

Registry of the Competition Tribunal

2004-2005

Departmental Performance Report

David L. Emerson
Minister of Industry

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SECTION I – OVERVIEW

Minister's Message

A key priority of the Government of Canada is building an economy that will meet the challenges of the 21st century; an economy that is knowledge-based, technology-driven, and globally oriented. In support of this goal the Registry of the Competition Tribunal and the 14 members of the Industry Portfolio encourage innovative basic and advanced research, promote the commercialization and the adoption of new technologies and support the diffusion of transformative ideas throughout our economy. We also work to forge new and improved relationships with international partners, including emerging markets, in science and specialized technical areas. Essential to this work is a framework of marketplace regulations and laws that encourages innovation and stable growth. Through our efforts, the Industry Portfolio is helping to build a world-leading economy driven by talent, ideas and initiative.

The organizational members of the Industry Portfolio are:

- Atlantic Canada Opportunities Agency [2]
- Business Development Bank of Canada [1]
- Economic Development Agency of Canada for Quebec Regions [2]
- Canadian Space Agency
- Canadian Tourism Commission [1]
- Competition Tribunal
- Copyright Board Canada
- Enterprise Cape Breton Corporation [1] [2]
- 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
- Western Economic Diversification Canada [2]

[1] Not required to submit a *Departmental Performance Report*.

[2] Not a Portfolio member for the purposes of the *Main Estimates*

The Industry Portfolio is composed of the Registry of the Competition Tribunal and 14 other federal departments, agencies, Crown corporations, and quasi-judicial bodies. These organizations collectively play a key role in advancing Canada's industrial and economic development as well as fostering progress in science and technology. Advancing these priorities improves the overall health of the Canadian economy, provides opportunities for all Canadians to participate in our economic development and prosperity, and contributes to the quality of life of all Canadians.

Many Industry Portfolio initiatives build upon our strategic investments in research and development and help to move publicly-funded scientific and technological advances into the marketplace. Other key activities and programs encourage business growth and help industrial sectors be more innovative. Collectively, Industry Portfolio initiatives — and more importantly the results of those initiatives — stimulate the necessary adaptive and transformative changes demanded by the global economy.

The Registry of the Competition Tribunal *Departmental Performance Report* for the period ending March 31, 2005 describes the achievements and results of the department, including providing efficient and effective administrative infrastructure and support to the Tribunal and its members, enabling the Tribunal to consider expeditiously and fairly 29 proceedings dealing with

deceptive marketing practices and restrictive trade practices, at various stages of completion during 2004-2005.

As a member of the Industry Portfolio, the Registry of the Competition Tribunal has contributed to the industrial and economic development of our nation. The work and contributions of the department are part of the overall government effort to develop and foster opportunities that reflect Canada's economic and social character. Through these efforts, we are investing in our people, our enterprises, and our future — the result will be a stronger and more prosperous economy for all Canadians.

I am pleased to present the Registry of the Competition Tribunal *Departmental Performance Report* for 2004-2005.

David L. Emerson

Minister of Industry

Management Representation Statement

I submit for tabling in Parliament, the 2004-2005 Departmental Performance Report (DPR) for the Registry of the Competition Tribunal.

This document has been prepared based on the reporting principles contained in the Treasury Board of Canada Secretariat's *Guide for the preparation of 2004-2005 Departmental Performance Reports*:

- It adheres to the specific reporting requirements;
- It uses an approved Business Lines structure;
- It presents consistent, comprehensive, balanced and accurate information;
- It provides a basis of accountability for the results pursued or achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

Name: Monique Séguin

Title: Deputy Head / Registrar

Summary Information

Raison d'être

To find out more about the Competition Tribunal click on:

<http://www.ct-tc.gc.ca>

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.

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 and pharmaceutical retailing, furniture stores, importers of cast iron pipes, airline computer reservation systems and travel, oil refining and gasoline retailing, community newspapers, aspartame, waste disposal, car parts, marketing research services and shared electronic network services.

