason Fraser on that matter until the next morning (November 5, 2021) when Jason Fraser sent the termination notice on behalf of Vistar:

*“Dear Fred,*

*I am writing this letter in reference to the Agreement entered into on September 24, 2020 between 8X Labs Inc. and Vistar Media, Inc.*

*Pursuant to Section 9.1 of the Contract, we regret to inform you of our intention to terminate the contract in line with the terms and conditions set forth. The agreement shall be terminated as of February 2nd, 2022.*

*If you wish to memorialize this termination in an Agreement form, our counsel can draft up a Termination Agreement.”*

119. This termination meant that the whole business model of 8X acting as the technology partner of Media Owners would be put in jeopardy if it could not be connected to the leading programmatic SSP in the United States. Vistar had an important business leverage with its SSP against 8X and it used it in an abusive, malicious and anti-competitive manner.
120. The Vistar refusal to deal, tie selling requirements and abuse of its dominant position in the U.S. DOOH market caused the Kolvanta / Waterstation / 8x partnership to collapse. That partnership was a very promising one that would have seen thousands of screens connected to the Vistar SSP. The Vistar SSP division would have benefited from the project, but its CMS ad server division would have not.

121. At this stage, it became apparent to the Applicant that for Vistar, it was more important to weaken 8X and force it out of the ad server market than to earn additional revenue through its SSP division. It could afford to do so strategically and financially because of its market power.
122. Kolvanta was offered a new “direct” deal with Vistar on November 8, 2021 which would exclude 8X. For Kolvanta, that deal meant it could no longer work with 8X which was the technology installed on all its media players. It had purchased 700 of them for an approximate cost of \$200,000.
123. The Vistar situation had taken a toll on Kolvanta’s business and had resulted in a dramatic slowdown in the schedule of deployment with Waterstation.
124. At that point, Kolvanta was in breach of its contract with 8X as it had failed to deploy the 8X technology in a minimum of 500 locations by December 31st, 2021. 8X had spent a great amount of time, labor and financial resources to commit to the business relationship and deployments that were contemplated by the Kolvanta agreement. 8X had even declined to enter into other business relationships in order to focus on the Kolvanta deployments, which were not completed in accordance with the terms of the Kolvanta agreement.
125. It became clear that Kolvanta was not going to be able to maintain its business operations as a going concern. Kolvanta’s contract with waterstation was not renewed and it went out of business a few months later.
126. On February 1<sup>st</sup>, 2022, one day before the effective termination date, Dionne wrote a letter to the CEO of Vistar asking Vistar to reconsider their decision to terminate the 8X-Vistar agreement. Dionne wrote:

*“8X Labs Inc. (“8X”) is a Canadian-based technology and service company that provides turnkey hardware and software solutions to*

*digital out-of-home media owners to assist them in upgrading their DOOH network and, among other things, support the serving of ads through programmatic SSPs like Vistar Media. When 8X enters into a relationship with a network owner we spend a significant amount of resources and funds to bring value-added features to our partners. These features support the next generation of DOOH requirements including programmatic ad serving and audience measurement.*

*We believe the relationships that 8X builds with network owners benefit an SSP like Vistar Media as we accelerate and facilitate the onboarding to your ad network of quality locations that can be monetized for the benefit of all parties involved.*

*[...]*

*8X had no contractual obligation to assist with the settlement of a contractual breach between Vistar and Kolvanta, but it did so in good faith. The Vistar-Kolvanta settlement would in fact, once signed, represent more than \$20,000 in lost revenue for 8X based on our projections. Despite this, 8X and Kolvanta agreed to Jordan's proposal.*

*Meanwhile, our screens were still not connected to the open exchange.*

*Despite our good faith to assist in the settlement between Kolvanta and Vistar, we were told by Jordan Fraser on November 4, 2021, that 8X was "disrupting Vistar's SaaS business" and that "Vistar didn't want to work with 8X anymore". The proposal that we had all agreed to was no longer an option. We offered a few courses of actions to try to find a compromise, but they were all rejected by Jordan Fraser. The only course of action available to Vistar was a termination of our relationship, according to Jordan.*

*[...]*

*As a technology and network aggregator, we believe we assist Vistar in increasing its footprint with media owners in North America at a faster pace.*

*We respectfully disagree with the claim that 8X is disrupting Vistar's business. It is based on a misunderstanding of the 8X offering and business model. We are complementing your business offering.*

*Furthermore, I am sure you are aware of the fact that many DOOH technology providers, network aggregators and network owners use ad servers and CMS licensed by competitors of Vistar, such as Reach from BroadSign or the Hivestack ad server.*

[...]

*Vistar has a dominant position in the digital out-of-home market and holds exclusive relationships with certain media demand-side platforms in North America that can only be accessed through the Vistar SSP. It is well known that competition and antitrust laws and regulations, both in Canada and in the U.S., mandate that you do not use such a dominant position in the market in a manner that would prevent a customer like 8X from operating in normal market conditions.*

*For these reasons, we hereby demand that Vistar reconsiders its decision to unilaterally terminate the Media Exchange [Agreement] with 8X.*

*We see a tremendous opportunity by working closely with Vistar and we hope that these misunderstandings can be resolved quickly so 8X can resume bringing its premium inventory to the Vistar exchange. Vistar has already successfully integrated the 8X technology into its platform and we had begun to onboard screens in grocery, c-store, and other tier-1 locations.”*

127. On February 7, 2022, the CEO of Vistar replied to Dionne:

*“Dear Mr. Dionne,  
I am in receipt of your letter dated February 1st, 2022, in which you provided a detailed description of the events that led to the termination of the Media Exchange Agreement and a request to reconsider our decision to terminate the Agreement.  
Unfortunately, at this time, Vistar will not reconsider its position in working with 8X.*

*Although I appreciate your help in quickly investigating the matter Vistar had with Kolvanta, Vistar has reevaluated its business approach and believes that the continued relationship between 8X and Vistar is not a right fit for us at this time. I am sorry that you feel the relationship was wrongfully terminated, but I assure you that Vistar had every right to terminate the Agreement in the manner in which it did.*

*I will reach out to you in the future should our business interests change to one that benefits both of our companies.*

*Sincerely,  
Michael Provenzano”*

128. It became clear to the Applicant that Vistar was aggressively pushing its own CMS ad server to media owners to increase its recurring revenue, which coincided with a recent Series B financing round led by Lamar and

other investors in July 2021. The recurring revenue generated by software as a service models, or SaaS models, were extremely popular with venture capital investors back in 2021 and as a result companies that focused on SaaS models would have greater odds of success with fundraising. In March of 2022, Dionne received a 2022 Vistar SaaS Survey sent by email to Vistar's customers, which supports the Applicant's claims.

