

Unclassified

English - Or. English

27 May 2026

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Competition and Consumer Policy in Digital Markets – Note by Canada

24 June 2026

This document reproduces a written contribution from Canada submitted for Item 4 of the 149th OECD Competition Committee meeting on 22-24 June 2026.

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JT03587929

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1. Introduction

1. Vigorous competition provides consumers with competitive prices and product choices, and consumers' ability to make informed decisions is central to vigorous competition. [Canada's Competition Bureau](#) (the Bureau) is pleased to provide this submission to the OECD's Roundtable on Competition and Consumer Policy in Digital Markets.

2. The Bureau is an independent law enforcement agency headed by the Commissioner of Competition. We administer and enforce Canada's competition law, the [Competition Act](#), and other pieces of legislation. We protect and promote competition and enable informed decisions for the benefit of Canadian consumers, businesses, and the economy.

3. We welcome this opportunity to share our approach and practical experiences integrating consumer considerations in matters related to competition in digital markets. In this submission, we will discuss the following themes and present a selection of recent examples to illustrate our approaches to these matters:

- Our institutional setting
- Cooperation mechanisms
- Consumer considerations in competition assessments
- Research on consumer behaviour in digital markets

4. In Canada, consumer protection legislation, policy, and enforcement are shared across multiple agencies and departments between the national ([federal](#)) and sub-national ([provincial and territorial](#)) governments.

- Provinces and territories operate independently of the federal government and of each other within their respective constitutional jurisdictions.
- Different government agencies are responsible for different functions, including legislation, enforcement, handling consumer complaints, policymaking, education and awareness, regulation, and research.
- The Bureau itself does not enforce consumer protection legislation. It enforces the *Competition Act*, to promote outcomes that benefit consumers by supporting fair, competitive, and transparent markets.

2. Institutional Setting

5. The Bureau has four enforcement directorates - Mergers, Monopolistic Practices, Cartels, and Deceptive Marketing Practices. These directorates investigate different aspects of firm behaviour and activity that could negatively impact competition. The Deceptive Marketing Practices Directorate also enforces the *Consumer Packaging and Labelling Act*, the *Precious Metals Marking Act*, and the *Textile Labelling Act*.

6. The Bureau has created the Digital Enforcement and Intelligence Branch as part of a modernization effort to support the enhancement of competition enforcement and

promotion in digital markets. This included responding to rising needs for specialized expertise in areas such as behavioural science, data science and advanced analytics, emerging technology and tools, intelligence, and operational enhancement solutions.

7. The branch functions as a centralized resource for the organization, and its specialists support enforcement and promotion efforts by complementing traditional economic and legal expertise.

8. Of the six teams in this branch, the Behavioural Insights Unit, Central Intelligence Unit, and the Data Analytics Unit are the most directly involved in supporting investigations and initiatives related to consumer considerations in digital markets.

9. These units take a highly collaborative, flexible, and practical approach to support the Bureau in fulfilling its mandate. Whenever possible, their specialists integrate into teams at the onset of a case or promotion initiative. This interdisciplinary model approach fosters trust, enhances mutual learning, and results in more tailored and actionable advice. The units also adopt a demand-driven service model by responding to targeted requests, developing customized solutions to each enforcement or promotion challenge.

2.1. Behavioural Insights Unit

10. The unit brings a human-centered and data-driven understanding of behaviour and decision-making to enforcement and promotion activities. The team supports the Bureau through advice provision, thought leadership, capacity building, and primary research.

11. Our behavioural scientists also provide support to litigation processes, particularly on cases where a real-world perspective on behaviour and psychological processes plays a central role, notably those involving a strong consumer decision-making element. They assist with the identification of behavioural science expert witnesses and assessment of their work, critically appraise opposing expert reports, and provide evidence-based rebuttals. Recently, these services were expanded to include internal expert witness support. Indeed, [one of our Senior Behavioural Scientists was qualified as an expert witness](#) in a deceptive marketing case against Rogers Communications.