The *Competition Tribunal Act* also provides for an administrative infrastructure for the Tribunal. For the purpose of this report, a clear distinction between the Tribunal and its Registry must be established. While they assume complementary roles to support the implementation of the Competition Act, these two entities have different status, carry out different activities, and are subject to different accountability measures. One fundamental difference between the Tribunal and the Registry is that the former is a quasi-judicial body, while the latter is a "department" for the purposes of the Financial Administration Act. In fact, the Financial Administration Act specifically excludes the Tribunal from the Registry's designation as a department.

Total Financial Resources (\$ thousands)

Planned	Authorities	Actual
1,648	1,757	1,505

Total Human Resources (Full-Time Equivalents)

Planned	Actual	Difference
14	14	0

Summary of Performance in Relationship to Departmental Strategic Outcomes, Priorities and Commitments

Strategic Outcomes	2004–2005 Priorities/ Commitments	Planned Spending (\$ thousands)	Actual Spending	Expected Results and Current Status
The Competition Tribunal is a quasi-judicial tribunal with one business line – conducting hearings of cases, and one service line – providing Registry support to the Tribunal.	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> .	1,648	1,505	Fair and timely hearings of cases are conducted and decisions issued under Parts VII.1 and VIII of the <i>Competition Act</i> in accordance with the provisions of the Act (on-going).

Overall Departmental Performance

The Competition Tribunal hears applications and issues orders related to the civil reviewable matters set out in Parts VII.1 and VIII of the *Competition Act* that deal with deceptive marketing practices and restrictive trade practices. By maintaining and encouraging competition in Canada to ensure that firms compete fairly and markets operate efficiently, the Tribunal's strategic outcomes are directly aligned with Government of Canada outcome as found in *Canada's Performance 2004* of assuring *A Secure and Fair Marketplace*.

The Registry of the Tribunal, as the designated department under the Financial Administration Act (FAA), has made significant strides in 2004-05 to provide Canadians with a modern, efficient Tribunal, and to keep the organization current with important government-wide initiatives.

**SECTION II – ANALYSIS OF PERFORMANCE BY STRATEGIC
OUTCOME**

The Competition Tribunal's strategic outcomes are:

- \$ 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 *Competition Act*; and
- \$ a **Registry Service** that provides administrative support to Tribunal members and litigants and also provides timely access to case records and decisions. The Registry is designated as the Department under the Financial Administration Act (FAA)

A Court of Record...

In fulfilling its mandate to provide a court of record to hear and determine applications under Parts VII.1 and VIII of the *Competition Act*, the Tribunal and Registry dealt with the following numbers of proceedings in 2004-05:

Competition Tribunal 2004-05 Statistics	
Number of proceedings filed	23
Number of proceedings completed	20
Number of proceedings filed from previous year and still ongoing	6
Number of decisions rendered	26

Some highlights of cases dealt with by the Tribunal in 2004-05 in its consideration of deceptive marketing practices and restrictive trade practices, as required of the Competition Tribunal under Parts VII.1 and VIII of the *Competition Act* include:

Mergers

Canadian Waste

In November 2004, after years of proceedings in the courts, the Federal Court of Appeal dismissed the latest attempt by Waste Management of Canada Corporation (WMCC) to overturn the Tribunal's Order requiring WMCC to divest its Ridge landfill site in Ontario. The Divestiture Order was originally obtained in 2001 to address concerns resulting from the 2000 merger of Canadian Waste Services Inc. (predecessor to WMCC) and Browning Ferris Industries Limited.

The divestiture of these assets was completed in January 2005 as per the Competition Tribunal's order.