129. Notwithstanding the 8X-Vistar situation, 8X was still receiving a lot of interest for its technology solutions. However, the Applicant knew that without an account with the Vistar SSP, 8X would face a critical revenue collapse in the U.S. and it would have to quickly redirect its attention to the Canadian market, a market where all SSP accounts were still active, including with Vistar through the Ads Alfresco account.
130. The Applicant considered changing its business models to a SaaS model in order to counter the loss of business from the Vistar SSP. This business model with minimum guarantees was discussed with many prospective customers but was found to be unappealing for them. It would also require significant changes to many aspects of the 8X technology. In any event, a new business model would not have changed the fact that 8X customers could no longer monetize their inventory programmatically with the leading and dominant SSP, Vistar.
131. On October 21, 2021, 8X incorporated a new wholly owned subsidiary, 8X Labs (USA) Inc. to manage its business activities in the U.S. markets.
132. While this situation was ongoing, 8X signed on October 29, 2021, a partnership agreement with OneScreen.ai, as a Media Owner, for the monetization of various venues managed by it.
133. OneScreen introduced 8X to ShelfNine which was a Media Owner in the grocery space in the New York and New Jersey area and to Radnet which was an owner of medical clinics in various regions across the US.

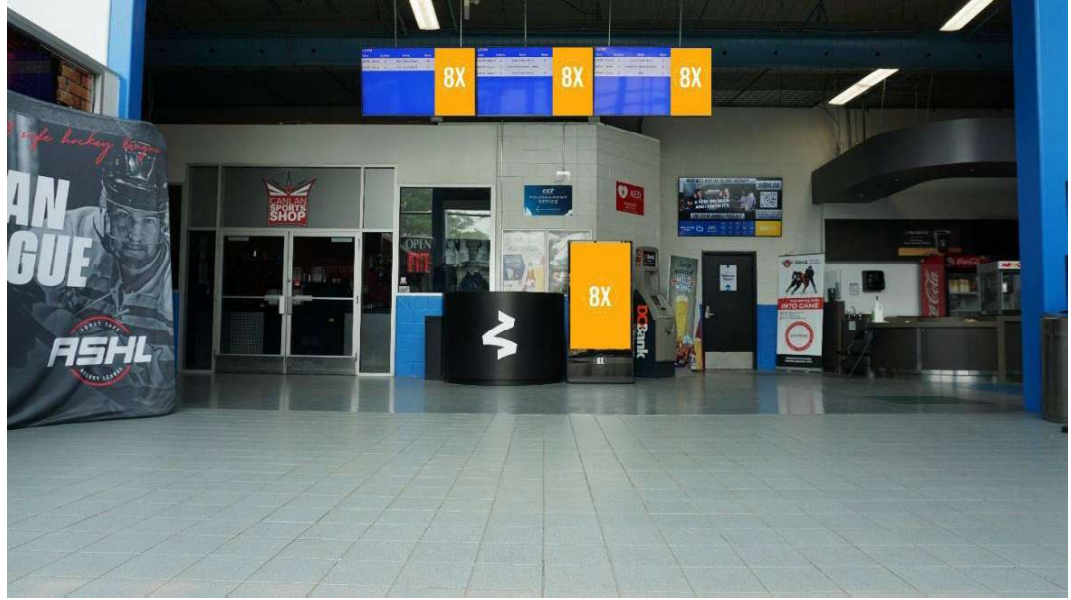
134. Radnet became a customer of 8X in February of 2022. The Radnet network was expected to generate hundreds of thousands in programmatic revenue per year.
135. Shelfnine was interested to enter into a long-term agreement with 8X to use the 8X Offering as it preferred it to the Vistar CMS ad server. The Shelfnine network was expected to generate programmatic advertising (net) revenue for 8X of more than \$2,000,000 during the full duration of the contract.
136. Shelfnine however raised concerns that 8X no longer had an account with Vistar. A draft agreement between Shelfnine and 8X was nonetheless prepared in March 2022.
137. Shelfnine started a pilot project with 8X at the beginning of March 2022.
138. Shortly thereafter, Shelfnine informed the Applicant that Vistar would not work with Shelfnine if they were to use the 8X ad server. They had to use the Vistar Cortex ad server instead. It meant that Shelfnine would not be able to monetize their screens with the Vistar SSP if they used 8X technology. That would have been a kiss of death for Shelfnine as Vistar was by far the dominant SSP operating in the grocery space. This situation significantly contributed to Shelfnine deciding not to continue its relationship with 8X.

**D. The Re-Focus on the Canadian Market**

139. Once 8X was effectively forced out of the U.S. DOOH market as a result of Vistar's refusal to deal with 8X, the Applicant realigned its business operations in Canada.
140. In Q4 2022 (effective January 1<sup>st</sup>, 2023), 8X signed a 46-month contract with Canlan Sports (the term of which would start running only once a minimum number of screens was installed), after more than one year of discussions and negotiations. Canlan Sports is a leading Media Owner

listed on the Toronto stock exchange. Canlan Sports was one of the most sought-after media networks operating in sports centers in Canada. For an aspiring technology startup, signing the Canlan Sports contract was a testimony that the 8X solution was one if not the best DOOH solution available in the Canadian market.

141. Canlan Sports manages multiple sports venues across Canada, specifically in Ontario, Alberta, British Columbia, Saskatchewan and Manitoba. Its network would boost the 8X network with billions of available ad impressions annually to hundreds of thousands of visitors per month.
142. Once Canlan joined 8X as a customer, 8X became one of the key technology players in DOOH technology in recreational and sports venues, a segment of the Canadian DOOH market.
143. The Canlan Sports network was expected to generate programmatic advertising (net) revenue for 8X of more than \$1,300,000 during the full duration of the contract.
144. Below are three pictures showing the installation and layout of the 8X solution (marketed as WIFITV.CA) in the entrance and main restaurant of a major sports center owned by Canlan Sports in Toronto, Ontario:





145. The Applicant was continuing to improve the 8X technology which was praised by its customers. It was reasonably expected that new opportunities would arise with a more mature, advanced product and satisfied customers.

146. A large restaurant group with over 5,000 venues in Canada and in the United States was also interested in deploying the 8X technology in its stores.

**E. The Refusal to Deal, Tied Selling and Discriminatory Price Maintenance Schemes by Respondent in Canada**

147. When Ads Alfresco decided to exit in May 2024 the programmatic DOOH market in Canada, it was decided that the sports venue inventory managed by Ads Alfresco would be reassigned to their owners, namely FutureSign, VSI and 8X.

148. The Vistar SSP represented substantial revenue for the sports venue inventory managed by 8X through the Ads Alfresco's account – at one point representing more than 45% of its total programmatic ad revenue for a one year period, even in the context where Ads Alfresco used the ad server provided by Hivestack to manage and serve programmatically its own direct

deals entered into with ad agencies, which necessarily resulted in higher gross revenue from Hivestack.

149. Figure 2 below illustrates the 2022 allocation of programmatic revenue payable by Ads Alfresco to 8X for approximately one hundred (100) Sports Media screens managed by 8X. Vistar represented the biggest share of the gross programmatic revenue with a share of 45% of the total programmatic revenue for that given year.

