





# Canadian Competition Law Moot Rules

## Academic year 2019-2020

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## General

### Overview

The Competition Bureau is partnering with the Competition Tribunal and the Canadian Bar Association to host Canada's second competition law moot in the 2019-2020 academic year. This event will provide Canadian law students with an exceptional opportunity to tackle timely, complex civil or criminal issues in a growing field of law that strives to balance private economic incentives with the public interest all the while improving the advocacy skills of participating students.

### Definitions

**Advisory Group:** senior members of the Bureau, Bar and Bench responsible for providing guidance about the conduct of the Competition.

**Committee:** the administrators of the Competition responsible for the enforcement of these Rules.

**Competition:** the 2020 Canadian Competition Law Moot.

**Factum Judging Panel:** the panel of

- practitioners from the Bar,
- judicial members of the Competition Tribunal, Federal Court, or other Courts, and
- representatives of the Competition Bureau or the Department of Justice, that will judge all of the factums submitted by the Schools.

**Oral Judging Panel:** a panel of

- practitioners from the Bar,
- judicial members of the Competition Tribunal, Federal Court, or other Courts, and
- representatives of the Competition Bureau or the Department of Justice, that will judge one or more oral Matches.

**Match:** a round of oral arguments between a Team representing the appellant and a Team representing the respondent.

**Mooter:** a student selected to represent a School in the Competition and who will present oral arguments, subject to the eligibility requirements set out in these Rules.

**Moot Problem:** the official problem for the Competition.

**Organizing Partners:** together, the Competition Bureau, the Canadian Bar Association and the Competition Tribunal.

**Rules:** these official Competition rules and any applicable supplements to these rules published by the Committee, as amended.

**School:** a law faculty participating in the Competition with:

- i. two Teams of two Mooters to represent each of the appellant and respondent sides,
- ii. if desired, a research student (subject to the Team composition requirements set out in these Rules) and
- iii. up to two coaches, one of which may be a student coach.

**Team:** a pair of Mooters.

### **Interpretation of the Rules**

The Committee will interpret these official rules in the interest of fairness and equity and will settle any questions that arise in the Competition. The Committee reserves the right to modify these Rules or promulgate additional measures as may be deemed advisable for the orderly conduct, quality, integrity and reputation of the Competition or to correct deficiencies in the Competition. Modifications shall not violate the spirit of these rules or the best interests of the Competition.

### **Administration of the Competition**

#### **Phases**

- The Competition will consist of 2 phases:
  1. a written phase and;
  2. an oral phase
- Each Team will submit a written factum during the written phase and make oral submissions during the oral phase of the Competition.

#### **Rounds**

- The oral phase of the Competition shall consist of 2 levels:
  - A **Preliminary Round**, in which all Teams will participate, and a **Final Round**.
- Advancement of Teams through the Competition shall be determined based on the following rules:
  - The appellant Team and the respondent Team with the highest total Team score(s) in the Preliminary Round shall advance to the Final Round.
  - In the event of a tie, the Team with the highest factum score (among those tied Teams) shall advance.
  - In the event that the tie remains after considering factum scores, the Team with the highest individual oral score shall advance.
  - Ties are not allowed in the final round. To the extent that the scores of the finalist Teams are identical following the final Match, the tie-break rules above shall be applied mutatis mutandis to arrive at the final scores.
- Teams from the same School may compete against each other.

### **Registration**

#### **Initial Registration**

Each School must complete initial registration using the [online registration form](#) by November 15, 2019, which date is subject to change without notice by the Committee.

Each School must designate a team coordinator no later than November 29, 2019.

The team coordinator is responsible for

- i. updating the School's registration according to the provisions below, and

- ii. working with the Committee to ensure that the School complies with applicable requirements in advance of and during the Competition.

### **Updated Registration**

As soon as possible, but no later than January 10, 2020, each Team coordinator must update his/her School's registration online to indicate which Mooters will be representing the appellant and respondent sides, and the order in which each Mooter on each Team will present their oral argument. In addition, each Team coordinator must indicate whether any Mooter will be using their second official language.

