



Donald B. Houston

Counsel

Toronto

dhouston@mccarthy.ca

t. +1 416-601-7506

+1 416 302 1839

Bar Admission

Ontario 1981

Law School

University of Manitoba

Practices

Disputes and Litigation

Class Actions

Cyber/Data

Competition/Antitrust & Foreign

Investment

Competition Litigation

US and International Markets

US Markets

Donald B. Houston is Counsel in our Competition/Antitrust & Foreign Investment Group in Toronto. He is widely recognized as one of Canada's leading practitioners in competition law and litigation. Mr. Houston is a former Chair of the Canadian Bar Association's National Competition Law Section.

Mr. Houston's competition practice includes cartel investigations and prosecutions, mergers, civil cases before the Competition Tribunal and private actions (including class actions) in the Courts. He has frequently represented the Commissioner of Competition in the Tribunal and before the Courts. He also assists clients by counselling on the competition aspects of business transactions and by making representations to the Bureau in mergers and other matters.

REPRESENTATIONS

Mr. Houston has acted as counsel on numerous significant competition matters. Current and recently completed mandates include:

- Representation of defendants in ongoing proposed class actions alleging anti-competitive conduct in the following businesses:
- Foreign exchange
- SSA bonds
- Luxury automobiles
- Vehicle emissions technology
- Automotive components, including heater control panels
- Computer components, including capacitors, resistors and suspension assemblies
- Packaged tuna
- Gypsum dry wall
- Representation of Centrica Inc in its sale of Direct Energy to NRG Energy;
- Representation of Bell Canada in its acquisition of Axia;
- Representation of Shell Canada in the sale of its oil sands interests in Canada;
- Representation of Molson Coors in its acquisition of the Miller beer brands;
- Defence of criminal price-fixing charges regarding chocolate products;
- Representation of a telecommunications company defending claims of misleading advertising brought by the Commissioner of Competition;
- Representation of an energy company, defending allegations of abuse of dominance made by the Commissioner in the Competition Tribunal;
- Representation of Lafarge SA in its global merger with Holcim Inc.;

Donald B. Houston

Counsel

Toronto

dhouston@mccarthy.ca

t. +1 416-601-7506

+1 416 302 1839

- Representation of Desjardins in its acquisition of State Farm's property and casualty insurance business;

- Defence of criminal charges alleging breach of a Tribunal order.

Other significant mandates include:

Mergers

- Direct Energy's sale of its Ontario Home Services Business to Enercare Inc.;
- Agrium's acquisition of Viterra retail;
- Leon's acquisition of the Brick;
- Maple Group acquisition of the Toronto Stock Exchange;
- Eaton Corporation's acquisition of Cooper Industries;
- BCE's acquisition of the CTV television network;
- BFI Canada's acquisition of Waste Services Inc.;
- Avaya Inc.'s acquisition of the Nortel enterprise communications business;
- Suncor merger with Petro-Canada– Counsel for the Commissioner;
- ICI acquisition by Akzo Nobel - merger;
- Cargill Limited Acquisition of the Better Beef Group.

Cartel Investigations & Class Actions

Mr. Houston has represented clients in cartel investigations (and/or related class actions) involving a wide range of products including the following: foreign exchange, electronic books, air cargo, chocolate products, drywall, polyurethane foam, various automotive products, rubber chemicals, various computer chips and components, optical disk drives, construction flat glass, hydrogen peroxide and other chemicals, food additives and vitamins.

Other Competition Litigation

- *Commissioner v. Agricore United* (2006 – merger litigation);
- *Commissioner v. Canadian Waste Services* (2004 – merger litigation);
- *Commissioner v. Air Canada* (2003 - abuse of dominance, predation);
- *Boehringer Ingelheim v. Bristol-Myers* (1999 - private action, predation);
- *Law Society of Ontario v. Canada* (1996 - regulated conduct);
- *ICN Pharmaceuticals v. Canada* (1996 - jurisdiction of Patented Medicines Prices Review Board);
- *Director v. D&B Companies* (1996 – abuse of dominance);

Donald B. Houston

Counsel

Toronto

dhouston@mccarthy.ca

t. +1 416-601-7506

+1 416 302 1839

- *Director v. Southam Inc.* (1995 – merger litigation); and
- *Director v. Air Canada* (1993 – merger litigation, variation order).

