

Registry of the Competition Tribunal

2006-2007

Report on Plans and Priorities

Maxime Bernier
Minister of Industry

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SECTION I – OVERVIEW

Minister's Message



As Minister of Industry, I am proud to present this report on the Registry of the Competition Tribunal anticipated achievements and results over the next three years. Through the efforts of the Registry of the Competition Tribunal and its Portfolio partners, we are working to ensure that Canada has the necessary business and innovation environment to foster a culture of discovery and creativity to fuel economic success and support our enviable quality of life.

Today, we operate in a globalized economy where electronic commerce drives complex and interconnected supply chains from around the world and anyone can be our competitor. To thrive, we need a dynamic and adaptable economy — one with a highly trained work force and nimble businesses striving for competitive growth and development.

Looking ahead, we see the need to enhance Canada's business environment, including improving the critical ground rules that ensure stability, equitable conduct and competition for consumers, investors and businesses. Used strategically, these efforts can encourage investment in innovation, afford easier access to capital, support risk-taking and entrepreneurship, and ensure the efficient and productive allocation of resources.

We are working to reduce barriers to and within our markets and to encourage more domestic and foreign investment. We are supporting and defending our industries. We are working to improve business and consumer confidence. And we are supporting science, technology, research and development to encourage our industries, our businesses and our workforce to keep pace with technological change and drive innovation throughout our economy. And the demand for innovation across the Canadian economy — including in the areas of health care, climate change, productivity and the competitiveness of Canadian firms — continues to rise.

The Industry Portfolio consists of:

- Business Development Bank of Canada [1]
- Canadian Space Agency
- Canadian Tourism Commission [1]
- Competition Tribunal
- Copyright Board Canada
- Industry Canada
- National Research Council Canada
- Natural Sciences and Engineering Research Council of Canada
- Social Sciences and Humanities Research Council of Canada
- Standards Council of Canada [1]
- Statistics Canada

[1] Federal Crown corporations do not prepare Reports on Plans and Priorities.

As presented in this report, the Registry of the Competition Tribunal initiatives will help make Canada a better place to innovate and do business.

It is my pleasure to present the *Report on Plans and Priorities* for the Registry of the Competition Tribunal.

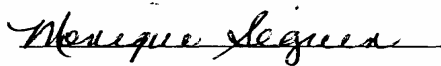
Maxime Bernier
Minister of Industry

Management Representation Statement

I submit for tabling in Parliament, the 2006-2007 Report on Plans and Priorities (RPP) for the Registry of the Competition Tribunal.

This document has been prepared based on the reporting principles contained in *Guide for the Preparation of Part III of the 2006-2007 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the TBS guidance;
- It is based on the department's approved Program Activity Architecture as reflected in its MRRS;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat in the RPP.



Name: Monique Séguin

Title: Deputy Head and Registrar

Summary Information

The Competition Tribunal is a quasi-judicial adjudicative tribunal created in 1986 by the *Competition Tribunal Act*. Its mandate is to hear applications and issue orders related to the civil reviewable matters set out in Parts VII.1 and VIII of the *Competition Act*, whose purpose is to maintain and encourage competition in Canada, and to ensure that firms compete fairly and markets operate efficiently. The Tribunal has no other function and operates at arm's length from government and its departments.

To find out more about the Competition Tribunal click on:
<http://www.ct-tc.gc.ca>

Since its creation, the Tribunal has heard cases relating to mergers, abuse of dominant position and various trade practices that have involved key players in several industries. The Tribunal has dealt with cases concerned

with products and services in a number of business arenas, including, among others: pharmacies, furniture stores, importers of cast iron pipes, airline computer reservation systems, oil refining and gasoline retailing, community newspapers, aspartame, waste disposal, car parts, marketing research services and shared electronic network services.