8X Revenue					
Month	Hivestack	Vistar	Broadsign	PX	
	Gross	Gross	Gross	Gross	
January	\$0.69	\$706.78	70.65	\$0.00	
February	\$4,031.25	\$5,078.19	\$104.77	\$664.03	
March	\$8,485.68	\$245.47	\$49.17	\$0.00	
April	\$7,786.85	\$334.32	\$283.68	\$120.81	
May	\$243.33	\$458.90	\$165.39	\$612.64	
June	\$10,370.94	\$259.82	\$94.68	\$507.81	
July	\$347.14	\$140.10	\$16.54	\$770.51	
August	\$23.06	\$134.16	\$163.90	\$507.35	
September	\$137.97	\$1,416.96	\$1,340.55	\$1,317.54	
October	\$ 1,197.31	\$7,528.38	1643.3	\$ 1,046.46	
November	\$1,519.34	\$992.84	\$1,079.83	\$300.66	
December	\$1,289.45	\$22,246.01	\$1,575.52	\$0.00	
<b>Totals</b>	<b>\$35,433.01</b>	<b>\$39,541.93</b>	<b>\$6,587.98</b>	<b>\$5,847.81</b>	<b>\$87,410.73</b>
	40.54%	45.24%	7.54%	6.69%	

Figure 2 - Programmatic Revenue in Year 2022 for 8X through Ads Alfresco

150. Consequently, new SSP accounts had to be opened by FutureSign, VSI and 8X with the Canadian SSPs, including Vistar.
151. FutureSign and VSI were able to sign direct agreements with the four Canadian SSPs including Vistar.
152. 8X already had a direct agreement and account with the Canadian SSP Broadsign.

153. 8X signed an agreement with the Canadian SSP PlaceExchange on June 6, 2024.
154. 8X signed an agreement with the Canadian SSP Hivestack on June 14, 2024.
155. Moving the 8X screens from Ads Alfresco to the 8X account on such platforms is a simple and efficient process as the 8X inventory had already been onboarded on those platforms and the 8X technology had already been vetted by such platforms when 8X first onboarded it screens back in 2020 and 2021.
156. It is important to note that no SSP owner other than the Respondent has ever implemented restrictive trade practices against the Applicant, even though two of them, Hivestack and Broadsign, also sell ad servers directly to media owners (Product 5 for Hivestack and Product 5 and 6 for Broadsign).
157. Initially, the Canadian team at the SSP Vistar was eager to open an account with 8X to monetize programmatically its sports centers inventory. It would obviously have been the right decision to onboard all the inventory that transitioned from Ads Alfresco's account back to their owners' accounts: VSI, operating mostly in Western Canada, FutureSign operating mostly in Ontario and 8X operating in Québec, Western Canada and Ontario.
158. On May 28, 2024, Alexis Lopez of Ads Alfresco wrote to Matt Fitzgerald, the Director, Enterprise Solutions at Vistar Media to plan the transition of the screens managed by Ads Alfresco back to 8X:

*Hi Matt,  
As per our other thread, 8x will not be joining the new org with VSI and Futuresign.  
8x needs to move their existing screens to a new org. Can you prepare a MSA for 8X to review? What information do you need from 8x to draft the MSA?*

*We are hoping to have this accomplished by Friday May 31. Are there any concerns with this?  
Alexie*

159. Matt Fitzgerald replied:

*Thanks Alexie*

*Looping in Jess who can help us with the next steps and draft an MSA agreement.*

160. On May 29, 2024, Jess Witt an account manager at Vistar, replied:

*Thanks, Matt.*

*Hey Alexie - I will work on getting the 8X MSA agreement drafted. Please send the signing officer contact email and full business address.*

*The NAMG should be sent out before EOD today but first, we need a contact email for the signing officer. Please send asap so we can push this through.*

*Thank you,  
Jess*

161. At that time, the Applicant was happy to see that Vistar would not create any hurdles for the inventory managed by 8X in Canada. But they were wrong.

162. Jess Witt sent a few follow up emails, including on May 30 and June 4, 2024:

*Hi Fred - just following up on this with the hopes of completing the agreement this week.*

*Thanks!  
Jess*

163. Dionne provided all necessary information to Jess Witt.

164. On June 5, 2024, Jess Witt wrote to Dionne:

*Thanks so much for letting me know. I will get the contract drafted and sent out today/tomorrow.*

*Best,  
Jess*

165. Dionne made many follow ups with Jess Witt, including one on June 10, a second one on June 12 and a third one on June 18, as the contract had not been sent for signature yet.
166. It is important to note that the SSP contracts are standard contracts, it being understood that larger networks may be able to negotiate better terms. The Applicant had signed a Media Exchange Agreement with Vistar back in 2020. The Applicant did not request that any changes be made to such a standard form of agreement and was ready to accept Vistar's usual terms.
167. On June 18, Jess Witt replied to Dionne's email:
- Hey Fred,*
- Apologies for the delay.*
- Are you available for a call tomorrow by chance? Would love to catch up and discuss next steps.*
- Let me know,*  
*Jess*
168. A call was scheduled on June 19, 2024, but rescheduled on June 25 for Scott Mitchell to be present. Mitchell manages the Canadian operations at Vistar.
169. On June 24, 2024, an electronic signature request was sent by Nicole Salazar, a contract manager at Vistar via DocuSign to Dionne, entitled "LS-Please sign 8X\_Vistar\_MSA\_06.05.2024.docx". This document was shortly thereafter voided by the sender.
170. During the video call held on the 25<sup>th</sup> of June 2024, Jess Witt and Scott Mitchell informed Dionne that Vistar "*has to be more selective with who we want to work with and not working with smaller network*". Dionne answered that the screens were already onboarded on the Vistar platform. Scott Mitchell then indicated that "*we are making a decision that at this time we're not going to bring you on at the SSP, we are happy to discuss with you from*

*a SaaS perspective [Vistar Cortex CMS ad server]. From the SSP perspective we will have to pass".* Mitchell confirmed to Dionne that if the Applicant agrees to use the Vistar Cortex CMS ad server then the Applicant will be able to access the SSP.

171. During that call, Mitchell clearly laid out a tied selling requirement to access the SSP: "if you license the Vistar CMS ad server, then we might give you access to the Vistar SSP". As previously stated, should 8X have accepted to substitute its own ad server technology with the ad server of the Respondent, it would have killed its business model, have significantly devalued its intellectual property and basically precluded it from carrying on business. Media Owners would also be penalized.
172. This tied selling scheme engaged in by the Respondent is and was not reasonable having regard to the technological relationship between or among the products to which it applies. The Applicant has clear evidence that the tied selling schemes were targeted against the Applicant while it was absent from the dealing between the Respondent and competitors of the Applicant, including without limitation FutureSign and VSI, which were granted access to the Respondent SSPs without a tied requirement of licensing the Respondent CMS ad server. The tied selling engaged in by the Respondent was specifically targeted against the Applicant in a discriminatory way. In implementing a practice of tied selling, the Respondent has refrained the Applicant from successfully distributing their own CMS ad server to Media Owners. The practice of tied selling by the Respondent has impeded the expansion of the Applicant in the DOOH market. Furthermore, the practice of tied selling by the Respondent has had other exclusionary effects in the DOOH market, such as creating strong incentives for prospective customers of the Applicant not to do business with the Applicant and eventually forcing the Applicant out of the DOOH market, together with its implementation of other restrictive trade practices.

