Organisation for Economic Co-operation and Development

DAF/COMP/GF/WD(2025)3

Unclassified

English - Or. English

18 November 2025

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Global Forum on Competition

Artificial Intelligence and Competitive Dynamics in Downstream Markets

- Session I -

1 December 2025

This contribution is submitted by Canada under Session I of the Global Forum on Competition to be held to be held on 1-2 December 2025.

More documentation related to this discussion can be found at: oe.cd/aidm.

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JT03576991

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1. Introduction

1. The Competition Bureau Canada (Bureau) is pleased to provide this submission to the Organisation for Economic Co-operation and Development (OECD)'s Global Forum on Competition for the session on "Artificial Intelligence and Competitive Dynamics in Downstream Markets."

2. The Bureau, headed by the Commissioner of Competition, is an independent law enforcement agency of the Government of Canada. Among other laws, it administers and enforces Canada's *Competition Act*. Its mandate is to protect and promote competition for the benefit of Canadian consumers and businesses.

3. In fulfilling its mandate, the Bureau regularly consults with the public on various topics to inform its activities and help keep its work focused, timely, and relevant. These consultations include the publication of discussion papers to invite views from stakeholders and foster public debate on emerging competition-related issues.

4. This submission examines two recent consultations: the first on artificial intelligence (AI), and the second on algorithmic pricing.

2. Consultation on artificial intelligence and competition

5. On March 20, 2024, the Bureau published a discussion paper for public consultation on how artificial intelligence may affect competition, in the context of Canadian competition law.

6. In January 2025, the Bureau released the "Consultation on Artificial Intelligence and Competition: What We Heard" report, summarizing feedback from 28 consultation respondents. Respondents included consumer groups, industry associations, technology firms, academics, and legal practitioners.

7. The consultation and resulting report sought to advance public discourse on the challenges and opportunities AI presents, with a focus on market dynamics, anti-competitive risks, and ways to promote fair competition. The following sections summarize what we heard.

2.1. AI market dynamics

8. Respondents noted that AI markets are characterized by rapid innovation, high complexity, and significant investments. While AI markets share some traits with other digital markets, such as the importance of data and computational resources, AI's wide range of applications and higher marginal costs make it distinct.

9. We heard mixed perspectives on how AI market dynamics affect large and small firms. A key point was that the concentration of resources among large incumbents can create barriers to entry. However, not all respondents shared this view. Some noted that innovations such as synthetic data and open-source models provide avenues for market access.

10. AI markets have featured notable participation by startups. However, large technology firms' control of critical inputs – such as cloud computing, AI chips, and proprietary data – can present barriers to entry and expansion.

11. Several submissions raised this issue in the context of partnerships and the vertical integration of large firms. On the whole, the submissions pointed to both opportunities and risks. On one hand, such collaborations can foster innovation by giving startups access to crucial resources and expertise. On the other, incumbents can use exclusionary practices to achieve market power and eliminate rivals. When a collaboration involves exclusive agreements or acquisitions of innovative startups, competitors have limited access to the inputs they need. This could stifle competition, especially for new entrants.

12. Respondents proposed several solutions to possible barriers to entry:

- protect access to data for training AI models;
- encourage more diverse public and private investment; and
- promote equitable partnerships that benefit both small and large firms.

13. Respondents also noted the potential benefits to competition when AI technologies and resources are more accessible to a wider range of people. This is known as AI democratization. Making it easier to access AI can increase participation by small and emerging firms and contribute to thriving, competitive markets. AI democratization could be promoted by reducing barriers to entry around intellectual property and data and by supporting automation solutions that improve operational efficiency for a wider range of businesses.

2.2. Competition in AI markets

14. Submissions also highlighted competitive challenges and opportunities arising from algorithmic pricing and deceptive marketing practices. They emphasized the importance of transparent, adaptable, and principle-based regulation, as well as ongoing research and international collaboration, to ensure that oversight of AI remains effective and responsive as the technology rapidly evolves.