The *Competition Tribunal Act* provides for an administrative infrastructure in support of the workings of the Tribunal, through the Registry of the Competition Tribunal (RCT). The RCT provides all requirements for the proper conduct of the Tribunal's business, and for the Tribunal to hold its hearings anywhere in Canada, as necessary. The RCT is also the repository for filing applications and documents, and issuing documents and orders for all cases brought before the Tribunal. This Report on Plans and Priorities pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

Financial Resources (\$ thousands):

| 2006-2007 | 2007-2008 | 2008-2009 |
|-----------|-----------|-----------|
| \$1,686 | \$1,686 | \$1,686 |

Human Resources

| 2006-2007 | 2007-2008 | 2008-2009 |
|-----------|-----------|-----------|
| 14 FTEs | 14 FTEs | 14 FTEs |

Departmental Priorities

| Departmental Priorities by Strategic Outcome | | | Planned Spending (\$ thousands) | | |
|---|---------|---|---------------------------------|-----------|-----------|
| | | | 2006–2007 | 2007–2008 | 2008–2009 |
| Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal’s jurisdiction | | | | | |
| Priority No. 1: Efficient and effective Registry support to the Tribunal for the conduct of fair and timely hearings of cases and to issue decisions under Parts VII.1 and VIII of the <i>Competition Act</i> in accordance with the provisions of the Act. | Ongoing | Program Activity: The Tribunal hears cases and the Registry processes the materials for the cases heard by the Tribunal under Part VII.1 <i>Competition Act</i> (Deceptive Marketing Practices) and Part VIII <i>Competition Act</i> (Reviewable Matters). | \$1,686 | \$1,686 | \$1,686 |
| | | Program Activity: Support Services related to cases, other administrative support (IT, finance, etc.). | | | |

Departmental Plans and Priorities

Working Environment

The Competition Tribunal is a small federal organization with one business line -- the hearing of applications and the issuance of orders -- and one service line – providing support to the Tribunal through the Registry of the Competition Tribunal (RCT). Clients of the Tribunal are all Canadian businesses, and the cases it hears are complex. Conducting proceedings in a timely manner is important, and outcomes of Tribunal proceedings are felt by all Canadians. With a small budget, the RCT does its utmost to provide value-for-money and superior service to the Tribunal, its Chairperson and members, Tribunal clients and all Canadians.

One of the RCT’s major planning challenges is that the Tribunal has no function other than those associated with the hearing of applications and the issuance of orders; it can only react to external demands. Hence, it does not control its workload. The number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of

Competition and the number of cases filed by individuals or companies under the private access provisions. As a court of record, the Tribunal has such powers, rights and privileges as are vested in a superior court of record with respect to the attendance, the swearing-in and examination of witnesses, the production and inspection of documents, the enforcement of its orders, and other matters necessary for the due exercise of its jurisdiction.

The RCT and the Tribunal are constantly looking for ways to enhance preparedness so that cases are processed promptly and fairly. Litigants expect cases to be resolved quickly and at lower cost, and the past several years have been ground-breaking for the modernization of the RCT's operations. The RCT has felt increased pressure to develop and introduce more electronic services and it has responded appropriately. The electronic filing and hearing process it has developed has set a standard for the legal community. The development and implementation of enhancements to the case management system and a comprehensive review of the Tribunal's Rules of Practice and Procedure will continue to be key initiatives for fiscal year 2006-2007.

The RCT also focuses energies on the implementation of all major federal public service initiatives and policies to which it is subject, including, among others, the Audit Policy, and the Policy on Learning, Training and Development.

Significant Ongoing Initiatives

Improving Client Service

The RCT will continue to provide efficient case processing and hearing services to the Tribunal and to litigants in 2006-2007, while managing the Tribunal's case records efficiently and providing Canadians with timely information on the Tribunal's case load.

In meeting its service objectives the RCT will consistently provide suitable access to:

- 1) Tribunal Rules for regulating its Practice and Procedures and case scheduling;
- 2) technologies that will result in improved efficiencies in the proceeding of cases;
- 3) improved access to case documents and information to increase service efficiencies to the Tribunal, litigants and the public for process management and hearing support; and
- 4) an efficient web-based application to facilitate the filing of applications directly through the Tribunal's website.

