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Guidelines

SPECIFIC CLAIMS TRIBUNAL

MEDIA POLICY

May 25, 2011

1. The Specific Claims Tribunal recognizes that both the justice system and the public interest are well-served when media coverage of proceedings is accurate, balanced and complete.
2. The quality of justice is enhanced when the public receives accurate information which serves to increase understanding of the legal process and decisions made.
3. Media coverage of legal proceedings is the main way that the public receives information about what transpires in the courts and tribunals of the country.
4. Proper, balanced, complete and accurate information disseminated through the media increases public knowledge and serves to engender public respect for the operation of the Specific Claims Tribunal and for the administration of justice.
5. Members of the Specific Claims Tribunal and Registry staff have a duty, consistent with their roles, to assist the media in performing their important role of providing coverage of the Tribunal's work.
6. In keeping with these basic principles, the purpose of this policy directive is to set out a framework for relations between the Tribunal, the media and the general public.

The Open Court Principle

7. The general rule in Canada is that court and tribunal hearings are open to the public and may be reported in full. Accordingly, members of the public, including the media, are welcome to attend all sessions of the Tribunal except in rare circumstances where a Tribunal member orders that a proceeding be held in private.
8. Courts and tribunals in Canada have significant common law and statutory powers to ensure that proceedings are conducted fairly and to protect the integrity of the judicial processes.

Responsibilities of Members of the Court

9. Members of the Tribunal are committed to facilitating public and media access to court proceedings and public documents.
10. Tribunal officials and staff have a responsibility to assist the public, including the media, in obtaining the access to Tribunal claim files and records and to generally assist in helping representatives of the media report accurately on proceedings.
11. On request, officials within the Specific Claims Registry will provide factual information to litigants and others on a variety of subjects, including Tribunal practices, policies, directives and procedures, as well as their own functions and responsibilities as employees of the Registry. Local Registry contact information is set out at <http://www..sct-trp.ca>.

12. The Tribunal's Registrar is the principal contact for the media, readily available to provide factual information and explanations about the administration of the Tribunal and the legal context of decisions. The Registrar makes every effort to respond to enquiries as promptly as possible, but cannot make predictions about, or speculate on, the outcomes of claims.

General

13. When attending a hearing conducted by the Specific Claims Tribunal, members of the press and media shall conduct themselves appropriately at all times being respectful of the dignity of the proceedings and safety of the participants.
14. These guidelines are not to be interpreted as interfering in any way with the discretion of the presiding Tribunal member to resolve issues that arise during the conduct of a hearing.

Public and Media Access to the Specific Claims Tribunal

15. Hearings of the Specific Claims Tribunal, other than case conferences, settlement conferences, trial management conferences and any pre-trial or dispute resolution conferences, are generally open and accessible to the public and media, as are documents filed with the Registry. Specific exceptions relate to sealing orders, notably regarding confidential or privileged matters.
16. Seating space in a hearing room is sometimes limited. For security purposes, Tribunal personnel will take into account the size of the courtroom when admitting the public and media to Tribunal proceedings. Standing during a proceeding is not permitted.
17. For the purpose of note-taking or electronic communication, laptop computers, Blackberries and similar devices are generally permitted in a hearing provided they do not cause any disturbance to the proceedings. This applies to members of the media, counsel and members of the public.
18. Communications devices, such as cell phones, pagers and similar devices are permitted provided they are set on silent mode and never used for voice communication.
19. Spectators at a hearing must act in such a way so as not to disturb the conduct of the proceedings. Doors to the hearing room should be closed gently and quietly. There should be silence in the hearing room at all times hearings are in session.
20. If a reporter must enter or exit a hearing room while a hearing is in session, he or she is urged to do so quietly and unobtrusively. The basic principle is that the conduct of the hearing is not to be disturbed.
21. From time to time a member of the Tribunal may order that no one enter or leave the hearing room in order not to disturb the testimony of a witness or address of counsel or when a member of the Tribunal is delivering his or her decision.
22. During a hearing if requested to do so a designated room in the Tribunal offices will be set aside for the media as well as a table within the hearing room.

Recording and Photographing Court Proceedings

23. Members of the media holding valid credentials may tape-record proceedings to verify their notes of what was said and done in a hearing, but not for broadcast. Others (*i.e.*, counsel or members of the public) must seek permission of the presiding Tribunal Member. Requests should be directed to the Registrar.
24. In the event that media wish to record (audio or video) or photograph for publication or broadcast any portion of a hearing, a written request must be submitted to the Chairperson within a reasonable period of time in advance of the hearing.