### **Payment**

The registration fee for each School is CDN\$500.

Each participating School must submit a registration cheque to be received no later than November 29, 2019.

If the registration fee is paid by cheque, it must be addressed to "Carolyn Stanbrook, Financial Operations at Blake, Cassels & Graydon LLP" using the contact information below:

Attention: Carolyn Stanbrook, Financial Operations  
Blake, Cassels & Graydon LLP  
199 Bay Street, Suite 4000  
Toronto, Ontario  
Canada  
M5L 1A9

If the registration fee is paid by wire transfer, follow the instructions below:

Beneficiary Bank: Canadian Imperial Bank of Commerce  
Bank Address: Main Branch 199 Bay Street, Toronto, Ontario M5L 1G9,  
Canada  
Account With Institution: //CC001000002  
Swiftcode: CIBCCATT  
Beneficiary: Blake Cassels & Graydon LLP in Trust  
Beneficiary Address: 199 Bay Street, Suite 4000, Toronto ON M5L 1A9,  
Canada  
Account No. 1602314  
Reference: COMPETITION MOOT 2020 – CAROLYN STANBROOK

Following the final date of registration, participants cannot withdraw from the moot competition.

### **Other individuals**

Each School can register up to two coaches and one research student. One of the two coaches may be a student coach.

## **Participants**

### **Eligibility**

Only students enrolled at a faculty of law are eligible to participate as Mooters.

- Non-law faculty students may not participate in the Competition.
- Both the Mooters and the research student must be currently registered in a J.D or LLB program, or equivalent in Canada, unless otherwise agreed to by the Advisory Group.

Verification of a participant's status as a student may be required for registration.

Students on exchange from another country are eligible to participate under the host university.

### **Team Selection**

Mooters may be chosen by any method approved by the School, including intramural competition.

### **School identification**

Each School in the Competition will be assigned a number at random by the Committee.

This number must be the only form of identification used on the factum and at all times during the Competition.

### **Research Student**

A School may also choose to have one research student. The research student must be a registered student of the School, the research student is permitted to perform any of the activities undertaken by the School to prepare for the Competition. For greater certainty, this includes research, peer coaching and factum writing. If the research student engages in peer coaching, they are not counted as one of the two permitted coaches.

### **Privacy**

Each participant agrees that information regarding their participation in the Competition, including photographs and other recordings may be published by any of the Organizing Partners.

### **Outside assistance**

Teams shall not conduct practice rounds in front of any persons who will be part of a Factum or Oral Judging Panel in the Competition. Practice rounds in front of other persons are permitted.

### **Faculty Members**

Assistance from librarians, computer research advisors, and other legal resource specialists in preparing the factum, and any other materials, shall be limited to answering specific questions regarding the location of legal sources or general legal research methods.

### **Coaches**

It is permissible for coaches to discuss with the Mooters and the research student in general terms the issues raised in the moot problem, to suggest possible research sources and to provide instruction relating to advocacy techniques and the preparation of persuasive oral and written arguments. Ultimately, Mooters must determine which specific issues to raise.

Coaches may not prepare or draft any aspect of a Team's factum or oral arguments.

## **The Official problem**

### **Authors**

The Moot Problem shall be drafted by a Problem Drafting Committee composed of members selected by the Advisory Group.

The subject of the Moot Problem shall be determined by the Advisory Group and shall reasonably reflect current and relevant issues in the field of competition law.

Subject to the discretion of the Advisory Group, the Moot Problem shall consist of a hypothetical decision of the Competition Tribunal made further to an application filed by the Commissioner of Competition or a private party under one or more of the provisions of the *Competition Act*.

### **Jurisdiction of the Court**

The court before which the Teams shall argue is the fictional "Competition Appeal Tribunal" (CAT). *Federal Court Rules* (SOR/98-106) apply to the CAT.

The CAT hears appeals of decisions made by the Competition Tribunal.

The CAT is bound to follow precedents from the Supreme Court of Canada.

