



Competition Bureau
Canada

Bureau de la concurrence
Canada



Lower. Prices More. Choice

ANNUAL REPORT OF THE COMMISSIONER
OF COMPETITION FOR THE YEAR ENDING
MARCH 31, 2013

Canada 

This publication is not a legal document. It contains general information and is provided for convenience and guidance in applying the *Competition Act*.

For information on the Competition Bureau's activities, please contact:

Information Centre
Competition Bureau
50 Victoria Street
Gatineau QC K1A 0C9

Tel.: 819-997-4282
Toll free: 1-800-348-5358
TTY (for hearing impaired): 1-800-642-3844
Fax: 819-997-0324
Website: www.competitionbureau.gc.ca

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Communications and Marketing Branch
Industry Canada
C.D. Howe Building
235 Queen Street
Ottawa, ON K1A 0H5
Email: info@ic.gc.ca

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The Competition Bureau at a glance

About the Competition Bureau

The Competition Bureau (Bureau) is an independent law enforcement agency headed by the Commissioner of Competition (Commissioner) that is responsible for administering and enforcing Canada's:

- *Competition Act (Act)*
- *Consumer Packaging and Labelling Act* (except as it relates to food)
- *Textile Labelling Act*
- *Precious Metals Marking Act*

The Bureau is made up of:

- Four enforcement branches
- Four enforcement support branches

The Bureau also provides funding to support two independent legal support branches:

- Competition Bureau Legal Services (Department of Justice)
- Competition Law Section of the Public Prosecution Service of Canada (PPSC)

Priorities in 2012–2013

- Achieve results for Canadians through active, targeted and principled enforcement of competition laws and regulations
- Apply Canada's competition laws progressively, transparently and in step with the changing marketplace
- Cultivate strong, agile enforcement capacity

THE YEAR IN NUMBERS

5

terabytes

The amount of digital information seized by the Bureau's forensic investigators—equal to a stack of paper 300 times taller than the Eiffel Tower

13

The number of search warrants executed by the Bureau

5,825

The number of complaints registered with the Bureau

10,067

The number of information requests received by the Bureau

14

The number of position statements published to provide greater communication and transparency regarding the Bureau's decision-making process

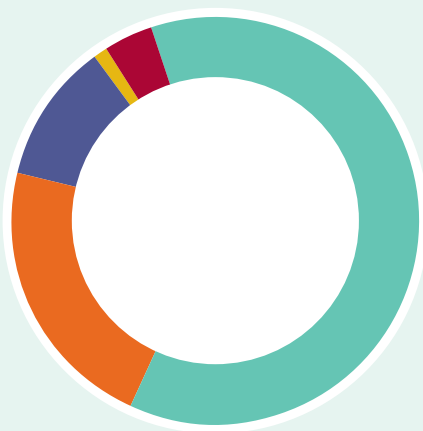
20,000

The number of times the Canadian edition of *The Little Black Book of Scams* was downloaded from the Bureau's website

> \$7.8
million

Total fines imposed by the Courts as a result of Bureau actions

Breakdown of Information Requests, 2012–2013



- **Competition Act**
62%
- **Textile and Labelling Act**
22%
- **Consumer Packaging and Labelling Act**
11%
- **Precious Metals Marking Act**
1%
- **Other**
4%

Message from the Commissioner

If necessity is the mother of invention, competition is arguably the mother of *innovation*. Competition inspires creativity, drives efficiency and fosters economic health—producing lower prices and more choice for consumers.



On multiple fronts in 2012–2013, the Bureau continued to pursue its mandate of ensuring Canada's markets remain competitive. It did so in the midst of change: the departure of the former Commissioner of Competition, Melanie Aitken, and my appointment as Interim Commissioner; and the beginnings of a shift toward greater transparency and more frequent use of strategic regulatory interventions to encourage fair and competitive practices.

A key example of the latter was our submission to the Canadian Radio-television and Telecommunications Commission (CRTC) on the development of a wireless code for Canada—an opportunity to weave

good, consumer-friendly practices into the fabric of the sector. Strategic regulatory interventions like these complement enforcement and help create a positive culture of competition for the country.

On the enforcement front, we achieved strong outcomes: three consent agreements reached; five matters with criminal charges laid; six convictions obtained; and more than \$7.8 million in fines imposed.

The rise in particular of e-commerce and digital technology has shifted the ground in many arenas. Last year, we joined more than 25 consumer protection agencies in a joint sweep targeting fraudulent and deceptive online and mobile advertising—identifying vendors who do not properly disclose the terms of transactions that can result in recurring charges, usage fees and contract terms for consumers. The Bureau added Twitter to its media monitoring service to identify emerging issues and gauge consumer and business response to our actions.

As the marketplace changes, our approaches must change along with it. We held Sector Days throughout the year, during which experts from various industries briefed our teams on the latest trends and emerging issues in their particular sectors.

Going forward, we will build on the strong enforcement work we have been engaged in over the past few years with the new provisions accorded under our Act. At the same time, we will employ the full set of tools at our disposal to encourage compliance.

It was a privilege to be asked to serve as Interim Commissioner following the departure of Melanie Aitken. I must congratulate and thank Melanie on her contributions to our mandate: she not only stood as a steadfast defender of competition in Canada but also helped raise the profile of the Bureau in many important ways.

Finally, I have to thank our expert staff for yet another year of committed effort, the results of which are well documented in these pages.

Sincerely,

John Pecman

Interim Commissioner of Competition

Our goal at the Bureau is to ensure Canadian businesses and consumers enjoy the advantages of a competitive marketplace and strong economy.

That's because healthy competition boosts Canada's economic performance, increases productivity and drives innovation—benefiting Canadians with lower prices and more choice.

The following stories share some of the ways we carried out our role in 2012–2013.

Fair fares for travellers

For many Canadians—especially business travellers—easy, affordable access to American destinations is essential. When Air Canada and United Continental Holdings, Inc. (United Continental) announced plans for a joint venture that would effectively merge their flight operations on high-demand Canada–United States (U.S.) routes, the Bureau stepped in to ensure the deal would not result in higher prices and less choice for consumers.