173. It became obvious to Dionne that the real reason Vistar no longer wanted to work with 8X in Canada was because of its low pricing policies for its CMS ad server and because it was disrupting the Respondent's own CMS ad server offering, as had previously been said by Jason Fraser back in 2021 when Vistar terminated the 8X account in the United States.
174. It was obvious to Dionne that the refusal to deal with 8X was not a "staffing issue" as claimed by Mitchell during the video call but rather an abuse of a dominant position and anti-competitive policies and conducts targeted against 8X.
175. It could not be a "staffing issue" when the 8X inventory had already been onboarded to Vistar under a different "account name". Indeed, the initial onboarding phase of the display inventory with an SSP as well as the initial technology integration testing phase of the ad server take place over several weeks and represents the great majority of the work for a SSP to onboard a new customer. That work had already been done.
176. Furthermore, there would not be any "staffing issue" if 8X had agreed to the Respondent's tied selling request and licensed the Vistar CMS ad server in order to access to the Vistar SSP.
177. Moreover, it could not be a "staffing issue" as Vistar quickly transitioned the account held by Ads Alfresco with Vistar to FutureSign and VSI, which are bigger networks than the 8X network. Adding the 8X display inventory to the Vistar SSP during such transition would have required almost no additional work on the part of Vistar.
178. 8X was being targeted for its low pricing business model for its CMS ad server solution.
179. At that point, Vistar's decision to refuse to deal in its SSP capacity with 8X was again a direct blow to the 8X's business, but this time in Canada. Vistar used the pretext of the Ads Alfresco exit to replicate the same abusive and

anti-competitive tactics it had used in the US to hit 8X with a final blow in the Canadian market, with the intention of eliminating 8X's competition.

180. Although programmatic advertisement is in ample supply in the DOOH market, the other available Canadian supply side platforms, to which the Applicant was connected, do not have the inherent capacity to increase their supply of programmatic advertisements to the Applicant and compensate for the significant loss of supply from the Respondent's platform. Each programmatic supply side platform relies on complex algorithmic structures and automated bidding functions that run on their own and is inherently limited by the "demand size" of such a network and such platform's market share. The Applicant could not mitigate such loss in supply from the Respondent's platform because of the low competition that exists in Canada among platforms that supply programmatic advertisement in the DOOH market, and because of the market power and dominant position of the Respondent in such a market as well as the resulting network effect dynamics which favor the continuous growth of the Respondent supply side platform to the detriment of other platforms, and its then greater relevance to advertisers.
181. Following the exit of Ads Alfresco from the DOOH market, new discussions with FutureSign, VSI and Dionne were entertained. FutureSign was eager to monetize the screens that 8X managed on the Canlan and Sport-Média networks. Since Vistar decided to block 8X from its SSP, 8X had no other choice but to agree to FutureSign's terms to monetize the 8X inventory on the Vistar SSP. 8X would cut its programmatic revenue share by 40% to 50% by giving FutureSign the right to manage the 8X screens in Canada programmatically.
182. The Ad sales agreement was executed with FutureSign on September 13, 2024 giving FutureSign the right to monetize all screens managed by 8X in Canada with the Canadian SSPs, including Vistar, which FutureSign and

VSI had been able to connect to. With this agreement, 8X had to renounce 40% to 50% of its programmatic ad revenue.

183. On November 8, 2024, Stewart Smith, a partner at FutureSign, wrote to Dionne:

*Good Morning Fred,*

*Are you able to take a call this morning?*

*I have misplaced your number so please give me your contact or give me a call at [redacted].*

*Apparently, there is bad blood between your company & Vistar that we were entirely unaware of, and they are now refusing to integrate any screens owned/managed by you. I argued that we have the agreement with them, not you. You are in essence a supplier to us of screens FS has integrated on their platform, but they are adamant that those screens will not be integrated unless/until you are not the owner/manager.*

*I don't know what else we can do at this point but all your screens are integrated on Hivestack, Place Exchange & Broadsign, and we are actively engaged making revenue on them on your behalf.*

*Best Regards,  
Stuart Smith*

184. The message from Stuart Smith confirms the Applicant's submissions: Vistar has knowingly, deliberately and maliciously been using anti-competitive, unlawful and restrictive trade practices against the Applicant. This practice and conduct was possible because Vistar has a dominant position in the market. Vistar knew or should have known that its refusal to deal with 8X would create irreparable harm to 8X business and choke 8X's capacity to operate its business in the Canadian DOOH market. This deliberate and unlawful conduct continued even though 8X had assigned its monetization rights for its Canadian inventory to another company dealing with Vistar (namely FutureSign).

185. Vistar had a clear intention that had been decided at its highest instances: to take 8X out of the market, limit fair competition and benefit from a position of dominance acquired through deceptive, restrictive and unlawful practices.
186. Shortly thereafter, Alexandre Depatie, the CEO of Sports Media, learned that 8X was not able to get an account at Vistar, even through FutureSign. He then contacted Dionne by phone to tell him that this would represent a major problem for Sports Media as the Vistar supply side platform was of great importance to enter into private marketplace deals with the ad agencies and national advertisers Sports Media worked with.
187. Indeed, Sports Media, together with FutureSign and VSI, regularly entered into private marketplace deals with Canadian ad agencies under a partnership called NAMG. These agencies would require that these private marketplace deals be served programmatically. Many agencies would require that such campaigns be served programmatically using the Vistar SSP. This would put 8X in a breach of its agreement with Sports Media as it would no longer be able to offer a programmatic connection to the leading SSP in Canada and it would cause significant harm to Sports Media.
188. The same situation would arise under the Canlan Sports agreement. 8X would be in breach of the Canlan Agreement if it was not able to connect to the leading Canadian SSP and it would cause significant harm to Canlan Sports.
189. At least one other technology company in Canada has been targeted by Vistar's unlawful and restrictive trade practices. In March 2022, after Vistar terminated the 8X account with them in the U.S., Dionne contacted Douglas Lusted, the CEO of AdStash, a Canadian technology startup operating in the DOOH market in both the Canadian and U.S. market. Like 8X, AdStash built innovative DOOH technology, including an ad server similar to the one built by 8X and audience measurement technology approved by some

Canadian SSPs, that was praised by many media owners both in Canada and in the U.S. AdStash had a larger client base than 8X had, yet Vistar also refuse to deal with them and give them access to their SSP. Their unlawful practices went further it seems.

190. The email discussion between Dionne and Lusted went as follows:

*Dionne: Hi Doug,*

*Quick question: how's your relationship with Vistar? They seem to be trying to shut competition down.*

*Tx*

*Lusted: Not good, we have been trying to partner with them for years but they refuse. In fact, they signed an agreement with us and asked for a list of all our venue partners. We sent them the list, then their old head of supply called them all directly pitching them to switch to Vistar's CMS. I found it very unethical.*

*Why do you ask?*

*Dionne: We're seeing the same thing and seriously considering filing a lawsuit and/or filing a complaint with the FTC and NY AG for antitrust violations.*

*These are unfair, illegal business practices.*

*Let me know your thoughts if you'd consider joining the claim.*

*Lusted: As you know I am fundraising so not something we would be willing to participate in at this time as it may scare potential investors. But keep me updated. I am rooting for you. Vistar has a history of doing this, but the industry forgives them because they have ad demand.*

191. AdStash eventually sold its business to Adomni, a US company, in October 2022.

**F. The Respondent Forced the Applicant Out of the Market**

192. As a result of Vistar's refusal to continue its relationship with 8X in Canada, the Applicant was faced with only one option: sell 8X fast before it collapses completely. Vistar had choked the business potential of 8X in the US and now it was doing the same thing in Canada.