Court decisions from other jurisdictions only serve as persuasive authority. Students are encouraged to consider decisions from other jurisdictions in their research.

Past Moot Problems (fictitious decisions) are **not** to be used as authorities. They will not be recognized by the judges of the Competition Appeal Tribunal.

## **Clarification questions**

### **Procedure**

Clarification questions regarding the Moot Problem must be submitted to the Committee in writing by Friday November 29, 2019 at [cb.cclm-cpcdc.cda@canada.ca](mailto:cb.cclm-cpcdc.cda@canada.ca).

No requests for clarification received after the deadline will be accepted.

Requests must include a brief explanation as to why each clarification is necessary.

### **Eligibility of questions**

Requests will be answered at the discretion of the Committee.

Questions cannot relate to the substantive legal issues (or sub-issues) raised by the Moot Problem.

Requests should be clear and only in relation to facts of the case.

### **Notice**

When a clarification is issued, both the request and the answer will be distributed to all Schools.

## **Judging Panels**

Members of a Factum or Oral Judging Panel have a duty not to disclose confidential information about the problem and must keep confidential their scoring deliberations. For greater certainty, the Factum Judging Panel shall not disclose their scoring or other factum-related information to any Oral Judging Panel.

Each member of a Factum or Oral Judging Panel will act individually and independently of other members of the same panel.

Judges will not robe for the purpose of the Competition. Judges shall wear business attire.

# **Factum**

## **General**

Each School shall submit both an Appellant and Respondent factum.

## **Language**

Each School may submit its factums in either official language.

The choice of language is to be made at the initial registration.

## **Respondents' Factum**

Respondents' factums are not required to reply specifically to any of the arguments set out in the Appellant factums that they receive.

Oral Judging Panels shall disregard any reference to an Appellant factum that is not before them.

## **Format**

### **Sections**

The factums shall contain, at a minimum, in consecutively numbered paragraphs:

- Table of Contents
- Part I: statement of facts
- Part II: statement of points in issue
- Part III: statement of submissions
- Appendix A: list of authorities to be relied upon

## **Form**

Factums must be typed and submitted on white, standard letter size paper (8 ½ by 11 inches).

Each page of the factum shall have margins of at least one inch, or 2.54 centimetres, on all sides, excluding page numbers.

### **Spacing**

Parts I-III of the factum will be double spaced, except for: (1) references, footnotes and titles more than one line in length and (2) quotations of 50 words or more, which shall be indented.

### **Numbering**

The pages of the factum shall be numbered.

### **Length**

Parts I-III of the factum shall be no more than 20 pages in total length

Covering pages (including Table of contents) and Appendix A will **not** be included in the page count.

### **Font**

All parts of the factum, excluding covering pages and any footnotes, shall be in Times New Roman 12 point font.

### **Citations**

All citations must be made in accordance with the most recent edition of the Canadian Guide to Uniform Legal Citation (McGill Guide 9<sup>th</sup> edition).

### **Privacy**

No Team shall be allowed to view or otherwise become privy to any factum other than the respective factums of scheduled opposing Teams.

### **Submissions**

#### **Name of File**

Each Team's factum must be labeled using the file name : " Team [[insert Team#]] Factum"

#### **Format and Schedule for Submissions**

Factums must be submitted by email to [cb.cclm-cpcdc.cda@canada.ca](mailto:cb.cclm-cpcdc.cda@canada.ca) in PDF format according to the following schedule:

- Appellant Factum: Friday, January 24<sup>th</sup>, 2020, 5:00pm Eastern time.
- Respondent Factum: Friday, February 7<sup>th</sup> 2020, 5:00pm Eastern time.

#### **Hard Copy**

Within 2 business days, 7 copies of each Team's factum must also be sent by courier or delivered in person to the Committee, at the following postal address:

Canadian Competition Law Moot  
c/o Sarah Ardito  
Competition Bureau  
Place du Portage I  
50 Victoria Street, Room C-114  
Gatineau, Quebec  
J8X 3X1

Factums must be fastened by Cerlox binding.

#### **Changes**

No Team may revise, substitute, add to, delete or in any other way alter its factum once it is submitted.

