Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1981
Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1981
to the Hon. André Ouellet, Minister
Hull, Québec
(Mailing Address)
Ottawa - K1A 0C9
January 18, 1982

The Honourable André Ouellet, P.C., M.P.,
Minister of Consumer and Corporate Affairs,
Ottawa

Dear Sir:

I have the honour to submit, pursuant to section 49 of the Combines Investigation Act,
the following report of proceedings under the Act for the fiscal year ended March 31, 1981.

Yours very truly,

Lawson A.W. Hunter
Director of Investigation
and Research
## CONTENTS

<table>
<thead>
<tr>
<th>Chapter I</th>
<th>Introduction and Summary of Act and Procedures</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1. Criminal Offences and Penalties Under Part V of the Act</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>2. Civil Reviewable Matters and Remedies Under Part IV.1 of the Act</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>3. Procedures</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>(1) Initiation and Conduct of Inquiries</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>(2) The Restrictive Trade Practices Commission</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(3) Enforcement</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(4) Special Remedies</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(5) Representations Before Regulatory Boards</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>4. Information and Compliance Program</td>
<td>6</td>
</tr>
<tr>
<td>Chapter II</td>
<td>Current Developments</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>1. The State of Competition</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>2. Statistics</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>3. Decisions of Special Interest</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>(1) Atlantic Sugar Refineries Ltd. et al v. The Attorney General of Canada</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>(2) Bombardier Limited</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>(3) For-Hire Trucking Western Canada</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>(4) Regina v. Bristol Myers of Canada Ltd</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>(5) Regina v. Consumers Distributing Company Limited</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>(6) Perrette Dairy Ltd</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>4. Export Agreements</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>(1) The Export Exemption</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>(2) Other Relevant Provisions of the Act</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>(3) Bureau's Program of Compliance</td>
<td>22</td>
</tr>
<tr>
<td>Chapter III</td>
<td>Manufacturing Branch</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>1. Activities</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>2. Proceedings Following Direct Reference to the Attorney General of Canada</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>3. Applications by the Director to the Restrictive Trade Practices Commission under Part IV.1</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>4. Discontinued Inquiries</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>5. Other Matters</td>
<td>36</td>
</tr>
<tr>
<td>Chapter IV</td>
<td>Resources Branch</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>1. Activities</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>2. Proceedings Following Direct Reference to the Attorney General of Canada</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>3. Applications by the Director to the Restrictive Trade Practices Commission Under Part IV.1</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>4. Director's Representations to Regulatory Boards</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>5. Discontinued Inquiries</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>6. Other Matters</td>
<td>43</td>
</tr>
<tr>
<td>Chapter V</td>
<td>Services Branch</td>
<td>47</td>
</tr>
<tr>
<td>-----------</td>
<td>----------------</td>
<td>----</td>
</tr>
<tr>
<td>1. Activities</td>
<td></td>
<td>47</td>
</tr>
<tr>
<td>2. Proceedings Following Direct Reference to the Attorney General of Canada</td>
<td></td>
<td>47</td>
</tr>
<tr>
<td>3. Applications by the Director to the Restrictive Trade Practices Commission Under Part IV.1</td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>4. Discontinued Inquiries</td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>5. Other Matters</td>
<td></td>
<td>57</td>
</tr>
<tr>
<td>Chapter VI</td>
<td>Regulated Sector Branch</td>
<td>61</td>
</tr>
<tr>
<td>1. Activities</td>
<td></td>
<td>61</td>
</tr>
<tr>
<td>2. Proceedings Following Direct Reference to the Attorney General of Canada</td>
<td></td>
<td>62</td>
</tr>
<tr>
<td>3. Director's Representations to Regulatory Boards</td>
<td></td>
<td>62</td>
</tr>
<tr>
<td>4. Other Matters</td>
<td></td>
<td>69</td>
</tr>
<tr>
<td>Chapter VII</td>
<td>Marketing Practices Branch</td>
<td>71</td>
</tr>
<tr>
<td>1. Activities</td>
<td></td>
<td>71</td>
</tr>
<tr>
<td>2. Proceedings</td>
<td></td>
<td>71</td>
</tr>
<tr>
<td>3. Discontinued Inquiries</td>
<td></td>
<td>74</td>
</tr>
<tr>
<td>4. Other Matters</td>
<td></td>
<td>75</td>
</tr>
<tr>
<td>Chapter VIII</td>
<td>Research and International Relations Branch</td>
<td>77</td>
</tr>
<tr>
<td>A. Research</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>1. Legislation and Objectives</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>2. Studies Distributed</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>3. Studies Completed</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>4. Studies in Progress</td>
<td></td>
<td>79</td>
</tr>
<tr>
<td>B. International Relations</td>
<td></td>
<td>81</td>
</tr>
</tbody>
</table>

Appendix I | Reports by Restrictive Trade Practices Commission and Action Taken Thereon | 82 |

Appendix II | Proceedings Completed in Cases Referred to the Attorney General of Canada Direct | 84 |

Appendix III | Proceedings Completed Following Application to the Restrictive Trade Practices Commission Under Part IV.1 of the Act | 103 |

Appendix IV | Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases | 104 |

Appendix V | Table of Cases | 111 |

Appendix VI | Recent Publications of the Bureau of Competition Policy | 130 |

Appendix VII | Administration and Organization of Bureau of Competition Policy | 131 |

Appendix VIII | Regional and District Offices | 134 |

Index | | 135 |
INTRODUCTION AND SUMMARY OF ACT AND PROCEDURES

This report is made pursuant to section 49 of the Combines Investigation Act (unless the contrary is indicated references are to Chapter C-23 of the Revised Statutes, 1970, as amended) which provides as follows:

"49. The Director [of Investigation and Research appointed under the provisions of the Act] shall report annually to the Minister the proceedings under this Act, and the Minister shall within thirty days after he receives it lay the report before Parliament, or, if Parliament is not then in session, within the first fifteen days after the commencement of the next ensuing session."

This report, covering the year ended March 31, 1981, is made by Mr. L.A.W. Hunter who was appointed Director of Investigation and Research on July 28, 1981. Mr. Robert J. Bertrand, Q.C., former Director was appointed Chairman of the Anti-Dumping Tribunal on May 21, 1981. Mr. Dennis P. De Melto who was appointed Deputy Director of Investigation and Research on January 19, 1981 served as Acting Director of Investigation and Research for the period June 11 to July 27, 1981.

The purpose of the Combines Investigation Act is to assist in maintaining effective competition as a prime stimulus to the achievement of maximum production, distribution and employment in a mixed system of public and private enterprise. To this end, the legislation seeks to eliminate certain practices in restraint of trade, and to overcome the bad effects of concentration, that tend to prevent the economic resources of Canada from being used most effectively to the advantage of all. The Act also contains provisions against misleading advertising and deceptive marketing practices.

Until January 1, 1976, the Act had general application only to commodity production and trade, although certain services in connection with commodities and the price of insurance were also covered. In 1976 the Act was made applicable to pure services by virtue of the Stage I amendments, in the planned two-stage revision of the Act. As a result of the inclusion of services, all economic activities are now subject to the Act except those specifically exempted in whole or in part by the Act i.e. collective bargaining activities, amateur sports, and securities underwriters, or exempted as a result of other legislation e.g. the Bank Act.

In some areas of the economy, commercial activity including some of its competitive aspects is subject to regulation under federal, provincial or municipal legislation. Examples may be found in the fields of marketing legislation, resources conservation and regulation of communications systems. Although such controls may restrict competition, if they are imposed pursuant to valid legislation the Combines Investigation Act does not apply.

During the year, as in other years, members of the public have sought from the Director of Investigation and Research relief against alleged violations of the Act by suppliers or competitors which they said were jeopardizing the solvency of their businesses. To such complainants it has been stressed that the machinery of the Combines Investigation Act is not designed to provide quick relief in such situations. Its purpose is primarily to maintain a competitive environment over a longer period. Although efforts are made to expedite any inquiry, in these circumstances the time required to complete it may be too long to assist such complainants with their immediate problems. The Director, however, brought to the attention of such complainants the provisions in section 31.1, described hereafter, which permit any person to take proceedings in the ordinary civil courts to recover damages they have suffered from conduct prohibited by the Combines Investigation Act.
1. Criminal Offences and Penalties under Part V of the Act

Part V of the Act prohibits under criminal sanctions certain practices which may be generally classified as combinations to lessen competition, mergers and monopolies, specified trade practices, and misleading advertising and deceptive marketing practices.

(a) Combinations to lessen competition (sections 32 to 32.3)

Combinations, agreements or arrangements in relation to the supply, manufacture, production etc. of a product to lessen competition unduly are prohibited. The essence of the offence is conspiracy but it is not necessary to prove that the combination, agreement or arrangement would be likely to eliminate, completely or virtually, competition in the market to which it relates. Bid-rigging whereby one party agrees to refrain from bidding in response to a call for tender or where there is collusion in the submission of bids is prohibited outright with no requirement of undue lessening of competition. The implementation of a foreign directive by a company operating in Canada that gives effect to an agreement or arrangement entered into outside Canada, which would otherwise be in violation of section 32, is an offence under section 32.1. This section may not be used, however, if any proceedings have been instituted under paragraph 31.6(1)(b) referred to below. Finally, it is an offence under section 32.3 to conspire or agree to limit unreasonably the opportunities for anyone to participate in professional sport or to negotiate with the team of his choice. Certain matters such as the international character of the sport must be taken into account by the courts in determining whether an offence has occurred under this provision.

(b) Mergers and monopolies

Being a party to or assisting in, or in the formation of, a merger or monopoly as defined is an offence under section 33. A merger is defined as the acquisition of control over or interest in the business of a competitor, supplier, customer or other person whereby competition would be lessened to the detriment of the public. Monopoly is defined as a situation where one or more persons substantially or completely control, in any area of Canada, the class or species of business in which the person is engaged and has operated or is likely to operate the business to the detriment of the public.

(c) Specified trade practices

Under section 34 it is an offence to be a party to a sale that discriminates against competitors of a purchaser of an article by granting a discount, rebate, allowance, price concession or other advantage to the purchaser that is not also available to the competitors. An offence does not occur, however, unless such a sale is part of a practice of discriminating. It is also an offence to engage in predatory pricing policies whereby products are sold at lower prices in one area of the country than in the remaining areas, or of selling at unreasonably low prices where the effect, tendency or design is to lessen competition substantially, or eliminate a competitor. In addition, section 35 prohibits the granting to a purchaser of an allowance for advertising purposes that is not offered on proportionate terms to competing purchasers.

A supplier, or a person engaged in a business that relates to credit cards, is prohibited under section 38 from attempting to influence upward or discourage the reduction of the price at which another person supplies or advertises a product; or to refuse to supply anyone because of that person's low-pricing policy. It is further prohibited to attempt to induce a supplier to refuse to supply any person because of that person's low-pricing policy. If a supplier indicates a retail price in an advertisement for a product he must clearly state that the product may be sold at a lower price. This section does not prohibit a supplier from affixing a price to a product supplied by him where the supplier makes no attempt to enforce that price.

(d) Misleading advertising and deceptive marketing practices

All representations, in any form whatever, that are false or misleading in a material respect are prohibited (paragraph 36(1)(a)).

Any materially misleading representation as to the price at which the product is ordinarily sold is prohibited. A representation as to price means the price that the product ordinarily
sells for in the market area, unless specified to be the advertiser's own selling price (paragraph 36(1)(d)).

When a person clearly expresses two or more prices shown on a product, its container or wrapper etc., the product must be supplied at the lower price. This provision does not actually prohibit the existence of two or more prices, but requires that the product be offered for sale at the lower price (section 36.2).

Any advertisement of a product at a bargain price that the advertiser does not have available for sale in reasonable quantities, having regard to the nature of the market, the nature and size of his business and the nature of the advertisement, is prohibited. The advertiser will not be liable, however, where he can establish that the non-availability of the product was due to circumstances beyond his control or that the quantity of the product he had obtained was reasonable, having regard to the nature of the advertisement or that he offered a rain check when his supplies were exhausted.

The sale of any product by a retailer at a price higher than the price currently being advertised by him is prohibited, and the seller is liable unless the price advertised was an error and has immediately been corrected (section 37.1).

Any contest that does not disclose the number and approximate value of prizes or important information relating to the chances of winning in the contest, that does not select participants or distribute prizes on the basis of skill or on a random basis, or in which the distribution of prizes is delayed, is prohibited (section 37.2).

Other misleading advertising and deceptive marketing practices provisions relate to performance claims, warranties, tests and testimonials, and pyramid and referral selling schemes. There are also various exclusions and limitations applicable to the provisions as well as various defences.

The offences in Part V, other than misleading advertising and deceptive marketing practices, are indictable. Section 32.1 which involves foreign directives to a Canadian affiliate to give effect to a conspiracy in restraint of trade outside Canada provides only for a monetary penalty in the discretion of the court since only companies may be prosecuted. Section 32 prohibiting conspiracy in restraint of trade provides for maximum penalties of $1,000,000 or five years imprisonment or both. In the remaining provisions, the maximum term of imprisonment is two years or five years, as the case may be, or an unlimited fine at the discretion of the court. The discretion with respect to the monetary penalty is either stated expressly in the section or may be determined by reference to the Criminal Code when only a maximum term of imprisonment of two years or five years, as the case may be, for indictable offences is set out.

Offences in relation to misleading advertising and deceptive marketing practices, with three exceptions, may be prosecuted by way of summary conviction or on indictment. Where proceedings are by way of summary conviction the maximum penalties that may be imposed are $25,000 or one year imprisonment or both. In the case of proceedings by indictment, the maximum penalties are an unlimited fine at the discretion of the court or five years imprisonment or both. The three exceptions are double ticketing, bait and switch selling and sale above advertised price, which may be prosecuted only by way of summary conviction. In the latter two the maximum penalty is $25,000 or one year imprisonment or both while in the case of double ticketing it is $10,000 or one year imprisonment or both. Where proceedings for any of these offences are instituted by way of summary conviction, the time within which charges must be laid is two years.

2. Civil Reviewable Matters and Remedies under Part IV.1 of the Act

Part IV.1 of the Act applies to certain specified situations which, although not prohibited, are capable of being desirable or undesirable depending upon the particular facts of the case. The Part therefore provides that where the situation comes within the criteria set out, the Director, if he considers that action is warranted, may make application etc. to the Restrictive Trade Practices Commission for an order as provided in the relevant section. The Commission
may, after affording the parties an opportunity to be heard, make remedial orders if appropriate.

—Refusal to sell. Where a person is substantially affected in his business by such refusal even though he is willing and able to meet the usual trade terms, and when his inability to obtain supplies of a product that is in ample supply is because of insufficient competition, the Commission may order that he be supplied or recommend reduction in customs duties (section 31.2).

—Consignment selling introduced by a supplier who ordinarily sells the product for resale for the purpose of controlling dealer prices or discriminating in price. The Commission may order the supplier to cease the practice (section 31.3).

—The practices of exclusive dealing, tied selling and market restriction. Exclusive dealing occurs when a purchaser is required to deal in particular products only or primarily. Tied selling occurs when the sale of one product is tied to the sale of another. Market restriction occurs when a supplier, as a condition of sale, imposes restrictions as to the market in which his customer may deal. Where any of these practices is engaged in by a major supplier or is widespread in a market and competition is or is likely to be lessened substantially, the Commission may order a supplier to cease or modify such practice (section 31.4).

—The implementation in Canada of foreign judgments, decrees, orders or other processes adversely affecting competition, efficiency or trade. The Commission may prohibit such implementation in whole or in part (section 31.5).

—The making of a decision in Canada as a result of a foreign law or directive adversely affecting competition, efficiency or trade. The Commission may prohibit implementation in whole or in part (section 31.6).

—The making of a decision in Canada as a result of a communication from a person abroad where the communication is to give effect to a conspiracy, combination, agreement or arrangement entered into outside Canada, that, if entered into in Canada would have been in violation of section 32 relating to combinations unduly lessening competition. The Commission may prohibit implementation. This section may not be used against a company where proceedings have been commenced against it under section 32.1 (section 31.6).

—Refusal by a foreign supplier to supply a person in Canada by reason of the exertion of buying power outside Canada by another person. The Commission may order any person in Canada on whose behalf the buying power was exerted to sell the product at cost to the person refused, or not to deal in the product (section 31.7).

When the Commission sits under Part IV.1, the orders which it may issue are binding upon the persons to whom they are addressed. Failure to comply with such an order is an offence under section 46.1 of the Act and may be prosecuted either on indictment or by summary conviction and is subject to a fine, imprisonment or both.

The remaining provisions of the Act are mainly concerned with procedure, administration, evidence, and enforcement.

3. Procedures

The provisions of the Combines Investigation Act are applied by the Director of Investigation and Research, the Restrictive Trade Practices Commission and the courts.

(1) Initiation and Conduct of Inquiries

An inquiry under the Act is most frequently commenced by the Director when, through an informal complaint or otherwise, he has reason to believe that there has been a violation of the Act or that grounds exist for the Commission to make an order under Part IV.1. Less often
the Director receives a formal application for an inquiry from six persons in the form of a statutory declaration, and there is provision for the Minister to direct that an inquiry be undertaken.

Once an inquiry has begun the Director may, under certification of a member of the Restrictive Trade Practices Commission, require anyone to make written returns of information and give evidence under oath, and authorize his representatives to search premises for evidence pertaining to the matter under inquiry.

The Director may, at any time, discontinue an inquiry that does not justify further inquiry; he is required however to report on any such discontinuance to the Minister, if the inquiry resulted from a formal application. Also he must notify the complainants of the reasons for the discontinuance. Otherwise he may remit the evidence obtained in an inquiry to the Attorney General of Canada for such action as the latter may decide to take, or he may pursue the matter before the Restrictive Trade Practices Commission.

(2) The Restrictive Trade Practices Commission

As a result of the 1976 amendments, the Commission has a dual role. In inquiries into Part V offences, if the Director submits a statement of evidence to the parties and the Commission, the Commission acts as a fact-finding and reporting body. It holds hearings at which arguments are submitted, and persons against whom an allegation has been made in the statement are allowed full opportunity to be heard in person or by counsel and the case is argued. The Commission then makes a report in writing to the Minister of Consumer and Corporate Affairs which is required to be made public within 30 days of its receipt. Hearings in connection with these inquiries are held in private unless the Chairman of the Commission orders otherwise. In recent years, only a few cases have been brought to the Commission for a report (chiefly general or research inquiries) because the public interest is best served by sending the evidence, if a suspected offence is involved, direct to the Attorney General of Canada for purposes of prosecution. A list of the recent reports of the Commission and a summary of the resultant action is found in Appendix I. Proceedings completed in cases referred directly to the Attorney General are summarized in Appendix II.

