



**Date:** January 29, 2018

**Subject:** CT-2016-015 - *Commissioner of Competition v Vancouver Airport Authority*

**Direction to Counsel (from Mr. Justice Gascon, Chairperson)**

Further to the e-mail requests received from counsel for the Commissioner of Competition (“**Commissioner**”) on January 5 and 16, 2018 seeking clarifications and instructions regarding a number of logistical details prior to the filing of documents due on January 31, 2018 in the existing scheduling order, further to the teleconference held on January 12, 2018, wherein counsel for the Tribunal sought and received additional information from counsel for the Commissioner and counsel for Vancouver Airport Authority (“**VAA**”) regarding the Commissioner’s requests, and further to the various exchanges that have taken place between counsel for the parties and the Tribunal, the Tribunal directs as follows:

1. Regarding the Commissioner’s request as to whether electronic spreadsheets have to be converted to PDF as a requirement of filing, the Tribunal has already indicated to the parties that the Tribunal’s system has the ability to accept documents in Microsoft Excel, Word and PowerPoint format and, as such, those types of electronic documents will be accepted in their native format.
2. Regarding the Commissioner’s subsequent request as to whether the Tribunal’s system has the ability to open electronic documents for the additional file extensions identified by the Commissioner (i.e., .accdb, .db, .do, .dta, .emf, .ipynb, .lnk, and .md) – which are database and coding files used by the Commissioner’s economist for the regression analysis and which cannot be converted to PDF –, the Tribunal notes that: (1) the Commissioner withdrew his request for the following electronic files: .db, .emf, .md and .lnk; (2) the Tribunal’s system can only accommodate those file extensions that are opened using the Access software (i.e., accdb) and not those that are opened using the Stata or Python software (i.e., .do, .dta, .ioynb); and (3) VAA did not raise any concerns with this request from the Commissioner. In light of the above, the Tribunal directs:
  - a. With respect to the Access software documents (i.e., accdb), the Commissioner is to file them in their native format and the Tribunal’s system will be able to open them electronically; and,
  - b. With respect to the Stata and Python software documents (i.e., .do, .dta, .ioynb), the Commissioner is to file them in their native format but notes that the Tribunal’s system will not be able to open these files and, as such, these files will not be able to be accessed electronically during the Tribunal’s hearing.
3. Regarding the Commissioner’s request to combine a number of invoices into a single PDF file, the Commissioner decided to withdraw this request for logistical reasons.

4. The Commissioner proposed three approaches regarding the filing of public versions of confidential invoices: (1) the Commissioner requested leave to file public versions of confidential invoices for only “a few representative invoices” instead of for all confidential invoices; (2) the Commissioner indicated that he would prepare public and confidential versions of any records referenced in the footnotes of the expert reports; and (3) if a document otherwise relied on by the Commissioner is placed into evidence during the hearing, the Commissioner would submit a public version of that document within three working days. The Tribunal notes that counsel for the Commissioner and for VAA have indicated that they could reach agreement on what “a few representative invoices” would represent and that counsel for VAA did not raise any concerns with respect to the other two sub-requests made by the Commissioner. As such, the Tribunal accepts the Commissioner’s three-pronged approach on that basis, and on the assumption that counsel will reach agreement on the “few representative invoices” to be selected.
5. Given that counsel for the Commissioner has indicated that they will be filing more than 10,000 records and that document numbers allocated to the Commissioner only run from 1 to 9999, the subsequent numbers to be used by the Commissioner shall be 20,000 to 49,999 – as numbers 10,000 to 19,999 have already been allocated to VAA.

Should you have any questions before the hearing, please do not hesitate to contact the Registry at 613-954-0857 or by email at [filing.depot@ct-tc.gc.ca](mailto:filing.depot@ct-tc.gc.ca).

Sincerely,

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