Regarding the timeliness of the availability of case information, the RCT is committed the following service standards:

- 1) case documents will be posted to the Competition Tribunal website within two working days of filing; and
- 2) publication of notices will be ready for publication in the *Canada Gazette* and newspapers within ten working days of filing a notice of application.

The RCT will monitor its adherence to these standards, and Web users will be requested to complete a client satisfaction feedback questionnaire that will be used to validate the effectiveness of the web-filing system and to determine areas for further improvement.

Providing Legal Support to Tribunal Processes

The legal section's primary role within the Tribunal is to provide research and drafting support to the members of the Tribunal in their adjudicative role. As an adjunct to that function, it conducts research on various issues and is responsible for the upkeep of a library designed to provide timely information on various law issues that impact the work of the Tribunal. The legal section will continue to review its subscription and acquisition policies, in order to maintain the Competition Tribunal library as a current and specialized resource for its users.

The Senior Legal Advisor, in cooperation with a working group that includes members of the Bar, and representatives from the Competition Bureau, Justice Canada and the RCT, has undertaken a comprehensive review of the *Competition Tribunal Rules*. The goal of the initiative is to provide the Tribunal with a streamlined and modern set of Rules that take into account the evolution of technology such as e-filing, the changes in procedure brought about by amendments to the *Competition Act*, and the experience of the Competition Tribunal as an expert tribunal for civil competition matters.

The review is expected to be completed by the summer of 2006. Once the Tribunal has approved the new Rules, they will be revised by the Regulatory Section of Justice Canada, published in the *Canada Gazette* and should receive final approval by the Governor in Council by March 2007.

Improving Management Practices

Building on the momentum and successes achieved under the *Modern Comptrollership Initiative* and continuing with the implementation of the *Management Accountability Framework*, the RCT is committed to continuous improvement of its management practices.

The RCT will continue to work in partnership with three other small quasi-judicial agencies: the Canadian Artists and Producers Professional Relations Tribunal, the Copyright Board and the Transportation Appeal Tribunal. The focus of this cluster group for 2006-2007 will be on: implementing the new *Internal Audit Policy* and the new *Policy on Learning, Training and Development*; completing the implementation of the *Public Service Modernization Act*; improving the management of government information by operationalising information management tools being developed for small agencies; and, examining the feasibility of participating in the *Travel AcXess Voyage Project* (part of the *Shared Travel Services Initiative*). In addition, the RCT will continue to enhance the *Records Document Information Management System (RDIMS)* that was implemented in 2005-2006.

As part of its commitment to improving the provision and quality of its services to clients, the RCT will implement service standards in finance and administration areas developed in 2005-

2006, including for the processing of invoices and travel claims. In addition, implementation of the recommendation of the 2005-2006 internal audit of financial practices will be completed, including the modernization of the financial signing deletion chart, increasing audits of payments and updating financial practices.

In the area of Human Resources, the RCT will continue its efforts with respect to the implementation of the *Public Service Modernization Act*, and more specifically, the *Public Service Employment Act* (PSEA). Statements of qualifications for positions must be updated to the new statement of merit criteria, additional internal policies under the PSEA will be developed, and adherence to the new staffing monitoring and accountability requirements of the Public Service Commission will be assured. Appropriate communication and dissemination of information to staff will continue.

Focusing on Employee Learning and Development

A priority of the RCT in 2006-2007 will be a focus on the new Treasury Board Policy on Learning, Training and Development. To this end, the RCT will renew its emphasis on employee development. With the assistance of a specialist in the development and validation of competency profiles, a review and update of the RCT "Training Curriculum", the internal document on training requirements, skills and competencies required for positions in the RCT, will be undertaken. This will be complemented by efforts to develop, update and endorse staff learning plans.

Responding to the 2005 Public Service Employee Survey

The RCT will analyse the results of the 2005 Public Service Employee Survey and develop an action plan to address applicable issues. The action plan will be developed by a working group composed of RCT management and staff.