The second role of the Commission is to act, pursuant to Part IV.I of the Act, as a court of record to receive applications from the Director to review various situations which may be undesirable and to make remedial orders binding upon persons to whom they are addressed. In these proceedings the Commission is acting in a judicial capacity and is required to give reasonable opportunity to be heard to affected parties at hearings held in public unless in some particular situation the Chairman orders them closed.

In addition to the foregoing, before the Director may exercise his investigatory powers, their use in each case must be authorized by a Member of the Commission.

(3) Enforcement

At any stage of an inquiry, whether or not the matter has been referred to the Commission and a report made thereon, the Director may submit the evidence gathered in the inquiry to the Attorney General of Canada for such action as he may be pleased to take. Each offence provision of the Act specifies whether the matter is to be prosecuted by way of summary conviction or on indictment and sets out the amount of any fine or the length of imprisonment that may be imposed. The Act also provides that prosecutions for indictable offences and certain other proceedings under the Act may be conducted in the Federal Court - Trial Division, thereby giving it concurrent jurisdiction with provincial superior courts of criminal jurisdiction, and that an appeal from a judgment of this court lies to the Federal Court of Appeal and from that court to the Supreme Court of Canada. The consent of an individual accused is, however, required before prosecution may be instituted in the Federal Court - Trial Division.

(4) Special Remedies

In addition to the penalties set out in Part V of the Combines Investigation Act, the Act provides certain special remedies.
Injunctive proceedings under sections 29.1 and 30

Under section 29.1 of the Act, an interim injunction may be issued to prevent any person from doing things forbidden by the Act pending adjudication of the matter. Such an injunction may only be issued if the court is satisfied that irreparable damage will otherwise result. Under subsection 30(1) of the Act, a person convicted of an offence under Part V may be prohibited from the continuation or repetition of the offence or from doing anything directed towards such continuation or repetition. Where a conviction is with respect to a merger or monopoly, the order may require action to dissolve the merger or monopoly. Subsection 30(2) provides that a similar order may be granted in proceedings commenced by information of the Attorney General of Canada, or the Attorney General of a province, without any prosecution having been instituted where it appears that a person has done, or is likely to do, anything constituting or directed toward the commission of an offence under Part V.

(ii) Damages

Under section 31.1 of the Act, a person who has suffered loss or damage as a result of conduct contrary to any provision of Part V of the Act or as the result of the failure of any person to comply with an order of the Commission or a court under the Act may sue for and recover damages equal to the amount suffered by him together with the costs of the investigation and proceedings. To facilitate such private action, it is also provided that the record of any proceedings in which a person was convicted of an offence arising from any such conduct or failure is proof that the person against whom the private action is brought engaged in that conduct and any evidence given in the proceedings as to the effect of such conduct on the plaintiff is evidence in the private action.

(iii) Patent and trademark rights

Section 29 of the Act provides that the Federal Court may, on the information of the Attorney General of Canada, make orders to correct misuse of patent or trademark rights. Such orders may revoke a patent or cancel the registration of a trade mark, or prescribe lesser remedies where such rights have been used to restrain trade or injure competition in the manner described in that section.

(iv) Tariff adjustment

Section 28 of the Act empowers the Governor in Council to reduce or abolish the tariff on an article where it appears, as the result of an inquiry under the Act or from judicial proceedings taken pursuant to the Act, that a combination, merger, or monopoly to promote unduly the advantage of manufacturers or dealers at the expense of the public has existed and has been facilitated by the duties of customs imposed on the article.

(5) Representations Before Regulatory Boards

Section 27.1 of the Act expressly authorizes the Director to make representations to and to call evidence before federal boards, commissions or other tribunals in order to draw to their attention considerations relevant to the maintenance of competition in connection with matters being heard before them.

4. Information and Compliance Program

While the enforcement of the Combines Investigation Act depends largely upon investigation of complaints of violations received from consumers and businessmen and from press reports, careful attention is given to the encouragement of voluntary compliance. Businessmen have for many years come to the Bureau for advice respecting the application of the Combines Investigation Act. Consultation with businessmen about their problems has been sponsored as a positive program. It has been referred to in earlier annual reports as the program of compliance and it is intended to be a vigorous and sustained program involving education and explanation, discussion of business problems and the giving of opinions concerning the application of the Act.
As part of the program, businessmen are invited to discuss their problems before they decide to introduce policies which might prove to be in conflict with the Combines Investigation Act. The Director of Investigation and Research has no authority to regulate business practices or to decide the law, but he tries to assist businessmen to avoid coming into conflict with the Act by studying matters they submit to him and indicating to them whether or not the adoption of proposed plans would lead him to launch an inquiry. Businessmen who consult him are not bound by any opinion he gives and remain free to adopt practices which they are prepared to have tested before the Restrictive Trade Practices Commission and the courts. The Director, similarly, cannot bind himself or his successors by such opinions and always makes it clear that the matter would be subject to review if there should be any change in the details of the proposed plan or its method of implementation.

As part of the information program, senior staff members undertake speaking engagements before trade associations and other business societies, professional associations and other groups concerned with the Act. Persons who wish to obtain general information on the Combines Investigation Act can request it from the Secretariat of the Bureau of Competition Policy or the appropriate enforcement branch of the Bureau. Information respecting the marketing practices provisions of the Act can be obtained from the head office of the Marketing Practices Branch in Hull or any of the regional and district offices of the department. A number of publications are available to the public; a list of the more recent is provided in Appendix VI. The Marketing Practices Branch publishes a quarterly Misleading Advertising Bulletin containing information relating to the provisions of the Act administered by it.
CHAPTER II

CURRENT DEVELOPMENTS

1. The State of Competition

When the end of the fiscal year arrives, it is time to draw the bottom line and reflect as to whether on balance the state of competition in the Canadian economy has been improved. This Annual Report summarizes the Director’s contribution to the attainment of that goal. The present chapter provides analytical comments on the recent jurisprudential developments and major enforcement activities of the Director.

During the fiscal year, the Bureau of Competition Policy has been engaged in a comparable amount of enforcement activity to that of previous years. Although staff turnover was a major administrative problem during the period, staffing difficulties did not seem to have an immediate bearing on the performance of the Bureau (see Table I below). The number of files opened this year continued to be relatively high as compared to the period 1974-80, and all other statistics do not appear to be at odds with results of previous years. However, the number of prosecutions or other proceedings commenced during the fiscal year show a net decline, and is a source of concern.

With respect to the criminal provisions of the Act, a few judgments are important to note. The Supreme Court of Canada ruled in favour of the Eastern Canada sugar companies in a case under the conspiracy provisions of the Act. The judgment cast considerable doubt as to the interpretation to be given to this provision of the Act. This case is reported in Chapter IV and analyzed in some detail hereafter. During the year, Church and Co. (Canada) Limited was found guilty of price maintenance on some quality shoes, particularly Dack’s and Hartt. Also H.D. Lee of Canada, Ltd. was convicted of the same infraction, but this time concerning the sale of jeans. (These cases are reported in Chapter III.)

During the year an investigation was conducted into the business arrangements between Thomson and Southam involving the Montreal Gazette and the Pacific Press and also the simultaneous closures of the Winnipeg Tribune and the Ottawa Journal. (This case is reported in Chapter V.)

With respect to civil matters before the Restrictive Trade Practices Commission, two cases are noteworthy. In a case involving refusal to supply petroleum products to Perrette Dairies Limited, the Director withdrew his application because the major suppliers resumed supplying Perrette Dairies Limited and thus an order was not required. In a case concerning a market restriction practice on the part of Bombardier, the Commission refused to grant an order. (These cases are analyzed hereafter. The first case is reported in Chapter IV, the latter in Chapter III.)

In a matter in which the Director had intervened, the Canadian Radio-Television and Telecommunications Commission issued an interim decision permitting the interconnection of equipment to Bell Canada’s equipment. Although this issue is not thoroughly finalized, it is viewed as an important step in promoting competition in that industry. Also a refusal by the National Farm Products Marketing Council to grant supply management powers for the marketing of potato in Eastern Canada was in agreement with the submission of the Director to the Council. (The first matter is reviewed in Chapter VI, the latter in Chapter IV.)

The last fiscal year saw a major development in the largest inquiry ever undertaken by the Director. The Director submitted to the Restrictive Trade Practices Commission his Statement of Evidence and Material entitled The State of Competition in the Canadian Petroleum Industry. It is now the responsibility of the Commission under the general inquiry provisions of the Combines Investigation Act to appraise the effect on the public interest and to include recommendations as to the application of the remedies in the Act or other remedies. Given the complexity of the issues involved and the amount of evidence, it will be a major activity of the Director for the coming years to participate in proceedings before the Commission in this inquiry. (This matter is reported in Chapter IV.)
Major developments in the oil industry occurred during the fiscal year. The National Energy Program was announced at the time of the budget in October 1981. Also, Petro-Canada acquired Petrofina Canada, the largest takeover ever to happen in Canada. The program makes it clear that it is not intended to substitute a Canadian concentrated industry for a foreign-owned industry:

"While the Government of Canada is determined to increase Canadian ownership and control, it does not wish the result to be increased concentration of power in the hands of a few large Canadian companies. Competition is the lifeblood of the industry, and the consumer's best protection. A concentrated Canadian industry is an unsatisfactory replacement for a concentrated foreign-owned industry. The intent of the Program is to increase the number of Canadian participants."

The National Energy Program proposes in part to achieve increased Canadian ownership and control of the petroleum industry through the acquisition by the federal government of some of the foreign-owned multinational companies currently operating in this country. At the same time, however, the Program stresses that it is not the intention of the government to establish a large public sector monopoly; it states:

"To ensure competition in the public sector, the Government may establish one or more new Crown corporations to hold the assets acquired, rather than adding them all to Petro-Canada."

The Honourable André Ouellet on a number of occasions during the year stated his intention to introduce amendments to the Combines Investigation Act. The amendments would deal principally with mergers, abuse of dominant positions and conspiracies. Previous Annual Reports have commented on the weaknesses of the present law. The Supreme Court of Canada decision in the Sugar case, as well as its previous decision in the insurance case, has cast considerable doubt on the efficacy of the present conspiracy provisions of the Act. Amendments are very much needed if the Combines Investigation Act is to be an effective tool to safeguard the public interest in free and open competition in Canada.

2. Statistics

Table I presents a statistical picture of the work of the Bureau of Competition Policy during the past year in comparison with other years, excluding work related to misleading advertising and deceptive marketing practices. On receipt of each complaint or inquiry in the nature of a complaint, a file is opened, and the number of such files is the figure that appears in the table as Item 1. Certain complaints which concern the same practice or incident may duplicate each other and are counted as a single complaint whenever appropriate. Some complaints give rise to very little inquiry, since they turn out to be lacking in real substance. Other cases require more attention but are discontinued at an early stage because, for lack of evidence or other reason, they do not appear to justify further inquiry. Item 2 inquiries are initiated under sections 7 and 8 of the Act by formal application of six persons. Item 3 refers to inquiries in which powers of search, powers to secure information or to examine witnesses have been used.

During the year ended March 31, 1981, 37 cases under the Act (excluding misleading advertising and deceptive marketing practices cases) were considered by the courts. These consisted of six proceedings commenced during the year, and 31 proceedings before the courts from previous years. Twelve cases related to conspiracy under section 32, one related to bid-rigging under section 32.2, three related to predatory pricing under section 34, and 21 related to price maintenance under section 38. Fourteen proceedings were concluded during the year and a total of $209,000 in fines was imposed. Five of the concluded proceedings related to section 32, one to section 34, and eight involved price maintenance. These proceedings are listed in Appendix II showing the products involved, persons charged, the place of trial and details of disposition.

Statistics of the work relating to misleading advertising and deceptive marketing practices are presented in Chapter VII. During the year ended March 31, 1981, 242 misleading advertising and deceptive marketing practices cases were considered by the courts. These con-
sisted of 132 proceedings commenced during the year and 110 proceedings before the courts from previous years. This includes 19 cases which had received court consideration in previous fiscal years, but were under appeal at the start of the year. One hundred and forty-four misleading advertising and deceptive marketing practices proceedings were concluded during the course of the fiscal year and fines totalling $370,750 were imposed. One hundred and eleven cases resulted in convictions, and 33 in acquittals, charges withdrawn and other completions of court proceedings that were not convictions.

Table I

OPERATIONAL ACTIVITIES OF THE BUREAU OF COMPETITION POLICY EXCLUDING MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>1. Number of files opened on receipt of complaints or inquiries in the nature of complaints</td>
<td>271</td>
<td>188</td>
<td>165</td>
<td>84</td>
<td>158</td>
<td>143</td>
<td>173</td>
<td>205</td>
<td>262</td>
<td>238</td>
</tr>
<tr>
<td>2. Formal applications for inquiries</td>
<td>5</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>7</td>
<td>5</td>
<td>7</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>3. Formal inquiries in progress at the end of the year</td>
<td>86</td>
<td>76</td>
<td>77</td>
<td>81</td>
<td>71</td>
<td>73</td>
<td>76</td>
<td>73</td>
<td>78</td>
<td>69</td>
</tr>
<tr>
<td>4. Inquiries disposed of by reports of discontinuance to the Minister</td>
<td>17</td>
<td>19</td>
<td>8</td>
<td>13</td>
<td>14</td>
<td>8</td>
<td>14</td>
<td>16</td>
<td>21</td>
<td>26</td>
</tr>
<tr>
<td>5. Inquiries referred direct to the Attorney General of Canada under section 15</td>
<td>16</td>
<td>9</td>
<td>14</td>
<td>11</td>
<td>18</td>
<td>26</td>
<td>22</td>
<td>14</td>
<td>24</td>
<td>21</td>
</tr>
<tr>
<td>6. Inquiries closed on the recommendation of the Attorney General of Canada</td>
<td>1</td>
<td>5</td>
<td>7</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>6</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>7. Prosecutions or other proceedings commenced</td>
<td>6</td>
<td>14</td>
<td>8</td>
<td>7</td>
<td>12</td>
<td>16</td>
<td>24</td>
<td>11</td>
<td>21</td>
<td>6</td>
</tr>
<tr>
<td>8. Applications under Part IV.1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
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<td>0</td>
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<td>9. Research projects completed</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>8</td>
<td>11</td>
<td>8</td>
</tr>
<tr>
<td>10. Research projects in progress</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>8</td>
<td>8</td>
<td>12</td>
<td>5</td>
<td>7</td>
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</table>

3. Decisions of Special Interest

(1) Atlantic Sugar Refineries Ltd. et al. v. The Attorney General of Canada - Interpretation of 32(1)(c) of the Combines Investigation Act

The Annual Report for the year ended March 31, 1978, at pages 16-19 discussed the decision of the Supreme Court of Canada in Aetna Insurance Company et al. v. The Queen. That decision raised a number of questions concerning the future enforcement and administration of paragraph 32(1)(c) of the Act which prohibits conspiracies or agreements to prevent or lessen competition unduly. The recent decision of that Court in the Sugar case has also raised some further questions in this regard.

Previous Annual Reports have dealt with proceedings under section 32 of the Act against the Eastern sugar companies concerning alleged conspiracies to enhance unreasonably the price of sugar and to prevent or lessen competition unduly in the production or supply of sugar. The trial judge acquitted on both counts and the Crown appealed to the Québec Court
of Appeal. That Court dealt first with the count pertaining to the prevention or lessening of competition which concerned an alleged market sharing agreement. During World War II the marketing of sugar was regulated under wartime regulations and each of the three sugar companies, the only sugar refiners in Eastern Canada, were allotted shares of the market in that area. Following the end of controls in 1949, the three refineries shared this market in constant proportions for the next 11 years except for a brief period in 1958 when one of them endeavored to and did for a period increase its market share by lowering prices in the Toronto area. When the price war was abandoned, the refineries settled down to a policy of maintaining their traditional market shares. Not long after this, Cartier Sugar Limited entered the market. While 10 per cent of the market went to Cartier, the three refineries maintained their traditional market shares in respect of the remaining 90 per cent of the market and this continued for approximately 14 years. The trial judge found that the maintenance of traditional market shares was the result of tacit agreement but concluded that it had not been shown that this agreement was arrived at with the intention of unduly preventing or lessening competition. Rather, in acquitting the refineries he held that their reason for maintaining traditional market shares was to avoid the price war that would have resulted had the refineries attempted to increase their market shares by the use of excessive discounts, which was the only method available to them. The Court of Appeal, in a unanimous judgment, found that the trial judge had erred in law in holding that the Crown was required to prove the agreement was intended to lessen competition unduly. It held that the burden upon the Crown was to prove an agreement the object of which was to lessen competition and which, if carried into effect, would do so unduly. Since it also held that the trial judge’s findings contained all the elements of the offence, it held that the accused should have been found guilty were it not for the error in law and accordingly entered a conviction.

With regard to the charge relating to unreasonable price enhancement, the Court of Appeal noted that the trial judge had found as a fact that the object of the agreement was not the enhancement of prices and therefore dismissed the Crown’s appeal pointing out that the law did not authorize it to substitute its own findings of fact for those of the trial judge.

On appeal by the companies to the Supreme Court of Canada from the conviction for conspiracy to prevent or lessen competition unduly, the conviction was reversed, Estey, J. dissenting, the majority judgment being delivered by Pigeon, J.

There had been some difference of view between different trial and appellate courts over the past 25 years following an obiter dictum by Mr. Justice Cartwright, as he then was, in the Howard Smith Paper Mills Ltd. case, on the meaning of undueness. Some interpreted it as requiring the Crown to establish a virtual monopoly, while others disagreed, being of the view that there was no such onus on the Crown. As pointed out in the 1978 Annual Report, the majority judgment of the Supreme Court of Canada in the Insurance case appeared to apply the virtual monopoly test. This approach seems to have been reinforced by the majority judgment in the Sugar case wherein the view was expressed that a tacit agreement among the accused companies to continue to share the Eastern Canadian market in the same percentages as had been allotted under Wartime Regulations did not involve “suppression of competition” since price concessions were made from time to time to large buyers in order to maintain the historical market shares as closely as possible. (The Act was amended in 1976 to make it clear that the Crown was not required to prove a virtual monopoly, but the period covered by the charge here did not come within the purview of the amendment.)

Also, the majority judgment does not seem to consider that the language “conspires, combines, agrees or arranges” in section 32 of the Act describes agreement in a broad sense and accordingly expresses the view that a tacit agreement did not amount to a conspiracy so as to come within the section in the absence of demonstrable communication among the parties.