193. As indicated in figure 2<sup>2</sup>, Vistar represented a significant share of the total programmatic revenues earned by 8X in Canada. Losing the relationship with the Vistar SSP would necessarily result in material adverse consequences to the 8X's business, which had already been significantly weakened as a result of Vistar's anti-competitive conduct against the Applicant in the U.S. DOOH market.

194. Vistar was refusing to deal with 8X and was using restrictive trade practices including tied selling practices to weaken 8X's technology offering in, and force it out of, the DOOH market. Vistar knew exactly what it was doing and the material adverse consequences it would cause on the Applicant's business. It also created adverse effects on competition in Canada.

195. Immediately after Vistar's refusal to deal, the Applicant began the sale process for the technology and assets of 8X. A bidding process was scheduled to begin at the beginning of September 2024.

196. Loop Media showed interest in buying the 8X technology but it faced severe cash constraints.

197. 8X received two bids for the purchase of its technology. 8X was able to structure a transaction with the two bidders from the United States:

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<sup>2</sup> *Supra*, page 43.

- a. A license agreement that would allow buyer 1, a close partner to Loop Media, (i) to transition all of the Loop Media technology stack to the 8X technology and (ii) continue to support the Canadian customers of 8X with the 8X technology licensed from 8X. Loop Media had more than 20,000 screens running in the United States and Canada. The 8X ad serving technology would be integrated on all those screens. This was a testimony of the quality and performance of the technology that 8X had built. But it was too late. Loop Media had severe debt and cash flow problems, the extent of which would become known to buyer 1 and 8X later in Q1 2025. Loop Media sold off its assets at a substantial discount in the summer of 2025.
  - b. A share purchase agreement that would allow buyer 2 to acquire all of the shares of 8X and would therefore allow buyer 2 to use the 8X technology for its own network.
198. The Applicant obviously had to disclose the issues encountered with Vistar and as a result, both transactions were entered into at a sale price that was significantly under fair value. The Canadian assets of 8X (Sports Media and Canlan contracts mostly) were sold at a fraction of their fair value. This is mostly because 8X was no longer able to monetize its inventory with Vistar in Canada.
199. The Applicant has suffered direct economic harm and reputational harm caused by the Respondent's vicious, forceful and anti-competitive conducts. The prejudice suffered by the Applicant amounts to several millions of dollars in lost revenue, lost business opportunities, lost in sales, and lost of intellectual property value as a direct result of the restrictive trade practices and anti-competitive actions that Vistar implemented knowingly and intentionally against the Applicant. Moreover, the Applicant have been

forced out of the DOOH market because of such actions. The extent of all such losses will be presented at the hearing for merits.

200. Buyer 1 and Buyer 2 have only paid a portion of the agreed purchase price to 8X, Dionne and Benoit as of this date.
201. Although 8X has sold its customer contracts and has changed ownership in December 2024, for the reasons mentioned above, such sale does not preclude 8X from continuing to do business in Canada. 8X remains a legal entity in good standing and still owns all of its intellectual property and technology and possesses all other necessary resources, expertise and prospective customer leads (including from its new owner) to carry on business in Canada by entering into new sales agreements with media owners, provided one or more orders sought by the Applicant herein are granted by the Tribunal, including requiring the Respondent to accept 8X as a customer to the Respondent SSP and requiring the Respondent to pay an amount to the Applicant, not exceeding the value of the benefit derived from the conduct that is the subject of said orders.

### **III. THE ABUSE OF THE DOMINANT POSITION OF RESPONDENT IN THE US AND CANADIAN MARKETS**

#### **A. A Summary of Vistar Growth since Inception**

202. Because Vistar is a private company, online data for the periods discussed herein is limited with respect to the business of Vistar and is mostly data published by Vistar itself. The information below is information the Applicant was able to retrieve online with search engines, except as otherwise stated.
203. Vistar was founded in January 2012 and opened its first operations in Philadelphia, focusing initially on engineering and technology development for digital out-of-home (DOOH) advertising.

204. In July 2012, the company expanded to New York City to establish a strong sales presence and engage with media owners, agencies, and trading desks.
205. In October 2012, Vistar launched the first programmatic ad exchange specifically for DOOH, including the first demand-side platform (demand-side platform) and supply-side platform (SSP) for this medium, enabling automated buying and selling.
206. Vistar quickly formed strategic partnerships, including with WPP in 2013, and continued building tools such as a publisher ad server released in October 2013.
207. Over the following years, Vistar innovated with data partnerships (e.g., AirSage for location data in 2014), expanded mobile capabilities, and integrated digital billboards into the programmatic ecosystem with partners like Lamar and Clear Channel (2014-2015).
208. In 2015, Vistar introduced a first-ever foot traffic attribution solution to measure the effectiveness of OOH advertising and launched inventory management software for media owners in coordination with partners.
209. Vistar released tools for planning, targeting, and measurement leveraging data, helping marketers execute data-driven, measurable campaigns.
210. By 2017, Vistar had grown to approximately 65 employees with multiple offices, signaling strong market adoption and profitability.
211. Vistar expanded internationally, notably entering the Singapore market in 2021 and experiencing exponential growth in programmatic billings, handling hundreds of campaigns globally with a demand-side platform available in multiple countries including the US, UK, Canada, and Australia.

212. Vistar now offers a full suite of products including its SSP, ad server and Cortex CMS platform, providing media owners tools to monetize, operate, and manage DOOH digital screens.

**B. Business Growth of Vistar from 2021 to 2025**

213. Between 2021 and 2025, Vistar experienced significant business growth and expansion in the digital out-of-home (DOOH) advertising market.

214. Vistar saw exponential growth in its programmatic marketplace, driven by increasing adoption of programmatic DOOH by media owners, advertisers, and agencies.

215. Vistar enhanced its full-stack enterprise solutions for media owners, improving inventory management, ad serving, and audience targeting capabilities to enable better monetization and operational efficiency.

216. Vistar continued to innovate with new auction packages, platform upgrades, and data partnerships that strengthened its demand and supply-side platforms, thus supporting advanced programmatic transactions across multiple global markets.

217. Vistar also grew in revenues and market presence as advertisers increasingly allocated budgets to OOH campaigns enabled by data-driven, automated buying tools from Vistar.

218. By mid-2024 and 2025, Vistar solidified its leadership in programmatic DOOH worldwide, running hundreds of campaigns and providing advanced planning, buying, and measurement solutions for outdoor advertising clients.

219. As mentioned in paragraph 75 above, “[Vistar] are the largest player in the USA by a large percentage”, “closer to 75 or even 80% was 90% [market share] in 2019”.