**SECTION II – ANALYSIS OF PROGRAM ACTIVITIES BY
STRATEGIC OUTCOME**

Analysis by Program Activity

The Plans and Priorities document reflects the unique structure of the RCT as a single service line - Registry services in support of the business of the Competition Tribunal. The plans and priorities description takes into account that the RCT is responsible for the administrative support of the Tribunal and accountable for its voted funds. While the table below identifies the strategic priorities, most of these are ongoing priorities and are rolled into the overall RCT operating budget. The RCT is a small organization where human resources are multi-disciplinary to serve the single business and service lines efficiently, and where financial and human resources are shared among strategic outcomes and associated activities.

| Registry (RCT) Services to the Competition Tribunal | | |
|--|--|--|
| Strategic Outcome | Expected Results | Planned Activities |
| Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. | <p>A Registry service that provides administrative support to Tribunal members and litigants and timely access to case records and decisions, contributing to enhanced Tribunal effectiveness and transparency.</p> <p>Efficient case processing and hearing services to the Tribunal and litigants and efficient management of the Tribunal's case records.</p> | <p>The consistent provision of:</p> <ul style="list-style-type: none"> • timely access to case documentation; • appropriate information on Registry Services to assist litigants and the public better understand case proceedings; and <p>Conduct a comprehensive review of the <i>Competition Tribunal Rules</i> by the RCT Senior Legal Advisor in cooperation with a working group including members of the Bar, representatives from the Competition Bureau and Justice Canada.</p> |
| | Modernized document and filing systems. | <p>Systems that provide:</p> <ul style="list-style-type: none"> • improved timely access to case documents and information, and case records and decisions • on-going client feedback and RCT response on the efficiency and effectiveness of the web-based filing application tool. |
| | Strengthened management practices, including on-going development of enhanced accountability, human resources, and employee learning and development tools. | <ul style="list-style-type: none"> • Implementation of service standards. • Enhanced adherence to provisions of the <i>Public Service Employment Act</i>. • Focus on employee learning and development. |