RONA

In October 2004, the Commissioner obtained an order from the Competition Tribunal amending the time for divestiture of operations in Sherbrooke, Quebec set out in the 2003 Consent Agreement with respect to the RONA/Rona-Depot Inc. merger. In January 2005, RONA filed an application with the Competition Tribunal for an order under s. 106 to rescind the Consent Agreement and relief from its divestitures obligation. The basis for the application is the existence of a new entrant in Sherbrooke. The matter is scheduled to be heard in 2005.

West Fraser Timber Co. Ltd. and West Fraser Mills Ltd.

A Consent Agreement was filed with the Tribunal at the beginning of December 2004 permitting the merger between West Fraser Timber Company Limited and Weldwood of Canada Limited, with conditions. West Fraser is to divest its right, title, control and interest in the Weldwood and West Fraser Babine Interests. This consent agreement gave rise to a notice of application by Burns Lake Native Development Corporation to rescind or vary the agreement so as to recognize Burns Lake's rights and interests. In February 2005, Burns Lake Native Development Corporation filed an application under subsection 106(2), as persons directly affected, seeking an order to rescind or vary the consent agreement between West Fraser Timber Co. Ltd. and West Fraser Mills Ltd. filed and registered with the Tribunal. The Commissioner is to file a notice of reference referring questions of law to the Tribunal.

Reviewable Matters

Air Canada

In October 2004, the Commissioner and Air Canada settled the abuse of dominant position application made by the Commissioner citing significant positive changes in Canada's airline industry since the start of Tribunal proceedings in March 2001. The Tribunal had concluded in June 2003, in Phase I of the proceedings, that Air Canada had committed anti-competitive acts by operating below avoidable cost on two sample routes in Atlantic Canada. Phase II of the case would have determined whether Air Canada's anti-competitive acts led to a substantial lessening of competition, and whether Air Canada had a legitimate business justification for operating below avoidable cost.

Canada Pipe

The hearing of the application under the abuse of dominant provisions of the *Competition Act* and the exclusive dealing provisions, seeking an order prohibiting Canada Pipe from engaging in anti-competitive acts through its Bibby Ste-Croix Division, ended on September 2, 2004 after 32 days of hearing.

On February 3, 2005, the Tribunal issued its Reasons and Order. In its decision, the Tribunal found, under section 79 of the Act, that the Respondent did substantially control the class of business comprising cast iron DWV products (pipe, fittings and MJ couplings) in the six areas of Canada. However, the Tribunal found that for a loyalty program such as the Stock Distributor

Program (SDP) to be anti-competitive, the switching costs must prevent buyers from changing suppliers. The Tribunal concluded that the Commissioner had not shown this to be the case. Moreover, the SDP did not have the attributes of anti-competitive acts as found in other decisions of the Tribunal. Therefore, the Tribunal did not find that the SDP was a practice of anti-competitive acts, nor did the Tribunal find that the SDP had substantially lessened or prevented competition. Under section 77, the Tribunal found that the SDP could be characterized as exclusive dealing and that Bibby was a major supplier, but that there was insufficient evidence to lead to a conclusion that as a result of the SDP, competition was or was likely to be lessened substantially.

The application was dismissed. The issue of costs was reserved as of March 31, 2005.

Deceptive Marketing Practices

Sears Canada

This case involves the Commissioner of Competition and Sears Canada Inc. under the new ordinary selling price provisions. The application alleged that Sears deceived consumers about the real value of their savings by referring to “inflated” regular prices when advertising certain tires at “sale” prices during the year 1999.

The hearing of this matter concluded in August 2004, and on January 24, 2005, the Tribunal released its decision allowing the Commissioner’s application against Sears Canada with respect to tire advertisements run in 1999, in which Sears advertised price discounts from its “regular” tire prices. The Tribunal concluded that those ads violated the “ordinary selling price” provisions of the *Competition Act* and issued a ten-year prohibition order against Sears. The Tribunal declined to require Sears to issue corrective notices. In April 2005, Sears agreed to pay a \$100,000 administrative monetary penalty and \$387,000 towards the Commissioner’s legal costs.

