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**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE**

Annual Report on Competition Policy Developments in Canada

-- 2020 --

This report is submitted by Canada to the Competition Committee FOR INFORMATION.

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Canada

Executive Summary

1. The Competition Bureau (Bureau) takes a proactive approach to competition enforcement and advocacy. Strong enforcement is essential to hold companies accountable and protect consumers. As Canada's competition enforcer, the Bureau uses all the tools at its disposal to ensure that Canadians fully benefit from competitive markets across the country, leading to lower prices, increased choice, and greater innovation.
2. As we reflect on 2019-20, it is clear that the Canadian economy is more digitally focused than ever before, and the growth of our digital and data-driven economy will likely only accelerate in the years ahead. As a result, the Competition Bureau's vision—to be a world-leading competition agency that is at the forefront of the digital economy and champions a culture of competition in Canada—is more important now than ever before. Our goal is to help Canadian consumers and businesses reap the benefits of competition in the digital economy and our mission is to promote and protect competition for the benefit of Canadians.

1. Changes to competition laws and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

3. No new legal provisions of competition law or related legislation were introduced in fiscal year 2019-2020.

1.2. Other relevant measures

1.2.1. Investing in Our People

4. Delivering on our mandate requires a highly skilled and diverse workforce. To ensure this, we continued to invest in our people, by equipping them with tools and the knowledge needed to perform at their best and providing them with opportunities to develop their skills and expertise. We also improved efficiencies across the organization by deploying more modern and digital tools and information sessions to assist employees in using new technology in the workplace.
5. To support our teams, we continued our strong commitment to foster a healthy, inclusive, and civil workplace through our wellness campaigns and civility in the workplace programs. We promoted our core values such as transparency and respect by offering mandatory training on unconscious biases and harassment prevention to all employees. We also undertook various workplace wellness, diversity and inclusiveness initiatives.

Modernizing our enforcement tools

6. In the summer of 2019, we hired a Chief Digital Enforcement Officer (CDEO) to help us keep pace with evolving technologies and business practices in the digital economy. The CDEO will help us implement new intelligence-gathering tools, such as advanced analytical models, algorithms, automated processes, and artificial intelligence capabilities, as well as develop a digital strategy.

Facilitating an innovative workplace

7. To keep up with the digital age and encourage creativity and innovation in the workplace, in 2019-2020, we established the Bureau Innovation Garage, a dedicated space for project teams and keen innovators to test new concepts, pilot big ideas and explore new technologies and methodologies.

1.2.2. A new Strategic Vision for the digital age

8. In February 2020, we published our Strategic Vision for 2020-2024, outlining how we will focus our efforts and renew our organization for the digital age. Our Vision will act as a roadmap for how we will build capacity in the digital economy and deliver the benefits of competition to Canadians. Our ability to achieve our vision centres on our greatest resource: our employees.

9. As part of our Vision, we will invest in new dynamic tools and training to increase our capacity and ability to handle and analyze the vast amounts of data common to today's digitally-focused investigations.

1.2.3. Digitalization and Big Data

Keeping Up With Big Data

10. In today's digital economy, data is a critical asset for any firm looking to innovate. At the same time, a handful of digital platforms controls vast amounts of data. Globally, there are concerns about data concentration in the digital marketplace and policymakers are increasingly concerned about how data is collected and used.

11. In May 2019, we hosted a one-day forum to foster discussion on competition policy in the digital era. The forum brought together participants from the business, legal and academic communities, federal regulators and foreign competition authorities to discuss key issues such as digital platforms, privacy and data portability. The forum was an opportunity to advance an important public policy dialogue and gather valuable insight from key stakeholders on the competition issues related to the digital economy, as well as possible solutions.

12. It also laid the foundation for the critical work the Bureau is currently focusing on such as: the impact of digital transformation on competition; emerging issues for competition in data accumulation, transparency, and control; the effectiveness of our competition policy tools and frameworks, and our investigative and judicial processes.

