

**Competition Tribunal**



**Tribunal de la Concurrence**

Reference: *Commissioner of Competition v. Imperial Brush Co. Ltd. and Kel Kem Ltd. (c.o.b. as Imperial Manufacturing Group)*, 2007 Comp.Trib. 1

File No.: CT-2006-010

Registry Document No.: 0021

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

AND IN THE MATTER OF an inquiry pursuant to subsection 10(1)(b)(ii) of the *Competition Act* relating to the marketing practices of Imperial Brush Co. Ltd. and Kel Kem Ltd. (c.o.b. as Imperial Manufacturing Group);

AND IN THE MATTER OF an application by the Commissioner of Competition for an order pursuant to section 74.1 of the *Competition Act*.

B E T W E E N :

**The Commissioner of Competition**  
(applicant)

and

**Imperial Brush Co. Ltd. and Kel Kem Ltd.**  
**(c. o. b. as Imperial Manufacturing Group)**  
(respondents)



Decided on the basis of the written record  
Presiding Judicial Member: Simpson J. (Chairperson)  
Date of order: January 8, 2007  
Order signed by: Madam Justice S. Simpson

**ORDER ON CONSENT FOLLOWING THE COMMISSIONER'S MOTION FOR PARTICULARS**

[1] FURTHER to the notice of motion filed by the Commissioner of Competition (the "Commissioner") on December 7, 2006 for an order requiring the Respondents to provide particulars of their Response;

[2] AND UPON the parties giving their written consent on January 5, 2007 to an order resolving such motion;

**THE TRIBUNAL ORDERS THAT:**

[3] The Commissioner may amend her Statement of Grounds and Material Facts as follows:

"5A. To the extent that the Respondents have represented the Imperial Chimney Cleaning Log as a successor to the Supersweep Chimney Cleaning Log, the matters found in paragraph 4 and 5 above should apply mutatis mutandis to the Imperial Chimney Cleaning Log, and any reference herein to the "Log" shall also refer to the Imperial Chimney Log."

[4] The Commissioner shall file her amended Statement of Grounds and Material Facts within seven days from the date of this order.

[5] The Respondents may file, within seven days of the filing referred to in paragraph 4 above, an amended Response substantially in the form attached as "Schedule A" to the Memorandum of the Respondents filed January 4, 2007, with any other or further pleading that the Respondents may wish to make in response to the amendment to the Commissioner's Statement of Grounds and Material Facts as stated in paragraph 3 above.

[6] The Commissioner may examine for discovery a representative of the Respondents, specifically Mr. Jim Simmons (Senior Director of Research and Development for Imperial Manufacturing Group), at a time and place to be agreed upon by the parties to the application.

[7] All times for steps consequent to the filing of the amended pleadings shall be accordingly extended by seven days should the parties wish to file amended Disclosure Statements and should the Commissioner wish to file a Reply.

[8] The motion is otherwise dismissed.

[9] There shall be no costs in the motion.

DATED at Ottawa, this 8<sup>th</sup> day of January, 2007.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

COUNSEL:

For the applicant

Commissioner of Competition

William Miller  
Roger Nassrallah

For the respondents

Imperial Brush Co.Ltd. and Kel Kem Ltd (carrying on business as Imperial  
Manufacturing Group)

Daniel M. Campbell