



ESTIMATES

Competition Tribunal

**2001-2002
Estimates**

Part III – Report on Plans and Priorities

Canada

The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament. The Estimates, which are tabled in the House of Commons by the President of the Treasury Board, consist of three parts:

Part I – The Government Expenditure Plan provides an overview of federal spending and summarizes both the relationship of the key elements of the Main Estimates to the Expenditure Plan (as set out in the Budget).

Part II – The Main Estimates directly support the *Appropriation Act*. The Main Estimates identify the spending authorities (votes) and amounts to be included in subsequent appropriation bills. Parliament will be asked to approve these votes to enable the government to proceed with its spending plans. Parts I and II of the Estimates are tabled concurrently on or before 1 March.

Part III – Departmental Expenditure Plans which is divided into two components:

- (1) **Reports on Plans and Priorities (RPPs)** are individual expenditure plans for each department and agency (excluding Crown corporations). These reports provide increased levels of detail on a business line basis and contain information on objectives, initiatives and planned results, including links to related resource requirements over a three-year period. The RPPs also provide details on human resource requirements, major capital projects, grants and contributions, and net program costs. They are tabled in Parliament by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*. These documents are to be tabled on or before 31 March and referred to committees, which then report back to the House of Commons pursuant to Standing Order 81(4).
- (2) **Departmental Performance Reports (DPRs)** are individual department and agency accounts of accomplishments achieved against planned performance expectations as set out in respective RPPs. These Performance Reports, which cover the most recently completed fiscal year, are tabled in Parliament in the fall by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of public funds.

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Ottawa, Canada K1A 0S9

Telephone: 1-800-635-7943
Internet site: <http://publications.pwgsc.gc.ca>

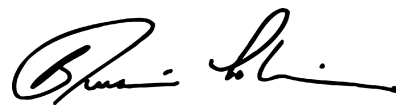
Catalogue No. BT31-2/2002-III-10

ISBN 0-660-61451-0

Competition Tribunal

**2001–2002
Estimates**

A Report on Plans and Priorities



Brian Tobin
Minister of Industry

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Section I Messages

Minister's Portfolio Message

Our vision of Canada is a country that is strong and dynamic, a leader in the global knowledge-based economy, and a country where all Canadians have the opportunity to benefit from economic and social prosperity.

That is why the government is investing in knowledge and innovation — fundamental contributors to our quality of life. Through strategic investments in skills development, knowledge creation and new technologies the government is committed to expanding Canada's knowledge base, innovation and research capacity, and accelerating Canada's leadership in the new economy.

The government's strategy of investing in knowledge and innovation is already helping to create new businesses, products, processes and jobs. The fifteen organizations within the Industry Portfolio contribute to economic growth, which leads to a higher quality of life and social well-being for all Canadians.

With over forty percent of the federal government's science and technology funding and many of the key micro-economic levers at its disposal, the Industry Portfolio is instrumental in promoting innovation through science and technology; helping small- and medium-sized enterprises grow; encouraging trade and investment; and promoting economic growth in Canadian communities.

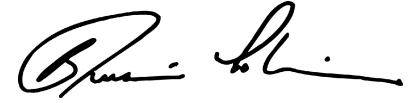
The Industry Portfolio is ...

Atlantic Canada Opportunities Agency
Business Development Bank of Canada*
Canadian Space Agency
Competition Tribunal
Copyright Board Canada
Canada Economic Development for Quebec Regions
Canadian Tourism Commission*
Enterprise Cape Breton Corporation *
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*
Statistics Canada
Western Economic Diversification Canada

**Not required to submit Reports on Plans and
Priorities*

I am pleased to present the Report on Plans and Priorities for the Competition Tribunal which describes for Canadians the expected achievements over the next three years. The Tribunal is committed to being a “technology leader” in the legal community. It will implement electronic filing and electronic hearings in order to continue improving the Tribunal’s service to its clients. It will also carry on with the simplification process of its rules of practice and procedure through consultation with its stakeholders. This initiative will ensure that proceedings before the Tribunal are heard and determined as expeditiously as circumstance and considerations of fairness permit.

Through organizations like the Competition Tribunal, we will work together to build on the strengths and opportunities that exist throughout Canada.