2. Enforcement of competition laws and policies

2.1. Action against anticompetitive practices

2.1.1. Cartels and Bid-Rigging

13. Bid-rigging is a criminal offence where two or more parties collude to influence a bidding process. The lack of a true competitive process drives up prices for contracts and harms governments' investments in new infrastructure projects. When bid-rigging happens in the infrastructure sector, Canadians pay the price.

14. In 2019-2020, we continued our efforts to protect government spending in infrastructure by stopping bid-rigging on procurement contracts for engineering services. As a result of our ongoing investigation, we obtained a settlement from engineering firm Roche ltée, Groupe-conseil (now Norda Stelo Inc.), which was ordered to pay CAD 750 000 for rigging bids on municipal infrastructure contracts in the province of Quebec. This is the third settlement in this matter, as two other engineering firms were previously ordered to pay CAD 1.9 million and CAD 4 million respectively for their roles in the bid-rigging scheme. The investigation also led to three guilty pleas by former executives of engineering firms Cima+, Genivar, and Dessau for bid-rigging on City of Gatineau infrastructure contracts. They received conditional prison sentences totalling 4 years and 11 months, and court-ordered community service totalling 260 hours.

Working together to prevent collusion

15. Raising awareness among procurement officials and other stakeholders about bid-rigging is critical to ensuring that they take measures to prevent the likelihood of wrongdoing, recognize the potential red flags of bid-rigging and report suspicious activities to the Bureau. In 2019-2020, we provided 18 presentations on bid-rigging to the procurement community and other stakeholders, reaching an audience of approximately 750 participants who play key roles in government procurement. We also continued to promote the Federal Contracting Fraud Tip Line, which was launched in 2017, to help Canadians report suspected fraud, collusion, corruption or unethical behavior in Government of Canada contracting.

2.1.2. Deceptive Marketing Practices

16. Deceptive marketing practices hurt Canadians and lower trust in the marketplace. To help ensure that markets work well for all Canadians and to maintain trust in the digital economy, we continued to take action against deceptive marketing conduct and encouraged companies to play by the rules.

Remaining vigilant during the COVID-19 pandemic

17. As Canada responded to COVID-19, we adapted our operations and released a statement assuring Canadians that the Bureau remains vigilant against potentially harmful anti-competitive conduct by those who may seek to take advantage of consumers and businesses during these extraordinary circumstances. This includes scrutinizing evidence and taking appropriate action against companies or individuals engaging in deceptive marketing practices such as false or misleading claims about a product's ability to prevent, treat or cure the virus.

Making sure the price is right

18. In Many 2019, we concluded our case against the Hudson's Bay Company which agreed to pay a CAD 4 million AMP and CAD 500,000 towards our investigative costs for its pricing and marketing practices of sleep sets in Canada. Our investigation, which began in 2017, found that the Hudson's Bay Company was offering sleep sets at inflated regular prices and then advertising deep discounts on these prices, suggesting significant deals to consumers. As part of the registered consent agreement, the Hudson's Bay Company will ensure the marketing of its sleep sets complies with the *Competition Act* (the "Act") and maintain a compliance program to minimize the risk of future breaches of the Act.

Ensuring trust in natural health products

19. In March 2020, we took legal action to stop Nuvocare Health Sciences Inc. and its President and CEO from making weight loss and fat burning claims in the marketing of certain natural health products. We asked the Competition Tribunal to issue a Temporary Order requiring Nuvocare to stop making the claims about some of their products. The order, granted in May 2020, will protect consumers from harm while we complete our ongoing investigation into whether the company's claims are supported by testing.

2.1.3 Monopolistic Practices

20. Abuse of a dominant position occurs when a dominant firm or a dominant group of firms engages in a practice of anti-competitive acts, with the result that competition has been, is, or is likely to be prevented or lessened substantially in a market. Following an examination into complaints of anti-competitive activities, if the Bureau finds evidence of abuse of dominance, its first enforcement step will be to ask the dominant firm or group of firms to correct the situation in a manner that resolves the competition issue to the satisfaction of the Bureau. If there is no voluntary resolution, the Bureau will bring the matter before the Competition Tribunal, an independent body which rules on civil matters under the Competition Act.