2.2.1. Potential issues under the Competition Act

15. The prevalence of algorithmic pricing systems was one of the most common themes that emerged from the feedback. Like AI, algorithmic pricing presents both potential benefits and risks to competition. Respondents noted that it may increase competition by enabling businesses to work more efficiently and respond faster to market changes. However, several submissions raised concerns regarding algorithmic collusion or coordination. Respondents also highlighted the risk of algorithmic pricing systems facilitating a form of tacit coordination in which systems autonomously align on prices without explicit human instruction, communication, or agreement.

16. Respondents also highlighted the growing impact of AI on deceptive marketing practices. Advances in generative AI and deepfake technology have made it easier to fabricate convincing audio, video, and written content, increasing the risk of fraud and consumer deception. Respondents noted that AI-generated fake reviews, impersonations, and targeted phishing could undermine consumer trust and make it harder for individuals to make informed purchasing decisions. There was broad agreement that more transparency, such as labelling AI-generated content in marketing materials and other public communications, could help reduce these harms. Views on how to label AI-generated content varied: some recommended that labelling be used whenever content

includes AI-generated outputs, while others proposed using it only in certain cases – for instance, when there is a higher risk of deception.

2.2.2. Regulatory and advocacy approaches

17. The consultation showed a high degree of consensus that regulation of AI should remain technology-neutral, avoiding static or overly prescriptive sector-specific rules. Principle-based regulation founded on fundamental values such as transparency, consent, and non-discrimination was favored as the optimal approach for supporting long-term innovation, market flexibility, and consumer protection. Respondents warned that inflexible regulatory mechanisms could hinder growth and limit competition in a rapidly evolving market. They proposed recommendations focused on regulatory agility, adaptability across technological changes, and the application of core principles to ensure fair and competitive outcomes.

18. Many submissions encouraged the Bureau to undertake further evidence-based research, including market studies. Suggested topics for future research included:

- the effects of partnerships and acquisitions on market structure,
- the competitive dynamics among horizontal and vertical layers of the AI tech stack,
- the use of AI for anticompetitive conduct, and
- benchmarking Canadian regulatory developments against those in other jurisdictions.

19. Respondents stressed the importance of international collaboration. They recommended that Canada seek harmonization with global counterparts and actively participate in developing shared standards, policy frameworks, and definitions of AI.

20. Respondents also repeatedly stated the need for a clear and consistent definition of AI to support coherent enforcement and policy implementation within Canada. One suggested pathway toward harmonization was to adapt the definitions found in legislation.

3. Consultation on algorithmic pricing and competition

21. Companies are increasingly using algorithmic pricing, which is the use of automated algorithms to set or recommend their prices. The trend is driven by advancements in AI technology and the increasingly widespread availability of data to businesses. In Canada, more than 60 companies offer services that claim to use algorithms to develop and implement pricing strategies. In addition, several companies have developed their own internal pricing algorithms.

22. In June 2025, the Bureau published a discussion paper on algorithmic pricing and competition[1] to gather feedback from individuals, businesses, industry associations, members of the academic and legal communities, and consumer interest groups. The purpose of this ongoing consultation is to strengthen our understanding of algorithmic pricing and how it might impact competition and consumers. Submissions and a post-consultation report will be published on our website in late 2025. The discussion paper makes the following observations about algorithmic pricing, which could be supplemented or modified based on consultation feedback.

[1] Algorithmic pricing and competition: Discussion paper

3.1. Defining algorithmic pricing

23. Algorithmic pricing may be broadly defined as having three characteristics:

- **Automation**, which involves a set of instructions designed to perform specific tasks without human intervention. These instructions can either follow preset rules ("rules-based algorithms") or be driven by AI techniques ("AI-driven algorithms"). The main difference from rules-based algorithms is the ability for AI-driven algorithms to learn from how the market reacts to prices they set or recommend.
- **Price optimization**, where prices are set to maximize profits either directly or by making recommendations to a human decision-maker.
- **Data as an input** from various sources, including consumer characteristics, market dynamics, and other internal or external data.