The Tribunal rejected Sears’ constitutional challenge to the validity of subsection 74.01(3) of the Act and held that Sears had not offered the tires at the advertised regular or ordinary price “...in good faith for a substantial period of time...”. In rejecting Sears’ argument that its representations were not materially false or misleading, the Tribunal held that the existence (or not) of consumer harm was irrelevant.

The Dosco Group Inc., Fabutan Corporation et al.

In March 2005, the Commissioner of Competition filed an application with the Tribunal relating to the marketing practices of Fabutan. It is alleged that Fabutan claims that moderate tanning is an effective way to improve Vitamin D deficiency and it also prevents or reduces the risk of breast, colon, prostate and ovarian cancers. A hearing has been set for January 2006.

Leave Applications

Allan Morgan and Sons Ltd. (Morgan) vs. La-Z-Boy Canada Ltd (La-Z-Boy)

In November 2003, an application pursuant to sections 103 and 75 of the *Competition Act* was filed with the Competition Tribunal by Allan Morgan and Sons Ltd., relating to the refusal to

deal by the respondent in this application, La-Z-Boy Canada Ltd. The applicant sought an order pursuant to subsection 75 (1) of the Act directing the respondent to accept Morgan as a customer and dealer on usual trade terms for the supply of La-Z-Boy products. The applicant was granted leave to file in February 2004. The Applicant (Morgan) filed a notice of discontinuance in the spring of 2005.

Price Waterhouse Coopers as receiver and manager of Barcode Systems Inc.(Barcode) vs. Symbol Technologies Canada ULC (Symbol)

In November 2003, an application pursuant to section 103.1 of the *Competition Act* was filed with the Competition Tribunal by Barcode Systems Inc. requesting leave to file an application concerning the refusal to deal by the respondent in this application, Symbol Technologies Canada ULC. Reasons and Order allowing the application for leave to make an application under Section 75 was rendered in January 2004. The respondent filed a Notice of Appeal of the Tribunal Order to the Federal Court of Appeal in January 2004, and a stay of proceedings was filed with the Tribunal, pending the outcome of the Federal Court of Appeal. In October 2004, the Federal Court of Appeal determined that the Tribunal had erred in law by not taking into account statutory requirements, but upheld the Tribunal's determination to grant leave. In February 2005, Symbol filed an application requesting that the Order granting leave be rescinded under section 106 of the Act. The stay of this matter is still in effect.

Quinlan's of Huntsville v. Fred Deeley Imports Ltd.

In July 2004, Quinlan's filed an application pursuant to section 103.1 of the Act, seeking leave to bring an application for an order under section 75 of the Act, for Fred Deeley to accept Quinlan's as a customer on the usual terms of trade. In August 2004, the Tribunal granted leave to Quinlan's. In November 2004, the Tribunal issued an Interim Order for Relief, ordering Deeley to supply Quinlan's with non-seasonal general merchandise and parts. This matter settled early in the Spring of 2005.

Robinson Motorcycle Limited v. Fred Deeley Imports Ltd.

In June 2004, Robinson Motorcycles applied to the Tribunal under section 103.1(1) for leave to bring an application under section 75 of the Act. The application sought an order requiring Fred Deeley Imports to continue to deal with Robinson as a dealer of Harley-Davidson products on the usual trade terms. The leave application was granted and a hearing has been set for October 2005.

Broadview v. Pfizer

In June 2004, Broadview Pharmacy together with three other pharmaceutical companies (*Broadview v. Wyeth, Paradise & Rymal v. Novartis, Mrs. O's Pharmacy v. Pfizer*) filed applications pursuant to section 103.1 of the *Competition Act* for leave to make an application under section 75 of the Act. As the three other applications filed were similar in nature the four cases were considered together for the sake of efficiency.