Bringing competition in the health care and bio-sciences sector into focus

21. In July 2019, we completed an investigation into the supply of vaccines for a provincial public vaccination program. This involved allegations that a vaccine manufacturer was trying to restrict off-label use of its products, through a provision in a procurement contract that could have prevented public authorities from using other products and resulted in higher costs for provinces. Ultimately, we concluded that there was no violation of the Act given that the conduct did not materialize. However, if we become aware of similar practices in the future, we will not hesitate to pursue enforcement action to put a stop to the conduct. Following our investigation, we published a position statement to provide guidance to the pharmaceutical industry and ensure this conduct is deterred.

Calling on businesses to report anti-competitive conduct in the digital economy

22. In September 2019, we called on Canadian businesses to provide us with information on potentially anti-competitive conduct in the digital economy. Over 25 businesses and business associations responded to our call-out. Some of the issues highlighted in our call-out included business strategies that may harm competition, such as: refusals to deal, self-preferencing, margin squeezing and creeping acquisitions. The information we received may be used to inform and support future investigations into alleged anti-competitive conduct in digital markets.

2.2. Mergers and acquisitions

23. Mergers can be a way to increase competitiveness throughout the Canadian economy. However, some transactions have the potential to harm competition and innovation. We review mergers of all sizes and in all sectors to identify and challenge those that pose a threat to competitive markets in Canada.

2.2.1. Proactive intelligence gathering

24. Notification provisions allow the detection of most – but not all – potentially anti-competitive mergers. In 2019, we expanded the role of our Merger Intelligence and Notification Unit, broadening our focus and stepping up our intelligence gathering efforts to detect non-notifiable mergers that could raise competition concerns. Our intelligence gathering captured transactions where there was no indication that the merging parties intended to voluntarily engage with us before closing. In a few instances, we also observed an increase in voluntary communications from merging parties and their counsel on non-notifiable transactions.

2.2.2. Merger statistics overview

25. In 2019-20, the Bureau achieved a 97% merger review service standard in concluding 234 merger reviews and registered 2 Consent Agreements with the Competition Tribunal.

2.2.3. Summary of significant cases

Preserving competition in oil and gas reserves valuation and reporting software

26. In August 2019, the Bureau successfully challenged a merger that could have led to a monopoly in the supply of reserves valuation and reporting software to Canadian oil and gas producers. During our review of Thoma Bravo's proposed purchase of Aucerna, we found that the companies' software (MOSAIC and Val Nav) competed vigorously with one another and were the only two reserves valuation and reporting software used by Canadian oil and gas companies. The loss of rivalry between the two would have likely led to higher prices, lower quality of services and less innovation with respect to these software, to the detriment of Canadian businesses. In August 2019, we signed an agreement with Thoma Bravo requiring it to sell its MOSAIC reserves valuation and reporting software business to an independent purchaser.

Protecting competition for local farmers in the Province of Manitoba

27. To protect and maintain competition for farmers near Virden, Manitoba, in December 2019, the Bureau challenged Parrish & Heimbecker's (P&H) acquisition of a primary grain elevator from Louis Dreyfus Company. The purchase gave P&H control of the only two grain elevators along a 180 km stretch of the TransCanada Highway and eliminated the rivalry between two close competitors, which could have resulted in farmers in the Virden area earning less for their wheat and canola. To protect and maintain competition, we filed an application with the Competition Tribunal requesting that the Tribunal issue an order requiring P&H to sell one of the two elevators to an independent buyer. Safeguarding competition in this area will protect farmers from financial harm. The Competition Tribunal held its hearing on the matter in January and February 2021.

2.3. Collaboration with partners

2.3.1. Strengthening domestic relationships

28. Fostering strong and collaborative relationships with our domestic partners is essential to help ensure that Canadians can benefit from a competitive marketplace and consumers and businesses are safe from harmful conduct. Strong domestic partnerships allow for better collaboration, cooperation and information sharing on enforcement cases and other matters of mutual interest. In 2019-2020, we continued to build and strengthen relationships with key domestic stakeholders and existing partners, including by holding 190 meetings or calls with agencies, regulators and academics.