220. In essence, between 2021 and 2025, Vistar transformed from a growing DOOH programmatic platform into a global enterprise leader by expanding markets, scaling technology, and driving adoption of programmatic advertising across the out-of-home ecosystem.
221. In 2021, Vistar Media's programmatic billings reached approximately \$200 million, running over 20,000 campaigns from 1,462 advertisers. The business saw significant expansion with plans to grow its workforce by 50% in 2022.
222. Vistar Media experienced exponential growth in 2023 and early 2024, including a 77% year-over-year surge in campaign billings during the first half of 2024. The number of advertisers running digital out-of-home (DOOH) campaigns increased by 31% year-over-year in the same period.
223. In 2024, Vistar's Supply-Side Platform (SSP) client base grew by 68%. At the time of the T-Mobile acquisition in 2025, Vistar's solutions were used by nearly 370 out-of-home media owners across 1.1 million digital screens, serving 3,000 advertiser partners.
224. The company also increased headcount markedly, with some regions like EMEA seeing a 77% year-over-year staffing increase in 2024, supporting broader market growth and operational scale.
225. During that same period, Vistar knowingly and deliberately used restrictive trade practices to limit competition to its ad serving and CMS product, Vistar Cortex.

**C. Overview of DOOH in Canada**

226. Vistar is a leading and dominant force in programmatic DOOH specifically, which is a rapidly growing segment within the broader Canadian ad tech landscape. It provides in Canada a full-stack platform with supply-side,

demand-side, and ad-serving solutions that enable automated buying, selling, and management of DOOH inventory.

227. In Canada, Vistar has established important partnerships with media owners and buyers to enable programmatic DOOH transactions and audience targeting. Its platform is widely adopted for DOOH campaigns which have seen rising budgets and adoption in the Canadian market.
228. While Vistar is the leading programmatic DOOH platform provider, the overall Canadian advertising technology market also includes competitors like Hivestack, Broadsign, and PlaceExchange.
229. The digital out-of-home (DOOH) advertising market in Canada has been experiencing solid year-over-year growth:
  - a. The Canadian DOOH market was valued at approximately USD\$2.07 billion in 2024 and is projected to grow at a compound annual growth rate (CAGR) of about 11.3% from 2025 to 2030, with a forecast to reach roughly USD\$4.04 billion by 2030.
  - b. In 2024, reports showed DOOH advertising spending in Canada growing by around 26% year-over-year to more than CAD\$3 billion, driven by strong consumer engagement and increased advertiser adoption of programmatic DOOH.
230. Vistar's share of the Canadian DOOH market is important but not explicitly quantified in exact percentages in available public data. However, Vistar's platform hosts over 20,000 screens in Canada and partners with more Canadian publishers and brands year-over-year, indicating a strong and growing share of the programmatic DOOH segment in the country.
231. Vistar's supply-side platform (SSP) significantly fuels Canadian DOOH growth by onboarding key local media owners and expanding its

marketplace, further consolidating its leading market position as programmatic DOOH gains momentum.

#### **D. Recent Developments in Canada**

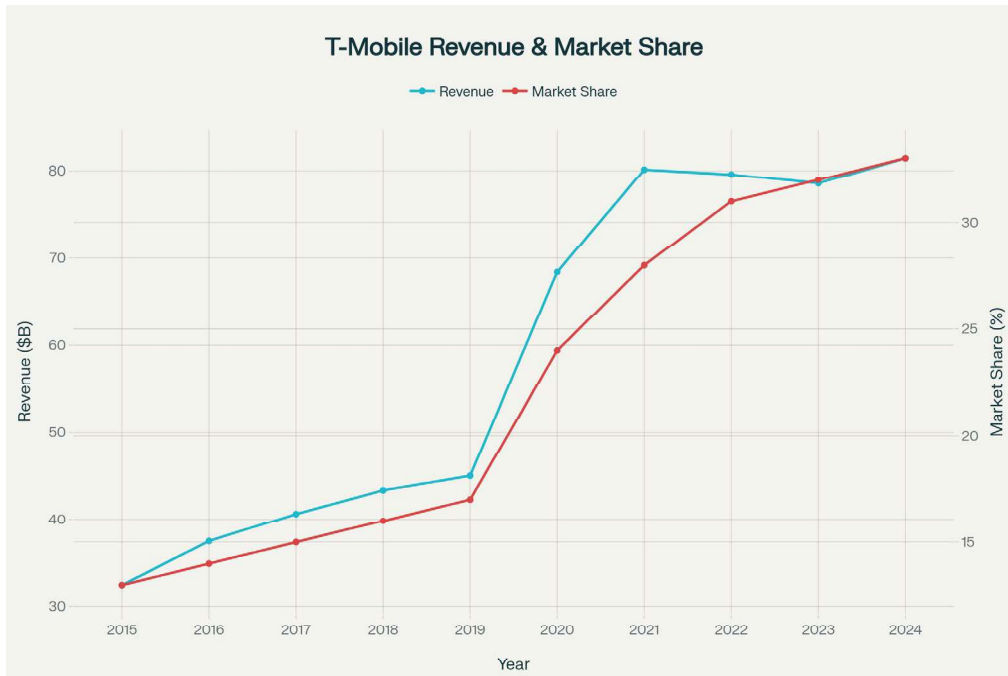
232. In Q1 2025, Vistar and Stingray, a major Media Owner in the out-of-home space, announced a partnership to launch dynamic in-store video advertising across Canadian retail locations, primarily targeting grocery and pharmacy sectors under the METRO banners.
233. The partnership began with Stingray integrating Vistar's ad server technology to deliver video advertising across 576 METRO grocery stores in Quebec and Ontario, including brands like Metro, Super C, and Food Basics. The initiative was launched officially in December 2024 and expanded in early 2025.
234. This collaboration marks Stingray's expansion into programmatic advertising for video, building on its legacy as North America's largest retail audio advertising network.
235. The collaboration reflects a strategic move to enhance retail media in Canada by combining Stingray's extensive retail footprint and audio expertise with Vistar's DOOH and video advertising technology.
236. In September 2025, Vistar announced that Clear Channel Outdoor, a major player in the out-of-home market, selected Vistar as its full-stack technology partner. Clear Channel Canada operates across the country's six largest markets, including Toronto, Vancouver, Montreal, Ottawa, Edmonton, and Winnipeg. Clear Channel Canada is part of the larger Branded Cities Network (BCN), which took full ownership of Clear Channel Canada in 2017, enhancing the company's footprint and marketing capabilities in the Canadian market with iconic assets and major urban locations.

237. Clear Channel's Canadian operations include prominent advertising assets in retail, transit, street furniture, and airport venues that cater to broad consumer demographics across major Canadian metropolitan areas.
238. These two important partnerships in the DOOH market further solidifies Vistar's leading and dominant position in Canada.
239. As Vistar continues to grow its customer base, it creates a growing network effect that will fuel more ad dollars to Vistar. These ad dollars are not funnelled to other networks that cannot access its SSP network. This creates a vicious cycle that will further increase the position of Vistar, now controlled by T-Mobile, a giant U.S. telecom company.
240. This vicious cycle in network growth amplified with unlawful and restrictive trade practices has occurred with Google in the online advertising ecosystem which led to decades of abuse of dominance as claimed by the Commissioner of Competition in the Google Programmatic Advertising Case.
241. A similar situation is happening in front of our eyes and should not be allowed to repeat in the DOOH market with Vistar.