#### **Publication**

All rights in and to the factums will become the property of the Competition Bureau. The Competition Bureau may publish the winning factums on its website, and may seek to have the factums published elsewhere.

Each Team's factum must be labeled using the file name : " Team [[insert Team#]] Factum"

### **Book of Authorities**

Books of authorities are not required and will not be accepted as part of Mooters' submissions.

## **Oral argument**

### **Time of the Match**

Each Match will begin at the time indicated in the schedule of Matches. If a Team fails to appear by the scheduled start time, after waiting five (5) minutes, the Match may proceed *ex parte*.

### **Scope of the argument**

The scope of a Mooter's oral argument may expand upon issues raised in their factum, but the oral arguments must still relate to the written submissions found in their factum, or in the case of a respondent Mooter, to the written submissions found in the factum of the appellant Team against which they are competing. The Mooters may choose to provide a brief overview of the facts, but doing so is not a requirement and they will not be penalized for not doing so.

### **Communication**

#### **Judging Panel**

During a Match, oral communication is limited to the Oral Judging Panel and the Mooters.

No materials may be handed up to the Judging Panel during oral argument.

#### **Team**

Communication between a Team and its coach(es) is prohibited during presentation of the arguments.

Mooters shall avoid all behaviour which may disrupt or detract from the oral argument in progress.

### **Language**

Each Team will present its oral arguments in the language of its factum.

### **Questions**

Questions from the Oral Judging Panel to a Mooter shall be posed in the language being used by that Mooter.

### **Interpretation**

Simultaneous interpretation is available upon request for the Final Round for any Mooter who needs that service in order to understand the submissions of his/her opponents.

### **Electronic devices**

The use of electronic devices (e.g., laptop, tablet) is permitted for Teams. However, they must be set to silent. All cellular phones must be set to silent.

### **Spectators**

#### **Participating Teams**

During the preliminary rounds, coaches and research students may only attend Matches where Mooters from their School are participating.

Anyone who has not moved on to the final round may attend the final round.

#### **Outside spectators**

Subject to the availability of space, all rounds are open to the public, except for the period of time during which the Oral Judging Panel provides its oral feedback to the Teams.



Spectators are urged to show the utmost respect while oral arguments are in progress.

Spectators are asked to arrive early to allow for security screening.

### **Electronic Devices**

All spectators are prohibited from taking pictures or videos during a Match. All electronic devices must remain in silent mode throughout the Match.

### **Time allocation**

#### **General**

Each of the appellant and respondent Teams will have a total of 45 minutes in which to present oral argument and receive and respond to questions from the Oral Judging Panel.

Before the start of the Match, the official timekeeper of the Match will ask each Team how it wishes to allocate that time between the two Mooters. Neither Mooter may argue for longer than 25 minutes in a single Match.

#### **Enforcement**

Time limits will be strictly enforced. At their discretion, the Oral Judging Panel may allow a Mooter to conclude briefly at the expiry of the allocated time, up to an additional minute.

#### **Warning**

The timekeeper will give a warning of remaining time for each Mooter when there are 10 minutes, 5 minutes and 2 minutes left to their allocated time.

#### **Rebuttal**

Each Mooter will argue once. There will be no rebuttal or sur-rebuttal.

#### **End of Match**

Once the last Mooter has finished making submissions, the Match will end.

The Oral Judging Panel will then have twenty minutes to provide oral feedback to the Teams in camera, once spectators have left the room.

#### **Recording**

The Organizing Partners reserve the right to make audio and/or video recordings of any Match, or to take photographs during a Match.

By participating in the Competition, all Mooters consent to the recording and broadcasting of their oral arguments, and to the reproduction of any photographs thereof.

## **Scoring**

### **Factum Score**

Factums are scored out of a total of 40 points. The score awarded by all the members of the Factum Judging Panel for a given factum will be averaged to arrive at the final score for that factum.

Factums will be judged prior to the preliminary oral rounds.