A strong voice for competition

29. In 2019-2020, the Commissioner and other Bureau senior officials gave five speeches highlighting the importance of competition, focusing on topics such as honest advertising in the digital age, the role of competition in the digital economy, and the impact of data on competition. This includes a speech given to the C.D. Howe Institute, focused on how to build a culture of competition in Canada.

30. We also published a number of new or revised guidance documents to help Canadian businesses understand their obligations with the Acts we enforce and raise awareness of fraud and deceptive marketing so consumers can enjoy the full benefits of today's digital economy.

31. For example, in March 2020, we published volume five of the Deceptive Marketing Practices Digest, which focused on three marketing issues that impact consumers and businesses in the online marketplace:

- the collection of consumer data in exchange for "free" online products and services;
- unsubstantiated weight loss claims; and
- the advertising of unattainable prices in the car rental market.

32. In June 2019, we also released updated guidance concerning compliance with the labelling statutes to help dealers of consumer textile articles containing filling or stuffing understand their labelling obligations.

Alerting Canadian consumers and businesses

33. Throughout the year, we published six alerts informing Canadian consumers and businesses about issues that matter to them. In August 2019, we alerted the public to fake government websites which attempt to scam Canadians out of money and personal information and provided tips on how to recognize these scams. In May 2019, we warned consumers about "forever prices" offered by telecom sales representatives, which actually refer to monthly promotional discounts and do not guarantee a fixed price.

Fraud Prevention Month

34. Fraud can target anyone. From young teens to the elderly, from consumers to big corporations, everyone is at risk. According to the Canadian Anti-Fraud Centre, in 2019, Canadians reported over CAD 98 million in losses to fraud.

35. In 2019-2020, we continued to fight fraud by helping Canadians stand up to scammers, supporting the activities of the Canadian Anti-Fraud Centre alongside our partners at the Royal Canadian Mounted Police and Ontario Provincial Police.

36. In March 2020, we launched our 16th edition of Fraud Prevention Month, a nationwide awareness campaign led by the Bureau to help Canadians recognize, reject and report fraud. Working with our many partners, we shared tips on how to spot and stay protected against widespread scams, including digital fraud. We launched a social media campaign, participated in awareness events and published a consumer alert to warn Canadians about subscriptions traps related to free trial offers. While we had to halt the campaign in light of the COVID-19 pandemic, we still reached an estimated 22 million people on Twitter in only two weeks of activities. This represents an increase of 406% in engagements and 184% in impressions compared to the same period in the previous year.

37. In mid-March 2020, we refocused our efforts and messages around the COVID-19 pandemic. We worked with other enforcement partners to warn consumers about companies that are taking advantage of the public's fears by misleading consumers with the advertising and labelling of various products and services.

2.3.2. International Collaboration

38. Today's digital and data-driven economy is truly borderless. To foster competitive and innovative digital marketplaces, it is more important than ever for competition agencies to share best practices and work together on enforcement and advocacy matters. Building and maintaining strong partnerships improves the Bureau's ability to deliver results for Canadians.

39. In 2019-2020, we continued building strong partnerships with other competition and law enforcement agencies to protect competition in Canada, tackle international anti-competitive activity, and promote the convergence of competition policies.

40. In October 2019, we hosted a trilateral meeting with the heads of the U.S. Department of Justice Antitrust Division, the U.S. Federal Trade Commission and Mexico's Federal Economic Competition Commission, which focused on competition enforcement and advocacy in the digital economy.

41. We continued to work with our international partners and share best practices by playing a leadership role in organizations, such as the Organisation for Economic Cooperation and Development (OECD), the International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN).

42. In June and December 2019, we participated in the OECD Competition Committee meetings, as well as the Global Forum on Competition.

43. In 2019, we met with competition authorities of the G7 countries and the European Commission to discuss the issues faced by competition agencies around the world and released a common understanding highlighting opportunities and challenges raised by the digital economy.

