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COMPETITION LAW SERVICE

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Updates to the Competition Tribunal Summary of Procedure:

- This release features the addition of the Competition Bureau Immunity and Leniency Programs under the Competition Act, September 27, 2018 under the Bulletins tab. This release also features the addition of the Competition Bureau's Draft Intellectual Property Enforcement Guidelines, November 1, 2018 to the Consultations and Reports tab. This release also includes the addition of the Consent Agreement - CT- 2018-012 (October 11, 2018) with respect to certain deceptive marketing practices Discount Car & Truck Rentals Ltd. to the Consent Agreements section of the Competition Tribunal Act tab.
- **Competition Bureau - Immunity and Leniency Programs under the Competition Act** - Updates to the programs, which incorporate input received during two rounds of public consultations, include: automatic coverage under a corporate immunity agreement for all

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directors, officers and employees will no longer be provided. Instead, individuals that require immunity will need to demonstrate their knowledge of or participation in the unlawful conduct and their willingness to cooperate with the Bureau's investigation. Documentary and testimonial evidence will be provided under a Grant of Interim Immunity. Final immunity will be provided when the applicant's cooperation and assistance is no longer required. Every leniency applicant may now be entitled to a cooperation credit of up to 50%, to be applied to the base fine. Rather than providing credit on a first-come, first-served basis, the amount of credit awarded will also be based on the value of the applicant's cooperation.

- **Competition Bureau's Draft Intellectual Property Enforcement Guidelines** - The Guidelines discuss the circumstances in which the Competition Bureau, would seek to restrain anti-competitive conduct associated with the exercise of IP rights to maintain competitive markets. When developing the Guidelines, the Competition Bureau considered the current global economic and technological environment and, in particular, the rapid rate of technological changes occurring in many industries. The document is organized into six parts: Part 2 discusses the purpose of IP laws, lists the various IP statutes, reviews the purpose of competition law and lists the principal provisions of the Act that relate to IP; Part 3 discusses the interface between IP law and competition law; Part 4 outlines the principles underlying the application of the general provisions and section 32 of the Act to business conduct involving IP; Part 5 describes the Bureau's analytical framework, which is sensitive to the particular characteristics of IP; Part 6 discusses the Bureau's mandate to promote competition, which may include intervening in proceedings in which IP rights are being defined, strengthened or extended inappropriately; and Part 7 presents a discussion and a series of hypothetical scenarios to illustrate how the Bureau would apply the Act to a wide variety of business conduct involving IP, including price-fixing; exclusive licensing; contracting; patent pooling; competitor collaborations; refusals to license; product switching and the settlement of patent litigation proceedings in the pharmaceutical industry; the sending of false and misleading claims; and certain forms of conduct in the context of standards development organizations.