The Bureau reached a consent agreement with the airlines in October 2012, ensuring that Air Canada and United Continental will not use their joint venture or any existing agreements to coordinate prices, price-specific seat quantities, pool revenues or costs, or to share commercially sensitive information related to 14 key passenger routes—all of which would be detrimental to consumers. The agreement will remain in force as long as the joint venture or any

of the airlines' coordination agreements are active, overseen by an independent monitor appointed by the Bureau.

Economists and lawyers within the Bureau assessed the proposed Air Canada – United Continental joint venture to identify its potential impacts. Their analysis provided clear direction for the eventual agreement, which protects both Canadians' travel options and pocketbooks.

“The agreement will remain in force as long as the joint venture or any of the airlines' coordination agreements are active”



Exposing hidden mobile service fees

Consumers are routinely cautioned to “read the fine print”, but at the same time companies have a responsibility to be accurate and truthful in how they advertise their services. In 2012, the Bureau took Bell Canada (Bell), Rogers Communications, Inc. (Rogers), TELUS Corporation (Telus) and the Canadian Wireless Telecommunications Association (CWTA) to task for not doing so—seeking full customer refunds and \$31 million in penalties for allegedly misleading customers in their promotion of “premium texting services”.

The Bureau began legal proceedings after a five-month investigation, concluding the three companies, together with the CWTA, had facilitated the sale of premium-rate digital content such as trivia questions and ringtones to existing customers for up to \$10 per transaction—when those customers had allegedly been misled into thinking the content was free. In fact, customers believed measures were in place to prevent unauthorized charges.

If the Bureau’s case is successful, the organizations will be required to issue public notices about the orders brought against them and to stop any promotions not clearly disclosing prices and other terms and conditions for digital content. In addition to refunds for all customers, the Bureau is seeking administrative

monetary penalties (AMPs): \$10 million each from Bell, Rogers and Telus, and \$1 million from the CWTA. The case remained active as of March 31, 2013.

Submission by the Commissioner of Competition on Wireless Code of Conduct

Also in 2012–2013, the Bureau filed a response with the CRTC, contributing to the regulator’s work to establish a mandatory code that would require all wireless service agreements to be clear and specific. Ensuring consumers have clear, complete information to make purchasing decisions is a key way the Bureau protects Canadians from high costs.



Price protection at the pumps

It was one of the largest, most exhaustive criminal investigations in the history of the Bureau: the search for evidence of gasoline price-fixing in certain markets in Quebec. Aided by wiretaps, searches and expert analysis, the Bureau uncovered the proof it needed. By the end of March 2013, 39 people and 15 companies faced criminal charges.

Detecting and proving price-fixing conspiracies is tough work. High or identical prices are not evidence of criminal activity on their own: there has to be evidence that competing companies have agreed, together, to set prices. The Bureau's investigation revealed that, in certain local gas markets retailers or their representatives had been communicating with each other to determine the price they would charge for gasoline.

As of March 31, 2013, 33 people and seven of the companies charged with wrongdoing had either pleaded or been found guilty, and were fined more than \$3 million. Six people were sentenced to a combined total of 54 months in prison.

Despite the challenges associated with proving price-fixing and other illegal activity, when such allegations are substantiated, the Bureau does not hesitate to take action—in the interest of honest business operators and Canadian consumers.

High or identical prices
are not evidence of
criminal activity on
their own.





Free to choose means free to switch

When consumers' choices are restricted, they face the risk of higher prices and poorer service. In 2012, after an extensive investigation, the Bureau sued Direct Energy Marketing Limited (Direct Energy) and Reliance Comfort Limited (Reliance), alleging that their policies and procedures were designed to keep consumers from changing water heater providers, and is seeking \$25 million in AMPs.

To ensure competition in the market for residential water heater sales and rentals—and to protect consumer choice—the Bureau is seeking orders prohibiting Direct Energy and Reliance from engaging further in the alleged anti-competitive conduct, as well as \$15 million in AMPs from Direct Energy and \$10 million in AMPs from Reliance.

In 2002, the Bureau launched a similar proceeding against Direct Energy's predecessor, Enbridge Services, Inc.—resulting in a 10-year consent order against the company. The Bureau's 2012 investigation found that Direct Energy

re-engaged in this conduct after the consent order expired in February 2012. As of March 31, 2013, the current case was ongoing before the Competition Tribunal (Tribunal).

The Bureau's filing against Direct Energy and Reliance was taken under the 'abuse of dominance' provisions of Canada's *Competition Act*. Abuse of dominance occurs when companies use their position as market leaders to suppress competition—behaviour the Bureau always aims to act swiftly against.

Abuse of dominance occurs when companies use their position as market leaders to suppress competition—behaviour the Bureau always aims to act swiftly against.

Empowering consumers to protect themselves

Every year, Canadians lose millions of dollars to scam artists online, by mail and over the phone. The Bureau's *Little Black Book of Scams* provides tips, insights and myth-busting advice to help people recognize and guard against fraudulent offers and schemes. Since its publication in 2012, it has quickly become the most downloaded document on the Bureau's website.

Scams come in all shapes and sizes, from phoney lotteries requiring payment for prizes to pyramid schemes and personal appeals aimed at obtaining people's personal and financial information. Adapting the Australian Competition and Consumer Commission's anti-scam guide for Canadian readers, *The Little Black Book of Scams* covers the full range of threats and how to keep from falling prey to them.

By the end of the fiscal year, *The Little Black Book of Scams* had been downloaded 20,000 times since its launch as part of Fraud Prevention Month in 2012. The Bureau chairs Canada's Fraud Prevention Forum, which organizes Fraud Prevention Month every year to raise awareness among consumers and businesses about the dangers of fraud in the Canadian marketplace.

The Bureau is committed to equipping consumers with the knowledge to advocate for themselves, as it is one of the simplest and most powerful ways to encourage transparency and discourage deceptive business practices.

Every year, Canadians lose millions of dollars to scam artists online, by mail and over the phone.



Operational highlights

CIVIL MATTERS BRANCH

The Civil Matters Branch detects and deters restrictive trade practices that have a negative impact on competition—including abuse of dominance, refusal to deal, exclusive dealing, tied-selling and price maintenance. Activities of concern may also include certain types of anti-competitive agreements and other non-criminal arrangements.