The Honourable Brian Tobin

Management Representation

MANAGEMENT REPRESENTATION REPORT ON PLANS AND PRIORITIES 2001–2002

I submit, for tabling in Parliament, the 2001–2002 Report on Plans and Priorities (RPP) or the Registry of the Competition Tribunal.

To the best of my knowledge, the information:

- Accurately portrays the mandate, plans, priorities, strategies and planned results of the organization.
- Is consistent with the disclosure principles contained in the *Guidelines for Preparing a Report on Plans and Priorities*.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

I am satisfied as to the quality assurance processes and procedures used for the RPP's production.

The Planning and Reporting Accountability Structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: Monique Séguin

Date: February 26, 2001

Section II Departmental Overview

What's New

Over the past year, the Competition Tribunal conducted a pilot project in electronic filing and document management. The project was undertaken to respond to the Government of Canada

Matters Reviewed by the Tribunal

As a specialized court combining expertise in economics and business with legal expertise, the Competition Tribunal hears cases under Parts VII.1 and VIII of the *Competition Act* that deal with the following:

- misleading advertising;
- deceptive marketing practices;
- mergers;
- abuse of dominant position;
- specialization agreements;
- delivered pricing;
- restrictive trade practices, which include:
 - refusal to deal,
 - consignment selling,
 - exclusive dealing,
 - tied selling, and
 - market restriction
- foreign judgments;
- issuance or revocation of Tribunal certificates;
- applications by persons against whom the Commissioner of Competition has made a temporary order.

For some examples of these types of cases, visit the Tribunal's Web site at <http://www.ct-tc.gc.ca>.

On-Line initiative and to streamline the application, storage and retrieval of documents related to matters brought before the Tribunal (see box). Since many cases generate hundreds of thousands of pages in documents, substantial savings may be realized through electronic filing. Phase II of the pilot project (Prototyping) is now complete and there is general agreement that the pilot was a success. Users said they would repeat the electronic hearing experience without hesitation. In Phase III, final modifications to the prototype will be made, based on the evaluation and on experience gained. Full implementation is scheduled for fiscal year 2001–2002. Although Phase III was the final phase of the pilot project, the Registry will look at improving the system to give lawyers more control over the display of documents during hearings and to develop filing capability directly from the Tribunal's Web site.

On June 29, 2000, Royal Assent was given to Bill C-26, *An Act to amend the Canada Transportation Act, the*

Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence. Under the amendment to the *Competition Tribunal Act*, a member of the Tribunal sitting alone can hear and dispose of any application

by persons against whom the Commissioner of Competition has made a temporary order respecting anti-competitive acts affecting domestic air services. Bill C-26 also provides the Tribunal with the power to issue or revoke Tribunal certificates under section 4.1 of the *Competition Act*.

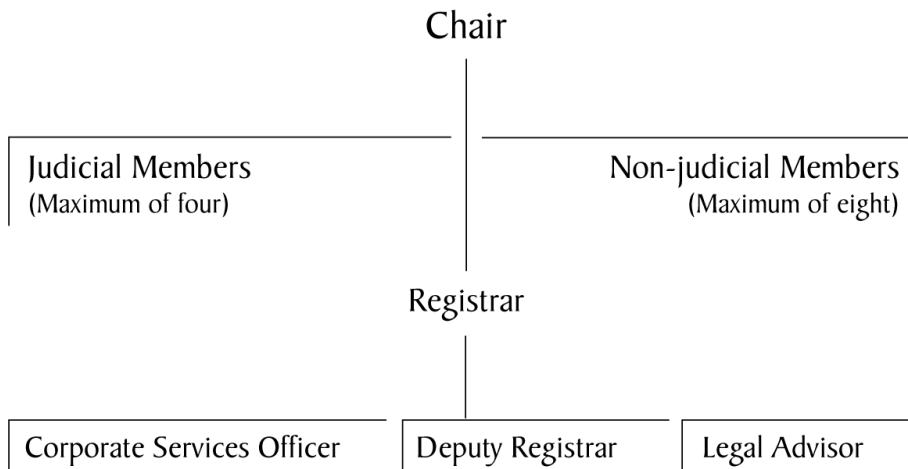
Mandate, Roles and Responsibilities

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.