Increasing cooperation on fair and effective procedures

44. Fair and effective procedures are essential to sound competition law enforcement and can increase opportunities for international cooperation. In May 2019, we helped found the ICN Framework on Competition Agency Procedures. The framework aims to foster fair, consistent and effective procedures in competition law enforcement around the world and encourages open communication and transparency between competition authorities about the rules governing their investigation and enforcement procedures.

Gender and competition

45. The Bureau continued to champion research and global discussion on gender and competition. In November 2019, the Bureau participated in a panel discussion organised by the American Bar Association: "Competition Policy and Economics: What's Gender Got to Do With It?"

46. We are also undertaking work with the OECD to support research on gender and competition. The two-year project will focus on the relationship between gender and competition, how competition can contribute to gender equality, and how OECD countries can ensure gender inclusive competition law enforcement and policy.

2.4. Summary of 2019-20 activities

Digital Economy cases	
Commenced cases	41
Ongoing cases	40
Concluded cases	34

Deceptive Marketing	
Administrative Monetary Penalties (AMPs)	CAD 9.3 million
Consumer and business alerts	6

Bid-Rigging investigation	
Conditional sentences issued (total)	59 months, 260 hours of community service
Corporate settlement fines (total)	CAD 750 000
Guilty pleas	3

Compliance Outreach	
Compliance outreach events	65
Compliance publications	3
Compliance programs reviewed	1
Bid-rigging presentations	18

Mergers	
Merger reviews concluded	234
Complex reviews	25.5%
Non-complex reviews	74.5%
Merger review service standards met	97%
Merger-related consent agreements achieved	2

Advocacy	
Representations before regulatory bodies	7
Other advocacy interventions	18

Broadband study in numbers (Delivering Choice: A Study of Competition in Canada's Broadband Industry)	
Canadian households surveyed	2 005
Focus groups (with participants from across Canada)	12
Comments received from online surveys	42 000
Written submissions from Internet service providers	20

Collaborating with International Partners	
International fora meetings and workshops	19
Capacity building activities with international partners	10
International agreements signed	2

Social Media	
Increase in social media followers	27%
Total posts to social media (across all platforms)	>1 100
Web visits (Competition Bureau website)	659 971
Publications and press releases (new and revised)	88

Investing in our People	
Training and information sessions for employees	101
Promoted activities and events related to workplace wellness, official languages, diversity and inclusiveness	50

3. The role of competition authorities in the formulation and implementation of other policies

47. Competition is an essential part of a thriving economy. As Canada's competition expert, we provide advice on how regulators and policymakers can promote pro-competitive policies and regulations. We also foster discussion on emerging competition policy issues. In the past year, we advocated for greater competition in the telecommunications, waste management, and liquor industries. We also held a Data Forum to discuss perspectives on how competition is impacted by our increasingly data-driven economy. Our efforts to promote competition are an essential part of supporting a competitive economy.

3.1. A study on competition in Canada's high-speed Internet industry

48. In August 2019, we published the results of our study on competition and consumer habits in Canada's high-speed Internet industry. We found that many Canadians benefit from choice between Internet service providers. Although the majority of Canadian households continue to get Internet from traditional telecom companies, more than one million households use an independent provider for their high-speed connection. Regulations that allow independent providers to buy access to telecom companies' networks make it easier for Canadians to choose a plan that meets their needs and budget. The findings from our study will serve to inform regulatory reviews concerning high-speed Internet and help regulators and policymakers create policies where all Canadians can benefit from high-speed Internet options at competitive prices.

3.2. More competition for mobile wireless services

49. In 2019-2020, we advocated for more competition in the wireless industry to lower prices and improve choice for Canadians, by providing recommendations to the CRTC as part of its review of mobile wireless services in Canada. In our review of competition in Canada's wireless services markets, we found that prices differ greatly from one region to another and that the price of mobile plans continues to be higher where there is no strong regional competitor to Bell, Telus and Rogers.

50. In May 2019, we provided detailed strategies to the CRTC on how to encourage competition in this area, including improving roaming access for new entrants, reducing the cost of switching carriers by "decoupling" the costs of phones and plans and structuring future spectrum auctions differently to encourage competition.