May 2012

VISA AND MASTERCARD

The Bureau initiated a case before the Tribunal to strike down rules imposed on merchants by Visa and MasterCard in May 2012. These rules prohibit merchants from encouraging consumers to pay by lower-cost options such as cash or debit, prevent the application of surcharges to purchases made with high-cost cards, and require merchants accepting Visa or MasterCard to accept all cards offered by those companies, even those imposing significant costs. The Bureau alleges that these rules are restrictive and anti-competitive. The case remained active as of March 31, 2013.

September 2012

TORONTO REAL ESTATE BOARD

After an extensive investigation, the Bureau filed an application with the Tribunal to prohibit rules of the Toronto Real Estate Board (TREB) limiting the ways member agents can provide information to clients—including previous listings and sale prices. The restrictions prevent agents from introducing innovative real estate brokerage services using the Internet. The Bureau alleges that these rules are restrictive and anti-competitive. The case remained active as of March 31, 2013.

December 2012

RESIDENTIAL WATER HEATERS

The Bureau filed suit against Direct Energy and Reliance, alleging the two companies intentionally suppressed competition and restricted consumer choice through their water heater return policies and procedures. The Bureau filed two applications with the Tribunal, seeking orders prohibiting further anti-competitive conduct as well as AMPs: \$15 million from Direct Energy and \$10 million from Reliance.

CRIMINAL MATTERS BRANCH

The Criminal Matters Branch investigates and deters bid-rigging and conspiracies, agreements or arrangements among competitors to fix prices, allocate markets or restrict supply. It also reaches out to stakeholders engaged in procurement to help them detect and deter bid-rigging and other cartel activities.

May 2012

MAXZONE CANADA

The Bureau investigated Maxzone Canada for its role in an international cartel involving the sale of aftermarket replacement automotive lights purchased mainly by auto parts companies in Canada. After admitting to the existence of an agreement with competitors to set the price of these lights in Canada, Maxzone Canada pleaded guilty and was fined \$1.5 million.

June 2012

CONSTRUCTION INDUSTRY

Following a two-year joint investigation by the Unité permanente anticorruption (UPAC) of the Sûreté du Québec and the Bureau, 77 charges were laid against 11 individuals—including two municipal officials—and nine construction companies in Quebec in connection with a collusion scheme in the Saint-Jean-sur-Richelieu region. That scheme gave preferential treatment to a group of contractors to obtain municipal construction contracts. Criminal charges laid include corruption in municipal affairs, breach of trust, influencing a municipal official, fraud upon the government, production and use of counterfeit documents, accepting reward, advance or benefit, misrepresentation or false statement, extortion, and conspiracy.

Bid-rigging charges were also laid under the Act. Over the course of the year, the Bureau worked to raise awareness of the impact of criminal cartels and bid-rigging and to educate the public on how to detect and prevent them. Twelve outreach presentations were held, focusing in particular on the Canadian public sector, encouraging organizations to adopt or enhance corporate competition law compliance programs and report violations of the Act.

December 2012

SEWER SERVICES CARTEL

Two companies and one individual pleaded guilty to conspiring to rig bids for specialized sewer services in the greater Montreal area. Evidence revealed the companies agreed to coordinate their bids to pre-determine the winners of municipal and provincial contracts. The companies were fined a total of \$65,000 and subject to a court order; the individual involved was sentenced to 100 hours of community service and two years' probation. Twenty-three additional criminal charges relating to sewer services contracts valued at \$750,000 were laid against one company and two individuals.

March 2013

QUEBEC GAS CARTEL

In 2010, the Quebec Superior Court ordered two individuals to pay \$8,000 in fines for their role in a price-fixing conspiracy in Sherbrooke, following the Bureau's investigation into gasoline price-fixing in Quebec, a process that began in 2008. One of the Bureau's most exhaustive criminal cases, the investigation found retailers in some Quebec gas markets agreed to charge specific prices for gasoline. As of March 31, 2013, 33 people and seven companies pleaded or were found guilty of gasoline price-fixing in Quebec. The total fines brought in the case exceeded \$3 million, and six individuals have been sentenced to a total of 54 months of imprisonment.

FAIR BUSINESS PRACTICES BRANCH

The Fair Business Practices Branch promotes truth in advertising and encourages the sharing and availability of information to help consumers make informed choices. It also enforces provisions in various Acts (the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Precious Metals Marking Act* and the *Textile Labelling Act*) related to false or misleading representations and deceptive marketing practices.

June 2012

STRATEGIC ECOMM INC.

The Alberta Provincial Criminal Court ordered the Director of Strategic Ecomm, Inc. and MSH Investments, Inc. to stand trial on criminal charges for making materially false or misleading representations, contravening

a registered consent agreement, possessing property obtained through crime, and laundering the proceeds of crime. The consent agreement—which is valid for 10 years and has the same effect as a court order—was entered into in 2006 regarding the making of false or misleading representations under the Act's civil provisions. He also paid a \$100,000 AMP in 2006 and agreed to cease the conduct and notify the public.

July 2012 / December 2012

DECEPTIVE TELEMARKETING

In July 2012, the Quebec Court of Appeal upheld a 2008 Quebec Superior Court decision to dismiss a challenge opposing a search conducted and warrants executed as part of the Bureau's investigation into the conduct of several companies and individuals involved in a fraudulent telemarketing scheme. The investigation uncovered a complex operation—believed to be the largest deceptive telemarketing in Canada in 2007—that allegedly defrauded thousands of businesses across Canada, the United States, Europe and Central America. In September 2011, the Bureau announced criminal charges had been laid against five individuals and four companies involved in this investigation. As of March 31, 2013, this case continued before the courts.

In December 2012, following an investigation in partnership with the Centre of Operations Linked to Telemarketing Fraud (COLT), the Bureau announced criminal charges had been laid against four individuals from Montreal and another from Brossard for defrauding the public of more than \$5,000. Four of the individuals were also charged under the deceptive telemarketing provision of the Act. The Bureau's investigation determined some of the alleged tactics used during the calls included implying the caller represented a business that had an existing relationship with the victim's company, indicating certain products or services were required under government rules, or implying that the call was being made on behalf of a government agency.