Finally, although an earlier decision of the Supreme Court of Canada had held that the Crown was not required to establish that the parties had intended to lessen competition unduly, but rather met the requirement of mens rea if it showed that the parties “intended to enter and did enter into the very arrangement found to exist,” in both the Insurance and
Sugar cases the trial judges in acquitting the accused companies found that they had not intended the agreements to have the effect of lessening competition unduly. In the Insurance case, the majority judgment of the Supreme Court of Canada did not find it necessary to deal specifically with this finding, presumably because it had held there should be an acquittal on other grounds. In the Sugar case, however, although the majority judgment of the Supreme Court of Canada does not appear to have based its decision on the issue of intent, nonetheless it stated that the "question is whether it [the alleged market sharing agreement] meant that competition was intended to be 'unduly' lessened." There was also the further explicit statement that:

"I must also point out that while, as was stressed in Aetna, the offence lies in the agreement made with the intention to lessen competition unduly, not in the actual result of the agreement, no such distinction has to be made when as here, the only evidence of agreement is found in the course of conduct from which it is inferred." (emphasis supplied).

In essence, the underlined portion of the quotation reiterates the trial judge's reason for acquittal on this charge. With respect, it is considered that an onus on the Crown to establish that an agreement was entered into with the intention to lessen competition unduly would, in the vast majority of cases, impose an insuperable burden in a prosecution under subsection 32(1) of the Act.

(2) Bombardier Limited - Snowmobiles. Decision of the Restrictive Trade Practices Commission in respect of an Application by the Director under subsection 31.4(2) of the Combines Investigation Act

On February 9, 1979, the Director filed an Application with the Restrictive Trade Practices Commission pursuant to section 31.4 of the Act, asking for an order that would require Bombardier Limitée - Bombardier Limited to cease the practice of exclusive dealing in respect of the sale of their snowmobile products, and to resupply specified dealers that the company had cancelled for carrying a competing line of snowmobiles.

In the Application, the Director alleged that Bombardier had a practice of exclusive dealing, and was a major supplier of snowmobiles in the snowmobile products markets in the provinces of Ontario, Nova Scotia, New Brunswick, Prince Edward Island and Québec. As a result of Bombardier's actions, the Director alleged that the ability of manufacturers, distributors and retailers of snowmobile products to gain entry into or expand sales in those markets had been impeded with the result that competition among manufacturers, distributors or retailers had been and was likely to be lessened substantially in those markets. Bombardier submitted to the Restrictive Trade Practices Commission its Reply to the Director's Application on May 17, 1979. Public hearings before the Restrictive Trade Practices Commission commenced on September 24, 1979.

On October 14, 1980, the Restrictive Trade Practices Commission dismissed the Director's application for an order to have Bombardier cease its exclusive dealing practice between itself and its retail snowmobile dealers.

The decision contains interpretations of key words and phrases in the exclusive dealing provision. It also spells out a number of factors which the Commission considered in reaching a decision. Among these are: whether there was a change in sales shares, which is a helpful guide in determining whether exclusive dealing was inhibiting growth or expansion of competitors; ease of entry, availability of potential dealers; whether there was an effect on production or sales by competitors at competitive cost levels; whether or not there was a number of communities where Bombardier was the only dealer; and whether competition at the retail level would be increased in the absence of exclusive dealing.

In its decision, the Commission clarified the term "major" in the phrase "major supplier" as meaning "greater part" or "great or important" and that "a major or important supplier is one whose actions are taken to have an appreciable or significant impact on the market where it sells." Based on the competitors' impressions of Bombardier's market position and Bombardier's market share as it related to sales and dealerships, the Commission concluded that Bombardier was a "major supplier" within the meaning of the Act. Bombardier admitted that it
enters into exclusive agreements with dealers in the area under consideration and that it enforces the exclusive franchise clause in these dealer agreements.

Competition for dealers was found to be an important form of rivalry among distributors and the nature of retailing snowmobiles was such that it was very difficult to attract dealers away from competitors. On this point, the Commission stated:

"... there is no question that the large number of dealers selling Ski-Doo or Moto-Ski are prevented by Bombardier's policy from taking on a second brand and are not available to other suppliers. The importance of this factor is conditioned by whether it results in Bombardier's competitors being effectively denied outlets, which primarily turns on the availability of potential dealers."

With respect to whether Bombardier's competitors had been effectively denied outlets, the Commission noted:

"Although there was no growth in the number of dealers of other suppliers, and in some cases there were decreases, the Kawasaki and Yamaha ability to recruit large numbers of dealers over successive years is an indication of the availability of a considerable stock of potential dealers."

The Commission stated that Bombardier's competitors were able to overcome whatever barriers to their expansion were created as a result of Bombardier's exclusive dealing policy. Further, "there is no evidence that the level of absolute sales attained by Bombardier's competitors is insufficient to permit them to support adequate distribution systems."

Coupled with a high turnover rate of snowmobile dealerships and the fact that Bombardier's competitors had gained market share by displacing existing companies, the Commission found that the evidence "... does not show a substantial lessening or reduction of competition nor a likelihood thereof."

(3) For-Hire Trucking - Western Canada. A motion to prohibit the Alberta courts from hearing the evidence relating to an Information laid in the matter of Regina v. Alltrans Express Limited et al.

On November 5, 1979, certain motor carrier companies and individuals were accused of agreeing to lessen competition unduly in the inter-provincial transportation of articles and thereby committing an offence contrary to paragraph 32(1)(c) of the Act. Proceedings relating to the alleged offence were commenced under the authority of the Attorney General of Canada. (For more details on this matter, see Chapter VI.)

Counsel for Canadian Pacific Transport Company Limited and Canadian National Transportation Limited supported by counsel for the other accused presented submissions before the Alberta court to the effect that because proceedings were not being carried out by the Attorney General of Alberta, the hearing of evidence by the courts under the circumstances would be unconstitutional. These submissions were followed by an application on behalf of the accused for an order to prohibit the Provincial Court of Alberta from permitting further proceedings in this case as long as the matter was exclusively conducted by or on behalf of the Attorney General of Canada.

The application was heard in October 1980 in the Court of Queen's Bench of Alberta by the Honourable Mr. Justice Medhurst. The issue facing the court was summarized by him as follows:

"The application raises the question of whether the Attorney General of Canada has the constitutional authority to prefer an indictment and to prosecute an offence under the Combines Investigation Act in Alberta, or is he precluded from so doing because this falls within the exclusive jurisdiction granted to the provinces to deal with matters of administration of justice."

The learned Judge reviewed the precedents, including the recent majority judgment of the Supreme Court of Canada in R. v. Hauser, which he referred to as holding "that the Attor-
ney General of Canada could prosecute in respect of a violation or conspiracy to violate under an Act of Parliament the constitutional validity of which does not depend upon s. 91(27) of the BNA Act.” He concluded by ruling in favour of the respondents mainly on the grounds that “section 32(1)(c) of the Combines Investigation Act can be supported as valid federal legislation under the authority given to regulate with respect to trade and commerce.” He concluded:

“Accordingly, I find that the power of the Attorney General of Canada to prosecute for a violation of Section 32(1)(c) of the Combines Investigation Act is valid and the applications are therefore dismissed.”

The above judgment was handed down on December 16, 1980. At the end of the fiscal year, an appeal by the accused to the Alberta Court of Appeal is anticipated.

(4) Regina v. Bristol–Myers of Canada Ltd. (1979) 48 C.C.C. (2d) 384 (Ont. Co. Ct.)

The accused, in a television commercial promoting one of its products, Fleecy Fabric Softener, claimed that “Fleecy in the rinse softens right through the wash for three times more softness than any dryer product,” and was subsequently charged pursuant to paragraph 36(1)(b) of the Act with having made a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that was not based on an adequate and proper test.

The Crown relied on the reverse onus provision contained in paragraph 36(1)(b) and closed its case after submitting as evidence the text of the commercial and an admission that the accused had caused the commercial to be broadcast. In ruling against a motion for non-suit, Honsberger J. interpreted the reverse onus provision as requiring the accused to lead evidence supporting the adequacy and propriety of its tests, following which it was open to the Crown to lead rebuttal evidence.

The accused led evidence to show that the testing of the product was by way of panel testing conducted according to generally accepted scientific procedures. Test results indicated that fabrics treated with Fleecy were softer than those treated with up to three times the recommended dosage of dryer products. Additional evidence established that Fleecy delivered more than three times the active softener ingredient per load than the other products tested.

The issue to be decided by the Court was whether such test results supported the claim made by the accused as to the efficacy of its product. Honsberger J. concluded that the word “softness” in the context of the representation would be perceived by the public in its sensory connotation and not, as contended by defence counsel, in terms of the amount of active softening ingredient delivered by the product. Therefore, the representation conveyed to the public the impression that the use of Fleecy resulted in clothes that were three times softer than those treated with any dryer product.

The Crown argued that the accused by its representation was in effect making a quantitative sensory evaluation of softness that could not be supported by any adequate or generally accepted method of testing in existence at the time of the panel testing. Honsberger J. accepted the Crown’s argument and held that, although the method of testing used by the accused was proper for the purposes of testing relative degrees of softness, it was not proper for the purpose of supporting a representation to the public involving a quantitative sensory evaluation of softness.

The accused appealed the conviction but on January 29, 1981, the Ontario Court of Appeal dismissed the appeal without comment.

(5) Regina v. Consumers Distributing Company Limited (Unreported decision of the Ontario Court of Appeal) December 23, 1980

The Crown appealed the County Court decision allowing the appeal against the conviction of Consumers Distributing on a charge of making a false or misleading representation in a material respect pursuant to paragraph 36(1)(a).
The respondent was convicted by the Provincial Court for having falsely represented to
the public by means of an in-store sign situated in one of its retail outlets that a gas-saving
device identified as a GT mini fuel-jector had "actually achieved fuel savings of up to twenty-
five per cent." The respondent, in making the representation, had relied on information pro-
vided by the supplier of the device which entailed independent test results and testimonials by
users, including those by other well-known retailers, as to the efficacy of the device. The
County Court set aside the conviction on the ground that the respondent had satisfied the
requirements of the common law defence of due diligence as enunciated by the Supreme Court

The Court of Appeal, in deciding whether the common law defence was available to the
respondent, held that the misleading advertising provisions of the Combines Investigation Act
fell within the category of strict liability offences as established by *Sault Ste. Marie* and were
therefore amenable to a defence involving honest error on the part of an accused and the exer-
cise of reasonable precautions in order to avoid such error. However, the Court of Appeal
ruled that the existence of the statutory defence provided by subsection 37.3(2) precluded the
applicability of the common law defence of due diligence to offences under sections 36 and
36.1 of the Act.

In determining the ambit of the statutory defence, the Court of Appeal held that the
respondent had satisfied paragraphs (a) and (b) of subsection 37.3(2) in that the respondent,
by considering the material provided by the supplier, had exercised the requisite due diligence
before making a representation based on an honest but mistaken belief that the device per-
formed as represented. There was no onus upon the respondent to depart from the usual trade
practices by conducting its own tests in order to ensure the reliability of its statement.

However, it was incumbent upon the respondent to prove, on a balance of probabilities,
each element of the defence including the further requirement of immediate corrective action
with respect to the false representation, as stipulated in paragraphs (c) and (d) of subsection
37.3(2). As the respondent had failed to establish that it had taken such corrective action, it
was unable to rely on the statutory defence in order to avoid liability.

(6)  *Perrette Dairy Ltd.* - *Section 31.2. Refusal to sell*

*Perrette Dairy Ltd.* operates a chain of convenience stores in Québec. Its entry into the
gasoline market dates back to 1972 when it introduced into Canada a marketing approach
which combined selling store products with selling gasoline. For *Perrette*, the advantage of this
method of operating lay in reducing the capital expenditures required to build service stations
and spreading operating costs over both store and gasoline sales.

Based on this marketing method, *Perrette*’s policy was to sell gasoline at the lowest price
in a given market and still make a profit.

*Perrette*’s business philosophy rested essentially on the belief that the firm’s profits would
be higher if it operated as an independent gasoline dealer, free to fix its own price and meet
competition.

June 1979 saw a worsening in the supply difficulties which had affected *Perrette* since
autumn 1978. Its sole assured supply of gasoline came from Texaco Canada Inc. and met only
one-third of its requirements.

*Perrette* attempted to negotiate supply agreements with every potential supplier in East-
ern Canada. Apart from Imperial Oil Ltd., Irving Oil Ltd. and Petrofina Canada Ltd., all said
they were unable to supply the company.

*Imperial* informed *Perrette* that it could satisfy its gasoline requirements on condition
that it, *Imperial*, retained product ownership and controlled its retail price. On the other hand,
*Perrette* would receive a pre-determined profit.

Likewise *Petrofina* assured *Perrette* that it could supply its annual needs in whole or in
part, depending upon the quantity of gasoline available, provided that *Petrofina* retained own-
ership and set the consumer price. Furthermore, the gasoline would have to be sold under the “Fina” brand name. Perrette rejected these two proposals as contrary to its business policy. Irving Oil, for its part, explained its refusal to sell to Perrette by its policy of not selling gasoline to independent retailers.

The three suppliers' behaviour led the Director on October 31, 1979 to seek an order from the Restrictive Trade Practices Commission under section 31.2 of the Act with a view to ensuring Perrette Dairy supplies from one or more oil companies.

The Director's application to the Commission was motivated by the basic principle that the public interest requires the maintenance and promotion of a dynamic and competitive economy. In submitting this matter, the Director sought to prevent large suppliers of petroleum products, by imposing restrictive trade conditions or simply refusing to sell, from excluding or eliminating a competitor from a market through non-competitive means. He wished to prevent refiners from using their control of gasoline supplies to restrict competition in the sale of gasoline.

Equally, the Director wished to emphasize to the Commission the danger that other independent retailers would be subjected to the same supply restrictions as those imposed on Perrette by Imperial and Petrofina, or would be unable to obtain gasoline because of suppliers' refusal to sell.

The Director's initiative was designed to preserve the freedom of any individual or firm to enter a market and compete with existing companies through innovative and more efficient distribution methods.

In October 1980 Perrette finally obtained supplies and as a result the Director withdrew his application under section 31.2. However, the evidence gathered during the inquiry showed that the position of Perrette and other independent retailers, particularly in Quebec, remained difficult in autumn 1980.

This conclusion is based on facts relating to Imperial's attitude toward supplying independent retailers. During the hearings, Imperial revealed the existence of an internal policy which threatens the future of independent retailers such as Perrette. This is the question of the implementation of its “pruning program” and its sales policy with regard to the independent petroleum products sector.

According to Imperial, the program was created as a result of the exceptionally short supply situation prevailing in 1979 and was suspended in the autumn of the same year. However, it emerged during the Perrette hearings, which took place in autumn 1980, that Imperial was still pursuing a policy similar to the “pruning program” in that it intended to maintain reduced sales levels to the commercial-industrial and retail categories for the indefinite future. Since, it was said, the supply situation had still not improved in 1980, the program would continue to form part of basic planning. Yet it seems that the “pruning program” was not just aimed at dealing with temporary supply difficulties.

In the course of the hearing, it was learned that Imperial had sent letters to a number of retailers indicating that it would no longer supply them after 1981. According to a witness for Imperial, this measure was not a continuation of the “pruning program” but part of a policy aimed at reducing Imperial's retailer supply commitments to the same proportion as its share of the industry's refining capacity. Imperial was thus applying a long-term strategy based upon its market share. Documents filed by Imperial justify this interpretation and show that since 1976 the company's sales to Québec retailers have fallen considerably. In 1976 sales to this group reached 78 million gallons but in the first six months of 1980 did not exceed 18 million gallons. On the other hand, except for a slight reduction during the first half of 1980, sales by Imperial to Québec service stations have risen steadily since 1976.

The argument that scarcity of supply was the only reason for the “pruning program” is further weakened by the fact that Imperial offered to supply Perrette, as a retailer, with gasoline but only on condition of retaining product ownership, controlling the retail price and reserving a pre-determined profit margin for Perrette. This offer was made in 1979 at pre-
cishly the time when the "pruning program" was in operation. It directly contradicts Imperial's assertion that the program was intended to deal with temporary product scarcity.

The Director has underscored the independent gasoline distribution sector's difficulties on several occasions. In light of the facts revealed during the Perrette hearings, the need to counter abuses by the dominant companies in the industry and maintain an acceptable level of competition cannot be overstressed. If there is a lesson to be drawn from the Director's efforts in the Perrette case, it is that procedural delays and complexity prevented using the refusal to sell provision to quickly rectify an anti-competitive situation. Indeed, as mentioned above, a year after the application to the Commission and before an order could be made, the Director had to withdraw his request, for Perrette had been able to obtain the supplies it needed. Clearly, to be effective in rapidly and adequately correcting refusal to sell situations, this section of the Act should provide for the granting of temporary injunctions like those which may now be issued, where behavior prohibited under the Act is concerned.

Furthermore, given the precariousness of its independent sector, the Director intends to maintain a close watch on the oil industry and to encourage competition and the free play of the market within it to the maximum extent.

4. Export Agreements

The Combines Investigation Act has provided a specific exemption for export agreements since 1960. These provisions endorse the position that there are some circumstances in which it may be advantageous for Canadian producers to act collectively for the purpose of foreign trade. The exemption allows Canadian producers to participate in agreements solely related to exports, as long as these agreements are not also a vehicle for lessening competition unduly in the domestic market, and on the condition that any such agreement does not have certain other undesirable effects, namely, limiting the volume of exports, injuring the export business of any competitor not a party to the agreement or restricting entry into the export market.

The Act uses the terms "conspiracy, combination, agreement or arrangement" to refer to cartel-like activity. Generally speaking, an export association or export cartel is a group of private firms in one country which join together to seek to maximize their revenues or minimize their costs by means of agreements on prices, marketing or on other dimensions of competition in regard to exports.

(1) The Export Exemption

In the course of consideration of the Bill containing the 1960 amendments to the Act by the Standing Committee on Banking and Commerce of the House of Commons, a proposal was raised that a provision should be added expressly to exempt from the conspiracy prohibitions contained in the Act agreements or arrangements designed solely for export. The Honourable E. Davie Fulton, then Minister of Justice, spoke in support of the proposal and commented that most members of the Committee had accepted the argument by Canadian industry that a combination of factors made it increasingly difficult for them to export unless they were given an opportunity for organization in the export field. He emphasized, however, that notwithstanding concern regarding the welfare of industry in the export field, the primary concern was to protect the interests of the Canadian consumer, and it was therefore essential in amending the Act, he continued, to make it clear that while what may be done in the export field was legitimate, it must not be allowed to spill over and have adverse effects on the domestic economy. In conclusion, he suggested that the amendment:

"will accomplish the result of making it clear that arrangements entered into by Canadian industry, having effect exclusively with relation to their activities in the export markets, may be exempted from the operation of this act, provided again that they do not have the indirect result, whether intentional or unintentional, of producing a disadvantage to Canadian consumers."