2.2. Central Intelligence Unit

12. The unit brings intelligence-driven insight and market awareness to support the Bureau's enforcement and promotion efforts. The team helps identify, track, and understand competition issues in digital markets, including previously unknown issues, using information from a wide range of sources, to inform effective action.

13. The unit uses and leverages a series of tools, databases, techniques, and technologies to support enforcement. In practice, the unit gathers and analyses information, including consumer complaints data, using advanced data analytics tools and techniques, to derive meaning for the Bureau's purposes. The unit also monitors public and restricted sources of information to proactively detect and address competition issues affecting consumers in digital markets.

2.3. Data Analytics Unit

14. The unit brings advanced analytics and data science capabilities to address enforcement challenges in digital markets. The team provides technical services including data analysis, web data collection, geospatial mapping, and applied AI. The unit serves both competition enforcement and promotion teams across the Bureau, operating as a shared resource that deploys specialized technical skills where needed.

15. The unit has developed methods to collect and analyze fake reviews at scale and examine website source code to identify algorithmic pricing schemes. The team is also exploring how AI agents could examine, at scale, how online choice environments are designed to influence consumer decisions. These technical methods enable the Bureau to detect and assess practices that would be challenging to identify with traditional investigative approaches alone, due to scale and data requirements. For example, practices such as manipulative interface design, coordinated review fraud, and dynamic pricing algorithms.

3. Cooperation Mechanisms

16. We rely on a range of mechanisms to cooperate, exchange information, and share insights, where appropriate.

17. The *Competition Act* includes provisions that allow the Bureau to share confidential information with domestic and foreign authorities under certain circumstances.

18. Additionally, we have [cooperation agreements](#), such as memoranda of understanding, with domestic and foreign partners, including provincial consumer protection authorities.

19. For example, together with Bureau enforcement directorates, our Central Intelligence Unit develops and maintains an extensive network of domestic and international partnerships for information and intelligence sharing. The unit regularly collaborates with Canadian agencies at various levels of government, notably through memoranda of understanding and intelligence exchanges, to discuss competition concerns impacting consumers online. This allows the unit to collect and analyze consumer complaints from many sources and agencies, and to generate and share intelligence on consumer harms in digital markets, such as mass-marketing fraud or misleading online representations.

20. The Bureau is also a member of the [Canadian Digital Regulators Forum](#), a partnership that includes the [Canadian Radio-television and Telecommunications Commission](#), the [Office of the Privacy Commissioner of Canada](#), and the [Copyright Board of Canada](#).

- The Forum was created in 2023 in recognition that its members can expand their regulatory capacities and better fulfill their respective mandates through increased partnership and cooperation.
- The purpose of the Forum is to strengthen information sharing and collaboration on matters that relate to digital markets and platforms.
- The Forum provides diverse opportunities for collaboration, including developing a better understanding of each other's roles and responsibilities, sharing data and information where appropriate, and learning activities.
- Members publish papers to raise the awareness of the general public about digital market issues at the intersection of competition and consumer considerations, such as the [use of generative AI and synthetic media](#) and the impacts of [digital design practices on consumer choices](#).

4. Consumer considerations in competition assessment

21. The Bureau is devoting increasing attention to the competitive effects of non-price parameters in digital markets, including data and privacy practices, and how price information and consumer choices are presented.

22. Since 2022, important amendments to the *Competition Act* have strengthened the Bureau's enforcement tools, including in these areas:

- The non-exhaustive list of factors considered when assessing the competitive impact of mergers, competitor collaboration, and abuse of dominance, was expanded to explicitly include effects on quality, consumer choice, and privacy.
- The amendments also strengthened our ability to act against drip pricing by clarifying that it is misleading to omit mandatory fees from advertised prices, unless those fees are imposed by government on purchasers, such as sales tax.

23. The Bureau also draws on insights from behavioural science research to better understand factors shaping consumer decision-making and their implications for competitive outcomes. These insights inform theories of harm, the assessment of the validity of claims pertaining to behaviour and decision-making made by targets of investigations, and the design of remedies.