September 2012

**BELL, ROGERS, TELUS,
AND THE CWTA**

The Bureau began legal proceedings against Bell, Rogers, Telus and the CWTA alleging that the four groups facilitated the sale of premium-rate digital content to customers who believed the content was free and measures were in place to prevent them from incurring charges. The Bureau is seeking corrective notices, full customer refunds and AMPs of \$31 million. The case was still before the courts as of March 31, 2013.

February 2013

BUSINESS DIRECTORY SCAM

In February 2013, the Ontario Court of Appeal upheld an Ontario Superior Court of Justice (OSCJ) decision ordering an individual to pay a \$500,000 AMP in connection with the Yellow Page Marketing B.V. deceptive marketing scheme, which targeted businesses, individuals and organizations across Canada and internationally. Prior to that decision, in March 2012, five companies and three individuals were found to have violated the Act for operating a deceptive marketing scheme. The OSCJ ordered the companies and individuals to pay AMPs totalling \$9,035,000, pay full restitution to the victims of the scam, publish corrective notices, and return any mail sent to the companies and individuals to the victims. During its investigation, the Bureau worked closely with the United States Federal Trade Commission, the Australian Competition and Consumer Commission and the United Kingdom National Fraud Intelligence Bureau.

MERGERS BRANCH

The Mergers Branch reviews mergers affecting the Canadian marketplace to determine whether they are likely to reduce or prevent competition.

Where this is the case, it will negotiate to reach agreement with involved parties on remedy, and, where necessary, will also take steps to prohibit transactions from closing prior to the completion of its review. The Branch works closely with other competition authorities where mergers involve reviews in multiple jurisdictions.

May 2012

**TERVITA (FORMERLY KNOWN AS
CCS CORPORATION) – COMPLETE
ENVIRONMENTAL, INC.**

In January 2011, the Bureau challenged CCS Corporation's acquisition of Complete Environmental, Inc. and its proposed Babkirk hazardous waste landfill site, alleging the transaction would prevent competition for the disposal of hazardous waste in Northeastern British Columbia. In May 2012, the Tribunal agreed and ordered CCS Corporation to divest the Babkirk hazardous waste landfill site. In February 2013, the Federal Court of Appeal rejected an appeal launched by Tervita in June 2012 and upheld the Tribunal's order.

October 2012

**AIR CANADA –
UNITED CONTINENTAL**

A consent agreement was reached following the Bureau's application to prohibit a joint venture between Air Canada and United Continental that would have resulted in the two carriers merging their flight operations for Canada-U.S. routes. The agreement prevents the airlines from coordinating under the joint venture and existing coordination agreements on 14 high-demand trans-border routes thereby ensuring lower prices and more choice for travelers.

February 2013

**WASTE MANAGEMENT
QUÉBEC, INC.**

A consent agreement was reached to address concerns that the proposed acquisition of RCI Environment, Inc. (RCI) by Waste Management Québec, Inc. (WMQ) would have led to fewer choices and higher prices for waste disposal services in Western Quebec. The consent agreement required WMQ to sell the right to dispose of up to 1.875 million tonnes of waste over 20 years at a landfill in Lachute, Quebec. The sale will ensure that this buyer can access sufficient landfill capacity to compete for business in those areas. An independent monitor will be appointed to ensure WMQ's compliance with the terms of the agreement.

March 2013

**BROADCASTING INDUSTRY –
BCE, INC./ASTRAL MEDIA, INC.**

A consent agreement was reached to address concerns that BCE, Inc. (Bell)'s proposed acquisition of Astral Media, Inc. (Astral) would have led to increased prices and reduced choice and innovation in the television distribution industry. The agreement required Bell to divest Astral's ownership interests in several television channels and contained behavioural restrictions to preserve competition in pay and specialty television programming services in Canada. Bell will also divest itself of a number of radio stations to comply with the CRTC's Common Ownership Policy.

LEGISLATIVE AND INTERNATIONAL AFFAIRS BRANCH

The Legislative and International Affairs Branch advances fair and efficient competition principles by giving input into legislative,

regulatory and policy development processes. The Branch also negotiates trade and cooperation instruments, actively leads international competition fora, and fosters strong relationships with key partners, co-ordinating international efforts to promote competitive markets and effective competition law enforcement.

Year-round

INTERNATIONAL COMPETITION NETWORK (ICN)

The ICN advocates for competition policy standards and procedures around the world. The Bureau played a key role in its development, serving as the ICN Secretariat, participating on the ICN Steering Group and various working groups including the:

- Operational Framework Working Group
- Advocacy Working Group
- Agency Effectiveness Working Group
- Cartel Working Group
- Merger Working Group
- Unilateral Conduct Working Group

The Bureau also co-chaired both the ICN Cartel Working Group subgroup on enforcement techniques and the Operational Framework Working Group, and participated in the 11th Annual Conference in April 2012, where the Commissioner intervened on the Merger Working Group plenary panel on recent developments in merger analysis.

Year-round

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

The OECD advances policies to improve the economic and social wellbeing of people around the world. The Commissioner leads

Canada's delegation in the OECD Competition Committee, which is part of the OECD's Directorate for Financial and Enterprise Affairs. The Bureau also participates in the Committee on Consumer Policy, part of the OECD's Directorate for Science, Technology and Industry.

In 2012–2013, Canada contributed to the work of the Competition Committee through input and submissions on: payment systems, leniency for subsequent applicants, vertical restraints for online sales, and provided input into a joint OECD/ICN project. The Commissioner was elected a member of the Competition Committee's managing body at its February 2013 meeting.

Industry Canada's Office of Consumer Affairs leads Canada's participation in the OECD's Committee on Consumer Policy (CCP), with contributions from the Bureau pertaining to the enforcement perspective. Last year, the Bureau contributed policy guidance regarding online and mobile payments and the purchase of digital content, and made presentations on: a principled approach to policy and program implementation; and Internet intermediaries and privacy in mobile commerce.