The export amendment was enacted by Parliament and came into force on August 10, 1960.
It should be emphasized that no export association has ever been charged under the Act, so that the breadth of the present exemption has yet to be tested in the courts. Such evidence as exists suggests that there are not a great many export associations in Canada or a widespread desire to form them. Under the Program of Compliance of the Bureau of Competition Policy, which is described subsequently herein, very few proposals for export agreements have been presented over the years. Also, a study by K.C. Dhawan and L. Kryzarowski, which was commissioned by the Department of Industry, Trade and Commerce to research the use of export consortia in Canada, found just 24 Canadian-based limited liability export consortia had been incorporated, 22 of them since 1972.

Turning now to the relevant provisions of the Act, it is necessary to examine section 32 which is a criminal provision, the subsections of which are quoted or paraphrased as follows:

“32. (1) Everyone who conspires, combines, agrees or arranges with another person

(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any product,

(b) to prevent, limit or lessen, unduly, the manufacture or production of a product, or to enhance unreasonably the price thereof,

(c) to prevent, or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, storage, rental, transportation or supply of a product, or in the price of insurance upon persons or property, or

(d) to otherwise restrain or injure competition unduly,

is guilty of an indictable offence and is liable to imprisonment for five years or a fine of one million dollars or to both.

(1.1) For greater certainty, in establishing that a conspiracy, combination, agreement or arrangement is in violation of subsection (1), it shall not be necessary to prove that the conspiracy, combination, agreement or arrangement, if carried into effect, would or would be likely to eliminate, completely or virtually, competition in the market to which it relates or that it was the object of any or all of the parties thereto to eliminate, completely or virtually, competition in that market.”

(2) — Provides that subject to subsection (3) in a prosecution under subsection (1) the court shall not convict the accused if the conspiracy, etc. relates only to one or more of:

exchange of statistics or credit information, definition of product standards and terminology used in a trade, industry or profession, co-operation in research and development, restriction of advertising or promotion other than a discriminatory restriction directed at a member of the mass media, sizes or shapes of packaging containers, adoption of metric system of weights and measures or measures to protect the environment.

(3) — Provides that subsection (2) is not applicable if the conspiracy, etc. has lessened or is likely to lessen competition in respect of one of the following:

prices, quantity or quality of production, markets or customers or channels or methods of distribution or if the conspiracy, etc. has or is likely to restrict any person from entering into or expanding a business in a trade, industry or profession.

“(4) Subject to subsection (5), in a prosecution under subsection (1) the court shall not convict the accused if the conspiracy, combination, agreement or arrangement relates only to the export of products from Canada.

(5) Subsection (4) does not apply if the conspiracy, combination, agreement or arrangement

(a) has resulted or is likely to result in a reduction or limitation of the volume of exports of a product;
(b) has restrained or injured or is likely to restrain or injure the export business of any
domestic competitor who is not a party to the conspiracy, combination, agreement or
arrangement;
(c) has restricted or is likely to restrict any person from entering into the business of
exporting products from Canada; or
(d) has lessened or is likely to lessen competition unduly in relation to a product in the
domestic market."
(6) — Provides that in a prosecution under (1) the court shall not convict if it finds that
the conspiracy, etc. relates only to a service and to standards of competence and integ-
rity reasonably necessary for the protection of the public in the practice of a trade or
profession relating to the service or in collection or dissemination of information relat-
ing to the service.
(7) — Provides that (1) does not apply in respect of a conspiracy, etc. entered into only
by companies each of which is, in respect of every one of the others, an affiliate as
defined in subsection 38(7) and (7.1).
Subsections (4) and (5) relating only to export combinations are unchanged since their
enactment except for the substitution in 1976 of “product” or “products” for “article” or
“articles” in subsection (4) and paragraphs (a), (c) and (d) of subsection (5). These and other
1976 amendments brought services within the Act generally and also within the export exemp-
tion. “Product” is defined as including both an article and a service.

The charging provision prohibiting anti-competitive agreements or combinations is con-
tained in subsection 32(1). In substance, the offence is stated in paragraph (c) to be the cons-
piring, combining, agreeing or arranging with another person to prevent or lessen competition
unduly in the production, manufacture (and other activities enumerated in the paragraph) of
goods or services. As will be noted, more detailed descriptions, such as agreement to lessen
production unduly, are contained in paragraphs (a), (b) and (d) of subsection 32(1). The
offence, except for conspiracy pertaining to unreasonable price enhancement, depends on the
qualifying word “unduly” and thus does not prohibit all agreements or arrangements which
lessen competition.

As will have been noted, the export exemption is only one of several exemptions to subsec-
tion 32(1). Since that subsection contains the offence, however, it is necessary first to deter-
mine if the restrictive agreements amount to a violation; if not, the question of exemption does
not arise. Not only must the offence be proved beyond a reasonable doubt; but under conspir-
acy law the offence is in the agreement, and an agreement in restraint of trade is only in
breach of subsection (1) if, when carried into effect, it would prevent or lessen competition
unduly, or prevent, limit or lessen unduly, production, etc., as the case may be. The necessary
element of agreement, however, is not restricted to a formal written agreement; a common
understanding or concert of action is all that is necessary to provide the element of agreement
that is the basis of the offence. Once an agreement of this nature is entered into, the conspir-
acy is complete whether or not the parties subsequently fail to live up to it or are unable to
make it work in practice.

As previously indicated, an export agreement should first be examined in the light of the
main prohibition contained in subsection (1). For example, an agreement to fix prices or sales
quotas for export by companies which together account for only a small share of Canadian
output would not be regarded as raising any question under subsection (1) so that the exempt-
tion in subsection (4) would not come into play. On the other hand, if the member companies
were major suppliers of the Canadian market, the agreement might result in an undue lessen-
ing of competition in one or more of the ways specified in subsection (1). Where lessening of
competition is confined to export sales, however, such lessening is exempted by subsection
32(4) from the application of the prohibition against anti-competitive agreements.

Before dealing further with the export exemption, the following two matters should be
noted. First, all agreements, whether affecting export or domestic markets, which are limited
to certain cost saving and public policy matters specified in subsection (2), such as sizes or
shapes of containers in which an article is packaged, are, in effect, exempted from the prohibi-
tions in subsection (1) unless they have the effects specified in subsection (3) above. Second,
while subsection 32(7) provides that subsection (1) does not apply where an agreement or
arrangement is entered into only by companies which are all affiliated, as that relationship is
defined in subsections 38(7) and (7.1), it cannot be emphasized too strongly that this exemp-
tion applies only as long as there are no third parties to the agreement or arrangement. Once a
third party is involved, there is no longer any exemption for affiliated companies and they are
in no different position than unrelated companies which conspire or agree together.

On the basis of the jurisprudence developed over the years, the courts, in determining
whether a restrictive agreement, if carried into effect, would prevent or lessen competition
unduly, have looked to the extent or degree to which competition would be limited. Where, for
example, in a price-fixing agreement, the parties account for a high percentage of the relevant
market in a particular good, the courts have without hesitation generally found that such an
agreement if carried into effect would prevent or lessen competition unduly. In so finding, the
courts have not laid down any specific percentage of the relevant market which must be
accounted for by the parties. Arising out of these decisions, some judgments of trial and appel-
late courts in recent years have interpreted "unduly" as requiring the complete or virtual
elimination of competition in the market affected. While the weight of the jurisprudence, until
recently, has been contrary to this view, subsection 32 (1.1) was enacted by the 1976 amend-
ments to make it clear that "unduly" does not require such a demanding interpretation.

Also, in a prosecution under subsection 32(1), it is not necessary to establish specific
detriment. In this respect the courts have held that the public has a specific interest in the
maintenance of competition and that any agreement or arrangement which, if carried into
effect would significantly interfere with competition in a substantial segment of the trade, is
detrimental to the public interest and thus no proof of other injury is required. In elaboration
of this it has been held that the question of undueness is not to be determined on the basis of
the alleged needs of a particular industry or the claimed reasonableness of prices or profits
which may result. Thus, while generally speaking the courts have been of the view that con-
siderations other than the extent to which competition would be limited are not relevant in
determining the question of undueness, in some cases they have taken the position that in addi-
tion to the extent or degree, the manner in which competition would be lessened by the
arrangement could also be considered as one of the factors. Concerning the question of intent,
the jurisprudence, until recently, made it clear the Crown must establish that the parties
intended to enter into the conspiracy or arrangement, but there was no requirement that the
Crown prove the parties intended that the conspiracy, if carried into effect, would prevent or
lessen competition unduly, though it had to be proved that if the conspiracy was carried into
effect, such result would follow.

There have, however, been two important recent decisions of the Supreme Court of
Canada concerning paragraph 32(1)(c). These are Aetna Insurance Company et al. v. The
Queen9 and Atlantic Sugar Refiners Co. Ltd. et al. v. The Attorney General of Canada10. The
effects of these cases are discussed in the Annual Report for the year ended March 31, 1978 at
pages 16-19 and in this Report at pages (II)6, and thus it is not intended to review them in
detail here. While their full effects will only become clear in course of time, in essence, one or
both of these cases appears to have questioned whether a tacit agreement comes within the
meaning of "conspires, combines, agrees or arranges" in subsection 32(1) and to have held
that the offence lies in an agreement or arrangement made with the intention to lessen compe-
tition unduly.

Returning now specifically to the export exemption, subsection 32(4) provides an explicit
exemption for agreements relating solely to export of goods or services, being in the form of a
defence for an export agreement which otherwise would violate subsection 32(1). It provides
that subject to subsection (5), in a prosecution under subsection (1), the Court shall not con-
vict if the conspiracy or agreement, etc. relates only to the export of products from Canada.
The use of the word "only" makes clear the intent of Parliament that the exemption should
apply only to agreements relating to exports. By virtue of this provision, competitors can
undertake exports on a collective basis and in addition to common pricing can also undertake such matters as transportation, invoicing and market allocation either through each of the parties by agreement or through the establishment of a joint agency, all of this as long as the effect or likely effect of the agreement does not encompass any of the matters in subsection (5).

Paragraph (a) of subsection (5) provides that the exemption in subsection (4) is not available if the agreement reduces or limits the volume of exports or is likely to do so. This makes clear the legislative intent to promote exports.

Paragraphs (b) and (c) negate the exemption where the agreement restrains or injures the export business of any domestic competitor who is not a party to the agreement, or is likely to do so, or restricts or is likely to restrict anyone from entering into Canadian export business. The object of these provisions is to provide safeguards to protect present and potential exporters not party to the agreement by ensuring that restrictive agreements on the part of one group of exporters are not to be used as a means of placing other Canadian exporters at a disadvantage.

Paragraph (d) contains a further qualification nullifying the application of subsection (4) where the agreement “has lessened or is likely to lessen competition unduly in relation to a product in the domestic market.” This requirement is directed to the protection of the public interest in competition free of private restraints. This paragraph would apply, for example, where it could be shown that there was an arrangement, however informal, to apply agreed export prices to domestic sales as well.

Apart from paragraph (d), which deals with undue lessening of competition in the domestic market, the loss of the exemption in subsection (4) by virtue of anti-competitive action in paragraphs (a), (b) and (c) does not by itself mean there is a violation of subsection 32(1) since these paragraphs do not create an offence. In other words, the agreement must then be looked at in the light of subsection (1) without benefit of the exemption to determine if there is an offence.

(2) Other Relevant Provisions of the Act

Reference should also be made to the provisions of the Act relating to foreign and international cartels. Section 32.1, a criminal provision, makes it an offence for any company operating in Canada to implement a directive or other communication from a person abroad who is in a position to influence the policies of a company, given for the purpose of facilitating a conspiracy, etc. that, if entered into in Canada would be an offence under section 32 of the Act, whether or not the company in Canada through an officer or director, was aware of the conspiracy. For example, a directive from a foreign parent company to a Canadian subsidiary to confine its exports to a particular country or countries to conform with the decisions of an international cartel in which the parent was a participant, whether or not the subsidiary was aware of the cartel, would be within the purview of the provision. Prosecution proceedings under the section, however, may be instituted only against a company. The section, enacted in 1976, has not been tested in the courts.

The Act also includes an alternative civil procedure in section 31.6 which may be used against not only a company, but also individuals. No proceedings may be instituted against a company under section 32.1, however, where an application has been made by the Director of Investigation and Research to the Restrictive Trade Practices Commission under section 31.6 for an order against any person based on substantially the same facts as would be alleged in proceedings under section 32.1. Similarly, no application may be made by the Director under section 31.6 for an order against a company where proceedings have been commenced under section 32.1 against the company.

It should also be borne in mind that an export consortium is still bound by other provisions of the Act with respect to its operations in the domestic market, the qualified exemption in subsections 32(4) and (5) applying only to subsection 32(1).
Although the activities of a Canadian export association may satisfy the statutory requirements of the *Combines Investigation Act*, they could be held to violate the anti-trust laws of other countries. United States law is of particular importance in this regard. Its principal anti-trust statutes, the Sherman Act and Clayton Act, apply not only to domestic interstate commerce but also to United States foreign commerce. Thus, the American courts are prepared to apply these laws against anti-competitive practices by United States or foreign-owned companies outside the United States which unreasonably restrain that country’s foreign or domestic commerce. In anti-trust actions, like any other action, the courts must have personal jurisdiction over the parties as well as jurisdiction over the subject matter of the action. No question is raised by the former where the parties charged are in the United States, since the judgment or order of the court is binding on them and may be enforced. The matter of personal jurisdiction is raised primarily in respect of foreign companies charged with a violation. Such companies may be brought within the jurisdiction of United States courts if they have some business dealings through a branch office or agent in the United States or in some cases a United States subsidiary may be regarded as the agent of the parent. United States courts have also held United States parent companies to be liable under the anti-trust laws for the actions of their foreign subsidiaries which have caused an unreasonable restraint upon United States trade. Thus, for example, a Canadian subsidiary of a United States company may be reached indirectly and in effect required to conform to United States law through the force of an order against the United States parent or affiliate. This extra-territorial reach of United States anti-trust law has been a matter of some concern in this country, because Canadian subsidiaries of United States firms may be constrained or required to operate on the basis of United States law in this field notwithstanding that under Canadian anti-combines legislation a proposed course of conduct may be quite lawful.

Section 31.6 referred to above and Section 31.5 of the Act dealing with foreign judgments etc. are designed to deal with the extra-territorial effect of a foreign law having adverse effects on trade and industry in Canada and also to prevent measures being taken in Canada which would have such effects as a result of foreign directives and the like.

(3) **Bureau's Program of Compliance**

Subject to the caveat expressed regarding foreign law, no adverse legal consequences should be encountered by exporters who participate in a *bona fide* export agreement that does not have the adverse domestic effects specified in the Act. Generally speaking, these effects can be avoided by reference to the standards of conduct for the operation of Canadian export agreements which are described herein. These standards have been developed by the Bureau of Competition Policy on the basis of experience in administering the legislation and as a result of discussions with members of the export-oriented business community who proposed to engage in specific export associations.

These discussions were conducted under what is described as the “Program of Compliance.” There is no requirement that a Canadian export agreement be registered with any Canadian Government office. Thus all discussions under the Program have been on an entirely voluntary basis and were initiated by exporters who had some doubts that an export agreement would meet the requirements of the Act. In some cases the issues were very complicated, but it was possible in all cases to identify those features which would infringe the legislation if the proposed arrangement was implemented without modification. The operation of the program of compliance is explained in this report at page (I)10.

It is considered that the following recommended standards of conduct deal with most of the questions usually raised and adherence to these standards by an export association would, generally speaking, be in compliance with the *Combines Investigation Act*:

1. An export association should not engage in any action which may serve to reduce the volume of exports from Canada. (To offend this standard undoubtedly would be in direct conflict with paragraph 32(5)(a) of the Act and would mean loss of the exemption.)

2. If non-member competitors are dependent upon an export association or its members for supplies, such as component parts, they should not deny supply to Canadian non-members.
(3) An export association should not attempt to force Canadian competitors into joining the association.

(4) An export association should not impede entry into the market of new producers or potential exporters.

(5) An export association or its members should not discriminate against any Canadian firm or individual so as to impede their ability to compete for export business.

Standards (2) through (5) correspond generally to paragraphs 32(5)(b) and (c) which are concerned with restrictions placed upon or injury done to domestic competitors of the association or its members.

(6) An export association should not extend its arrangements to include suppliers in foreign countries.

(7) An export association should take no action which serves to limit or impede the import of products into Canada.

(8) An export association should not engage in any action which serves to affect adversely competition or prices in the domestic market.

The Director is prepared at all times to receive requests under the Program of Compliance from members of existing or proposed export associations, or indeed from any businessman, regarding application of the standards of conduct to specific situations, or regarding any other aspect of an export agreement which the members believe might raise a question under the Act, and to advise whether in his opinion he might have reason to commence an inquiry.

Footnotes
6. This is based on testimony in September 1980 by the then Director of Investigation and Research, R.J. Bertrand, Q.C., before the Special Committee of the House of Commons on a National Trading Corporation.
CHAPTER III

MANUFACTURING BRANCH

1. Activities

The Manufacturing Branch is responsible for the conduct of all inquiries under the Act with respect to the manufacturing sector of Canadian industry, excluding the manufacturing sectors of the pulp and paper and petroleum industries which are the responsibility of the Resources Branch. The Manufacturing Branch is also concerned with matters relating to the construction industry.

The main function of the Branch is to undertake industrial and economic analysis based on information obtained from a broad variety of sources with respect to alleged restrictions of competition in the manufacturing sector, and to conduct inquiries into those situations where inquiry is warranted. Such analysis is for the purpose of determining whether violations of any of the provisions of Part V of the Act (with the exception of those sections relating to misleading advertising and deceptive marketing practices) have occurred or whether grounds exist for the making of an order by the Commission under Part IV.1 of the Act.

The Branch is also concerned with inquiries relating to possible abuses of the rights and privileges conferred by patents and trade marks, where such abuses are related to the activities of firms in the industries for which it is responsible. It also maintains a general surveillance of competitive activities and competition policy issues in those industries so as to identify problem areas requiring analysis or investigation. From time to time it participates in interdepartmental committees and provides input with respect to competition policy in relation to proposed mergers under review by the Foreign Investment Review Agency.