The *Competition Tribunal Act* also provides for an administrative infrastructure for the Tribunal. Through its Registry, the Tribunal can hold its hearings anywhere in Canada for the proper conduct of the Tribunal's business as necessary. The Registry is also the repository for filing applications and documents and issuing documents and orders for all cases brought before the Tribunal.

The Tribunal is composed of not more than four 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.

Figure 1: 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 Chair 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 Tribunal currently has four judicial members, one full-time non-judicial member who is an economist and five part-time non-judicial members.

The Chair directs the work of the Tribunal and, in particular, allocates case work to the members. The Tribunal hears applications in panels of three, with two exceptions. In matters relating to the recent amendment under Bill C-26 described above, and for interim orders under sections 100(1) and 104(1) of the *Competition Act*, cases may proceed before one Tribunal member only. In all other cases, a judicial member must preside and there must be at least one non-judicial member on a panel. Although the Tribunal holds most of its hearings at its headquarters in Ottawa, a hearing may be held elsewhere in Canada if required by the circumstances of a particular application. Tribunal decisions may be appealed to the Federal Court of Appeal.

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 including the Registrar, the Deputy Registrar, the Legal Advisor and the Corporate Services Officer. Registry staff provide all necessary administrative support required by the Tribunal for the hearing and disposition of all applications. They respond to all requests for information by the legal community, researchers and the public on the status of cases, the Tribunal's rules of practice and procedure, and its case law.

Tribunal's Objective

The Tribunal provides a court of record to hear and determine all applications under Parts VII.1 and VIII of the *Competition Act*. Matters are heard and adjudicated *promptly*, as soon as the litigants are ready to proceed, and *equitably*, observing the principles of impartiality and fairness.

Tribunal's Objective

The Tribunal's objective is to provide a court of record to hear and determine all applications under Parts VII.1 and VIII of the *Competition Act* as informally and expeditiously as circumstances and considerations of fairness permit.

On behalf of the Tribunal, the Registry:

- provides administrative support;
- supports pre-hearings and hearings expeditiously;
- disseminates decisions; and
- uses technologies to improve Tribunal efficiency and effectiveness.

Planning Context

Since its creation, the Tribunal has heard cases relating to mergers, abuse of dominant position and various trade practices that involved key players in a number of industries. Some of the products and services dealt with include airline computer reservations systems, oil refining and gasoline retailing, power transformers, community newspapers, aspartame, waste disposal, car parts, photocopier parts, marketing research services and shared electronic network services. Most cases brought before the Tribunal are contested before a panel of one judicial member as chair and two lay members, and the allegations made are vigorously disputed by the parties involved. Application for interim orders, however, are heard by one judicial member.

The number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of Competition. Since the creation of the Tribunal, the Commissioner has been the only applicant to bring cases before the Tribunal. That means the Tribunal has not had to hear matters on specialization agreements to date. Because the Tribunal has no functions other than those associated with the hearing of applications and the issuance of orders, it can only react to external demands. It does not have any investigative powers or supervision over the inquiries conducted by the Commissioner of Investigation and Research.

The Tribunal does not receive advance notice of applications — it must be ready to respond quickly and in a timely manner. Hearings can be set earlier for some matters because of their circumstances. In the case of an application by Air Canada to the Tribunal, the application was filed November 1, 2000, and the hearing date set for November 16, 2000. This matter related to the Commissioner's temporary order against Air Canada, whereby the Commissioner ordered that Air Canada be prohibited from directly or indirectly offering or selling L14EASTS fares or any similar fares on three routes.

Although the Tribunal is ready to proceed as soon as a matter is filed, case time lines are mostly driven by the litigants rather than by the Tribunal. As a rule, applications involve

Relationship with the Commissioner of Competition

The *Competition Act* gives the function of “watchdog” over the marketplace to the Commissioner of Competition, who heads the Competition Bureau. The Commissioner directs the Competition Bureau to investigate possible offences under the Act. If the Commissioner decides that a criminal offence, like price fixing, has been committed, the case may be referred to the Attorney General for criminal prosecution. If the question is whether a merger results in a substantial lessening of competition or whether a firm is abusing its dominant position or whether one of a number of other anti-competitive business practices has taken place, the Commissioner brings the matter to the Tribunal for a decision. Except for specialization agreements, only the Commissioner may start proceedings before the Tribunal.

multiple litigants all represented by counsel; the rules for contested applications expect that a hearing should begin within six months of filing. The schedule for the hearing can be set earlier than provided for in the rules with the cooperation of litigants, or depending on the complexity of the case. Cases such as the *Superior Propane* merger case can have significant financial stakes, since such decisions also affect other firms and industry in general. For such cases, the chair of the panel will make sure parties abide by procedural time lines, and encourage parties to file earlier when possible. These efforts to fast-track scheduling aim to get cases heard more quickly than the six-month average. The chair of the panel also takes charge of the process to identify early and deal with concerns, such as when parties cannot agree on the confidentiality of documents to be filed. This active case management is a priority of the Tribunal.