The applicants applied under section 103.1 for leave to make an application under section 75 (refusal to deal). In each case, the applicant was a retail pharmacy and the respondent was a major pharmaceutical company. The applicants alleged that the respondents were refusing to

deal, and the respondents countered that the applicants had not met the test of section 103.1 and therefore should not be granted leave to apply under section 75. The underlying issue was the internet trade of pharmaceutical products, which the respondents opposed, and which motivated the refusal to deal. This, however, was of no consequence for the decision itself. In September 2004, the Tribunal dismissed the applications for leave. The Tribunal felt that the pharmacies had not established that they were substantially affected in their businesses, both in terms of percentages and sales figures.

Registered Consent Agreements

A total of seven consent agreements were registered with the Tribunal in 2004/05. These agreements related to the health products, forestry industry, sport and fitness products, and railway industries, and in some cases involved substantial financial penalties. These orders are registered with the Tribunal by the Commissioner of Competition and have the effect of an order of the Tribunal. The details regarding the matters filed as consent agreements can be referenced on the Tribunal's website: <http://www.ct-tc.gc.ca/index.asp>.

Federal Auction Service

A Consent Agreement filed and registered with the Tribunal in March 2005, in which the Commissioner alleged that in or around 1999 the respondents, for the purpose of promoting the sale of items, made representations to the public that the items had been previously seized by customs and/or been recovered from the proceeds of crime. None of the items offered fit that description and in the view of the Commissioner, were false or misleading in a material respect contrary to subsection 74.01(1) of the Act. The respondents were also ordered to pay an administrative monetary penalty in the amount of \$25,000.

Performance Marketing

In December 2004, the first case under the Bureau's new internet surveillance and enforcement program called Project FairWeb was resolved when Performance Marketing entered a Consent Agreement and agreed to refund consumers the full value of their purchases for false claims about Zyapex and Dyapex Diet Patches.

West Fraser Timber Co. Ltd. and West Fraser Mills Ltd.

The Competition Bureau filed a consent agreement with the Tribunal that addressed concerns with the merger of West Fraser Timber Co. Ltd. (West Fraser) and Weldwood of Canada Ltd. (Weldwood). The agreement enabled the forestry companies to merge while preserving the choice for independent timber harvesters, wood re-manufacturers and log sellers in the northern and southern parts of B.C.

Tolko

A consent interim agreement filed in November 2004 stated that Tolko shall acquire the remaining issued and outstanding shares of Riverside, but shall maintain the Riverside Okanagan Manufacturing Facilities as a separate and independent business. Tolko was also prohibited from terminating the operation or dispose of material assets of Riverside Okanagan Manufacturing Facilities. The agreement preserves the Tribunal's right to order appropriate relief pending completion of the Bureau's review of the case.

Forzani

In a consent agreement filed with the Tribunal in July 2004, the sporting goods retailer agreed to pay an administrative monetary penalty of \$1.2 million (12 times the maximum AMP available under the Act) and costs of the Bureau's inquiry totalling \$500,000.

British Columbia Company and Canadian National Railway Company

In July 2004, the Commissioner filed for registration of a consent agreement with the British Columbia Railway Company (BCRC) and Canadian National Railway Company (CN). CN purchased all of BCRC's shares, issued and outstanding, promising to allocate cars in a manner that is consistent with commercial policies and operational practices. In order to ensure rail competition, CN is to publish and maintain Open Gateway Tariffs.

Urus Industrial Corporation o/a Koolatron

In July 2004, the Commissioner registered a consent agreement with the Tribunal and Urus was ordered to cease representations and promotions regarding the "AB Energizer" an electronic muscle stimulation device. The promotions and representations made during infomercials and on an Internet website stated that the device would cause weight loss, provide the user with an athletic physique and well defined abdominal muscles. The consent agreement said that Urus would also refund the purchase price of the AB Energizer to customers, post a notice on their website with a link to the consent agreement and pay an administrative monetary penalty of \$75,000.

A Registry Service ...