2. Proceedings Following Direct Reference to the Attorney General of Canada — Pursuant to Subsection 15(1) of the Act

SECTION 32

(1) Paradichlorobenzene

This case arose from an inquiry initiated following the receipt of a six-citizen application under section 7 of the Act. The applicants alleged that a conspiracy existed in the production, manufacture, transportation or supply of paradichlorobenzene in Canada in violation of section 32 of the Act. On March 30, 1977, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On March 23, 1978, three separate Informations were laid at Montréal against Chemicals Refineries Corporation, Record Chemical Co. Inc., and Joseph Kuchar under paragraph 32(1)(c) of the Act. In addition, several individuals and one firm were named as unindicted co-conspirators.

A rogatory commission for the taking of certain evidence in the United States, which was scheduled for the week of April 23, 1979, was not held due to scheduling difficulties. The preliminary hearing was held on May 28, 1979, and the accused were discharged owing to the inability of the Crown to complete its evidence. On July 18, 1979, new Informations were laid at Montréal against Chemicals Refineries Corporation and Record Chemical Co. Inc. A preliminary hearing was held January 20, 1981, at which time the accused were discharged.

(2) Soft Drinks — Prince George, British Columbia

This inquiry was commenced in August 1977 as a result of information obtained by the Director. During the inquiry, the records of seven bottling and bottler franchising companies in three British Columbia cities were examined pursuant to Section 10 of the Act. On May 28, 1979, hearings for the taking of oral evidence were held in Toronto pursuant to section 17 of
the Act. In October 1979 the premises of the two bottlers in Prince George were searched again for further evidence in this matter.

On March 31, 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada. An Information containing two counts under paragraph 32(1)(c) was laid at Vancouver on November 27, 1980. On March 10, 1981, the original Information was withdrawn and a new Information in which the original counts were redrafted to form one count covering the period January 1, 1974, to August 31, 1977, was laid against Goodwill Bottling North Ltd; Nechako Contracting Ltd. (formerly Nechako Beverages Ltd.); Sietec Management Ltd. (on behalf of an unincorporated partnership operating as “Nechako-Beverages”); Werner A. Siemens; Jack P. Thompson and Reginald F. Mooney.

The preliminary trial date has been fixed for February, 1982.

**SECTION 32.2**

(3) **Municipal Sewer Castings — Western Canada**

This inquiry was commenced in February 1978 following receipt of a complaint from the Purchasing Department of a large Western Canadian city alleging that it had received information that a recent call for tenders for the supply of municipal sewer castings had been the subject of a bid-rigging arrangement. In February and March 1978 the premises of five companies that had submitted bids for the tender in question were searched for the purpose of obtaining documentary evidence. Hearings for the taking of oral evidence were conducted in June 1978, in the course of which 10 witnesses testified under oath.

On June 24, 1979, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On September 3, 1980, following a review of the evidence, the Department of Justice concluded that a prosecution was not warranted.

**SECTION 34**

(4) **Hoffmann-LaRoche Limited — Drugs**

This case relating to drugs (mild tranquilizers) was referred to the Attorney General of Canada on September 17, 1974.

On February 4, 1975, an Information containing one count under section 33 (monopoly) and one count under paragraph 34(1)(c) (predatory pricing) was laid against Hoffmann-La Roche Limited.

The preliminary hearing in this case took place in Toronto from January 12 to 23, 1976, and on May 21, 1976, the accused was discharged.

On September 19, 1977, an indictment was preferred against Hoffmann-LaRoche Limited containing one count under paragraph 34(1)(c). The trial commenced in the Supreme Court of Ontario on November 20, 1978. On February 5, 1980, the accused was found guilty of an offence under paragraph 34(1)(c) with respect to the sale of one of the two mild tranquilizers referred to in the indictment and the trial judge amended the indictment to conform to the evidence so found. The evidence related largely to the company’s response to price competition from other suppliers, by giving the drug free to hospitals between July 1, 1970, and June 20, 1971. The market price of these free products would have amounted to approximately $2.6 million.

On June 18, 1980, Hoffmann-LaRoche was fined $50,000. The Crown subsequently appealed the sentence, and the company appealed the conviction and sentence. Argument on the appeals was heard in the Ontario Court of Appeal on March 9 to 11 and March 31, 1981.

This inquiry was commenced in August 1977 following the receipt of a complaint alleging that Consumers Glass Company, Limited and its wholly-owned subsidiary, Portion Packaging Limited, were engaged in a policy of predatory pricing with respect to the sale of disposable plastic lids.

The evidence obtained in this inquiry was referred to the Attorney General of Canada on September 15, 1978. On June 6, 1979, an Information containing one count under paragraph 34(1)(c) of the Act was laid at Toronto against Consumers Glass Company, Limited and Portion Packaging Limited. The preliminary hearing commenced on February 18, 1980, and continued on March 13, 1980, and May 12, 1980, at which time the accused were ordered to stand trial.

The trial commenced on November 2, 1980, in Toronto in the Supreme Court of Ontario and was concluded on December 5, 1980. At the end of the fiscal year, judgment had not yet been rendered. (On June 17, 1981, the accused were acquitted.)

(6) Bristol-Myers Canada Limited — Liquid Bleach

This inquiry was commenced in September 1978 following receipt of a complaint alleging predatory pricing in the sale of private label and generic liquid bleach in Ontario. The evidence collected by the Director was referred to the Attorney General of Canada on May 25, 1979. On June 29, 1979, an Information containing one count under paragraph 34(1)(b) and one count under paragraph 34(1)(c) was laid at Toronto against Bristol-Myers Canada Limited.

On July 24, 1979, the Attorney General of Canada applied to the Supreme Court of Ontario for an interim injunction, pursuant to section 29.1 of the Act, forbidding Bristol-Myers Canada Limited from continuing to charge the alleged predatory price for its private label and generic liquid bleach in Ontario until completion of the pending prosecution under paragraphs 34(1)(b) and (c). On July 25, 1979, it was ordered that all papers in the matter be sealed until further order of a Judge of the Supreme Court of Ontario and the matter was adjourned until July 30, 1979, at which time August 9, 1979, was set to argue the Application. A number of affidavits were filed by the Attorney General and Bristol-Myers and both sides cross-examined the deponents. On August 9, 1979, the Attorney General consented to the adjournment of the Application, sine die, as the result of a short-term undertaking by Bristol-Myers. Further affidavits were filed and deponents cross-examined by both sides and on October 24, 1979, and January 15, 1980, the Attorney General, as the result of short-term undertakings by Bristol-Myers, again consented to adjournment of the Application. Subsequently, accounting representatives of the Director examined the financial statements submitted by Bristol-Myers as part of the injunction proceedings and discussed the assumptions on which they were based with Bristol-Myers.

The preliminary hearing, which had been scheduled for April 15, 1980, was postponed in order to allow time for the issues to be isolated as a result of evidence arising from the injunction proceedings. The preliminary hearing was held on November 18, 1980. After the evidence of the witnesses had been heard, the Attorney General decided to withdraw the charges on November 19, 1980.

SECTION 38

(7) H.D. Lee of Canada, Ltd. — Men's Clothing

Following a complaint received on January 6, 1972, an inquiry was commenced into allegations that H.D. Lee of Canada, Ltd. was pursuing a policy of resale price maintenance. The
evidence collected by the Director was referred to the Attorney General of Canada on November 16, 1973. An Information containing four counts under section 38 of the Act was laid at Montréal on May 14, 1974.

After numerous postponements, the preliminary hearing was held on May 27, 1975, at which time the accused was ordered to stand trial on all four counts. The trial commenced on November 24, 1975, and consisted of 11 court days over a 12-month period ending on November 16, 1976.

Written arguments were submitted by the Defence in November 1978 and by the Crown in February 1979. On March 6, 1979, the Court commenced hearing oral argument by the Defence which was completed on May 16, 1979. The Crown submitted its response in written form on June 29, 1979.

On November 19, 1980, the accused was convicted on all four counts. The Crown put forward its written submission on sentencing on January 28, 1981. Submission by the Defence is to be put before the Court on May 21, 1981.

(8) Ravel Enterprises Limited — Stereo Components

This inquiry was initiated in October 1974 following the receipt of a complaint alleging a policy of resale price maintenance by Ravel Enterprises Limited carrying on business under the name S.H. Parker.

On February 6, 1976, the evidence in this matter was referred to the Attorney General of Canada. An Information containing one count under subsection 38(2) and one count under subsection 38(3) of the Act was laid at Toronto on May 4, 1976, against Ravel Enterprises Limited. The preliminary hearing took place on December 13, 1976, and the accused company was ordered to stand trial on both counts. On December 22, 1977, Ravel Enterprises Limited was found guilty on both counts and on January 24, 1978, the court imposed fines of $25,000 and $5,000. The company has appealed to the Ontario Court of Appeal. Since the Appeal in this matter involves many of the same issues as have been raised in the Hoffman-LaRoche appeal, it was agreed that the proceedings be postponed until the Hoffman-LaRoche appeal is decided.

(9) A & M Records of Canada Limited — Records and Tapes

This inquiry was commenced in December 1977 following receipt of information from two record retailers alleging that A & M was attempting to maintain the retail price of records by way of its co-operative advertising policy. It was alleged that the company’s policy provided for equal sharing between retailers and the company of advertising costs for advertisements approved by A & M as long as the retail prices advertised for phonograph records and pre-recorded tapes distributed by the company were above certain minimum specified prices. During the course of the inquiry, A & M’s corporate records and files were examined in December 1977. Further information was gathered by way of interviews of record wholesalers/distributors and retailers.

On March 23, 1978, the evidence in this inquiry was referred to the Attorney General of Canada. An Information containing 10 counts under the former section 38 and under section 38 of the Act as amended was laid against A & M Records of Canada Limited at Ottawa on September 22, 1978. On January 21, 1980, the company pleaded guilty on all counts. Defence submissions and argument on sentence were heard on April 1, 1980, and May 23, 1980, respectively. On August 5, 1980, A & M Records of Canada Limited was fined $35,000 on the first count. Sentence was suspended on the remaining counts on the basis that they were merely further examples of the company’s stated and long-time Cooperative Advertising Policy and that the imposed penalty was a “global amount.”
(10) Sklar Furniture Limited — “Peppier” Furniture

This inquiry was commenced in September 1976 following receipt of a complaint from a Vancouver furniture retailer that he had been refused supply by Sklar Furniture Limited of the “Peppier” brand of furniture because of the retailer’s practice of discounting the price of the product. During the course of the inquiry, the corporate records of Sklar were examined in September 1976. Further information was obtained from interviews with a number of furniture retailers.

On March 23, 1978, the evidence in this inquiry was referred to the Attorney General of Canada. On July 19, 1978, an Information containing five counts under the former section 38 and under section 38 of the Act as amended was laid at Whitby, Ontario. The preliminary hearing was held on May 7 to 9, 1979, and, on May 31, 1979, the company was ordered to stand trial on two of the five counts. The Attorney General, on March 26, 1980, sought a preferred indictment under section 507 of the Criminal Code for two of the three dismissed counts. As of March 31, 1981, no decision had been rendered with respect to the request for a preferred indictment.

(11) Noresco Inc. — Stereo Equipment

This inquiry was commenced in January 1978 following receipt of a complaint from a Toronto retailer alleging that Noresco Inc. had attempted to influence upward the price at which he was selling products supplied by Noresco Inc. During the course of the inquiry, the records of the manufacturer were examined in January 1978.

On April 24, 1978, the evidence in this inquiry was referred to the Attorney General of Canada. An Information containing one count under paragraph 38(1)(a) was laid at Toronto on July 18, 1978, but before the preliminary hearing was held Noresco was put into receivership and the charges were withdrawn on December 14, 1978. As a result of the receipt of a new complaint, the records of the manufacturer, which had since renewed operation, were re-examined in November 1979. The new evidence in this matter was referred to the Attorney General pursuant to subsection 15(1) of the Act on March 21, 1980.

On July 17, 1980, an Information containing two counts under paragraph 38(1)(a) was laid at Toronto. The preliminary hearing was held on January 28, 1981, and, on March 2, 1981, the company was ordered to stand trial on both counts. A trial date has been set for October 5, 1981.

(12) Philips Electronics Ltd. — T.V. Converters

This inquiry was commenced in February 1978 following publication in an Ottawa newspaper of an advertisement for Philips television converters which appeared to be in violation of subsection 38(1) of the Act, because a price was specified without making it clear that the product could be sold at a lower price. During the course of the inquiry, the records of Philips Electronics Ltd. were examined in April 1978.

On June 27, 1978, the evidence in this inquiry was referred to the Attorney General of Canada. On October 25, 1978, an Information containing two counts under subsection 38(1) of the Act was laid at Ottawa against Philips Electronics Ltd. The trial commenced on February 21, 1980, and the company was acquitted on both counts. The Crown appealed from the decision on March 21, 1980.

The appeal, which involved the application of subsection 38(4) of the Act was heard by the Ontario Court of Appeal on June 16, 1980, but on September 23, 1980, the appeal was dismissed. The matter was further appealed to the Supreme Court of Canada on October 8, 1980. The appeal had not been heard at the end of the fiscal year.
(13) Matsushita Electric of Canada Limited — Stereo Components

This inquiry was initiated in January 1979 following receipt of complaints alleging a policy of resale price maintenance by Matsushita Electric of Canada Limited, carrying on business under the name Panasonic Sales Branch.

On May 31, 1979, the evidence in this matter was referred to the Attorney General of Canada. An Information containing two counts under subsection 38(1) was laid at Toronto on August 23, 1979.

The preliminary hearing took place on March 17, 1980, at which time the accused was ordered to stand trial on both counts. The trial commenced in the County Court at Toronto on December 1, 1980, and occupied nine court days in December 1980 and January 1981. On January 31, 1981, the accused was found guilty on both counts. On February 13, 1981, Matsushita Electric of Canada Limited was fined $50,000 on one count. Sentence was suspended on the other count.

(14) Agricultural Chemicals Limited — Fertilizer Chemicals

This case arose from an inquiry commenced by the Director in January 1978 into the production, manufacture, sale and supply of fertilizer chemicals and related products in the London, Ontario area. The evidence obtained in the inquiry was referred on February 6, 1979, to the Attorney General of Canada. On July 5, 1979, an Information containing one count under paragraph 38(1)(b) of the Act was laid at Toronto against Agricultural Chemicals Limited.

The preliminary hearing was held on September 26, 1980, at which time the accused was ordered to stand trial. A trial date has been set for May 4, 1981.

(15) De Carlo Shoe Company Limited and Jakub Kranz Limited (carrying on business as De Carlo Shoe Company) — Women's Shoes

This inquiry was commenced in April 1978 following the receipt of a complaint from a retailer alleging that he could no longer obtain supplies of De Carlo shoes because of his policy of discounting the product.

The evidence in this inquiry was referred to the Attorney General of Canada on December 6, 1978. On March 12, 1980, an Information containing two counts under paragraph 38(1)(b) was laid at Toronto against De Carlo Shoe Company Limited and Jakub Kranz Limited.

The preliminary hearing took place in Toronto on September 22, 1980, and on November 3, 1980, the companies were ordered to stand trial on both counts. The trial commenced on March 17, 1981, and ended on March 20, 1981, at which time the accused were acquitted on both counts.

(16) Church and Co. (Canada) Limited — Shoes

This inquiry was commenced in March 1977 upon receipt of a complaint alleging that Church and Co. (Canada) Limited had refused to supply a retailer because of the latter's low-pricing policy. On April 5, 1979, the evidence in this inquiry was submitted to the Attorney General of Canada. On March 11, 1980, an Information containing 28 counts under section 38 was laid at Toronto.

On June 6, 1980, the company pleaded guilty to all 28 counts in the Provincial Court of Ontario. Arguments on sentence were heard in June 1980 and on September 3, 1980, Church and Co. (Canada) Limited was fined $3,000 on each of eight counts and $2,000 on each of the remaining 20 counts, for a total fine of $64,000. The Crown and the Defence subsequently applied for leave to appeal the sentence to the Supreme Court of Ontario, but on January 29, 1981, leave to appeal was refused.
(17) **Model Craft Hobbies Limited — Hobby and Craft Supplies**

This inquiry was commenced in August 1979 following receipt of a complaint alleging that Model Craft Hobbies Limited was attempting to maintain resale prices on products which it distributed.

The evidence in this inquiry was referred to the Attorney General of Canada on February 1, 1980. On March 31, 1980, an Information containing one count under paragraph 38(1)(a) and one count under paragraph 38(1)(b) was laid at Ottawa.

The preliminary hearing had been set for November 6, 1980 but was adjourned until March 19, 1981, pending the anticipated decision by the Supreme Court of Canada in the Philips Electronics appeal. However, when it became apparent, at that time, that Model Craft Hobbies Limited was experiencing serious financial difficulties and that the delay in the hearing of the Philips appeal would make the burden of this pending action unreasonably severe on the defendant, the Crown entered a stay of proceedings in this action on March 19, 1981.

(18) **300335 Ontario Limited — Coins and Stamps**

This inquiry was commenced in March 1979 following receipt of a complaint from a Vancouver retailer alleging that 300335 Ontario Limited, carrying on business as Unitrade Associates, was engaged in a policy of resale price maintenance. During the course of the inquiry the records of the company were examined pursuant to section 10 of the Act. Further information was obtained from interviews with a number of retailers.

On February 22, 1980, the evidence in this inquiry was referred to the Attorney General of Canada. On August 11, 1980, an Information was laid at Toronto containing three counts under paragraph 38(1)(a), two counts under subsection 38(3) and one count under subsection 38(6).

The preliminary hearing in this matter which was scheduled for December 19, 1980, was waived by the accused. The trial is scheduled for June 19, 1981.

(19) **Magnasonic Canada Inc. — Stereo Equipment and Television Sets**

This inquiry was commenced in December 1977 following receipt of complaints from retailers in Vancouver and Ottawa alleging that Magnasonic Canada Inc. was engaged in a policy of resale price maintenance in respect of the sale of "Kenwood" brand stereo equipment and "Sanyo" brand television sets. During the course of the inquiry, the company's records were examined pursuant to section 10 of the Act for the purpose of obtaining documentary evidence. Further information was obtained from interviews with a number of retailers across the country.

On August 6, 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On November 14, 1980, an Information was laid at Toronto against Magnasonic Canada Inc. containing five counts under paragraph 38(1)(a) and two counts under paragraph 38(1)(b). The preliminary hearing has been scheduled for September 8, 1981.

(20) **Cluett, Peabody Canada Inc. — Men's Shirts**

This inquiry was commenced in August 1979 following receipt of a complaint from a retailer in Kingston, Ontario alleging that he had been refused supply of "Arrow" brand men's shirts by Cluett, Peabody Canada Inc. because he operated a discount retail outlet. During the course of the inquiry, the company's records were examined pursuant to section 10 of the Act. Further information was obtained from interviews with retailers across the country.