SECTION III – SUPPLEMENTARY INFORMATION

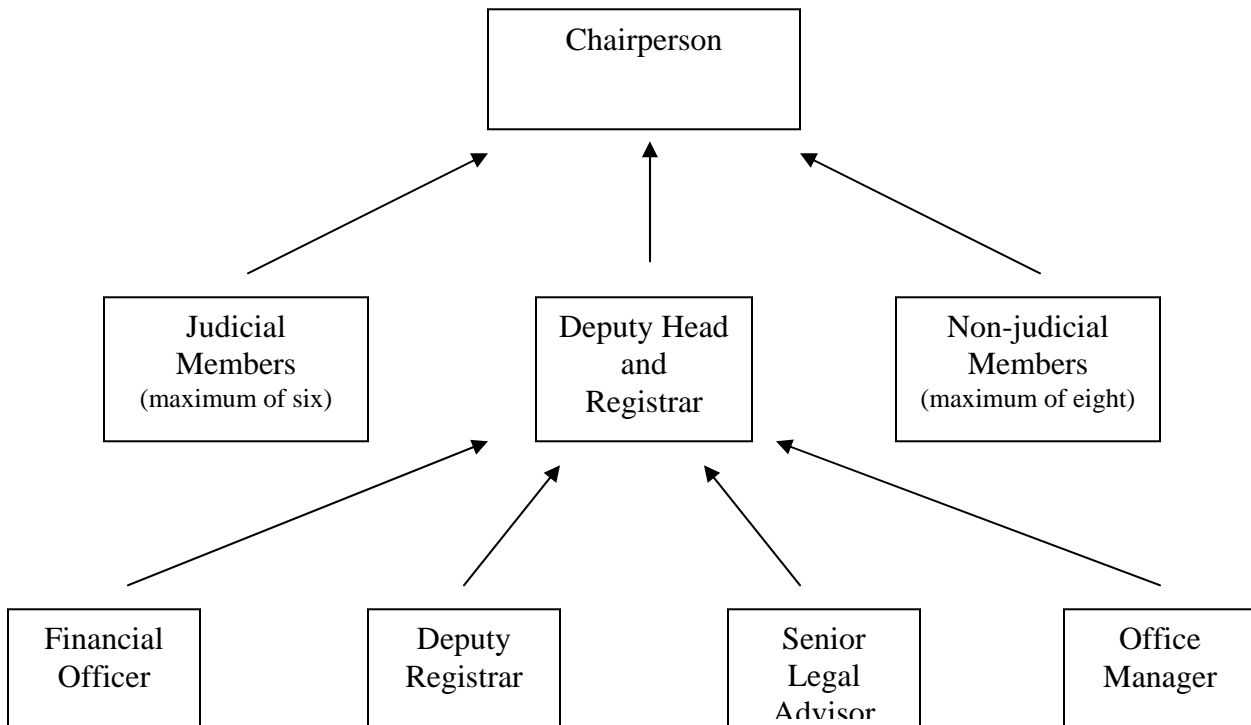
Organizational Information

The Tribunal is composed of not more than six judicial members and not more than eight non-judicial members. Non-judicial members have backgrounds in economics, business, accounting, marketing and other relevant fields. Figure 1 shows the Tribunal's organizational structure.

The Governor in Council appoints judicial members, on the recommendation of the Minister of Justice, from among the judges of the Federal Court, Trial Division, and designates one of the judicial members as Chairperson of the Tribunal. The Governor in Council appoints non-judicial members on the recommendation of the Minister of Industry. Appointments are for a fixed term not exceeding seven years; members may be re-appointed.

The Registry has been designated a department for the purposes of the *Financial Administration Act*, with the Minister of Industry as its minister and the Registrar as the deputy head. The Registry has 14 full-time employees and provides all necessary administrative support required by the Tribunal for the hearing and disposition of all applications. The Registry responds to all requests for information by the legal community, researchers and the public on the status of cases, the Competition Tribunal Rules and its case law.

Figure 1: Organizational Structure



Departmental Planned Spending and Full Time Equivalents

The Registry of the Competition Tribunal is a small single service line organization, and as such, the spending trends are very stable as reflected by the following table.

Table 1: Departmental Planned Spending and Full Time Equivalents

To be consistent with the Government efforts to develop its priorities and leading to a new budget, departments have been directed to repeat 2006-2007 Main Estimate amounts in the 2007-2008 and 2008-2009 periods -- this table reflects that direction.

| (\$ thousands) | Forecast Spending 2005-2006 | Planned Spending 2006-2007 | Planned Spending 2007-2008 | Planned Spending 2008- 2009 |
|--|-----------------------------------|----------------------------------|----------------------------------|--------------------------------------|
| Budgetary Main Estimates | 1,679 | 1,686 | 1,686 | 1,686 |
| Less: Respendable revenue | - | - | - | - |
| Total Main Estimates | 1,679 | 1,686 | 1,686 | 1,686 |
| Adjustments ¹ | 74 | - | - | - |
| Net Planned Spending ² | 1,753 | 1,686 | 1,686 | 1,686 |
| Plus: Cost of services received without charge | 480 | 523 | 523 | 523 |
| Net Cost of Program | 2,233 | 2,209 | 2,209 | 2,209 |
| | | | | |
| Full-Time Equivalents | 14 | 14 | 14 | 14 |

¹This amount is the 5% carry forward of \$73,500

²Reflects the best forecast of total net planned spending to the end of the fiscal year.

Table 2: Net Cost of Department for the Estimates Year 2006-2007

| (\$ thousands) | Total |
|--|--------------|
| Net Planned Spending | 1,686 |
| <i>Plus: Services Received without Charge</i> | |
| Accommodation provided by Public Works and Government Services Canada | 459 |
| Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board Secretariat | 64 |
| Workers' compensation coverage provided by Human Resources Development Canada | - |
| Salary and associated expenditures of legal services provided by Justice Canada | - |
| <i>2006-2007 Net Cost of Program</i> | <i>2,209</i> |

SECTION IV – OTHER ITEMS OF INTEREST

Enabling Legislation

Competition Tribunal Act, R.S.C. 1985 (2d Supp.), c. 19

Part VII.1, *Competition Act*, R.S.C. 1985, c. C-34

Part VIII, *Competition Act*, R.S.C. 1985, c. C-34

For Further Information

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