51. In November 2019, we recommended the adoption of a Mobile Virtual Network Operator (MVNO) policy requiring Bell, Telus and Rogers to sell temporary access to their wireless networks to regional facilities based carriers who intend to invest and further expand their own networks. We advanced that such a policy would lead to more competition on price, while avoiding the risk that network quality would decline. In February 2020, we appeared before the CRTC to advocate for our policy recommendation and address the CRTC's questions.

3.3. Increasing choice and lowering prices for liquor in the Province of Ontario

52. In Canada, responsibility for alcohol regulation lies with the provinces, which is why there are differences in laws from region to region. The province of Ontario's current liquor policy limits the number of retailers who can sell alcohol and the price they can charge. This makes price competition difficult and limits the selection of product available to consumers. In an open letter to the Ontario Minister of Finance, the Commissioner encouraged the province to balance policy concerns such as public health and safety with the principles of competition in their review of the liquor policy. The Commissioner indicated that Ontario's consumers and businesses can benefit from a less restrictive system by allowing all retailers an equal opportunity to participate, encouraging competition on price, and supporting proper wholesale pricing. The end result would allow bars and restaurants to offer consumers a wider variety of products at lower prices.

3.4. A strong advocate for competition in waste management

53. Waste management in Canada is primarily regulated at the provincial level. When the province of British Columbia's Minister of Environment and Climate Change Strategy requested our views on competition-related issues that could stem from the adoption of two waste management bylaws in Metro Vancouver, we advocated for competition and innovation. In an [open letter to the Minister](#), we shared our concerns that adoption of these bylaws may lessen competition and innovation for waste management services in the Metro Vancouver area. We encouraged the Minister to consider whether Metro Vancouver's environmental objectives could be advanced and achieved through other means that would allow the area's residents to benefit from vigorous competition.

4. Resources of competition authorities

4.1. Resources overall (current numbers and change over previous year):

54. The Bureau's budget for 2019-2020 was CAD 53.7 million, including approximately CAD 16.5 million from user fees, compared to a budget of CAD 52.6 million, including CAD 15 million from user fees in 2018-2019. Expenditures were CAD 52.4 million, consisting of CAD 37 million in salary for 382 full-time equivalent equivalents (FTEs) and CAD 15.3 million in non-salary expenses. In comparison, expenditures for 2018-2019 were CAD 52.7 million, consisting of CAD 35.5 million for 370 FTEs and CAD 17.2 million in non-salary expenses.

4.1.1. Annual budget:

55. The Bureau's budget for 2019-2020 was CAD 53.7 million (USD 37.9 million)¹.

¹ Based on the Bank of Canada CAD-USD exchange rate as of March 31st, 2020.

4.1.2. Number of employees (person-years):

56. In 2019-2020, approximately 382 full-time employees worked at the Bureau. In addition, approximately 18.5 employees from the Department of Justice and PPSC are dedicated to providing legal services to the Bureau. Most Bureau staff generally fill investigative and advocacy roles rather than economists and lawyer roles. The Bureau hires employees with a diversity of backgrounds, including individuals who have studied in economics and law. Specific information related to employees' university degrees is no longer tracked.

4.2. Human resources (person-years) by activity:

57. Approximately 165 employees are dedicated to competition enforcement. Approximately 57 employees work in the Mergers Directorate, 76 are in the Cartels Directorate, 32 in the Monopolistic Practices Directorate and the remaining competition enforcement employees fill other roles such as deceptive marketing, advocacy, international, electronic evidence gathering and analysis, etc.

4.3. Period covered by the above information:

58. The above information covers fiscal year 2019-2020.

5. Closing Remarks

59. The Competition Bureau's goal is to help Canadian consumers and businesses reap the benefits of competition in the digital economy. To that end, at the beginning of the year, we indicated that we would vigorously enforce and promote competition where it matters most to Canadians, in areas such as telecommunications, health and biosciences, and infrastructure. We have done just that. Our goal throughout was to make evidence-based decisions, guided by the principle that effective, sustainable competition is the best way to lower prices, improve choice and deliver high-quality networks to Canadians.