Year-round

INTERNATIONAL CONSUMER PROTECTION AND ENFORCEMENT NETWORK (ICPEN)

ICPEN is comprised of consumer protection authorities from almost 50 countries with the aim of protecting consumers' economic interests. The Bureau continued to play a leadership role in ICPEN as a member of its Advisory Group and a number of working groups. In October 2012, Bureau representatives attended the bi-annual ICPEN meeting in Ghent, Belgium, and participated in sessions on criminal agency interaction, stakeholder management, and mobile payments. The Bureau also reported on the results of the 2012 ICPEN Internet sweep, for which it served as coordinator, and attended the ICPEN Best Practices Workshop.

Year-round

INTERNATIONAL COOPERATION

The Bureau develops and implements bilateral cooperation agreements with foreign antitrust agencies to—among other things—facilitate information exchanges on competition law enforcement and the coordination of global enforcement activity. In 2012–2013, the Bureau cooperated with a number of jurisdictions including: Australia, the European Union, France, Germany, Japan, Mexico, the Netherlands, New Zealand, Singapore, Spain, Switzerland, the United Kingdom and the U.S.

The Bureau also held formal and informal bilateral meetings with its foreign counterparts, including meetings with antitrust and consumer protection agencies from Australia, China, the European Union, France, Germany, Mexico, Taiwan, the United Kingdom and the U.S. It also engaged in staff exchanges with the U.S. Federal Trade Commission, the United Kingdom's Office of Fair Trading and the Korea Fair Trade Commission.

Year-round

FREE TRADE AGREEMENTS

In partnership with Industry Canada and Foreign Affairs, Trade and Development Canada, the Bureau develops competition policy provisions in bilateral and regional free trade agreements and Foreign Investment Promotion and Protection Agreements, and acts as the lead negotiator on competition enforcement matters for the Government of Canada. In 2012–2013, the Bureau engaged in negotiations with the Caribbean Community (CARICOM), Costa Rica, the European Union, Honduras, India, Japan, Morocco, South Korea, the Trans-Pacific Partnership and the Ukraine.

In light of a changing international landscape, the Bureau formulated an international strategy to guide its international work moving forward, putting greater focus on interaction with emerging economies—particularly in the Asia-Pacific region and Latin America. China, in particular, has been identified as a key jurisdiction with which to broaden relations

in the immediate term; two bilateral meetings took place with the Chinese merger review authority, the Ministry of Commerce, in June 2012 and January 2013.

PUBLIC AFFAIRS BRANCH

The Public Affairs Branch is responsible for the Bureau's communications, ensuring Canadian consumers, businesses and parliamentarians, as well as members of the international community are aware of the Bureau's contributions to competition in the marketplace and to the growth of the Canadian economy.

Year-round COMMUNICATIONS AND MEDIA RELATIONS

The Bureau published 72 announcements describing the benefits of its activities to the economy and Canadians, including news releases, information notices, position statements, speeches and items in the Bureau's monthly electronic *CB in Brief* web-based news digest.

The Bureau responded to 636 enquiries from journalists in Canada and abroad, up from 504 the previous year, resulting in approximately 7,830 print, radio, television, and online media reports on matters involving the Bureau, up from 5,721 the previous year. Media analysis concluded 98 percent of coverage ranged from positive to neutral in tone.

In March 2013, the Bureau launched a Twitter account in order to better communicate the results of its work with consumers, businesses, stakeholders and the media.

Various announcements are regularly tweeted once they are made public on the Bureau's website.

Appendix A includes a table showing the five issues that generated the most media coverage in 2012–2013.

February 2013 WEBSITE

The Bureau launched its revamped website (www.competitionbureau.gc.ca) in February 2013. Changes included an updated look, more intuitive navigation and a new search engine for more accurate results. This initiative implemented the Government of Canada's new web standards designed to make websites more user-friendly in general and more accessible to those with disabilities.

The Bureau's website received a total of 1,101,855 visits in 2012–2013, up from 865,399 the previous year.

Appendix A includes a table showing the top five Bureau announcements viewed online in 2012–2013.

Year-round PUBLICATIONS

The Bureau released various guidance documents and other publications in 2012–2013, including:

Merger Review Performance Report – April 2012

Giving an update on the performance of the Bureau's Mergers Branch since May 2010.

The Abuse of Dominance Provisions Enforcement Guidelines – September 2012

Final Enforcement Guidelines on the Abuse of Dominance Provisions covered in sections 78 and 79 of the Act, based on public consultations on prior draft guidelines.

Bid-rigging pamphlets – February 2013

Posted online for public use, with essential information on how to detect and prevent bid-rigging.

Monthly Report on Concluded Merger Reviews

Launched in February 2012 to increase transparency, listing merger reviews concluded in the prior month (in cases when a pre-merger notification was made under section 114 of the Act or a request was made for an Advance Ruling Certificate (ARC) under section 102 of the Act), providing the names of the parties to the transaction, the industry sector involved, and the result of the Bureau's review. By the end of 2012–2013, the Bureau had published the outcome of 241 merger reviews.

Position statements

The Bureau published 14 position statements on merger reviews in 2012–2013, covering a wide variety of industries including: commercial printing, broadcasting, financial services, pork processing, wholesale electrical supply, film distribution and the retail sale of furniture and appliances. Appendix A includes the full list of position statements and associated hyperlinks.

ECONOMIC POLICY AND ENFORCEMENT BRANCH

The Economic Policy and Enforcement Branch provides economic advice and support for the Bureau's enforcement cases and is responsible for leading the Bureau's advocacy initiatives and regulatory interventions.

February 2013 CRTC WIRELESS CODE SUBMISSION

The Branch led the drafting of a Bureau submission to the CRTC regarding its proceeding to establish a mandatory wireless code. The Bureau advised that discouraging switching costs—which tend to reduce

customer mobility—and encouraging the provision of sufficient information to enable considered consumer choices will allow Canadians to benefit from lower wireless prices, higher quality service and greater innovation.

Year-round

ECONOMIC TRAINING

In an effort to reduce spending on external training, the Branch provided internal training courses to Bureau staff. Branch economists offered a course in basic economics that introduced fundamental principles and concepts of economics that are applicable to the Bureau's enforcement work. They also provided training in basic Industrial Organization economics that offered insights into oligopoly theory and business strategy.