On October 10, 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On March 16, 1981, an Information containing four counts under paragraph 38(1)(a) was laid at Toronto against Cluett, Peabody Canada Inc. A date for the preliminary hearing had not been set at the end of the fiscal year.
3. Applications by the Director to the Restrictive Trade Practices Commission under Part IV.1

(1) Bombardier Limitée — Bombardier Limited — Snowmobiles

This inquiry was commenced in November 1977 following receipt of a complaint alleging that Bombardier Limitée — Bombardier Limited of Montréal was engaged in the practice of exclusive dealing. Pursuant to section 10 of the Act, searches for the purpose of obtaining documentary evidence were conducted on the premises of Bombardier Limitée — Bombardier Limited in December 1977. Further, the company supplied the Director in writing with information that was required under subsection 9(1) of the Act.

On February 9, 1979, the Director filed an Application with the Restrictive Trade Practices Commission pursuant to section 31.4 of the Act, asking for an order that would require Bombardier Limitée — Bombardier Limited to cease the practice of exclusive dealing in their snowmobile products and to resupply specified snowmobile dealers that the company had cancelled for carrying a competing line of snowmobiles. Public hearings before the Restrictive Trade Practices Commission commenced in September 1979. On October 14, 1980, the Restrictive Trade Practices Commission dismissed the Director's application for an order. (The Commission's decision is reviewed in Chapter II.)

4. Discontinued Inquiries Reported to the Minister in Accordance with Subsection 14(2) of the Act

SECTION 31.4

(1) Telephone Answering Systems

This inquiry was commenced in August 1979 following the receipt of complaints alleging that a supplier of telephone answering systems in Canada was engaged in market restriction and exclusive dealing.

During the course of the inquiry, the records of the supplier were examined pursuant to section 10 of the Act, and several interviews were conducted. The evidence so obtained indicated that the incidents described by the complainants were isolated and the situation was not considered as one which would warrant an Application to the Commission or be likely to result in an order.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on June 18, 1980.
SECTION 32

(2) Copper Rod, Copper Wire and Cable and Related Products

This inquiry was commenced in December 1975 following the receipt of a complaint from a small wire and cable manufacturer who alleged that his firm had been forced out of business by the concerted predatory actions of three of the largest firms in the industry. It was further alleged that the actions of the large firms were part of a long-standing agreement between them to set prices and sales policies for the industry that smaller firms were expected to follow.

During the course of the inquiry searches were conducted of the premises of the three firms against whom allegations had been made. The premises of an industry association, which allegedly was used as a forum for discussion of industry policies, were also searched. The documentary evidence obtained from these searches indicated the need for further inquiry and as a result hearings were held in February 1979, pursuant to section 17 of the Act. At that time oral evidence was elicited from the complainant, several executives representing smaller manufacturers, an executive of the industry association and senior executives of the firms under inquiry.

The complainant in this matter testified that his firm had been forced out of the industry by a series of price cuts by the firms under inquiry on those specific products manufactured by his firm. He was supported in these allegations by former executives of his firm. Evidence obtained during the inquiry confirmed that such price cuts had taken place but no evidence was found indicating that the price cuts were made as a result of collusive activity among the larger firms in the industry. Documentary and oral evidence supported the testimony of the executives of the firms under inquiry that the low prices were the result of a competitive situation in the market and were not directed at any particular firm. In addition, the evidence indicated that the complainant's firm was under-capitalized and was in serious financial trouble prior to the occurrence of the price cuts.

With respect to the question of whether or not there was a more wide-ranging agreement among the firms concerning prices and sales policies, no documentary or oral evidence of a supportable nature was found to substantiate this allegation. From the evidence it could only be concluded that the industry can be described as a tightly-knit oligopoly. The homogeneous nature of its products combined with the relatively free flow of information between participants in the market apparently has led to policies and published prices being similar or identical for all firms. However, there was evidence indicating that companies did actively compete for business among themselves through the vehicle of offering discounts from list prices both to distributors and to tender-calling authorities from time to time.

In the absence of evidence pointing to collusion as an explanation for the behaviour of the firms under inquiry, both towards smaller firms and among themselves, the Director decided to discontinue the inquiry. The Restrictive Trade Practices Commission concurred in the discontinuance of the inquiry on April 8, 1980, and the discontinuance was reported to the Minister on April 24, 1980.

SECTION 32.2

(3) Automobiles

This inquiry was commenced in May 1978 following the receipt of information indicating that automobile dealers in two Nova Scotia communities had an agreement whereby dealers in one community would not submit bids to the municipal government in the other community, and vice versa. This information included public statements made by a member of the City Council of one of the communities to the effect that such an agreement was known to exist.
During the course of the inquiry searches were conducted pursuant to section 10 of the Act. In addition, hearings for the taking of oral evidence were held before a member of the Restrictive Trade Practices Commission pursuant to section 17 of the Act. The evidence so obtained did not support the initial indications of the existence of a bid-rigging agreement or arrangement. No documentary evidence of the alleged agreement was found during the searches and statements which had indicated the existence of an agreement were subsequently either denied or proved inconclusive when witnesses were examined under oath.

On the basis of the foregoing, the Director decided to discontinue the inquiry. The Commission concurred in the discontinuance on March 31, 1980, and the matter was reported to the Minister on April 14, 1980.

(4) Electrical Wire and Cable — Winnipeg

This inquiry was commenced in April 1980 following receipt of an application pursuant to section 7 of the Act by six members of the City Council of Winnipeg. The application alleged that five manufacturers of electrical wire and cable had violated section 32.2 of the Act by submitting identical bids in response to a tender call by Winnipeg Hydro for its 1980 requirements for power cable.

During the course of the inquiry the tendering records of Winnipeg Hydro for the years 1976 to 1979 were examined. These records indicated that during this period both identical and differing bids had been received by Winnipeg Hydro. In those cases where identical bids occurred it was the case that the bidding firms had submitted list prices. Differing bids resulted when individual firms discounted from their list prices. There was no discernible bidding pattern during any part of the period under study. Award of the contracts by Winnipeg Hydro was determined by low price when bids differed and appeared to be random when identical low bids occurred.

As the information obtained during the course of the inquiry failed to disclose any evidence pointing to collusion as an explanation for the submission of identical tenders to Winnipeg Hydro for the year 1980, the inquiry was discontinued by the Director. The discontinuance was reported to the Minister on February 16, 1981.

Sections 33 and 34

(5) Paper Products

This inquiry was commenced in February 1980 following receipt of a complaint that a national brand manufacturer of paper products in near monopoly position in the market was engaging in policies of regional price discrimination, and selling its products at unreasonably low prices.

In February 1980 the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence so obtained failed to substantiate any of the allegations made regarding the pricing policies of the manufacturer. In view of this fact, it was also concluded that there were no grounds to justify continuing the inquiry pursuant to section 33 (monopoly).

On the basis of the foregoing, it was decided to discontinue the inquiry. The decision was reported to the Minister on February 18, 1981.

Section 34

(6) Plastic Pipe

This inquiry was commenced in July 1978 following receipt of a complaint from a manufacturer of plastic pipe alleging that a major competitor was engaging in a policy of predatory pricing in respect of the product.
During the course of the inquiry, the records of the manufacturer against whom the allegation was made were examined pursuant to section 10 of the Act. The evidence so obtained disclosed that the company had engaged in vigorous price-cutting during specific time periods. However, the evidence also revealed that the industry was plagued by excess capacity and characterized by repeated incidents of vigorous competition, where each and every firm was responding to the price reductions of its competitors. Thus, the prices of this major manufacturer could not be considered “unreasonably low” in relation to those which prevailed in the industry. Furthermore, there was no persuasive evidence of intent on the part of this manufacturer to lessen competition or eliminate a competitor.

On the basis of the foregoing, the Director concluded that this matter did not warrant further inquiry. The inquiry was therefore discontinued and reported to the Minister on March 26, 1981.

(7) Oilfield Equipment

This inquiry was commenced in October 1975 following receipt of a complaint from a manufacturer of oilfield equipment alleging that its major competitor was engaging in predatory pricing and regional price discrimination.

In October 1975 the premises of the competitor were searched pursuant to section 10 of the Act. The evidence so obtained did not show that the competitor had engaged in a policy of selling its products at prices unreasonably low, or that the firm had the intent of substantially lessening competition or eliminating the complainant as a competitor. The evidence in fact disclosed that the company complained against had forgone an opportunity to purchase one of its competitors in 1972 and thereby attain a near monopoly position in the Canadian market. Subsequent behavior by the company under inquiry demonstrated that while it was willing to compete aggressively with the complainant, its policy was not to engage in a price war or to sell its products at a loss. Further, an analysis of the company's tenders revealed that all were priced above average total cost, and that its lower prices were possible because of its lower production costs. Concerning the allegation of regional price discrimination, a study of the tenders prepared by the complainant did not substantiate the claim that his competitor had engaged in a policy of selling products in any area of Canada at prices lower than those charged elsewhere.

During the course of this inquiry, counter charges of attempted agreement to common prices were alleged by both the complainant and his competitor. However, no evidence came to the attention of the Bureau through the documents or other sources to indicate that an agreement contrary to section 32 of the Act had been formed.

On the basis of the foregoing, it was decided to discontinue the inquiry. The decision was reported to the Minister on March 23, 1981.

SECTION 38

(8) Hobby and Craft Supplies

This inquiry was commenced in March 1979 following receipt of a complaint that a manufacturer of hobby and craft supplies had indicated that it would refuse further supply to one of its customers in an attempt to influence upward the price at which its products were sold.

During the course of the inquiry the records of the company were examined. The information obtained did not support the allegation made by the complainant and a decision was made to discontinue the inquiry. The discontinuance was reported to the Minister on January 23, 1980.
(9) Stereo Equipment

This inquiry was commenced in November 1977 following receipt of complaints from several stereo retailers stating that a national distributor of stereo equipment had refused to continue to supply them because of the dealers' low pricing policy. During the course of the inquiry, the records of the distributor were examined pursuant to section 10 of the Act. On the basis of this evidence, several retailers, including the complainants, were interviewed. Subsequently, hearings for the taking of oral evidence were held pursuant to section 17 in June 1979, in the course of which three representatives of the distributor testified under oath.

The evidence so obtained indicated that there were legitimate reasons for the incidents of refusal to supply such as payment problems and insufficient support of the product. While there was some evidence that the distributor had attempted to discourage the reduction of the resale prices of its products, the evidence on the whole was insufficient to support proceedings under paragraph 38(1)(a) of the Act.

On the basis of the foregoing, it was decided to discontinue the inquiry. The Director sought the concurrence of the Restrictive Trade Practices Commission to discontinue the inquiry. The Commission concurred on March 31, 1980, and the discontinuance was reported to the Minister on May 5, 1980.

(10) Food and Beverage Vending Machines

This inquiry was commenced in January 1979 following receipt of a complaint from a Toronto distributor of hot and cold beverage vending equipment alleging that the only Canadian manufacturer of these machines had ceased supplying the distributor directly because of pressure from a competing distributor. The distributor stated that the manufacturer would only make the equipment available to it by invoicing its purchases through another distributor.

In January 1979 the records of the manufacturer and the distributor alleged to have been involved in the refusal to supply were examined pursuant to section 10 of the Act. In May 1979, pursuant to section 17 of the Act, hearings for the taking of oral evidence were held in Toronto in the course of which eight witnesses testified under oath. The evidence so obtained revealed that the subject distributor had asked the manufacturer to cease supplying the complainant, and that the manufacturer had complied with this request. However, there was no conclusive evidence that the distributor's objections to the complainant's obtaining supplies of vending machines were price-oriented in nature, nor was there evidence that the distributor had threatened to cease doing business with the manufacturer should it continue to supply the complainant.

After a thorough analysis, the Director concluded that the evidence was not sufficient to support a conviction under subsection 38(6) of the Act. For this reason, it was decided to discontinue the inquiry. The decision was reported to the Minister on April 24, 1980.

(11) Stereo Components

This inquiry commenced in June 1980 following receipt of a complaint from a Toronto stereo retailer alleging that the retailer had been refused supplies of national brand name stereo equipment because it had advertised and sold the equipment at prices that the distributor considered to be too low.

During the course of the inquiry, the records of the distributor were examined pursuant to section 10 of the Act. The evidence so obtained showed that the complainant's allegations were unfounded, and that there were in fact legitimate reasons for the refusal to supply in this situation.

On the basis of the foregoing, it was decided to discontinue the inquiry. The decision was reported to the Minister on January 29, 1981.
(12) **Stereo Components**

This inquiry was commenced in July 1980 following receipt of complaints from two stereo retailers in British Columbia, alleging that they had been refused supply of a particular brand of stereo components because of their low-pricing policies.

During the course of the inquiry, documentary evidence was obtained from the premises of the supplier pursuant to section 10 of the Act. The evidence so obtained did not indicate that the decision to refuse to supply the two retailers in any way related to their pricing policies in respect of the stereo components. Rather, the action was taken pursuant to the implementation of extensive changes in the supplier's national distribution network, which were adopted for legitimate business reasons.

On the basis of the foregoing, the Director decided to discontinue the inquiry. This decision was reported to the Minister on March 31, 1981.

(13) **Television Sets**

This inquiry was commenced in August 1980 following receipt of a complaint from a Vancouver retailer alleging that a multi-national electronics manufacturer was marketing its brand of television sets in Canada pursuant to a policy of resale price maintenance.

During the course of the inquiry, the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence so obtained failed to substantiate the complainant's claim that the manufacturer was engaging in resale price maintenance. For this reason, it was decided to discontinue the inquiry. The decision was reported to the Minister on February 19, 1981.

(14) **Stereo Components**

This inquiry was commenced in August 1980 following receipt of a complaint from a Vancouver retailer stating that he had been refused supply of a particular brand of stereo components. The complainant further alleged that a competing retailer had induced the supplier to effect the cut-off.

During the course of the inquiry, the records of the supplier were examined pursuant to section 10 of the Act. Examination of the documents so obtained did not indicate that the refusal to supply was in any way related to the pricing policy of the complainant, or that the complainant's competitor played any part in the refusal to supply.

On the basis of the foregoing, the Director concluded that the inquiry should be discontinued. This decision was reported to the Minister on March 31, 1981.

5. Other Matters

(1) **Québec City Concrete**

It has come to the public's attention that there exists an inquiry into the sale and supply of ready-mixed concrete in the Québec City area. This inquiry became public as the result of proceedings before the Federal Court concerning the admissibility and utilization of certain evidence by the Director. The evidence in this matter was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act on January 23, 1981.

(2) **Bid Depositories**

The Bureau of Competition Policy has been engaged in discussions with federal government bodies active in the construction field in an attempt to implement a new set of Standard Federal Rules for use on Federal Government projects. This project is the result of a report by the Restrictive Trade Practices Commission entitled *Use of Bid Depositories in the Construction Industry*, which was transmitted to the Minister of Consumer and Corporate Affairs in October 1976. The background of this matter and the direction taken by the Bureau are dealt with in the Director's 1978 Annual Report. It is expected that these discussions will lead to a satisfactory resolution of this matter in the very near future.
CHAPTER IV

RESOURCES BRANCH

1. Activities

The Resources Branch is responsible for the conduct of all inquiries under the Act with respect to the activities of firms in the Canadian resource industries. In this context resource industries are considered to include agriculture, fishing and all food processing, trapping and all fur processing, the forest industry including all stages of manufacture and distribution of wood and wood products, including pulp and paper, the production, mining and primary processing of all minerals, and the production and distribution of energy, including electrical power, coal and petroleum products.

The Branch analyses complaints and evidence from various sources pertaining to allegedly anti-competitive situations in resource sectors and, when warranted, conducts an inquiry. Any apparent restriction of competition is examined in order to determine whether a violation of Part V of the Act has occurred or there exists grounds for the Commission to make an order under Part IV.1 of the Act.

The Branch is concerned with the assessment of the competitive implications of specific regulatory activities as they pertain to the resource industries. In this context, pursuant to section 27.1 of the Act, the Branch assists the Director with his representations before federal regulatory boards in respect of the maintenance of competition in connection with matters being heard by such boards.

The Branch is also concerned with inquiries relating to the patent and trademark provisions of section 29 of the Act in relation to the resource industries. It also maintains a general surveillance of competitive activities and competition policy issues in those industries for which it is responsible so as to identify problem areas requiring analysis or investigation. Further, the Resources Branch participates in interdepartmental committees and provides input into, and analysis of, competition issues arising from acquisitions under review by the Foreign Investment Review Agency.

2. Proceedings Following Direct Reference to the Attorney General of Canada pursuant to Subsection 15(1) of the Act

SECTION 32

(1) Sugar — Eastern

This case was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act. On May 31, 1973, an Information containing two counts under each of paragraphs 32(1)(b) and (c) was laid at Montréal against Atlantic Sugar Refineries Co. Limited, Redpath Industries Limited, St. Lawrence Sugar Limited and SLSR Holdings Limited (predecessor of St. Lawrence). The preliminary hearing in this case took place between November 1973 and January 1974 and on April 3, 1974, the accused were ordered to stand trial on both counts.

The trial, which began in October 1974, was concluded in June 1975. Judgment acquitting the accused corporations was handed down on December 19, 1975. On January 5, 1976, the Crown filed an appeal before the Québec Court of Appeal. The appeal was heard during the last week of October 1977 and on March 14, 1978, the Court allowed the appeal on the count under paragraph 32(1)(c) and registered a conviction. The case was sent back to the Trial Court for sentencing. The appeal on the count under paragraph 32(1)(b) was dismissed. Submissions on sentence were heard in September 1978. On October 6, 1978, the Trial Court handed down the sentence fining each of the three main accused corporations $750,000. These were the largest fines ever handed down by a court on charges under the Combines Investigation Act.
The accused appealed the conviction to the Supreme Court of Canada and the sentence to the Québec Court of Appeal. The Supreme Court of Canada heard the appeal in December 1979 and on July 18, 1980, rendered judgment allowing the appeals and restoring the acquittals. A consideration of this judgment is to be found in Chapter II.

(2) Gasoline — Sydney, Nova Scotia

This inquiry was commenced in September 1976 following complaints alleging price fixing among retail gasoline dealers. Public hearings were held in Sydney in November 1976.

The relevant evidence in the inquiry was referred to the Attorney General of Canada on December 16, 1977.

On November 6, 1979, an Information was laid against Garfield A. Christie, Witney Hatcher, Carmen B. MacLeod and David Wayne Gilholm who made formal admissions and submitted to an Order of Prohibition pursuant to subsection 30(2) of the Act.

