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

Working Party No. 2 on Competition and Regulation

**Market Studies and other Market Analysis Tools for Competition Authorities – Note by
Canada**

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1. Introduction

1. Canada's Competition Bureau (Bureau) is pleased to provide this submission to the Organisation for Economic Cooperation and Development (OECD) Competition Committee Working Party No. 2 Roundtable on "Market studies and other market analysis tools".
2. The Bureau is an independent law enforcement agency headed by Commissioner of Competition. We enforce the *Competition Act* and other laws. We protect and promote competition for the benefit of Canadian consumers and businesses. Market studies are part of our competition promotion work.
3. The Bureau welcomes this opportunity to provide comments on market studies. In this submission, we highlight:
 - How we use market studies and other tools to promote competition
 - How we cooperate internationally on market studies
4. We note that the Bureau does not have "market investigation" powers. According to the OECD call for contributions, market investigations provide competition authorities with "some form of power to implement remedial actions to improve competition following the identification of competition issues" while market studies do not.
5. The Bureau also does not have authority over competition legislation in Canada. This authority lies with the Department of Innovation, Science and Economic Development.

2. How we promote competition

6. The Bureau promotes and advocates for the [benefits](#) of a competitive marketplace in many ways. We want to make sure everyone knows that competition drives the economy, helps Canada realize its full economic potential, and benefits consumers through lower prices, greater choice and increased levels of quality and innovation.
7. Market studies are an important tool of this competition promotion work, and they are distinct from our law enforcement work. Market studies are not meant to investigate specific allegations of violations of the *Competition Act*, such as price-fixing cartels, abuses of market power, anti-competitive mergers or deceptive marketing practices. Rather, we use market studies to examine a market or industry in depth to identify competition issues and propose solutions. Market studies help us understand and enhance competition in important sectors of the Canadian economy.
8. A [table of completed and ongoing market studies](#) is available on our website. Since 2007, we have completed 9 market studies, and we have one currently ongoing. We have completed a market study each year since 2022.
9. After [amendments in December 2023](#), the *Competition Act* includes a framework for market studies. The framework includes the following procedures:
 - The Commissioner of Competition must consult the Minister of Industry before launching a market study.

- The Minister can also direct the Commissioner to conduct a market study if they believe it is in the public interest to do so. In this case, the Minister must first consult the Commissioner to determine if the market study would be feasible.
- Following the initial consultation with the Minister, we publish the proposed terms of reference for public comment.
- After the comment period closes, we review the comments from the public.
- We then prepare the final terms of reference for the Minister's approval.

10. When we undertake a market study, we seek to identify sectors that are important to the Canadian economy, and where our resources and competition expertise can provide the most value. Our decisions are guided by the public interest. We consider the nature of the market, the benefits we expect from a study, and our priorities and resources. Once we identify a sector, we must determine the scope of the study. Our goal is to focus on the most important issues that may be affecting competition and consumers.

11. The December 2023 amendments also provided the Commissioner of Competition with new information-gathering powers during market studies. Specifically, the Commissioner may apply for a court order to compel a legal person to provide relevant information. We can ask for oral and written responses as well as copies of records that respond to the order.

12. We already have experience with these orders through our enforcement investigations. When applying for these orders during market studies, we follow the same practices already in place from our enforcement experience. We consider the burden on respondents and work with them to narrow the request where reasonably possible.

13. We [used our new information gathering powers for the first time](#) in our [2024 Airline Market Study](#). As in our enforcement investigations, these powers allow us to obtain relevant information with greater certainty of timing and completeness. When used in a market study, they help us verify statements, understand the underlying evidence, and build a more complete picture of market competition beyond what public and voluntary sources provide. The *Competition Act* includes safeguards that require us to send a full or partial draft report to those who are ordered to provide information as part of a market study. They may provide the Commissioner with any concerns about factual inaccuracies or confidential information that should not be disclosed in the final report.

14. The main outcome of our market studies is a report with our findings that we publish on our website. Our reports typically also include recommendations to enhance competition. We may also use the market study to inform our enforcement work. This may lead to us paying closer attention to a sector, revising our approach to an issue, or opening an investigation.

15. After we publish our report, we actively engage policymakers and other stakeholders. We explain what we learned over the course of the study and further explore any recommendations we made. We are available to work with these stakeholders to answer questions they may have and provide guidance on how to implement our recommendations.

16. We may also use a market study report to support future work, including representations to federal or provincial boards, commissions or tribunals. For example:

- Our [2019 Broadband Market Study](#) provided a foundation for our [interventions](#) during the Canadian Radio-television and Telecommunications Commission (CRTC) [2023 wholesale broadband review](#).

- Our [2023 Grocery Market Study](#) identified property controls as a barrier to entry in the grocery sector. Following this, Parliament passed [amendments to the Competition Act](#) that strengthened the Bureau's enforcement capabilities to address these issues. The Bureau [launched investigations into property controls in the grocery sector](#) and made quick progress. One major grocer [agreed to remove a property control](#) that restricted retail grocery store competition in Crowsnest Pass, Alberta, while Canada's largest grocer [committed to eliminating property controls across Canada](#).

17. We also continue monitoring the sector we studied. In some cases, we may publish a follow-up report on changes made and identify areas that still appear to present competition problems. For example, we published a [post-study assessment](#) of our study on Self-Regulated Professions that reviewed progress made by professional bodies in implementing the study recommendations.

18. We have published [guidelines on how we conduct market studies](#) with more information.

3. How we cooperate internationally

19. The Bureau routinely contacts international competition authorities, sector regulators, and other organizations and individuals during our market studies. These contacts inform our approach, provide information on market conditions in other countries, and are a source of inspiration for recommendations that promote competition. We also benefit from international cooperation more generally, including when we develop guidance based on best practices and identify potential sectors for future market studies.

20. We do not typically conduct joint market studies. One exception was when the Ministers of Natural Resources and Industry asked the Bureau and the National Energy Board (now the Canada Energy Regulator) to work together to [review propane market issues](#) in 2014. They made their request following very high propane prices in some areas of Canada during the winter of 2013-2014. While we worked with the National Energy Board on joint preliminary and final reports, the Bureau independently examined whether Canadian propane markets were subject to anti-competitive activities.

21. We take several factors into account when we decide to work jointly on a study. For example, we consider the need to maintain our independence and preserve our accountability. We also consider the benefits and costs of joint projects compared to working independently and cooperating with other organizations. Often, we find we can benefit greatly from cooperation without working jointly on a project.