25. In the event that the Chairperson grants permission to record all or part of a hearing, the Registrar will work out the logistics and establish the rules governing the recording.
26. Guidelines for applications for electronic media coverage are set out in Appendix A.
27. Requests to conduct interviews on Tribunal premises, or to record or photograph Court facilities, shall be directed to the Registrar.
28. When a hearing is in session, cameras, including television cameras, are not allowed to be used anywhere in the Tribunal hearing room or Registry offices.
29. Camera operators may take their cameras into the hearing room if they terminate the power supply.
30. A camera operator in the public area of the Registry must not film or photograph from the public area into the hearing room through a door or window.
31. On special events such television cameras and still cameras may be allowed to be used in a hearing room unless the press or public are notified otherwise. Because space may be limited, camera operators may be limited to a pre-determined area of the hearing room.
32. Requests for use of empty hearing rooms for news related filming should be made to the Registrar.

Media Access to Court Documents

33. As a general rule, all documents filed are a matter of public record unless a legislative provision or order prohibits public access. Documents submitted to the Registry for filing are deemed not to be filed pending approval for filing by the Registrar or an order of the Tribunal.
34. The Registry of the Tribunal holds the files and documents related to all proceedings. The public and media may attend at the Registry office and search a file and/or review documentation in these premises during office hours which are generally between 8:30 a.m. and 4:30 p.m. In no case shall the public or media be permitted to remove documentation from the Tribunal file or office. Any review of a file must be conducted in the presence of Tribunal staff.
35. Upon request of a litigant, the Tribunal may order that certain material be sealed in order to protect the confidentiality of personal or corporate information. Before a sealing order is made, an applicant must show to the Tribunal's satisfaction that confidentiality is warranted, notwithstanding the Tribunal's general preference for, and the public interest in, open and accessible court proceedings.
36. It may be difficult to obtain access to Tribunal records or files immediately before or during a hearing: the member of the Tribunal may have the file in his/her office for review or, during the proceedings, materials may be in the custody of a Tribunal clerk or staff. As well, if a decision is reserved the member of the Tribunal may have the file in his/her office while writing the decision.
37. If a reporter or member of the public wish access to a file when it is in a member of the Tribunal's office, a request should be made to the Registrar who will relay the request to the Tribunal member for directions.
38. During a hearing, the claim file and all exhibits will be under control of the Tribunal clerk and is not accessible to the public or media.
39. Media and member of the public are not permitted physical access to a file or to any documents or exhibits during the conduct of a hearing. In the event that a member of the media wishes to view the Tribunal file during the course of a hearing, a request must be made to the Registrar

who shall request directions from the presiding member of the Tribunal. In no circumstances shall access be granted to any exhibits that have been filed during the hearing.

Requests

40. Information regarding the date, time and place of the hearing can be obtained by accessing the Registry website: <http://www.sct-trp.ca>.

Publication bans

41. Members of the media have standing to be heard and to raise objections in open when a party requests that a member of the Tribunal impose a non-statutory ban (*Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835).
42. In the exercise of their common law or discretionary authority to impose publication bans, members of the Tribunal shall weigh all competing *Charter* rights (e.g., freedom of expression, right to a fair trial) and only impose the minimal ban necessary to protect fundamental rights.
43. In the event that a publication ban is imposed, registry staff shall flag each file by highlighting the ban on the cover of the file. In addition, a one page form shall be inserted as the first document in the Registry file indicating the file name, the name of the member of the Tribunal making the order, the date of the order and its conditions.
44. If counsel make a motion for a publication ban, the motion will appear on the Tribunal's Website.
45. When a motion is filed, the media will have an opportunity to challenge the request for a publication ban and should contact the Registrar to arrange a hearing date.