**E. The Acquisition of Vistar by T-Mobile**

242. The T-Mobile acquisition of Vistar further solidifies the leading and dominant position of Vistar in the Canadian and US markets for programmatic advertising.
243. This acquisition increases the fair practice concerns on the competitive landscape in Canada and in the US, in light of the fact that Vistar has used restrictive trade practices with negative adverse effects to the Applicant and various commercial benefits to Vistar. Furthermore, Vistar continues to do so in respect to the buyer of 8X and has done so with other competing businesses in the Canadian programmatic DOOH market.

244. As a comparison, Hivestack, which according to the Applicant's experience was the second SSP player in Canada, was acquired by Perion Network Ltd. for a total acquisition price of approximately \$130 million (CAD\$182 million), approximately five times less than the acquisition price of the dominant DOOH player Vistar. The deal included \$100 million in cash paid at closing, with up to an additional \$25 million structured as a three-year employee retention and performance-based payment plan, which could be paid in cash and equity if certain financial targets are met.
245. T-Mobile is a U.S. telecommunication company listed on the Nasdaq Stock Exchange. It currently has a market capitalization of approximately USD\$230 billion dollars.
246. As of the third quarter of 2025, T-Mobile US holds approximately a 33% market share in the U.S. wireless telecommunications market.
247. As the CEO of Adomni, one of Vistar's competitors, wrote on January 17, 2025: "Many don't realize that T-Mobile is one of the top spenders on out-of-home advertising in the U.S.". He adds: "Vistar Media's technology—especially its CMS / Ad Server (Cortex)—gives T-Mobile a ready-made solution to serve content, launch programmatic campaigns, and handle direct-sold ads in-store". [...] With over 126 million subscribers, T-Mobile has a goldmine of data—knowing where and how users move throughout the day. Combine that with Vistar Media's DSP, and you can deliver hyper-targeted out-of-home campaigns. It's the same principle that turned Amazon's first-party data into an advertising powerhouse".
248. The figure below shows the growth of T-Mobile revenue and market share over the last ten years:



**Figure 3 - T-Mobile Revenue & Market Share (2015-2024)**

249. The acquisition of Vistar comes in a period after the revenue growth of T-Mobile had stagnated between 2021 and 2023. The large increase in revenue and market share from 2019 to 2020 was primarily due to the merger with Sprint, which significantly boosted T-Mobile's revenue and market share that year.
250. In 2024, T-Mobile US reported annual revenue of approximately \$81.4 billion, representing a 3.62% increase from \$78.56 billion in 2023. The net income (profit) for 2024 was about \$11.3 billion, which was a 36% increase year-over-year. Additionally, T-Mobile's core adjusted EBITDA for 2024 rose 9% year-over-year to \$31.8 billion, reflecting strong financial performance throughout the year.
251. As a comparison, Perion Network, which acquired Hivestack, Vistar's closest competitor in the Canadian DOOH market, has annual revenue of approximately USD\$500M (T-Mobile annual revenue are approximately 160x greater), net income of USD USD\$12.5M (T-Mobile net revenue are

approximately 900x greater) and a market capitalisation of USD\$415M (T-Mobile market capitalisation is approximately 500x greater).

252. There is no doubt that the acquisition of Vistar by T-Mobile will further the leading and dominant position of Vistar in the DOOH markets and lead to more harm to a market that already has very limited competition.
253. Major U.S. interests will continue to dominate the Canadian DOOH market and stifle competition from Canadian innovators like the Applicant and other businesses often funded with Canadian taxpayers' money (i.e. tax credits and commercial grants).
254. This is a situation the legislator wanted to guard the Canadian market against.
255. Absent the orders sought by the Applicant from this Tribunal, Vistar will continue to engage in the anti-competitive practice and conduct that has facilitated its exercise of new or increased market power and preserved its existing market power, which has led to restrictive trade practices against the Applicant and other persons in the programmatic DOOH market.

#### **IV. CERTAIN BENEFITS FROM RESTRICTIVE TRADE PRACTICES**

256. Vistar has significantly benefited from its restrictive trade practices, namely its practice of refusal to deal, tied selling in respect of its ad server and ad exchange products and its abuse of a dominant position against the Applicant and other persons in the DOOH market.
257. The fact that Vistar was able to maintain a pricing up to 2x greater than the pricing of its closest competitors for its SSP offering says a lot about Vistar leading and dominant position in the programmatic DOOH market. Its pricing of the ad serving solution is also significantly higher than the pricing of similar products is or was from its closest competitors, including the pricing of the 8X ad serving technology, which was a free product with a

revenue share on programmatic ad serving. Such very elevated pricing schemes are not the result of superior products as the Applicant will demonstrate.

258. The aggressive, predatory, malicious and illegal trade practices implemented by Vistar has contributed to scaling its network effect to new heights which led to the acquisition of Vistar for USD\$600,000,000. Such an acquisition represents large direct and indirect benefits for the Respondent and for those shareholders, executives and employees who have sponsored such policies and conducts.
259. The acquisition of Vistar by T-Mobile will solidify the elevated pricing scheme of Vistar as it strengthens Vistar's market reach and financial capacity to do so.

## **V. CONCISE ECONOMIC THEORY**

260. The economic theory of this case is very similar to the economic theory laid out by the Commissioner of Competition in the Google Programmatic Advertising Case.
261. Similarly to how Google is dominant in two online advertising markets, Vistar is dominant in two DOOH markets: the market for the supply of publisher ad servers used by Media Owners to sell programmatic advertising (the "DOOH Ad Server market"), and the market for the supply of advertiser ad networks used by advertisers to buy programmatic DOOH advertising (the "DOOH Ad Network market").
262. Vistar has unlawfully tied together its different ad tech products and disrupted its competitors' ability to compete on the merits. Similarly to Google in the online programmatic market, Vistar has made its advertiser ad network's unique, must-have advertiser demand available only to its own ad exchange, and in turn, compelled publishers (i.e. Media Owners) to use its publisher ad server in order to access its ad exchange. Vistar has used

its dominant position to implement at its highest corporate instances restrictive trade policies to prevent competitors from accessing such ad networks.

263. In its 2022 report entitled “The Future of Competition Policy in Canada”<sup>3</sup>, Innovation, Science and Economic Development Canada writes on page on page 31 on the Focus on the Rise of Big Tech:

*“It is still fiercely debated whether digital markets and their 'Big Tech' industry leaders present new or unique challenges under the unilateral conduct provisions of the Act. What seems apparent, however, is that some issues previously identified with these provisions may be of even greater concern in the digital era. For instance, a company that controls a platform may also compete on it, and may push users towards purchasing its own products and services, rather than those offered by rivals. This conduct, known as "self-preferencing", is likely to be one of the most hotly contested competition law issues in the coming years with respect to digital platforms. It is notable that the potential for this form of conduct may take on added importance for the Bureau when considering vertical mergers that lead to common ownership of different stages of a supply chain, in recent decades often considered by many to be benign. The current state of play has led to international debate not just about market power in a strictly economic sense, but also its spillover into other realms and the negative externalities of having large amounts of influence concentrated in the hands of a very few firms. Indeed, it has been suggested that the potential may exist for a pernicious cycle in which such power can be wielded at the policy level to gain further economic advantage. Given the indispensability of the Internet as a medium for modern-day commerce, the situation has been likened to the early railroad oligopoly in the United States that led to the advent of antitrust law.”*

264. In implementing these anti-competitive actions, Vistar has been able to entrench its dominance, deprive rivals of scale, decrease incentives for innovation, insulate itself from competition, inflate advertising costs, and reduce revenues for publishers.
265. Vistar’s conduct, in whole or in part, has had (and, if left unchecked, will continue to have) serious consequences for publishers, advertisers, rivals,

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<sup>3</sup> 2022 report from Innovation, Science and Economic Development Canada, entitled “The Future of Competition Policy in Canada”.

and ultimately consumers — manifesting in a substantial preventing and lessening of competition, the magnitude, duration and scope of which is compounded by the economies of scale and network effects endemic to ad tech.