The inquiry is continuing with respect to the activities of other persons. In September 1978 Petrofina Canada Ltd. challenged the powers of the Restrictive Trade Practices Commission and of the Director of Investigation and Research with respect to entry on premises and examination of documents pursuant to section 10 of the Act.

On November 23, 1979, the Federal Court of Appeal denied Petrofina’s challenge but on March 3, 1980, the Supreme Court of Canada granted leave to appeal. It is anticipated that the appeal will be heard in the summer of 1981.

(3) Builders’ Hardware Manufacturing

This inquiry was initiated in March 1973 following the receipt of a series of complaints alleging that Builders’ Hardware manufacturers refused to supply certain distributors who were new to the industry as a result of demands to that effect made by some already established distributors. It was further alleged that the Builders’ Hardware manufacturers engaged in price fixing and market sharing arrangements.

Searches of premises located across Canada took place in March 1973. The analysis of the documentary evidence obtained in the course of the searches supported the allegations. However, oral evidence obtained in hearings before the Restrictive Trade Practices Commission, conducted in November and December 1974 and in January 1975, revealed numerous weaknesses in the documentary evidence. Therefore, additional searches were carried out in April and May 1975.

Subsequently, the inquiry was divided into two separate inquiries, one involving the distributors and the other involving the manufacturers of builders’ hardware. (The inquiry involving distributors was discontinued as reported in the 1980 Annual Report.)

Following further analysis of the evidence in the inquiry involving the manufacturers of builders’ hardware, the matter was referred to the Attorney General of Canada on September 7, 1979. Following a review of the evidence, the Department of Justice concluded that a prosecution was not warranted.

Section 38

(4) Gasoline — Southwestern Ontario

In mid-August 1978 this inquiry was initiated in response to a complaint from a low-volume gasoline retailer alleging that his supplier, Arrow Petroleumums Limited, was attempting to influence upward to a specific level the price at which the complainant advertised, offered, and did supply gasoline in his market area in Southern Ontario.

In the course of the inquiry and following an initial corroboration of the allegations, the records of pertinent parties were examined in late August 1978. Subsequently, oral evidence
from eight witnesses was taken under oath before a hearings officer nominated by the Restrictive Trade Practices Commission. Pursuant to subsections 27(1) and 16(2.1) of the Act, the Vice-Chairman, as Acting Chairman, of the Commission ordered that the oral examination process be conducted in public. These hearings were convened in London, Ontario on October 3 and 4, 1978.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on February 27, 1979. On June 22, 1979, an Information containing one count under subsection 38(1) of the Act was laid against Arrow Petroleums Limited and its parent Ultramar Ontario Limited.

On April 24, 1980, the preliminary hearing took place in London, Ontario. At the conclusion of the hearing one accused, Arrow Petroleums Limited, was ordered to stand trial and the other, Ultramar Ontario Limited, was discharged.

The matter went to trial on October 17, 1980, at which time Arrow Petroleums Limited pleaded guilty and the court imposed a fine of $7,500.

3. Applications by the Director to the Restrictive Trade Practices Commission under Part IV.1

(1) Perrette Dairies Limited — Gasoline

In July 1979 the President of Perrette Dairies Limited submitted a complaint alleging that oil products refiners refused to supply him and that he was therefore unable to get sufficient quantities of gasoline.

On November 2, 1979, the Director filed an application with the Restrictive Trade Practices Commission, pursuant to section 31.2 of the Act, asking for an order that would require Imperial Oil Limited, Petrofina Canada Inc. and Irving Oil Company Ltd. to accept Perrette Dairies Limited as a customer on the usual trade terms and to supply it with gasoline.

In response to the Director's application, Petrofina filed a request with the Federal Court on December 14, 1979, asking that section 31.2 of the Act be declared unconstitutional. On January 8, 1980, Petrofina asked the Court to suspend the proceedings before the Commission during the hearing of its case. The Federal Court rejected the application and Petrofina filed an appeal against this decision.

On February 20, 1980, all three respondents submitted their replies to the Director's application for an Order, denied the alleged facts and reserved the right of challenging, totally or partially, the constitutionality of section 31.2.

The hearings before the Commission commenced on April 21, 1980 and continued intermittently until September 1980.

The Director first presented his evidence; Imperial and Irving presented their defences during the week of hearings in September 1980; Petrofina decided not to present a defence.

There was a final session scheduled for mid-October 1980. It was to be reserved for the argument, but had to be cancelled when Perrette was successful in obtaining fresh supplies of gasoline that satisfied most of its needs.

Since he was no longer able to conclude that Perrette was still substantially affected by the three suppliers' refusal to sell, the Director informed the Commission on October 8, 1980 that he was withdrawing his application for an order. The Commission advised the Director that it regarded his notice of withdrawal as a simple discontinuance of the proceedings, pursuant to section 26 of the rules governing the Commission under Part IV.1 of the Act.
4. Director’s Representations to Regulatory Boards

(1) National Farm Products Marketing Council, consideration of a proposal to establish a Potato Marketing Agency for Eastern Canada

In August 1980, following a study of The Proposal for a Potato Marketing Agency for Eastern Canada prepared by the Eastern Canada Potato Producers’ Council, the Director, in his role as a public interest intervenor, made a submission to the National Farm Products Marketing Council (NFPMC) on the merits of establishing such a marketing agency.

The Council proposed that an Eastern Canada Potato Marketing Agency (The Agency) be granted wide-ranging powers to expand markets for potatoes and improve their operational pricing efficiency and, as well, to exercise “supply management” and to set minimum prices and conditions of sale for all types and varieties of potatoes marketed in the domestic and export markets.

The Director informed the NFPMC that he found merit in establishing a marketing scheme for potatoes, the purpose of which would be market development and improving the operational and pricing efficiency of the marketing system. This determination is based on his assessment of the existing and future marketing opportunities of the Eastern Canada potato industry which demonstrated that a marketing scheme requiring co-ordinated action by producers would likely achieve scale economies in certain marketing functions such as assembly, transportation and handling, and the dissemination of marketing information. However, finding that there appeared to be a greater commonality of interests between the three Maritime producers as compared to the interests of producers in Québec and Ontario, the Director proposed that a marketing scheme covering all five provinces may not be in the interest of growers. He recommended that a system be implemented that would act as a “transaction clearing house” for transactions between buyers and sellers of Maritime-produced potatoes. This system could be a variant of the Dutch Auction System incorporating facilities for telexing market information to growers to provide them with prior knowledge of anticipated prices before potatoes are committed to market. Further, recognizing the particular circumstances encountered by growers producing potatoes for processing arising from the fact that there are only two Maritime processing companies of any importance, the Director noted that there is merit in establishing a marketing board to conduct negotiations with the processing companies on behalf of the growers. The powers entrusted to such a marketing board would not be expected to go beyond those given to the Ontario Vegetable Growers Marketing Board which does not have the right to restrict supply through quotas, nor does it have price-setting powers.

The Director advised the NFPMC that he did not favour the establishment of a Potato Marketing Agency for Eastern Canada with supply management and/or price-setting powers. Again, this determination resulted from an examination of the economic and production performance of the Eastern Canada potato industry. The proposed Agency would be charged with the responsibility to determine the “optimum” level of output. The Director’s examination determined, however, that The Agency, endowed with such powers, would not be any more successful at this task than if no such responsibility was given and the task remained the responsibility of the individual farmer. For example, The Agency would be no better a judge of how the weather and other natural events — factors of considerable importance for the potato producer — will effect output levels. Recognition of this constraint on The Agency’s forecasting abilities is but one of a long list of additional complex tasks The Agency would have to face as soon as it assumed responsibility for determining and allocating production quotas to farmers based on regional cost-of-production formulae.

Since the cost-of-production formulae to be employed by The Agency would be expected to “fairly reflect the cost of producing potatoes...” the costs of farms with less than high levels of productivity would be covered. The validity of this conclusion is supported by experience with other commodities for which similar powers have been used, and by the fact that a relatively few large-sized farms account for the bulk of the acreage and output of potatoes. Consequently, the Director observed that, with no substantial gains to be achieved in moderating
observable fluctuations in potato production and prices, a marketing scheme for potatoes that envisages the application of supply management powers would:

A. At The Farm Level

(1) lower efficiency and provide excessive returns to resources involved in potato production, and reduce the ability of farm firms to achieve size economies (a dynamic process already advanced to a high degree in the Maritime Provinces and Ontario, but less so in Québec) because of their need to purchase quotas from farms who have capitalized economic rents into their production costs;

(2) enforce rigidities within and between provinces in terms of the pattern and composition of potato production (seed, table and processing potatoes);

(3) implicitly exacerbate inequities in income distribution within the farm community (most of the resources owned in potato production are in the hands of the relatively few large-scale operators and to these persons would accrue most of whatever gains the scheme permitted).

B. At The Marketing Level

(4) make more complex decision-making, as well as generating price distortions (as a result of discriminating and other non-competitive pricing practices) as The Agency alternately grappled with the problems of removing potatoes declared “surplus” in particular markets while at the same time providing additional potatoes where “shortages” exist in other markets.

On February 2, 1981, the Honourable Eugene Whelan, Minister of Agriculture, made available the report of the NFPMC on the merits of forming a potato marketing agency for the provinces of Ontario, Québec, New Brunswick, Nova Scotia and Prince Edward Island. The Council found that a majority of producers would accept and agree to the formation of The Agency. However, the Council did not find sufficient evidence to support the granting of supply management powers. The NFPMC thus recommended to the Minister of Agriculture that an Eastern Canada Potato Marketing Agency be established with all the powers contained in section 23 of the Farm Products Marketing Agencies Act, except those related to fixing and determining the quantity of potatoes to be marketed in interprovincial and export trade.

The refusal of the Council to grant supply management powers is in agreement with the thrust of the Director’s submission.

5. Discontinued Inquiries Reported to the Minister in Accordance with Subsection 14(2) of the Act

SECTION 32

(1) Grocery Products — Wholesale

This inquiry was commenced following receipt of an application pursuant to section 7 of the Act, made on June 23, 1980, by six Canadian residents associated with food clubs in New Brunswick. Food clubs are non-profit organizations which purchase food and resell it at no profit to the families in the organization. In the application, it was alleged that a wholesale supplier of grocery products, together with other merchants in northwest New Brunswick, entered into an unlawful agreement to have the wholesaler refrain from supplying grocery and related items to the food clubs. It was also alleged that the said wholesaler was in further violation of the Act by refusing to supply the food clubs because of their low-pricing policy. However, the facts advanced by the applicants in support of the allegations did not raise convincingly a question under the Act.
In the course of the inquiry, it was learned that alternative arrangements were made by the complainants to secure the required supplies from another wholesaler who stocked, in containers of similar size, most items available from the wholesaler complained against. This suggested that, even if evidence could have been obtained to demonstrate the existence of the alleged agreement, such evidence would fall short of providing the necessary proof that the agreement had lessened, or was likely to lessen competition unduly, as required by the Act. Further, it was revealed that the wholesaler complained against severed its relationship with the food clubs because of the non-profit operational status of the clubs, and also because of dissatisfaction with the physical environment in which the clubs operated.

While the evidence failed to indicate a violation of any criminal provisions of the Act, the situation was reviewed in the light of section 31.2 — refusal to deal. Since a basic requirement of this section is that an affected party named in the application as potentially the beneficiary of an order of the Restrictive Trade Practices Commission be legally in business, it was necessary to determine whether the clubs, although registered under the Companies Act with the New Brunswick Registrar of Companies as non-profit organizations, were businesses. Section 2 of the Combines Investigation Act provides only a limited definition, defining “business” as including activities such as manufacturing, producing, transporting, acquiring, supplying, storing and otherwise dealing in articles. The section does not define the conditions under which an entity becomes legally a business enterprise. The common law definitions of “business,” which have been used in conjunction with legislation, have generally required that the entity be operated for a profit; a club that does not earn a profit may not be considered a “business.” A definition well accepted in Canada since 1880 is that “Anything which occupies the time and attention and labour of men for the purpose of profit is business.” Further, “A club which is maintained solely by entrance fees and members’ subscriptions and earns no profits does not carry on ‘business’. . .” The food clubs would therefore appear not to be businesses as required by section 31.2 of the Act. In any event it would appear that they were able to obtain adequate supplies from another source.

On the basis of the foregoing, the inquiry was discontinued and reported to the Minister on November 28, 1980, in accordance with subsection 14(2) of the Act.

SECTION 38

(2) Propane Gas — Québec City

This inquiry was commenced in October 1975 following a complaint submitted by a buyer of propane from the Québec region alleging that propane gas distributors in the region had agreed to restrict competition in sales of the product to established customers and to compete only in sales to new customers.

During the inquiry, the records of the distributors against whom the allegations were made were examined. Evidence collected in the inquiry did not disclose a violation of the Act. On the contrary, certain documents revealed that, during the period in which the complainant suspected a conspiracy, the distributors were competing for established customers. They lost some customers to their competitors and also had to adjust the price given to several others in order to keep them.

In light of this information, the Director decided to discontinue the inquiry and on November 27, 1980, reported his decision to the Minister.

The Director received other complaints similar to the one leading to this inquiry from other regions in Canada. The review of these complaints did not disclose evidence warranting further action. However, their persistence did prompt him to continue monitoring the industry’s conduct.
(3) Gasoline — Peterborough

In August 1979 an inquiry was initiated in response to a complaint from an official of an independent gasoline retailer in Peterborough, Ontario alleging that a competitor had attempted to influence upward the price at which the complainant's company advertised, offered, and did supply gasoline.

During the course of the investigation, the competitor's records were examined and oral evidence was obtained pursuant to subsection 17(1) of the Act. The oral examination process was conducted in private in Toronto, Ontario on October 15, 16 and 17, 1979.

The evidence obtained in the inquiry did not disclose any violation of subsection 38(1). Accordingly, the Director concluded that no further investigation was warranted. The inquiry was discontinued and reported to the Minister on July 4, 1980.

(4) Gasoline — Simcoe

In August 1979 an inquiry was initiated in response to a complaint from an independent gasoline retailer in Simcoe, Ontario alleging that a competitor had attempted on two occasions to influence upward the price at which the complainant advertised, offered to, and did supply gasoline.

During the course of the investigation, the competitor's records were examined pursuant to section 10 of the Act and oral evidence was obtained pursuant to subsection 17(1). The oral examination process was conducted in private in Toronto, Ontario on October 15, 16 and 17, 1979.

The evidence obtained in the inquiry did not disclose any violation of subsection 38(1). Accordingly, the Director concluded that no further investigation was warranted. The inquiry was discontinued and reported to the Minister on July 4, 1980.

6. Other Matters

(1) Inquiry in Progress — Petroleum Industry

In February 1973 the Director received an application for an investigation pursuant to section 7 of the Act which, among other things, related to the then recent product price increases carried into effect by certain Canadian oil refiners and marketers. The application was made on behalf of the Consumers' Association of Canada and the Association informed the media of the application for the investigation. Since that time, on several occasions, information relating to activities undertaken by the Director in the process of pursuing the investigation has been brought to the attention of the public from sources other than the office of the Director. The investigation is very broadly based and embraces many aspects of the production, refining, transportation, and marketing of crude oil, petroleum and petroleum products. During the course of the inquiry the premises of a number of petroleum companies were searched pursuant to section 10 of the Act. In addition, oral evidence was taken from oil industry executives in hearings held before the Restrictive Trade Practices Commission under section 17 of the Act and an extensive written return of information under section 9 of the Act was obtained from over 90 petroleum and pipeline companies.

In the spring of 1979 the Director wrote to the Attorney General pursuant to section 13 of the Act asking him to appoint counsel to assist the Director in this inquiry. Subsequently, the Attorney General appointed senior counsel to review the evidence and advise the Director on the course of action available to him under the Act.

In May 1980 the Director concluded that the progress of this legal review of the evidence over the previous year was such that no timetable for completion of the inquiry could be established, and accordingly he requested that the Attorney General terminate the appointment of counsel. Simultaneously, the Director established a task force within the Bureau to prepare a
Statement of Evidence and Material for submission to the Restrictive Trade Practices Commission pursuant to section 47 of the Act. This Statement, entitled “The State of Competition in the Canadian Petroleum Industry,” was referred to the Commission on February 27, 1981.

In September 1978 Petrofina Canada Ltd. challenged the powers of the Restrictive Trade Practices Commission and of the Director of Investigation and Research with respect to entry on premises and examination of documents pursuant to section 10 of the Act. On November 23, 1979, the Federal Court of Appeal denied Petrofina’s challenge but on March 3, 1980, the Supreme Court of Canada granted leave to appeal. It is anticipated that the appeal will be heard late in 1981.

(2) Gasoline and Heating Oil — Difficulties Faced by Independent Sellers

The Director has been concerned with ensuring the survival and health of cost-efficient independent resellers of petroleum products. This matter was referred to at page 55 of the 1979 Annual Report. The Director and his officials continued to participate in interdepartmental discussions, particularly with the Department of Energy, Mines and Resources and the National Energy Board since these bodies have the primary policy responsibility in this matter. Further, the Director has expressed his concerns to the Foreign Investment Review Agency over proposed purchases of independent marketers by major oil companies.

Monitoring of supply problems experienced by independents continued, bearing in mind section 31.2 — refusal to deal. An application respecting refusal to supply Perrette Dairies Limited is referred to earlier in this chapter.

Through this program of monitoring and consultation, the Director has been able to assist in providing relief for some resellers, if only on a short-term basis. It is expected that the problems experienced in this sector will continue to warrant close attention.

Following his announcement of the National Energy Program which concerns upstream sectors of the Petroleum Sector, the Minister of Energy, Mines and Resources has indicated that a policy respecting downstream sectors is being developed. It is understood that this policy will address the problems faced by independent resellers.

(3) Inquiry in Progress — Fishing Industry, British Columbia

This inquiry was commenced in the fall of 1975 and shortly thereafter its existence was brought into the public domain by the United Fishermen and Allied Workers’ Union who advised the news media that their affairs were being investigated under the Combines Investigation Act. Hearings for the purpose of obtaining oral evidence were scheduled for December 1976, but were disrupted and eventually adjourned.

Following the prosecution under section 41 of the Act relating to impeding or obstructing an inquiry described on page 54 of the 1979 Annual Report, the hearings were resumed in January 1979. Upon commencement of the hearings, three U.F.A.W.U. executives applied to the Federal Court in Vancouver for a Writ of Prohibition to prohibit the Restrictive Trade Practices Commission from compelling the three applicants to give evidence upon oath in the matter of the inquiry. The application was made on the grounds that the collective bargaining activities exemption provided by section 4 of the Combines Investigation Act excused the applicants from being compellable as witnesses in hearings conducted under the Act. The court dismissed the application on February 6, 1979.