Year-round

COST EFFICIENCIES

On the financial front, given cost containment measures, the Branch put in place a number of initiatives leading to cost savings:

1) approval of the Branch prior to retaining outside economic expertise to ensure the appropriate tasks are being requested and to verify that the tasks could not be completed internally; 2) development of a Bureau-wide seminar on how to manage experts to help the Bureau deal with its expert costs; and 3) a pilot project on efficiencies to estimate cost savings by doing more work internally rather than retaining external expertise.

COMPLIANCE AND OPERATIONS BRANCH

The Compliance and Operations Branch oversees the Bureau's electronic evidence and conversion units and manages the Information Centre as well as Bureau-wide planning, resource management, administration and information activities.

Year-round

INFORMATION CENTRE

The Information Centre plays a key role in promoting awareness of the Bureau to the public and supports enforcement activities. It registered 16,570 requests via telephone, fax, mail and Internet in 2012–2013.

Appendix A includes a table showing the main types of complaints and information requests received.

Year-round

RENEWAL AND INFORMATION MANAGEMENT

The Bureau launched the Human Resources Committee (HRC) in October 2012. The committee, chaired by a senior manager and comprised of a manager from each Branch and a representative from the Human Resources Branch, meets on a monthly basis. The objective of the committee is to steer people management initiatives in support of the Public Service and Industry Canada renewal agenda.

Other key Renewal and Information Management activities included:

- Development of the Paralegal Development Program, which will ensure consistent competencies for all paralegals while ensuring appropriate training and career progression in the Bureau
- Development of a Bureau Action Plan in response to the 2011 Public Service Employee Survey Results
- Significantly reducing response times for Access to Information and Privacy requests
- Hosting Sector Days—learning events during which marketplace participants give presentations on their industries' dynamics, challenges and trends. In 2012–2013, the Bureau held sector days with Apple, Google, and Rogers.

Year-round

MANAGEMENT SERVICES

In preparing for the government's Deficit Reduction Action Plan, the Bureau made every effort to focus on finding suitable alternatives for affected employees and

restrain spending during the fiscal year.

Expenditures were reduced in the areas of information technology, travel, corporate supplies, telecommunications, training, and publications. Salary costs were controlled via attrition, delaying the filling of vacant positions and finding suitable alternatives for affected employees.

The Bureau was involved in projects supporting the Shared Services Canada (SSC) initiative, participating in several SSC working groups to address issues related to transferring the Bureau's law enforcement environment to SSC's architecture. Architectural designs have been established that align the Bureau's environments with minimum implementation disruptions and ensure that the security of the Bureau's information is maintained.

By the end of the fiscal year, the Bureau was positioned to begin reinvesting in infrastructure, namely a boardroom modernization project that will enable video and web conferencing and allow the Bureau to further reduce its expenditures on travel, training and meetings. This is consistent with the Government of Canada's goal of modern infrastructure to support videoconferencing as a major tool to reduce travel expenditures. The Bureau was also well positioned to begin to reinvest in technology upgrades that had been delayed over the previous two-year period.

Year-round

ENFORCEMENT SERVICES

The Electronic Evidence Unit (EEU) continued to focus on developing strategies, policies and training to tackle the large volume of evidence gathered in the Bureau's white-collar crime investigations. Its forensic investigators assisted various law enforcement agencies across Canada, lending expertise in the execution of search warrants and forensic analysis of digital information. The EEU also continued to liaise with its domestic and international counterparts to share best practices and to address computer forensic enforcement issues, such as cloud computing and internet-based fraudulent schemes.

Financial discussion and analysis

The Bureau's operating budget was approximately \$51 million in 2012–2013, including \$10.6 million collected from user fees. The majority of expenditures (approximately \$33.1 million) were on salaries for 363.45 full-time equivalents (FTEs). Table 1 presents the Bureau's authorized budget and expenditures for the year.

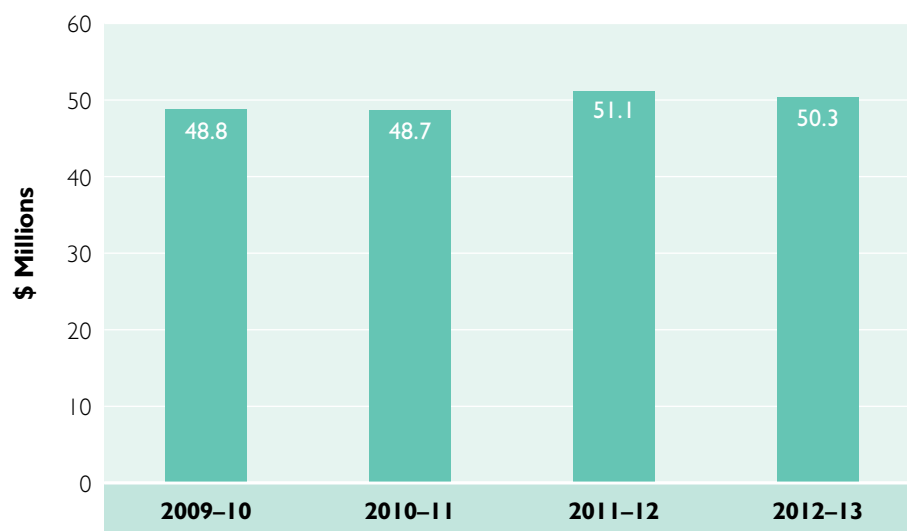
In response to the Government's Deficit Reduction Action Plan (DRAP), the Bureau contributed to the Government's objectives by closing regional offices in Calgary, Hamilton and Halifax, reducing operating and salary expenditures in the National Capital Region, and postponing investments in its information technology infrastructure. By the end of the fiscal year, the Bureau had found alternate employment for the majority of its affected staff.

Consistent with 2011–2012, the Bureau had to rely on external legal agents as complex matters resulting from amendments to the Act required timely and experienced legal support. In 2012–2013, Industry Canada provided an additional \$1.2 million dollars in funding to assist with litigation costs associated with these cases. While several of these cases may continue in 2013–2014, it is expected that reliance on external legal counsel will begin to subside as the Bureau provides support to the Department of Justice to develop an internal litigation team.