Factums will be assessed according to the following criteria:

- knowledge of facts and law
- correct application of relevant rules and legal principles
- clarity and logic of argument
- structure and organization
- grammar and style

### **Oral Score**

Each Mooter shall receive a score out of 30 points for their oral submission. The score awarded by all the members of the Oral Judging Panel for a given Mooter will be averaged to arrive at the final oral score for that Mooter.

A Team's score for oral submissions shall be the sum of the final scores for each of its Mooters.

Oral submissions shall be assessed according to the following criteria:

- demonstrated knowledge of facts and law
- correct legal analysis and its applications to facts
- clarity and logic of argument
- ability to answer questions
- persuasiveness and fluency

Points will be allocated in accordance with the following criteria:

<b>Scoring criteria</b>	<b>Maximum points</b>
<b>Introduction, facts and issues</b> <ul style="list-style-type: none"><li>• Overall quality of introduction</li><li>• Effective outline of facts</li><li>• Clear statement of issues and position</li><li>• Persuasive framing of facts and issues</li></ul>	15
<b>Legal arguments</b> <ul style="list-style-type: none"><li>• Correct substantive law</li><li>• Quality of legal research</li><li>• Effective application of the law to the facts</li><li>• Proper development of arguments</li><li>• Persuasiveness, originality and creativity</li></ul>	30
<b>Presentation</b> <ul style="list-style-type: none"><li>• Accuracy, clarity, conciseness</li><li>• Logical structure</li><li>• Adherence to rules</li></ul>	20
<b>Remedy and conclusion</b> <ul style="list-style-type: none"><li>• Effective linking of arguments and conclusions</li><li>• Persuasiveness of conclusion</li><li>• Logical and effective remedies sought</li><li>• Good use of authorities relating to remedies</li></ul>	15
<b>Stylistic considerations</b> <ul style="list-style-type: none"><li>• Writing style and grammar</li><li>• Proper use of sentence and paragraph structure</li></ul>	10
<b>Authorities and citations</b> <ul style="list-style-type: none"><li>• Application of sufficient and persuasive legal authorities</li><li>• Application of correct legal citations</li></ul>	10
<b>Total</b> (this score out of 100 will be converted to the Mooter's oral argument score out of 30)	100

Excellent: 90-100

Very Good: 80-89

Good: 70-79

Fair: 60-69

### **Total Score**

The total score for a Team, expressed as a number out of 100, shall be the final factum score added to the Team's final oral score.

Each Team will receive their final scores after the Competition.

The scores will not be made public.

### **Penalties**

#### **Delayed submission**

5 points when received at any point within 24 hours after the submission deadline

1 additional point will be deducted for each additional 24 period.

**Exceeding length of factum**

2 points when one page exceeding

4 points when two pages exceeding

A written factum exceeding 3 pages over the stipulated limit will result in disqualification.

**Disclosure of identity**

2 points if any form of identification other than the Team number assigned by the Committee is used anywhere in a Team's factum.

**Other formalities**

1 point per each infraction up to a total of four 4 points:

- Margins, interlinear space, font, order of sections, missing or additional section, etc.

## Ethical violations

Every Mooter, Coach and research student must conduct themselves in a civil, courteous, respectful and professional manner at all stages of the competition, and in no case act in a manner that is detrimental to the integrity of the Competition.

An ethical violation may result where any Team or participant acts contrary to the spirit and content of this section or of the Rules, generally.

Any incident or allegation of ethical violations shall be referred to the Committee.

At the Committee's discretion, a Team may be sanctioned for an ethical violation by deduction of points from its overall score, or by any other sanction up to and including disqualification.

## Awards

The following awards shall be awarded based on the relevant scoring:

1. Winning Team
2. Best Factum - Appellant
3. Best Factum - Respondent
4. Best Oralist - Appellant
5. Best Oralist - Respondent
6. Best Team – Appellant
7. Best Team – Respondent
8. Best Faculty

The nature of the prize to be awarded for each award shall be determined by the Committee at its discretion.

Additional awards may be awarded at the discretion of the Committee.

**Date modified:**

2019-11-04