The major performance and planning challenge of the Registry continues to be the number of applications filed. Its workload is greatly dependent 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. Fiscal year 2004/2005 was a record year for filings at the Registry.

Twenty-three new proceedings were filed, 20 proceedings were completed, and 26 decisions were rendered by the Tribunal. An additional six proceedings were still ongoing from previous years bringing the Registry's workload to a total of 29 proceedings. As a small agency of 14 full time equivalents, the Registry is constantly looking at ways to enhance preparedness so that cases filed are processed promptly and fairly.

Litigants expect cases to be resolved more quickly and at less cost. Pressure to develop and introduce more electronic services continues to grow. The past several years have been groundbreaking for the Registry in terms of modernizing its operations. The electronic filing and hearing process continues to set a standard for the legal community. Practice Directions for E-filing were issued January 10, 2005, as the provision of electronic hearings continues to be a key initiative for the Registry. Enhancements to the case management system were postponed to fiscal year 2005/2006 due to a lack of human resources to manage the initiative.

Significant Ongoing Initiatives include:

Improving Client Service

Through consultation, the permanent Tribunal/Bar Liaison Committee continued to review and amend the Rules for Regulating the Practice and Procedure to streamline the established process. On January 10, 2005 the Chairperson of the Tribunal issued new Practice Direction regarding the Electronic Filing of Documents. This Practice Direction describes the procedures for filing and serving documents electronically and for conducting electronic hearings before the Competition Tribunal.

Emphasis was put on early consultation with counsel to establish the pre-hearing schedule and the filing of relevant case documents. Once established schedules are approved by the parties, the presiding member has the ability to manage the hearing of submissions more efficiently, thereby expediting the hearing process.

The Registry revamped its website by adding numerous features such as a powerful search engine, automatic notification when cases are filed, frequently asked questions and answers, and a user satisfaction survey. Survey results have shown that users are able to find information they are looking for with ease 75% of the time, and 80% of users rated the site from very good to excellent. The Registry will strive to further enhance the search module to achieve yet higher search satisfaction results in 2005.

In early 2005 the Registry adopted the Secure Channel Authentication Service, known as Common Registration Services. This service provides clients with the ability to file all case documents quickly and securely. Parties using Secure Channel are encouraged to provide the registry with user feedback. This feedback will be used to make important changes to the e-filing system and will help in making e-filing the filing method of choice for Registry clients.

Improving Management Practices

Building on the successes achieved from activities implemented under the Modern Comptrollership (MC) Initiative, the Registry of the Competition Tribunal is continuing to move forward in the implementation of modern management practices. This remains a key priority.

2004/2005 achievement highlights include:

√ An Internal Audit Policy was developed and implemented,

√ A compliance audit was conducted in the fall of 2004 and the winter of 2005 of Treasury Board key financial and contracting policies. The audit report was tabled in March 2005.

Auditors reported that the Registry complied with Treasury Board Secretariat (TBS) financial and contracting policies although auditors identified some areas for improvement. The registry developed an action plan that will be implemented in 2005/2006,

√ The development of a Logic Model which began in March 2004 was completed in the fall of 2004. The Model was used as the foundation for the development of an evaluation strategy,

√ The Registry, in partnership with the TBS Centre of Excellence for Evaluation, embarked on a project in January 2005 to develop an evaluation and performance measurement strategy. The results of this project will serve in the development of performance indicator in support of an evaluation plans for 2005-2006.

√ In the latter part of 2004-2005, the Registry commenced planning for the coming into force of the new Public Service Modernization Act (PSMA) which will be implemented in 2005. The Registry developed and implemented a policy for conflict resolution, signed an MOU with the Federal Centre for Workplace Conflict Management for the provision of conflict resolution services and initiated consultation to establish a labour-management consultative committee. The Registry will continue to work on developing the necessary policies and procedures required to implement the PSMA in 2005-2006.