TABLE 1: Authorized Budget's Expenditures for 2012–2013¹

	Budget	Expenditure
Salary	\$33,323,697	\$33,077,060
O&M	\$17,007,514	\$16,550,252
Capital	\$678,215	\$660,842
TOTAL	\$51,009,426	\$50,288,154
	Authorized	Used
FTE	386	363.45
User fees collected	\$10,648,000	

FIGURE 1: Bureau Spending Trend²



¹ Does not include Work Force Adjustment (WFA) budget and expenditures.

² Does not include WFA expenditures.

The Bureau will continue to work closely with the department and the Public Prosecution Service of Canada (PPSC) to control rising costs. A substantially higher number of cases are being referred to the PPSC as a result of several factors, including the 2009 amendments to the Act that increased maximum fines and periods of incarceration, and the introduction of the *Safe Streets and Communities Act* that removed

conditional sentences for individuals convicted under the criminal cartel, bid-rigging, and misleading advertising provisions of the Act. To meet this demand, the Bureau requires a larger complement of experienced prosecutors to advance cases, which the Bureau currently pays for through cost-recovery.

The Bureau has administrative responsibility for collecting fines imposed by the courts as

well as AMPs issued by the Tribunal or the courts. In 2012–2013, over \$7.8 million in fines were imposed; no AMPs were issued. Fines and AMPs are remitted to the Government of Canada's Consolidated Revenue Fund.

Appendix A:

Bureau statistics

ESTIMATED SAVINGS FROM BUREAU ACTIVITIES

The Bureau is required to report annually on its performance through a Departmental Performance Report (DPR) to Parliament. The DPR provides details of accomplishments and results achieved in the most recently completed fiscal year against performance expectations, as set out in the corresponding Report on Plans and Priorities (RPP). The Bureau quantifies the benefits of its activities via the following quantitative performance indicator:

TABLE 1: Competition Law Enforcement³

Expected Result	Performance Indicator	Target
Reduction in anti-competitive behaviour	Estimated dollar savings per annum to consumers from Bureau actions that stop anti-competitive activity	\$515 million

In 2012–2013, the Bureau's estimated dollar savings to consumers was \$130 million. The target was not met due to a number of files with high volumes of commerce still ongoing before the courts. It should also be noted that for 2012–2013, the methodology for this indicator was revised to capture the

work of the Bureau's four enforcement Branches. As a result, there is no trend information available at this time.

³ Performance Information is available on the web: http://www.ic.gc.ca/eic/site/icgc.nsf/eng/h_00055.html.

KEY STATISTICS FOR THE YEAR

TABLE 2: Competition Bureau Statistics

Law Enforcement Activity	FBPB	Civil	Criminal	Mergers
Examinations in progress (Number of examinations in progress on April 1, 2012 – Examinations are complaints and information requests that have been assigned for further assessment as well as orders being reviewed)	47	23	33	27
Examinations commenced (Number of examinations commenced between April 1, 2012 and March 31, 2013)	13	15	25	226
Examinations concluded (Number of examinations concluded between April 1, 2012 and March 31, 2013)	22	12	20	232
Inquiries commenced (Number of formal inquiries commenced between April 1, 2012 and March 31, 2013)	6	7	7	2
Inquiries in progress (Number of formal inquiries in progress on April 1, 2012)	30	13	22	2
Inquiries discontinued (Number of formal inquiries discontinued between April 1, 2012 and March 31, 2013)	8	1	3	3
Matters where charges were laid (Number of matters where charges were laid between April 1, 2012 and March 31, 2013)	2	n/a	3	n/a
Matters where applications were filed (Number of matters where applications were filed between April 1, 2012 and March 31, 2013)	1	2	n/a	0
Matters with criminal orders (Number of matters where there were orders between April 1, 2012 and March 31, 2013)	0	n/a	6	n/a
Convictions	0	n/a	6	n/a
Prohibition Orders without convictions	0	n/a	0	n/a
Interim injunctions (criminal)	0	n/a	0	n/a
Matters with civil orders (Number of matters where there were orders between April 1, 2012 and March 31, 2013)	0	0	n/a	3
Registered Consent Agreements	0	0	n/a	3
Final Order in contested proceedings	0	0	n/a	0
Interim injunctions (civil)	0	0	n/a	0
Alternative Case Resolutions (Examinations that raised an issue under the Act but were resolved without resort to the Court or Tribunal; these include agreements and voluntary compliance)	1	0	7	0

continued on next page

Law Enforcement Activity	FBPB	Civil	Criminal	Mergers
Information Bulletins and Enforcement Guidelines published (All guidelines published between April 1, 2012 and March 31, 2013 including those for consultation, new publication and those that have been revised)	0	1	0	1
Total Fines Imposed	\$0	n/a	\$ 7,865,000	n/a
Administrative Monetary Penalties	\$0	\$0	n/a	n/a

TABLE 3: Regulatory Interventions

Regulatory Interventions under Sections 125 and 126 of the Act: <i>Submission before the CRTC on the Wireless Code of Conduct Working Paper (Telecom Notice of Consultation CRTC 2012-557-3)</i>	1
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TABLE 4: Speeches and Outreach

	FBPB	Civil	Criminal	Mergers	Commissioner
Speeches (Number of times Bureau staff spoke to stakeholders. This includes information sessions and outreach activities, not the number of participants)	39	13	17	10	10
Recruitment Initiatives (Number of presentations made to potential Bureau recruits; this includes seminars)	0	2	0	11	0

2012–2013 was very productive and successful for the Bureau where mergers are concerned. Despite an increased workload, including an exceptionally busy third quarter, the Bureau improved the percentage of reviews where the service standard was met over the previous fiscal year.

The Bureau is currently meeting the service standard in more than 92% of its merger

reviews (both complex and non-complex) and in over 95% of its non-complex reviews.

Additionally, despite an overall decrease in the percentage of reviews designated as complex, 2012-2013 contained a relatively higher proportion of “very complex” transactions requiring in-depth analysis. This is evidenced by the fact that Supplementary Information Requests (SIRs) were issued in

10 reviews—a slight increase over the previous year. Several other reviews were also closely considered for a SIR due to their complex nature.

