



Reference: *Commissioner of Competition v. Saskatchewan Wheat Pool Inc.*, 2006 Comp. Trib. 27

File No.: CT2005009

Registry Document No.: 0073

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

AND IN THE MATTER OF an application by the Commissioner of Competition for an Order pursuant to section 92 of the *Competition Act*;

AND IN THE MATTER OF a joint venture between Saskatchewan Wheat Pool Inc. and James Richardson International Limited in respect of port terminal grain handling in the Port of Vancouver.

B E T W E E N :

Commissioner of Competition
(applicant)

and

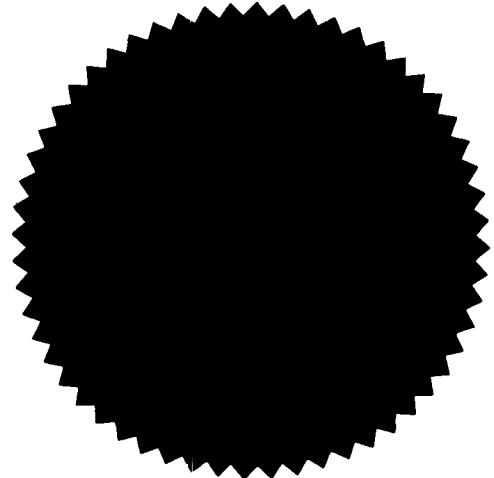
Saskatchewan Wheat Pool Inc.
James Richardson International Limited
6362681 Canada Ltd. and 6362699 Canada Ltd.
(respondents)

and

Canadian Pacific Railway Company
Canadian National Railway Company
Canadian Wheat Board and
Vancouver Port Authority
(intervenors)

Date of case management conference call: 20060616
Presiding Judicial Member: Simpson J. (Chairperson)
Date of Order: June 19, 2006
Order signed by: Madam Justice S. Simpson

**SCHEDULING ORDER FOLLOWING A CASE MANAGEMENT TELECONFERENCE
ON JUNE 16, 2006**



[1] FURTHER TO the application filed by the Commissioner of Competition (the Commissioner) pursuant to section 92 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended, for an order dissolving a grain handling joint venture between the respondents at the Port of Vancouver;

[2] AND FURTHER TO the proposed schedule for the disposition of the application filed by the Commissioner and the comments filed by the respondents and the intervenors regarding that proposed schedule;

[3] AND FURTHER TO the written submissions filed by the Commissioner on June 9, 2006, in which she proposes that the hearing of the application be divided between Ottawa and Vancouver;

[4] AND FURTHER TO the written submissions filed by the respondents on June 9, 2006, in which they object to the possibility of a split hearing and submit that Vancouver is the only appropriate venue;

[5] AND FURTHER TO the written submissions filed by the intervenors regarding the appropriate venue for the hearing of the application;

[6] AND FURTHER TO the discussion held with counsel for the parties and intervenors during the case management teleconference of June 16, 2006;

[7] AND WHEREAS section 15 of the *Competition Tribunal Act*, R.S.C., 1985, c. 19 (2nd Supp.), as amended, provides that the Tribunal may sit at such times and at such places throughout Canada as it considers necessary or desirable for the proper conduct of its business;

[8] AND WHEREAS the Tribunal, having reviewed the written submissions filed by the parties and intervenors and having heard argument of counsel during the case management conference of June 16, 2006, concludes that Vancouver is the appropriate venue for the hearing of the application;

[9] AND WHEREAS counsel for the parties and intervenors consented to the proposed start date of April 16, 2007, for the hearing of the application and provided compelling reasons during the case management conference of June 16, 2006, justifying such a distant date;

[10] AND WHEREAS the Tribunal, upon hearing those reasons during the case management conference (as reflected in the transcript of the case management conference), is satisfied that the schedule set out below (the Schedule) will lead to a timely and efficient disposition of the application given the unusual circumstances of this case;

[11] AND WHEREAS counsel for the parties and intervenors have consented to the Schedule subject only to the possibility that developments in the UGG case may have a direct impact on this application which could cause them to seek an order amending the Schedule;

THE TRIBUNAL ORDERS THAT:

[12] The hearing of the application shall commence on April 16, 2007, at 10:00 a.m., at the Federal Court, 701 West Georgia Street, Vancouver, British Columbia.