24. In the discussion paper, the Bureau also made a distinction between "dynamic pricing" and "personalized pricing" algorithms. **Dynamic pricing algorithms** set or suggest prices based on market conditions, such as supply and demand, competitors' prices, inventory levels, and other contextual factors such as the time of day or weather. In contrast, **personalized pricing algorithms** customize prices for individuals or specific groups using consumer data, including demographics, online behavior, and purchase history. With that said, it is challenging to differentiate between these two types of algorithms in practice, as firms often incorporate both market and consumer data into their pricing strategies.

3.2. Potential impacts on markets and consumers

25. Algorithmic pricing can enhance competition by fostering innovation and efficiency. It can also prevent competition by enabling price coordination, increasing market power for dominant companies, and limiting market entry and consumer choice. Its impact depends on its application, features, data usage, data ownership, and market characteristics.

3.2.1. Competitor Collaborations

26. Pricing algorithms may facilitate tacit or explicit competitor collaborations. For instance, two or more competitors might use a shared algorithm to process data and set prices to maximize their combined profits. Pricing algorithms may also assist firms in detecting and responding to deviations from a coordinated strategy, such as when a competitor lowers prices below the coordinated price. Additionally, third-party algorithm suppliers may facilitate "hub-and-spoke" arrangements between competitors. The supplier, acting as a hub, can send price recommendations to competing firms (the "spokes"). This can lead to tacit or explicit coordination. When competitors use the same algorithm for pricing recommendations, it could resemble collusive behavior even without direct communication.

3.2.2. Predatory pricing, tying and bundling, and deceptive marketing

27. Firms may use pricing algorithms to engage in anti-competitive practices such as predatory pricing as well as tying and bundling. First, pricing algorithms could facilitate predatory pricing behaviour by allowing firms to target specific customers of their rivals. Established firms could use algorithms to set below-cost prices for customers that are most likely to switch, in an effort to retain them. These firms could then recover their losses by using algorithms to raise prices for consumers that have a higher willingness-to-pay or are less sensitive to price changes.

28. Second, pricing algorithms could facilitate tying and bundling practices, which link the sale of one good or service to another. Firms could target less price-sensitive consumers with higher prices on tied or bundled offers and offer discounts to more price-sensitive customers.

29. Additionally, consumers could be subject to deceptive marketing practices that arise from the extensive data usage required by pricing algorithms. False or misleading representations about data usage—such as collection processes, purposes, and frequency; user control; and sharing practices—may raise issues under the Act.

3.2.3. Entry and expansion, consumer switching, innovation and market efficiency

30. Algorithmic pricing can create barriers to market entry and impact consumer switching behaviour. As observed with AI more broadly, established firms often have the resources to access proprietary data and the computational power required for AI-based algorithms. New entrants often lack these resources. This imbalance may deter new players from entering industries where algorithmic pricing is prevalent.

31. Algorithms could prevent customer switching by allowing established companies to target customized prices to retain their customer base. They could do so by targeting lower prices to customers who are more likely to switch. New or smaller firms may also use pricing algorithms to create an incentive for their rivals' customers to switch by providing them with better offers. In addition, the speed at which pricing algorithms adjust prices could make price comparison more difficult for consumers.

32. At the same time, algorithmic pricing has the potential to promote innovation and improve market efficiency. Algorithms may allow firms to adjust prices rapidly in response to supply and demand changes. This could enhance inventory management and resource allocation while reducing production costs. Pricing algorithms could also foster disruptive innovation by enabling new market entrants with effective pricing strategies to compete with established incumbents.

33. While this innovation brings some benefits, it also poses challenges for competition. It is therefore important to balance the advantages of algorithmic pricing with the need to ensure a competitive marketplace for businesses and consumers.

4. Conclusion

34. Through these consultations, the Bureau has gained important insights into AI and algorithmic pricing. The consultations have highlighted both the potential risks—such as anti-competitive practices and barriers to entry—and the opportunities for increased efficiency and disruptive innovation in Canadian markets.

35. As these technologies evolve, the Bureau will continue to expand our knowledge to ensure that it is ready to respond swiftly and effectively.