

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(EAST REGION)

**IN THE MATTER OF** the *Competition Act*, RSC 1985, c C-34;

**AND IN THE MATTER OF** *ex parte* applications filed on 26, 30 and 31 October 2017, and 1 November, by authorized representative of the Commissioner of Competition, Senior Competition Law Officer, Simon Bessette, for the issuance of warrants to enter, search and copy or seize for examination or copying certain records or other things pursuant to sections 15 and 16 of the *Competition Act*;

**AND IN THE MATTER OF** *ex parte* applications filed on 26, 30, and 31 October 2017 and 1 November 2017 pursuant to section 487.3 of the *Criminal Code* to seal and prohibit disclosure of the Informations to Obtain of Senior Competition Law Officer Simon Bessette, the search warrants and the affidavit with respect to the sealing order;

**AND IN THE MATTER OF** an application pursuant to section 487.3(4) of the *Criminal Code* to vary the terms and conditions of sealing orders signed by Justice Phillips on 27 October 2017, Justice Aitken on 31 October 2017, and sealing orders signed by Justice McKinnon on 1 November 2017.

**BETWEEN:**

**THE COMMISSIONER OF COMPETITION**

**Applicant**

**-and-**

**CANADA BREAD COMPANY, LIMITED; WESTON FOODS (CANADA),  
INCORPORATED; LOBLAW COMPANIES LIMITED; WAL-MART CANADA  
CORPORATION; SOBEYS INCORPORATED; METRO INCORPORATED; GIANT TIGER  
STORES LIMITED and OVERWATEA FOOD GROUP LIMITED PARTNERSHIP**

**Respondents**

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**AN ORDER TO VARY THE TERMS AND CONDITIONS OF SEALING ORDERS**

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**UPON** an application, pursuant to section 487.3(4) of the *Criminal Code*, made on 13 December 2017, by an authorized representative of the Commissioner of Competition, for an Order to Vary the terms and conditions of sealing orders signed by Justice Phillips on 27 October 2017, Justice Aitken on 31 October 2017 and two sealing orders signed by Justice McKinnon, both dated 1 November 2017 in relation to Canada Bread Company, Limited, Weston Foods (Canada) Incorporated, Loblaw Companies Limited, Wal-Mart Canada Corporation, Sobeys Incorporated, Metro Incorporated, Giant Tiger Stores Limited and Overwaitea Food Group Limited Partnership (collectively the “**Searched Parties**” and each individually a “**Searched Party**”);

**AND UPON** reading the materials in support of the application to vary the terms and conditions of the sealing orders;

**AND UPON** being satisfied that the premature disclosure of the original versions (*i.e.*, the unredacted versions) of the Informations to Obtain (“**ITOs**”) would identify the individuals who are covered by the Bureau’s Immunity Program and therefore the original **ITOs** should remain confidential pursuant to subparagraph 487.3(2)(b) of the *Criminal Code*;

**IT IS ORDERED** pursuant to subsection 487.3(4) of the *Criminal Code*:

1. THAT the sealed packets sealed by order of Justice Phillips on 27 October 2017, order of Justice Aitken on 31 October 2017 and two sealing orders signed by Justice McKinnon, both dated 1 November 2017, be unsealed and the warrants and affidavits to obtain the sealing orders contained therein be placed on the public court file;
2. THAT the Court will provide court-certified copies of the Informations to Obtain the warrants (“**ITOs**”) contained in the sealed packets to an authorized representative of the Commissioner of Competition;
3. THAT the original **ITOs**, from which the copies were made, be returned to their corresponding packet, resealed and kept in the custody of the Court in a safe, secure and private place to which the public has no access, so as to ensure the privacy and confidentiality of such contents until a subsequent Order of this Court orders the opening of the sealed packet;
4. THAT the authorized representative of the Commissioner of Competition will be permitted to redact from the **ITOs** the names, and other identifying information, related to individuals who have cooperated with the Competition Bureau’s investigation to date, without prejudice to any party’s position in respect of such redactions;
5. THAT the authorized representative of the Commissioner of Competition will return to the Court the redacted copies of the **ITOs** within three (3) business days of the receipt of the original **ITOs** and, pending the process contemplated in paragraphs 7

and 8 below, the redacted ITOs will be returned to the custody of the Court and kept in a safe, secure and private place to which the public has no access, so as to ensure the privacy and confidentiality of such contents

6. THAT when the redacted copies of the ITOs shall be returned to the Court by the authorized representative of the Commissioner of Competition, copies of the redacted ITOs in relation to the warrant(s) executed at the premises of each Searched Party will be made available by the authorized representative of the Commissioner of Competition to the Searched Parties and/or their legal counsel. For clarity, each Searched Party shall only receive a copy of the redacted ITO(s) in relation to the warrant(s) executed at their respective premises;
7. THAT the Searched Parties shall have thirty [30] days from the date of receipt of copies of the redacted ITOs to file any motion for a further sealing order related to all or any part of the redacted ITOs. However, no Party will seek any order that would preclude (including any extension of the sealing order that would have similar effect) any Searched Party from making such disclosure of material information as is required under applicable securities laws provided such disclosure is limited to information the Searched Party knew independently of the redacted ITO.
8. THAT the redacted version of the ITOs shall not be placed on the public court file and available to the public until the later of: (i) the final determination of any motion brought by a Searched Party or Parties as contemplated under paragraph 7; or (ii) the Report to a Judge pursuant to section 17 of the *Competition Act* has been filed.
9. THAT the Searched Parties and/or their legal counsel are prohibited from making disclosure of the redacted ITOs to the public prior to the redacted ITOs being placed on the public court file.

**DATED** at the City of Ottawa in the Province of Ontario this 18<sup>th</sup> day of December 2017.

A handwritten signature in cursive script, likely belonging to a judge, written over a horizontal line.

A Judge of the Ontario Superior Court of  
Justice (East Region)