Despite these efforts, a wide range of variables can delay a case: for example, its scope and complexity, the number of parties and intervenors interested in the matter, and a lengthy discovery process (the initial period when parties obtain facts and information about the case from each other to help them prepare their case). The Tribunal must ensure that reasonable time is provided for the litigants to prepare and therefore fairness must sometimes take precedence over expediency. Once a hearing date has been established, however, the Tribunal does not allow postponement except in the most unusual circumstances.

The Tribunal has developed and keeps under review the set of rules that regulates its practice and procedure to provide a framework for informal — to make the process more open and accessible — and prompt proceedings, consistent with the requirements of a fair and impartial hearing. The rules aim for simplicity and clarity, leaving the Tribunal flexibility to direct proceedings to ensure effective case management and avoid undue delay.

Proceedings may be in either or both official languages. Cases of national interest — for example, the *Interac* and *Air Canada* cases had potentially significant cost and service impact to Canadians in the areas of banking and travel services — require all notices, directives, decisions, orders and reasons to be issued simultaneously in both official languages. Tribunal decisions can be lengthy, detailed and technical; accuracy and timely preparation are imperative. Given the scope and complexity of the cases and potential of decisions to set precedents, the Registry edits all documents in-house in both official languages.

With the Royal Assent to Bill C-26 on June 26, 2000, the Tribunal's jurisdiction was broadened. Bill C-26 provides for a member of the Competition Tribunal sitting alone to hear and dispose of any applications by persons against whom the Commissioner of Competition has made an interim order respecting anti-competitive acts affecting domestic air services. It also provides the Tribunal with the power to issue or revoke Tribunal certificates under section 4.1 of the *Competition Act*. With these changes, the Tribunal expects a slight increase in its caseload.

Departmental Planned Spending

(\$ thousands)	Forecast Spending 2000–2001	Planned Spending 2001–2002	Planned Spending 2002–2003	Planned Spending 2003–2004
Budgetary Main Estimates	1,500	1,512	1,512	1,512
Less: Respendable revenue	-	-	-	-
Total Main Estimates	1,500	1,512	1,512	1,512
Adjustments ¹	68	-	-	-
Net Planned Spending ²	1,568	1,512	1,512	1,512
Plus: Cost of services received without charge	453	453	453	453
Net Cost of Program	2,021	1,965	1,965	1,965
Full Time Equivalents	14	14	14	14

¹ This amount includes the 5% carry forward of \$57,600 from the budget of 1999–2000, \$2,000 for collective bargaining compensation and \$8,000 for the Financial Information Strategy (FIS). It does not take into account money set aside for the Employee Benefit Plan.

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

Section III Plans, Results, Activities and Resources

Business Line Details

Through the *Competition Tribunal Rules* that regulate its practices and procedure, the Tribunal establishes a framework for informal, expeditious proceedings while leaving the Tribunal flexibility to respond to the wide range of variables that affect expediency and considerations of fairness in a particular case.

COMPETITION TRIBUNAL

Key Results Commitments, Planned Results, Related Activities and Resources**Tribunal Business Line**

Key Results Commitments	Planned Results	Related Activities	Resources (thousands)		
			2001–2002	2002–2003	2003–2004
To provide a court of record to hear and determine, as informally and expeditiously as circumstances and considerations of fairness permit, applications under Parts VII.1 and VIII of the <i>Competition Act</i> .	Enhanced Tribunal effectiveness and transparency while preserving fairness. Improved client service. Simplified procedures.	The permanent Tribunal/Bar Liaison Committee will continue to review and amend the rules of practice and procedure to further streamline the established process.	\$250	\$250	\$250
	A system to accommodate electronic filing and electronic hearings: <ul style="list-style-type: none"> • to produce significant time and cost savings for all litigants; • to accelerate document interchange among parties; and • to make information more readily available to all Canadians. 	The Tribunal will actively participate in the implementation of electronic hearings by working closely with the Registry and providing suggestions and recommendations for amending the rules of practice and procedure.			
	Accelerated hearing process.	Active case management to reduce case delays, to shorten filing time lines when possible and to help counsel resolve issues in a timely and fair manner.			