√ The Registry embarked on implementing the Management of Government Information Policy. An eight-phase action plan was developed extending over two fiscal years. The first four phases scheduled for implementation in 2004/2005 are completed. The work involved the preparation, planning, and analysis of the initiative, as well as the development of several policies in support of information management. The remaining four phases will be completed in 2005/2006.

One area that remains a challenge to the Registry is the integration of Human Resources and Business Planning. Although the Registry remains committed to integrated planning, as a small agency with one business line and 14 full time equivalents, it is difficult to undertake such an initiative without additional resources. The Registry did however complete the implementation of the Organizational Diagnostic Recommendations, a study conducted by Deloitte & Touche in October 2003. The initiative entailed a fundamental review of the organization including its business model, operations, core processes, human resources and overall priorities. Conducting this organizational diagnostic clarified the assignment of roles, responsibilities and accountabilities, which in turn facilitated the definition of improved business processes.

The Registry continued to work in partnership with three other small agencies namely, the Canadian Artists and Producers Professional Relations Tribunal, the Copyright Board of Canada and the Transportation Appeal Tribunal of Canada with whom a cluster group was formed when the Modern Comptrollership (MC) Initiative was implemented in 2001-2002.

The focus for the cluster group in fiscal year 2004-2005 was on sustaining MC and building on work undertaken in 2003-2004.

Cluster Group MC Initiative highlights include:

√ An Internal Audit Committee consisting of senior representatives from each agency was formed and a Letter of Understanding was signed;

√ An Internal Audit Plan for 2004-2005 was submitted to TBS;

√ A Cluster Group Compliance Audit Common Issues Report was prepared which consolidated the key observations raised during the audits;

√ The results of the Registry's project to develop an evaluation and performance measurement strategy and performance indicators, embarked upon in January 2005, were shared with the other members of the Cluster Group and have served to shape each agency's evaluation activities/plans for 2005-2006.

√ The Cluster Group Information Bulletin "TRIBUCO" was once again published and distributed to all staff of the four agencies in 2004-2005. In addition, building on the momentum created by the implementation of the Cluster Group Values Statement which was implemented in fiscal year 2003-2004, each agency continued to reinforce the Values and Ethics Code for the Public Service at regular staff meetings and planned staff activities.