Mr. Houston has appeared in the Supreme Court of Canada, the Federal Court of Canada and all levels of Courts in Ontario. His experience litigating cases before the Competition Tribunal is unsurpassed in Canada.

PUBLICATIONS

Mr. Houston is an adjunct professor at Western University Law School, and has written and lectured extensively. His publications include:

- “The Trial of an Action” (2nd), 1998, with the late Honourable Justice Sopinka and Melanie Sopinka
- “Litigating Competition Law in Canada”, (LexisNexis Canada, 2018), Contributing author
- “The Annual Canadian Competition and Foreign Investment Law Year in Review”, with J. Bitran et al;
- Competition Law, in “Intellectual Property Disputes: Resolutions and Remedies,” Thomson/Carswell;
- “Recent Developments in Competition Class Actions in Canada”, with E. Rix, *Canadian Institute*, 2009;
- “The Role of Intent in Abuse of Dominance Cases in Canada”, with J. Pratt, *Insight*, 2006;
- “Jurisdictional Issues in International Cartel Cases: A Canadian Perspective”, *Irwin Law*, 2006;
- “Canadian Predation Laws and Their Application to the Airline Industry”, with J. Pratt, *ABA*, 2004;
- “Price Maintenance, Price Discrimination and Predatory Pricing: Overview and Practical Issues”, with P. Sirkis, *Osgoode Hall*, 2004;
- “Expert Reports: Practice & Procedure in Commercial Litigation & Forensic Accounting”, with J. Pratt, *Butterworths*, 2003;
- “Anti-Trust Class Actions: A Canadian Growth Business”, *American Lawyer Media* 2002;
- “Private Remedies for Anti-Competitive Conduct”, *CBA*, 1998, with R. Bell and S. Bhattacharjee.

Awards & Rankings

Chambers Global

Leading Lawyer: Competition/Antitrust: Litigators - Canada;
Competition/Antitrust - Canada

Chambers Canada

Senior Statesperson: Competition/Antitrust: Litigators

Donald B. Houston

Counsel

Toronto

dhouston@mccarthy.ca

t. +1 416-601-7506

+1 416 302 1839

Benchmark Litigation Canada

Litigation Star

The Canadian Legal Lexpert Directory

Leading Lawyer: Class Actions, Competition Law

Lexpert Special Edition: Finance and M&A

Leading Lawyer

The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada

Leading Lawyer: Competition Law

Lexpert Special Edition: Litigation

Leading Lawyer

The Legal 500 - Canada

Leading Lawyer: Competition & Antitrust

Best Lawyers in Canada - 2019

Lawyer of the Year: Competition/Antitrust

Best Lawyers in Canada

Leading lawyer in the areas of class action litigation and competition /antitrust law

Expert Guide - 2018

Competition & Antitrust

Who's Who Legal: Canada

Competition and Antitrust

Recent Experience

- **Centrica plc completes agreement to sell Direct Energy to NRG Energy for US\$3.625B**
January 05, 2021

Recent Insights

- **Fit to be Tried? Supreme Court of Canada Rules on Certification of Competition Class Actions**
September 20, 2019
- **Fit to be Tried? Supreme Court of Canada Rules on Certification of Competition Class Actions**
September 20, 2019

Donald B. Houston

Counsel

Toronto

dhouston@mccarthy.ca

t. +1 416-601-7506

+1 416 302 1839

- **Fit to be Tried? Supreme Court of Canada Rules on Certification of Competition Class Actions**

September 20, 2019

- **Deceptive marketing in the spotlight: Ticketmaster to pay Competition Bureau penalty of \$4.5 million**

July 03, 2019