24. In particular, the Bureau considers whether features of digital environments interact with heuristics (i.e., mental shortcuts), cognitive biases, individual differences (e.g. demographic factors), and contextual factors to influence perceived substitutability, create barriers to switching, and influence purchasing decisions.

25. The Bureau's drip pricing case against Cineplex illustrates how evidence from behavioural science can be central to understanding the impact of a firm's conduct on a digital platform.

- In its [decision](#), the Competition Tribunal found at paragraph 407: "Dr Morwitz described the effect on consumers of separating different elements of the overall price to be paid. In particular, her opinion was that the way in which the ticket prices and the Online Booking Fee are presented on the website and the App lowers consumers' perceptions of the total price of the tickets and affects their buying behaviour by leading them to underestimate the total price of purchasing the tickets."
- The Tribunal ordered Cineplex to pay nearly \$39 million, a record administrative monetary penalty.

26. We launched an initiative focused on developing new tools to help our employees tackle the behavioural underpinnings of harmful online choice architecture (HOCA). HOCA are digital design features that have negative effects on competition through their impacts on consumer decision-making. This initiative may include educational resources for employees and the public, analytical tools to assess competitive and consumer impacts, and compliance promotion resources targeted at businesses.

27. Our intelligence function plays a central role in identifying, understanding, and addressing competition harm that impacts consumers online. We routinely synthesize and analyze consumer complaints data from multiple sources and channels to inform enforcement methods and investigations. These include the Bureau's internal reporting systems, the [Canadian Anti-Fraud Centre](#), the [Better Business Bureau](#), social media monitoring, and data received from partner agencies. By triangulating information across

these sources, the unit identifies clusters of emerging digital harms, pinpoints new methods of online deception, and informs enforcement tasking decisions.

28. By integrating complaints analysis with wider market intelligence, the Central Intelligence Unit supports prioritization and resource allocation across the Bureau, and this ensures that emerging issues are identified in a timely manner.

5. Research on Consumer Behaviour in Digital Environment

29. The Bureau conducts research to better understand how consumer decision-making intersects with competition. This includes market studies, discussion papers, public consultations, publications in collaborations with other agencies, and analysis of complaints and inquiries data. Research findings are used to inform our enforcement work, and to generate recommendations for governments, consumers, and industry stakeholders.

30. We conducted a [study](#) to estimate the value of data portability for consumers, defined as the ability to easily and securely transfer their personal data from one service provider to another.

31. Experimental findings suggested that time and money savings, as well as awareness and trust, were key factors in adoption. Survey results identified three main consumer profiles: privacy-conscious consumers, savings-oriented consumers, and knowledgeable consumers. These insights improve our understanding of how consumers value their data and inform our strategies to promote effective data portability.

32. In a [market study on Canada's airline industry](#), we conducted behavioural audits of airlines and flight booking websites to examine how consumers search for and book flights online. Findings suggested that complex pricing makes it difficult to compare products. Airlines use multiple fare categories and present fees for add-ons later in the booking process, which reduces competitive pressure on airlines.

33. Our [discussion paper](#) and subsequent [public consultation](#) on algorithmic pricing explored the potential impacts using automated algorithms to set or recommend prices for products or services on consumers, and how switching factors into competition analysis.

34. Most individual respondents to the consultation raised concerns about the potential risks associated with algorithmic pricing. They noted that pricing algorithms may limit choices, reduce the availability of helpful decision-making information, disincentivize switching, and enable established firms to retain their customers by using gains in some consumer groups or markets to offset losses in others.

35. Some respondents also mentioned potential benefits, suggesting that these systems can help new firms establish themselves more effectively by responding quickly to competitor prices and consumer trends, and can allow small- and medium-sized businesses to boost productivity and cut costs, with potential savings passed on to consumers through additional offers or lower prices.

6. Conclusion

36. As Canada continues to adapt to global changes, vigorous competition is more important than ever for consumers. Investing in specialized expertise, stronger collaboration, and generating insights from diverse data and intelligence sources is helping the Bureau integrate consumer considerations into digital-market work. This is

empowering the Bureau to protect Canadians and competition by responding to digital market challenges with greater agility and impact.