266. The value that Media Owners place on the monetization of remnant display inventory programmatically provides Vistar with the ability and incentive to leverage its market power in the DOOH Ad Network market into other areas of the ad stack such as the DOOH Ad Server markets. Vistar has done this through tied selling practices of its ad exchange product with its CMS ad server product. Because of the importance of the revenue realized from real-time bidding from the mass of advertisers that are only available from the Vistar ad network, the tie strongly incentivizes publishers to adopt the Vistar CMS ad server product. As a matter of fact, all Media Owners contacted by 8X requested a connection to the Vistar SSP because of its dominant position in the market. By refusing to deal with the Applicant, Vistar knowingly and significantly devalued the Applicant's ad technology offering, and made it practically unsellable to Media Owners.
267. In the online and DOOH advertising markets, scaling ad tech tools gives an important edge to compete effectively with rivals. By strongly incentivizing publishers to use its CMS ad server to access advertising demand, Vistar has deprived ad exchange and publisher ad server rivals of the ability to generate scale and become more effective competitors.
268. In fact, given that publishers typically use only one CMS ad server to manage their inventory, Vistar's conduct has effectively made its CMS ad server a *de facto* ad server that Canadian DOOH publishers use. Recent developments in the Canadian market, where Clear Channel Outdoor and Stingray opted to integrate and license the Vistar CMS ad server, support this view.

269. Vistar has increased barriers for firms wanting to enter or expand by providing programmatic DOOH advertising services in these markets.
270. Vistar's tie involving the Vistar ad exchange product and the ad server product has allowed it to dominate the DOOH Ad Server market. The publisher ad server serves a critical decision-making role in the sale of a publisher's inventory.
271. The Canadian SSPs began transitioning from the "waterfall" system to a "header bidding" system (similarly to what had been done online), when Hivestack first launched its header bidding solution in late 2021. Header bidding provides the most efficient software solution for the publisher's ad server to receive real-time bids from all competing SSPs.
272. However, to benefit from the header bidding system, a provider of publisher's ad server technology like 8X still had to have accounts with all the Canadian SSPs, most importantly the Vistar SSP. A header bidding system that could not access the publisher's ad tech server on the Vistar SSP would have been useless.
273. Through these network dynamics, Vistar was able to maintain inflated price schemes for both the DOOH Ad Server market and the DOOH Ad Network market. Such inflated price schemes strengthened its financial position creating more leverage to take more market share and scale its ad tech solutions.
274. In summary, Vistar interrelated and interdependent actions have had, are having, and are likely to have the effect of preventing and lessening competition substantially in the DOOH Ad Server and DOOH Ad Network markets in Canada. Without Vistar's practice of anti-competitive acts, the DOOH Ad Server and DOOH Ad Network markets would be substantially more competitive, including by way of lower prices, enhanced innovation,

higher service quality, more efficient allocation of impressions and better consumer experiences in Canada.

## VI. RELIEFS SOUGHT

275. The Applicant will make an application to the Tribunal pursuant to Section 103.1 of the *Competition Act* (Canada) (the "**Act**") for:

- a) an order pursuant to subsections 75(1) and 75(1.2) of the Act:
  - i. requiring the Respondent to accept the Applicant and any of its affiliates as a customer of the Respondent's supply side platform for programmatic ad serving on the terms that the Tribunal considers appropriate; and
  - ii. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its refusal to deal with the Applicant, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
- b) an order pursuant to subsections 76(2) and 76(11.1) of the Act, if an order has not been made against the Respondent under Section 79 of the Act:
  - i. requiring the Respondent to accept the Applicant and any of its affiliates as a customer of the Respondent's supply side platform for programmatic ad serving within within 15 days of the Tribunal's order, on usual terms;
  - ii. prohibiting the Respondent from continuing to engage in restrictive and discriminatory price maintenance related practices against the Applicant;
  - iii. requiring the Respondent to pay an amount, not exceeding

the value of the benefit derived from its restrictive price maintenance related conducts, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;

- c) an order pursuant to subsections 77(2) and 77(3.1) of the Act:
  - i. prohibiting the Respondent from continuing to engage in tied selling with respect to its CMS ad server and ad exchange products and containing any other requirement that, in the opinion of the Tribunal, is necessary to overcome the effects thereof in the market or to restore or stimulate competition in the market;
  - ii. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its conduct of tied selling, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;
  
- d) an order pursuant to subsections 79(1), 79(2), 79(3.1) and 79(4.1) of the Act:
  - i. prohibiting the Respondent from continuing to engage in the anti- competitive practice described herein and from engaging in any other practices with the same purpose and effect in Canada; and
  - ii. alternatively or additionally, requiring the Respondent to divest the Respondent's publisher CMS ad server, namely Vistar Cortex, from Vistar's ad exchange, namely its sell-side platform and demand-side platform, along with any additional structural relief as needed to restore competition

and overcome the effects of the Respondent's anti-competitive practice in Canada;

iii. directing Vistar to pay an administrative monetary penalty not exceeding the greater of (i) \$25 million dollars, (ii) three times the value of the benefit derived from the Respondent's anti-competitive practice, or if that amount cannot be reasonably determined, (iii) 3% of the Respondent's annual worldwide gross revenues;

iv. requiring the Respondent to pay an amount, not exceeding the value of the benefit derived from its conduct of abuse of dominant position, to be distributed among the Applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate;

e) an order directing the Respondent to pay costs; and

f) such other relief as the Tribunal may consider appropriate.

276. The Applicant seeks such further other relief as the Applicant may request and the Tribunal deems just.

Court File No.: \_\_\_\_\_

**COMPETITION TRIBUNAL**

**IN THE MATTER OF** the *Competition Act*, R.C.S. 1985, c. 34 (the “**Act**”)

**AND IN THE MATTER OF** an application by 8X Labs Inc. for an order pursuant to Section 103.1 of the Act granting leave to bring an application under Sections 75, 76, 77 and 79 of the Act;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 75 of the Act;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 76 of the Act;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 77 of the Act;

**AND IN THE MATTER OF** an application by 8X Labs Inc. for one or more orders pursuant to section 79 of the Act;

**BETWEEN:**

**8X LABS INC.**

Applicant

**-and-**

**VISTAR MEDIA INC.**

Respondent

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**PROPOSED NOTICE OF APPLICATION**

(Pursuant to Section 75(1), 76(2), 77(2) and 79(1) of the *Competition Act*)

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