SECTION III – SUPPLEMENTARY INFORMATION

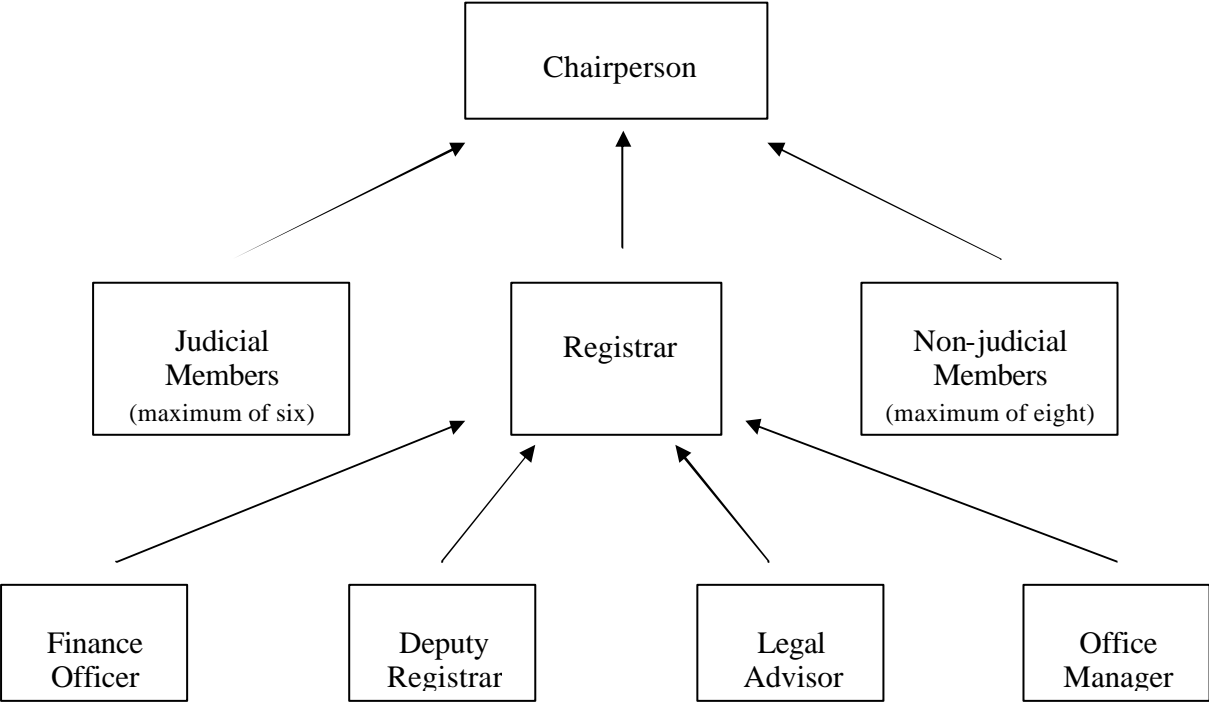
Organizational Information

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. They respond to all requests for information by the legal community, researchers and the public on the status of cases, the Tribunal’s Rules for Regulating the Practice and Procedure, and its case law.

Figure 1: Organizational Structure



The Registry of the Competition Tribunal is a small organization with a single business and service line; therefore the only pertinent financial tables are as follows:

Table 1: Comparison of Planned to Actual Spending

(\$ millions)	2002-03 Actual	2003-04 Actual	2004-2005			
			Main Estimates	Planned Spending	Total Authorities	Actual
Processing of Cases	1724	1882	1648	1648	1757 ¹	1505
Total	1724	1882	1648	1648	1757	1505
Total	1724	1882	1648	1648	1757	1505
Less: Non-Respendable revenue						
Plus: Cost of services received without charge	468	469		480		480
Net cost of Department	2192	2351		2128		1985
Full Time Equivalents	14	13	14	14	14	14

¹¹ This amount includes the 5% carry forward of \$72,850 from the budget of 2003-2004, and \$35,000 for collective bargaining compensation

Table 2: Use of Resources by Business Line

2004-2005								
Business Line	Budgetary						Plus: Non-Budgetary	Total
	Operating	Capital	Grants and Contributions	Total: Gross Budgetary Expenditures	Less: Respendable Revenue	Total: Net Budgetary Expenditures	Loans, Investments and Advances	
Processing of Cases								
Main Estimates	1648	0	0	0	0	1648	0	1648
<i>Planned Spending</i>	1648	0	0	0	0	1648	0	1648
Total Authorities	1757	0	0	0	0	1757	0	1757
<i>Actual Spending</i>	1505	0	0	0	0	1505	0	1505

Table 3: Voted and Statutory Items

Vote or Statutory Item	Truncated Vote or Statutory Wording	2004–2005			
		Main Estimates	Planned Spending	Total Authorities	Actual
45	Operating expenditures	1648	1648	1757	1505
N/A	Capital expenditures	0	0	0	0
N/A	Grants and Contributions	0	0	0	0
(S)	Minister of XXX – Salary and motor car allowance	0	0	0	0
(S)	Contributions to employee benefit plans	173	173	173	119
	Total	1821	1821	1930	1624

Table 4: Net Cost of Department

(\$ millions)	2004–2005
Total Actual Spending	1,505
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	416
Contributions covering employers' share of employees' insurance premiums and expenditures paid by TBS (excluding revolving funds)	64
Worker's compensation coverage provided by Social Development Canada	0
Salary and associated expenditures of legal services provided by Justice Canada	0
<i>Less: Non-responsible Revenue</i>	
2004–2005 Net cost of Department	1,985

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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