Registry Service Line

Key Results Commitments	Planned Results	Related Activities	Resources (thousands)		
			2001–2002	2002–2003	2003–2004
A Registry service that provides administrative support to Tribunal members and litigants and also provides timely access to case records and decisions.	<p>Efficient case processing and hearing services to the Tribunal and litigants and management of the Tribunal’s case records through:</p> <ul style="list-style-type: none"> timely access to case documentation and providing appropriate information on the Tribunal that will assist litigants and the public to better understand case proceedings; and the use of technologies that will result in efficiencies and cost reduction, and facilitate the advancement of cases. 	<p>Implement Case Management System enhancements based on user requirements and feedback.</p> <p>Develop and improve systems in support of the Case Management System and the electronic filing system to facilitate the upload of case information and documents.</p> <p>With the help of user feedback, continue to enhance the Tribunal’s Web site.</p>	\$1,250	\$1,250	\$1,250
	<p>Modern document and filing systems that use Internet technology:</p> <ul style="list-style-type: none"> to increase service efficiency for the Tribunal, litigants and the public in process management, hearing support, access to case documents and the provision of information; and to give the public and litigants access to information on the Tribunal’s rules of practice and procedure, case records and decisions. 	<p>As an alternative method of work, implement electronic filing and hearings based on the evaluation of recommendations of the pilot.</p> <p>Amend the Tribunal’s rules of practice and procedures to accommodate electronic filing and hearings</p> <p>Make the necessary modifications to the Tribunal’s hearing room to accommodate electronic hearings.</p> <p>Amend Registry procedures for e-filing based on the Tribunal’s review of rules of practice and procedure.</p>			

COMPETITION TRIBUNAL

Key Results Commitments	Planned Results	Related Activities	Resources (thousands)		
			2001–2002	2002–2003	2003–2004
	<p>A continuous learning environment that contributes to a skilled and knowledgeable work force and increased levels of output.</p>	<p>Provide Registry staff with “brown bag” sessions on such topics as career development, preparation of a CV, etc.</p> <p>Encourage Registry staff to attend national and international conferences on court administration, technology, etc.</p> <p>Finalize and implement the orientation and training curriculum for Tribunal members.</p>			
	<p>Economies of sharing support services with other federal agencies and departments:</p> <ul style="list-style-type: none"> • to realize savings; • to share best practices; and • to help the Registry maximize its ability to handle its workload. 	<p>When appropriate for hearings outside Ottawa, arrange cost-effective short-term secondments with Federal Court regional registries to provide court services.</p> <p>Negotiate the use of hearing room facilities with regional offices of other federal agencies to avoid the high cost of commercial facilities for hearings outside Ottawa.</p> <p>Continue actively promoting use by other departments and agencies of the Tribunal’s hearing room facilities when the Tribunal is not using them.</p> <p>Repatriate the Tribunal’s financial services and implement the Financial Information Strategy (FIS).</p>			

Section IV Horizontal Initiatives

Regulatory Initiative

The Tribunal/Bar Liaison Committee has undertaken an ongoing extensive review of its rules of practice and procedure to eliminate unnecessary rules, facilitate procedures arising from technological changes, increase efficiency and preserve fairness. It is expected that this initiative will enhance access to the Tribunal as well as provide greater transparency and expedite matters. One regulatory initiative will affect the Tribunal's rules of practice and procedures; however, the ongoing process of review could generate more than one initiative in this fiscal year.

Section V Financial Information

Spending Authorities

Table 5.1: Net Cost of Program for the Estimates Year

(\$ thousands)	Total
Net Planned Spending	1,512
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada	400
Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board Secretariat	53
Workers' Compensation coverage provided by Human Resources Development Canada	-
Salary and associated expenditures of legal services provided by Justice Canada	-
2001–2002 Net Program Cost	1,965

Section VI Other Information

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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