[13] The schedule for pre-hearing procedures shall be as follows:

Friday, July 14, 2006	Service of supplementary affidavits of documents by all parties
Friday, July 14, 2006	Delivery of documents by all parties
Monday, July 31, 2006	Service of affidavits of documents and delivery of documents by intervenors
Thursday, August 31, 2006	Deadline for serving and filing motions re affidavits (if any)
Tuesday, September 5, 2006	Hearing of motions re affidavits (if any)
End October – beginning of December 2006	Oral discoveries of parties and intervenors
December 2006 – Friday, January 12, 2007	Fulfilling undertakings
Friday, February 2, 2007	Parties' service of will-say statements which identify the witnesses
Friday, February 9, 2007	Invervenors' service of will-say statements which identify the witnesses
Friday, February 16, 2007	Service of expert reports of the Commissioner and the Canadian Wheat Board (if any)
Friday, March 2, 2007	Service of expert reports of the respondents, Vancouver Port Authority, Canadian Pacific Railway Company and Canadian National Railway Company (if any)
Friday, March 2, 2007	Deadline for hearing motions other than motions re discoveries

Friday, March 16, 2007	Service of reply expert reports by the Commissioner and the Canadian Wheat Board (if any)
Friday, March 23, 2007	Filing of all expert reports with the Tribunal except those which have been identified as the subject of a motion
Friday, March 30, 2007	Case management conference to deal with matters such as agreed statement of facts, joint document books, joint authorities, witness panels and the division of the total hearing time between the parties and intervenors
Friday, March 30, 2007	Deadline for hearing of motions re discoveries (if any) (recognizing that motions re reattendance, answering undertakings or refusals must be brought early enough to allow pre-hearing compliance and that if motions are not brought in time, they will not be heard)

[14] The schedule for the hearing shall be as follows:

Monday, April 16 – Friday, April 20, 2007	First week of hearing (5 days)
Monday, April 23 – Friday, April 27, 2007	Second week of hearing (5 days)
Monday, April 30 – Wednesday, May 2, 2007	Third week of hearing (3 days)
Monday, May 7 – Friday, May 11, 2007	Fourth week of hearing (5 days)
Monday, May 14- Friday, May 18, 2007(noon)	Fifth week of hearing (4½ days)
Monday, May 21, 2007 Friday, May 25, 2007	No sittings
Monday, May 28 – Friday, June 1, 2007	Sixth week of hearing (5 days)

Monday, June 4 –
Friday, June 8, 2007

No sittings

Monday, June 11 –
Friday, June 15, 2007

Seventh week - oral argument (5 days maximum, if
necessary)

[15] Any motion to amend the Schedule based on developments in the UGG case shall be brought without delay;

[16] The Tribunal will advise the parties and the intervenors in September 2006 whether the hearing of the application can proceed by way of electronic hearing in Vancouver and, if so, the date on which documents to be relied on at the hearing must be provided to the Registry in electronic form.

DATED at Ottawa, this 19th day of June 2006.

SIGNED on behalf of the Tribunal by the Chairperson

(s) Sandra J. Simpson

APPEARANCES:

For the applicant:

Commissioner of Competition

Jonathan Chaplan
Andrew Lenz

For the respondents:

Saskatchewan Wheat Pool Inc.
6362681 Canada Ltd. and
6362699 Canada Ltd.

Peter Bergbusch

James Richardson International Limited

Robert Russell

For the intervenors:

Canadian National Railway Company

Geoff Edgar

Canadian Pacific Railway Company

Janice Erion

Canadian Wheat Board

Donald Houston
Jeanne Pratt

Vancouver Port Authority

David Edinger