Judicial Comment on Media Reporting

46. Members of the Tribunal generally do not comment on particular claims or on their decisions and are rarely in a position to speak publicly or grant interviews on these subjects. However, they do take opportunities in appropriate forums to discuss the role of the Tribunal and its members, as well as broader issues, especially those relating to the administration of justice.
47. It will sometimes be necessary to correct misconception and errors, which, if left uncorrected, could have a damaging effect upon public respect for the administration of justice. The effectiveness of the administration of justice to a large degree depends upon public confidence. Public confidence may be eroded and the administration of justice weakened by the inaccurate reporting.
48. The Registrar shall, at the direction of the Chairperson of the Tribunal, respond to a case of inaccurate reporting if a member of the Tribunal is the subject of personal criticism or if information about the Tribunal or a particular decision is seriously misstated in media reports.

Appendix

A Guidelines for the Application for Electronic Media Coverage of Proceedings

1. With reasonable advance notice in writing to the Chairperson, the media may make an application for electronic media coverage of proceedings.
2. The Chairperson will consult with the member of the Tribunal hearing the proceeding and counsel for the parties.
3. The Chairperson or the presiding member of the Tribunal may, at any time, impose conditions

on, or terminate, media coverage to protect the rights of the parties; to preserve the dignity of the Tribunal; to assure the orderly conduct of the proceedings; or for any other reason considered necessary or appropriate in the best interest of justice.

4. No direct public expense is to be incurred for equipment, wiring or personnel needed to provide media coverage.
5. There shall be no audio pickup or broadcast of conferences which occur in a tribunal facility between counsel and their clients, between co counsel of a client, or between counsel and the presiding member.
6. Applications for media coverage of a hearing shall be brought under the name of the matter being heard with the applicant shown as an additional party designated as "media intervener" only on pleadings or other documents related to the application for coverage.
7. The applicant for order permitting media coverage shall have standing as a media intervener and may appear via teleconference if approved in advance by the member of the Tribunal hearing the application otherwise the application must take place before a member. A media intervener has no standing in any other matters or for any other purpose.
8. Applications for an order permitting coverage shall be made to the Registrar, upon written notice to the parties or their counsel of record, not less than 14 days before the application is scheduled to be heard. All applications shall be accompanied by a draft of the order sought. Applications should be supported by affidavit.
9. Notice of objection to the application for media coverage shall be filed with the Registrar with notice to the media intervener and all other parties or their counsel within four clear days of the receipt of the notice of application setting out the grounds for the objection.
10. The media outlet requesting permission to film or photograph (the "media intervener") must prepare a formal notice (an Application to Permit Coverage); a draft Order for the member of the Tribunal to sign (which sets out the action requested - generally permission to televise a specific claim); and an Affidavit (which sets out the reasons for the request, gives the Tribunal evidence that arrangements have been made for pooling coverage, that the media intervener has read and will abide by the Guidelines etc.). The Affidavit may be sworn by the Registrar.
11. Three copies of each application (including supporting documents) must be filed with the Registrar of the Tribunal at 427 W. Laurier Street, Ottawa, Ontario at least **14 days** before the day scheduled for the hearing.
12. If none of the parties object to coverage, the Order may be granted without a hearing.
13. If there is an objection by any of the parties, the objecting party must file a Notice of Objection with the Tribunal and must either deliver personally to the parties and the media applicant or deliver by fax transmission, where the consent of the parties and/or media applicant was obtained in advance to use this method of transmission, court date stamped copies of the Notice of Objection within two clear days (this excludes weekends and holidays) of the filing of the Notice of Application to Permit Coverage.
14. Notice of Objection will include a date for a hearing which shall be obtained from the Registrar.
15. The media intervener must attend the hearing, and will be asked to speak to its application. The member of the Tribunal will determine whether to permit coverage after hearing from all sides.

Appendix B

Equipment and Personnel Permitted When Media Coverage is Allowed

1. Unless otherwise permitted, electronic media coverage is to be limited to:
 - i. two portable television cameras, each operated by one camera person;
 - ii. one still photographer;
 - iii. one audio system using existing Tribunal audio systems or unobtrusive microphones and wiring.
2. If two or more media representatives apply to cover a proceeding, their representatives are expected to agree upon a pooling arrangement, including designation of pool operators, procedures for cost sharing, access to and dissemination of material, and a pool representative.
3. The media must show that they will use only equipment that does not produce distracting sound or light, or use flash attachments, other artificial light sources, signal lights or devices indicating that it is activated.
4. The presiding member of the Tribunal may specify the location of equipment in the hearing room and require modification of light sources at media expense.
5. Media personnel are expected to place, replace, move or remove equipment, or change film, film magazines or lenses before proceedings, after adjournment or during recesses.

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