

 **Bulletin****Competition Litigation****New Brunswick Court Grants Interlocutory Injunction Under Competition Act**

The New Brunswick Court of Queen's Bench has granted Bell Aliant Regional Communications, Limited Partnership an injunction restraining Rogers Communications Inc. from claiming that it offers the "fastest and most reliable speed", "the fastest speed", or the "most reliable speed" in respect of its Internet service.

Blakes lawyers Paul Schabas and Ryder Gilliland, representing Bell Aliant, successfully argued that in light of the launch of Bell Aliant's FibreOP Internet service, providing fibre-to-the-premises connections in Fredericton and Saint John, there was a serious issue to be tried that Rogers' representations were false and misleading and contrary to Section 52 of the *Competition Act*. In particular, Justice Judy Clendening noted that Rogers had not tested its system against Bell Aliant's new FibreOP network. "If one advertises itself to be the 'fastest' or 'the best, or the most reliable' then on the basis of common sense there should be a preponderance of technical evidence to support this claim". The judge stated in support of her finding that Bell Aliant had a "strong case".

The court also agreed that if an injunction was not granted, Bell Aliant would potentially suffer irreparable harm, as its damages would be difficult to quantify as "the loss of customers and the potential loss of new customers is ... difficult to assess". Justice Clendening also found that the balance of convenience favoured enjoining Rogers pending a trial of the issue, noting that the harm Rogers would suffer "may result from disallowing misleading advertising". To view the decision of the New Brunswick Court of Queen's Bench, click [here](#).

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