TABLE 5: Merger Examinations

Examinations Commenced	226
Notification filings and ARC requests	212
Notification filings only	6
ARC requests only	173
ARC requests and Notification filings	33
Other examinations	14
Examinations Concluded	232
No issues ⁴ under the Act	228
ARC issued	73
“No-action” letters ⁵	138
Other examinations	17
Concluded with issues under the Act	4
Consent Agreements Registered with the Tribunal	3
Foreign remedies resolved Canadian competition concerns	0
Transactions abandoned due to competition concerns	0
Section 92 applications concluded or withdrawn	1
Transactions abandoned for reasons apparently unrelated to the Commissioner’s position	0
SIRs issued	10
Total Examinations during the year (including ongoing matters from previous year)	253
Examinations ongoing at year end ⁶	20
Matters Before the Tribunal or the Courts⁷	1
Section 92 matters	0
Other Tribunal or Court Proceedings	1

4 Examinations resulting in assessment of no current enforcement action required.

5 Including ARC refusals.

6 Includes all examinations not concluded within this fiscal year, including those commenced in previous fiscal years. Also includes matters ongoing before the Tribunal or Courts at year end.

7 Includes ongoing section 92 matters and other matters before the Tribunal or Courts (such as section 100 and 106 matters). Excludes consent agreements.

TABLE 6: Merger Review – Meeting Service Standards⁸

2012–2013			
Complexity	Examinations Concluded	Meeting Bureau Service Standards	Average Completion Time (days)
Non Complex (14 days)	168	95.24%	11.89 days
Complex (30/45 days)	46	80.43%	37.50 days
Total	214	92.06%	n/a

TABLE 7: Written Opinions – Meeting Bureau Service Standards

	2010–2011			2011–2012			2012–2013		
	Provided	Met	%	Provided	Met	%	Provided	Met	%
FBPB									
Complex (6 weeks)	4	0	0	10	0	0	17	12	71
Non-complex (2 weeks)	12	3	25	1	0	0	0	0	n/a
Civil									
Complex (10 weeks)	7	0	0	1 ⁹	0	0	0	0	n/a
Non-complex (6 weeks)	0	0	0	0	0	0	0	0	n/a
Criminal									
Complex (10 weeks)	7	0	0	1	0	0	0	0	n/a
Non-complex (6 weeks)	0	0	0	0	0	0	0	0	n/a
Mergers									
Complex (28 days)	1	1	100	0	0	0	0	0	n/a
Non-complex (14 days)	1	1	100	0	0	0	3	3	100

⁸ As of November 1, 2010, the previous complex and very complex categories have been consolidated into a new complex category, with a service standard of 45 calendar days, commencing the day a complete notification or ARC request is received by the Commissioner, assuming sufficient information is provided to assign complexity. However, where a Supplementary Information Request (SIR) is issued, the service standard is 30 calendar days, commencing on the day on which the Commissioner receives a complete response to the SIR from all SIR recipients.

⁹ Written opinion request required a joint assessment involving the Civil and Criminal matters branches.

TABLE 8: High-profile media issues in 2012–2013

1. BCE / Astral Transaction
2. Maple / TMX Transaction
3. Visa & MasterCard – Rules for Merchants
4. Gas Price-Fixing Cases – Ontario and Québec
5. Bell, Rogers, Telus & CWTA – Misleading Advertising

TABLE 9: Top Bureau announcements for 2012–2013 based on visits to the Bureau website

Announcements	Visits
1. Competition Bureau Sues Bell, Rogers and Telus for Misleading Consumers: Bureau Seeks Customer Refunds and \$31 Million In Penalties http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03498.html	10,583
2. Competition Bureau Launches The Little Black Book of Scams http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03449.html	7,243
3. Competition Bureau Alleges Anti-Competitive Conduct by Visa and MasterCard: Hearing Starts Today http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03465.html	7,071
4. Competition Bureau Secures Over \$9 Million and Money Back to Victims for Business Scam http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03439.html	7,034
5. Competition Bureau Successful in Precedent-Setting Merger Challenge http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03468.html	6,118

POSITION STATEMENTS PUBLISHED IN 2012–2013

Transcontinental / Quad/Graphics:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03451.html>

Chartwell & Healthcare REIT / Maestro Retirement Residences:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03456.html>

Cardinal Health / Futuremed:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03458.html>

Bell & Rogers / MLSE:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03464.html>

Maple / TMX:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03480.html>

United Technology / Goodrich:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03483.html>

WESCO Distribution / EECOL Electric:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03516.html>

Pork Processors & Hog Producers

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03519.html>

Alliance Films / Entertainment One

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03523.html>

RBC / Ally Canada:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03533.html>

Hillman / H. Paulin & Co:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03536.html>

National Oilwell Varco / Robbins & Myers:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03537.html>

LifeLab BC / BC Biomedical:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03550.html>

Leon's / The Brick:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03551.html>

TABLE 10: Requests made to the Competition Bureau

Total Bureau requests	17,367
Complaints	5,825
Information requests	10,067
No-issue ¹⁰	1,475

TABLE 11: Top 5 Complaints by Product or Service (Top-level categories)

1. Business products and services ¹¹	1789
2. Telecom products and services ¹²	583
3. Electronics ¹³	569
4. Financial products and services	307
5. Transportation and vehicles	260

TABLE 12: Information Requests¹⁴

<i>Competition Act</i>	6,330
<i>Textile Labelling Act</i>	2,202
<i>Consumer Packaging and Labelling Act</i> (except as it relates to food)	1,133
<i>Precious Metals Marking Act</i>	92
Other	394

¹⁰ No-issue includes requests that are not relevant to the Bureau's mandate or were referred to the Bureau in error.

¹¹ Business products and services includes: directory listings and office supplies for businesses.

¹² Telecom products and services includes: wireless products and services.

¹³ Electronics includes: computer hardware and software.

¹⁴ 84 information requests dealt with more than one statute, and therefore the total number of information requests listed above differs from the number of information requests previously identified in Requests made to the Bureau.