As the hearings continued, the three U.F.A.W.U. executives refused to answer most of the questions of counsel for the Director of Investigation and Research. Subsequently, Mr. L.A. Couture, Q.C., Member and Vice-Chairman of the Restrictive Trade Practices Commission applied to the Supreme Court of British Columbia to grant the acting chairman of the hearings the power to penalize witnesses for refusing to respond to questions asked in the course of the hearings. This application was dismissed by the court on October 5, 1979. An
appeal of this judgment by Mr. Couture was filed in November 1979, but has not yet been pursued.

(4) Inquiry in Progress — Wood Industry

On August 23, 1977, the Director commenced an inquiry into the lumber, plywood and related wood products industry in Canada. The inquiry was subsequently made public when some of the companies involved informed the news media that they were being investigated under the Combines Investigation Act. The inquiry was continuing at the end of the fiscal year.

(5) Inquiry in Progress — Uranium Industry

On September 30, 1977, the then Minister of Consumer and Corporate Affairs, the Honourable Warren Allmand, directed Roy M. Davidson, then Acting Director of Investigation and Research, to commence an inquiry pursuant to paragraph 8(c) of the Combines Investigation Act into uranium marketing in Canada. The Minister made his letter to Mr. Davidson public. The following is the text of this letter.

"I wish to review some of the circumstances that have surrounded recent discussions about certain international arrangements affecting the supply of uranium.

In 1972 the Canadian Government supported the development of an international uranium arrangement, principally to counteract the effect on Canadian companies of the measures taken by the U.S. Government to protect U.S. uranium producers. It was Canadian Government Policy to set minimum prices and export quotas for uranium sales outside the domestic and U.S. markets. Recently, after documents pertaining to the uranium arrangement were released in the United States, increasing public concern has been expressed over whether the arrangement may have led to violations under the Combines Investigation Act.

Although the Government has no reason to believe that any contravention of the Act has occurred, I think that it is in the public interest that the air be cleared and that the status of uranium arrangements under the Combines Investigation Act be thoroughly investigated.

I understand that your officers have been monitoring the uranium industry for some time. I further understand that to date you have not obtained information which would give you reason to believe that the Combines Investigation Act has been violated. Therefore, you are unable to cause a formal inquiry to be made pursuant to Section 8(b) of the Act.

Accordingly, and after consultation with my colleagues, I am directing you under Section 8(c) of the Combines Investigation Act to commence a formal inquiry into the marketing of Canadian uranium, with the view that you obtain all the facts in order that it can be determined whether or not an offence under Part V of the Act has been committed.

I wish to assure you that you will have the full cooperation of the government and that adequate resources will be arranged to allow you to conduct this inquiry with dispatch."

During the course of the inquiry oral evidence under oath has been taken from a number of witnesses before a member of the Restrictive Trade Practices Commission. In January 1980 the Federal Court of Appeal heard an application made by counsel for the Atomic Energy Control Board to set aside the decision of a member of the Commission ordering a Board witness to answer questions. The position of counsel for the Board was that the provisions of the Atomic Energy Control Act, regulations pursuant to that Act, and the Official Secrets Act prevented his clients from testifying under the Combines Investigation Act. The judgment of the Federal Court was to the effect that the questions were to be answered because testifying pursuant to the Combines Investigation Act was covered by the exceptions provided for in both the Atomic Energy Control Act and the Official Secrets Act.

The inquiry was in progress at the end of the fiscal year. (Prosecution Proceedings were initiated in July 1981 under paragraph 32(1)(c) of the Act.)
(6) Inquiry in Progress — Fuel Oil, Prince George, B.C.

This inquiry was commenced in 1979 following a complaint that the Prince George Fuel Oil Dealers' Association were refusing delivery to owners of fuel storage tanks with a capacity under 220 gallons.

Public hearings were held in Prince George in November 1979. The inquiry is continuing.

(7) Energy Supplies Emergency Act 1979 — Section 23 Exemptions

Late in 1979 the Energy Supplies Allocation Board was established, and commenced the development of plans to be implemented in the event that an energy supplies emergency is declared.

Section 23 of the Energy Supplies Emergency Act provides that the Board may issue orders exempting certain parties from the provisions of the Combines Investigation Act.

Following mandatory consultation with the Minister of Consumer and Corporate Affairs, conducted through the Director, the Board issued orders covering industry participation in the planning process only.

It is the Director's view that section 23, being valid federal regulation, exempts from the prohibitions of the Act conduct required by such regulation.

Members of the Director's staff attended the inaugural meeting of the Supply Advisory Committee, which consists of the Board with representatives of industry and government.

CHAPTER V

SERVICES BRANCH

1. Activities

The main function of the Services Branch is to analyse complaints and other evidence from a broad variety of sources with respect to alleged restrictions of competition in the service and distribution industries and to conduct inquiries into those situations where inquiry is warranted. The Services Branch is responsible for all wholesale and retail distribution activities not otherwise assigned to the Resources or Manufacturing Branches and for all other services traditionally regarded as such including finance, insurance and business, professional and personal services of all kinds, but not including the distributing sectors of vertically integrated industries, in which the major activity of the industry falls within the responsibilities of the Manufacturing or Resources Branch. The Services Branch is not responsible for construction, communications, or distribution of forestry or energy products research or for representations to federal boards, commissions or other tribunals pursuant to section 27.1 of the Act which fall within the responsibilities of the Regulated Sector Branch.

The Branch deals with violations of Part V of the Act not in the nature of misleading advertising or deceptive marketing practices and with situations which may be reviewable under Part IV. It is also concerned with inquiries relating to proceedings under the patent and trademarks provisions of section 29 of the Act, and maintains a general surveillance of competitive issues and activities in Canada in those industries for which it has responsibility. In addition, it participates in interdepartmental committees and provides input with respect to competition policy in relation to proposed mergers under review by the Foreign Investment Review Agency.

2. Proceedings Following Direct Reference to the Attorney General of Canada
   Pursuant to Subsection 15(1) of the Act

SECTION 32

(1) Papermaker's Felts

This case arose out of an inquiry by the Director into the manufacture, sale, storage, transportation or supply of papermaker's felts and related products in Canada.

The evidence obtained in the inquiry was referred to the Attorney General of Canada in July 1976 and an Information containing one count under paragraph 32(1)(c) was laid at Montréal on October 28, 1976. The preliminary hearing commenced in Montréal on December 5, 1977, with six companies as defendants.

All of the accused companies were ordered to stand trial before the Superior Court of the Province of Québec.

The trial commenced on May 7, 1979, and was completed on July 23, 1979. All of the defendants were convicted on January 7, 1980, and sentenced on February 29, 1980, to the following fines:

- Albany Felt Company of Canada Ltd. $115,000
- Ayers Limited—Ayers Limitée $ 57,500
- Dominion Ayers Limited $ 57,500
- Huyck Canada Limited $115,000
- Penmans, Limited $ 85,000
- Porritts & Spencer (Canada) Limited $115,000
The court also granted an Order of Prohibition against each of the accused. The convicted companies applied for and received leave to appeal. On March 20, 1981, a joint record was filed with the Court by Counsel representing the following companies:

- Albany Felt Company of Canada Ltd.
- Ayers Limited—Ayers Limitée
- Dominion Ayers Limited
- Porritts & Spencer (Canada) Limited

At the end of the fiscal year, the appellant’s factum had not been received.

(2) Volkswagen Parts — British Columbia

This case arose out of an inquiry by the Director into the sale and supply of Volkswagen automobile parts in British Columbia.

The evidence obtained under the authority of sections 10 and 17 of the Act was referred to the Attorney General of Canada on March 29, 1977.

On May 25, 1978, an Information containing one count under section 32 of the Act was laid at Vancouver against the following seven companies:

- Volkswagen Pacific Sales & Service (1975) Ltd.
- Wetmore Motors Ltd.
- Guildford Motors Ltd.
- Clarkdale Motors Ltd.
- Capilano Volkswagen Ltd.
- Cowell Motors Ltd.

At the preliminary hearing in this matter, which took place in Vancouver during the week of February 12, 1979, the seven companies were ordered to stand trial on one count under paragraph 32(1)(c).

At the end of the fiscal year, a trial date had not been set.

(3) Insurance — Fees — Charlevoix County, Province of Québec

This case arose out of an inquiry undertaken by the Director on October 26, 1976, in connection with an alleged conspiracy to prevent or lessen competition unduly in the sale of insurance or in the price of insurance upon persons or property. The evidence gathered during the investigation was referred to the Attorney General of Canada on April 28, 1977. An Information containing one count under paragraph 32(1)(c) was laid at La Malbaie on September 26, 1977, against the Fédération des Courtiers d’Assurance du Québec and the Association Professionnelle des Courtiers d’Assurance de la région de Charlevoix.

The preliminary hearing took place from February 6 to 9, 1978, and the Associations were ordered to stand trial before the Superior Court of the Province of Québec. The trial was held in La Malbaie from September 18 to 28, 1978. On April 20, 1979, the associations were acquitted. On May 15, 1979, the Attorney General of Canada appealed the decision.

At the end of the fiscal year, the appeal had not been heard.

(4) Professional Golf Equipment — Vancouver

This case arose from an inquiry by the Director into the sale and supply of professional lines of golf equipment and golf professional services. The matter was referred to the Attorney General of Canada on July 13, 1978. On February 14, 1979, an Information containing one count under paragraph 32(1)(c) of the Act was laid at Vancouver against the Canadian Professional Golfers’ Association and the Canadian Professional Golfers’ Association of British Columbia. On June 13, 1980, the two Associations pleaded guilty before the Supreme
Court of British Columbia and fines of $40,000 and $10,000 were imposed against the Canadian Professional Golfers' Association and the Canadian Professional Golfers' Association of British Columbia, respectively.

(5) Waste Disposal — Winnipeg

Following receipt of a number of complaints respecting the waste disposal industry in several cities in Canada, an inquiry was initiated in May 1976 to examine alleged conspiracy, predatory pricing, and merger and monopoly offences.

Evidence obtained in the inquiry was referred to the Attorney General of Canada on September 21, 1978. An Information containing one count under paragraph 32(1)(c) was laid at Winnipeg on April 2, 1979, relating to the rental and supply of waste disposal containers in the Winnipeg market in 1974 and 1975. On February 28, 1980, Acme Sanitation Services Ltd. and Haul-A-Way Waste Services Ltd., continuing as Acme Sanitation Services (1979) Ltd., and Browning-Ferris Industries of Winnipeg (1974) Ltd., were ordered to stand trial.

The trial was held during the week of October 27, 1980, in Manitoba Court of Queen's Bench. On December 1, 1980, the accused corporations were acquitted.

(6) Radio and Television Advertising — British Columbia

In June 1977 the Director received a formal application, under section 7 of the Act, for an investigation into the sale of radio and television broadcast time for the purpose of announcing commercial messages by stations operating in the Lower Mainland Region of British Columbia, who were members of the Canadian Association of Broadcasters (C.A.B.). Specifically, the applicants alleged that C.A.B. member stations in this area had agreed to refuse commission payments to advertising agencies who were not enfranchised by the C.A.B. and that such action was contrary to section 32 of the Combines Investigation Act.

Evidence obtained during the course of the Director’s inquiry was referred to the Attorney General of Canada in September 1978 and on May 31, 1979 an Information containing one count under paragraph 32(1)(c) of the Act was laid at Vancouver against the following companies and individuals:

- British Columbia Television Broadcasting System Ltd.
- Western Approaches Limited
- Radio NW Ltd.
- Q Broadcasting Ltd.
- CKWX Radio Ltd.
- Jim Pattison Industries Ltd.
- Great Pacific Broadcasting Ltd.
- CHUM Western Limited
- Moffat Communications Limited
- City and Country Radio Ltd.
- Kenneth Lapp
- J. Edward Smith
- Noel Hullah
- Donald Browning
- J. Bart Gibb
- Allan L. Anaka

On December 13, 1979, at the preliminary hearing of this matter, all the accused were ordered to stand trial before the Supreme Court of British Columbia.

The trial commenced in Vancouver on June 2, 1980, and was completed on June 11, 1980. In a decision rendered on July 8, 1980, all the accused companies and individuals were acquitted.
(7) Conference Interpreters — Ontario and Québec

This inquiry was initiated by the Director following the receipt of information alleging that members of the International Association of Conference Interpreters — L'Association internationale des interprètes de conférence controlled the market for conference interpretation services and that the association members were involved in rate-fixing and other anti-competitive activities.

The evidence obtained during the course of this inquiry was referred to the Attorney General of Canada on April 30, 1979. On September 12, 1979, an Information containing one count under paragraph 32(1)(c) of the Act was laid at Montréal against the following executive members of the Association:

- Simone Trenner
- Dora Sorell
- Eva Richter-Wilde
- Thérèse Romer
- Denise Bourgeois
- Taous Selhi

The balance of the Association membership, involving 68 members, and the Association itself were named as unindicted co-conspirators.

The preliminary hearing commenced in Montréal in September 1980 and continued in December 1980 and March 1981. It had not been concluded at the end of the fiscal year.

(8) Outdoor Advertising

This case arose out of an inquiry by the Director into the manufacturing, producing, transporting, acquiring, supplying, storing and otherwise dealing in outdoor printed posters, outdoor poster panels and related products.

The evidence obtained in the inquiry was referred to the Attorney General of Canada in July 1980 and an Information containing two counts under paragraph 32(1)(c) covering the periods January 1, 1973, to June 30, 1976, and July 1, 1976, to April 1, 1981, was laid at Toronto on April 2, 1981, against the following companies:

- Mediacom Industries Inc.—Les Entreprises Mediacom Inc.
- Mediacom Inc.
- HOAL Investments Ltd.
- Jim Pattison Enterprises Ltd.
- Neonex Consumer Group Ltd.
- Seaboard Advertising Co. Ltd.

In addition, the following were named as unindicted co-conspirators:

- Gould Outdoor (Posters) Limited
- John M. Gould Limited
- J.C. Teron Company Limited
- Outdoor Advertising Association of Canada.

The above Information also contained two counts under section 33 covering the periods January 1, 1973, to December 31, 1975, and January 1, 1976, to April 1, 1981, against the following companies:

- Mediacom Industries Inc.—Les Entreprises Mediacom Inc.
- Mediacom Inc.

In addition, the following were named as party or privy to the formation of the monopoly:

- Outdoor Advertising Association of Canada
The date for the preliminary hearing in this matter has not yet been set.

**SECTION 32.2**

(9) *Suppliers of School Bus Services — Ontario*

This case arose from an inquiry by the Director into the supply of school bus services in the Regional Municipality of Peel in the Province of Ontario.

The evidence obtained was referred to the Attorney General of Canada on May 29, 1978.

On October 24, 1978, an Information containing one count under subsection 32.2(2) of the Act was laid at Ottawa against the following companies and individuals:

- Charterways Co. Limited
- Travelways School Transit Ltd.
- Lorne Wilson Transportation Limited
- Arthur Elen

A preliminary hearing took place on October 2 and 3, 1979, and on November 23, 1979, the accused were committed for trial. The accused companies made an application to the Supreme Court of Ontario for the purpose of quashing the committal on the basis that there was no evidence adduced upon which a committal should be based, that the provincial court judge committed an error in law and that the provincial court judge lacked jurisdiction to commit the accused bus operators for trial. The basic question contested was the contention by the appellants that the authority calling and receiving the tenders should have known beforehand of the identical bids which were in fact submitted by the accused bus operators because of certain matters which the bus operators had allegedly brought to the attention of the tendering authority.

The application was heard before Mr. Justice J.W. Osier on March 5, 1980. On March 12, 1980, the applications were dismissed on the grounds that the wording of section 32.2(1)(b) of the Act, "...where the agreement or arrangement is not made known to the person calling for or requesting the bids or tenders at or before the time when any bid or tender is made by any person who is a party to the agreement or arrangement" — must be construed very strictly. In his reasons for judgment Osler, J., said "...that there is an affirmative obligation upon those who join in such an agreement not just to make it possible for the recipient of their bids to become aware that they had made an agreement but to affirmatively notify such persons in some manner other than the mere production of identical bids...".

The decision of Mr. Justice Osier was appealed to the Court of Appeal. On June 27, 1980, the Court of Appeal upheld the lower courts' decision. (The trial was held commencing May 19, 1981, in the Supreme Court in and for the County of Peel, Brampton, Ontario, and the accused found guilty; convicted June 1st.)

(10) *Janitorial Services — Fort McMurray*

In November 1978 the Director commenced an inquiry when he obtained information which gave him reason to believe that an offence under the bid-rigging provision of the Combines Investigation Act had been committed. Public hearings under section 17 were held in March and May 1979. The evidence assembled pursuant to sections 10 and 17 of the Act was
referred to the Attorney General of Canada. Following a review of the evidence, the Department of Justice concluded that a prosecution was not warranted.

SECTIONS 34 AND 35

(11) Pfaff Sewing Machine Co. of Canada — Ontario

This inquiry commenced in September 1978 as a result of a complaint from a retailer of sewing machines in Hamilton, Ontario that he had been discriminated against in that discounts, rebates, price concessions, promotional and other allowances were made available to his competitor over and above those made available to him.

Evidence in this matter was referred to the Attorney General of Canada on April 16, 1980.

On April 23, 1981, an Information containing one count under paragraph 34(1)(a) and one count under subsection 35(2) was laid at Ottawa against Pfaff Sewing Machine Co. of Canada Limited.

SECTION 38

(12) Hairdressing Supplies — Montréal

This inquiry was commenced in September 1978 as a result of a complaint by a wholesaler of hairdressing supplies that he had been refused further supply because of his low-pricing policy. The complainant was a new entrant to the market and pursued a strategy of offering goods at discount prices in order to penetrate the market.

Evidence obtained during the course of the inquiry was referred to the Attorney General of Canada on April 26, 1979. An Information was laid at Montréal on July 4, 1979, against Dannyco Trading (Canada) Ltd. and the company’s owner Nicholas Bilek, alleging offences under paragraphs 38(1)(a) and (b) by each accused. At the preliminary hearing on January 16, 1980, the accused were ordered to stand trial on both counts. On May 29, 1980, Dannyco Trading (Canada) Ltd. pleaded guilty to the count under paragraph 38(1)(b) and was also convicted on the count under paragraph 38(1)(a) and was fined $1,250 on each count. The counts against the individual were withdrawn.

(13) Durex Marketing Corporation — Citizen Band Antennae

This inquiry was commenced in October 1978 following receipt of a complaint that Durex Marketing Corporation of Mississauga, Ontario, was engaging in the practice of resale price maintenance with respect to the K-40 antenna.

The evidence in this matter was referred to the Attorney General of Canada on March 30, 1979. In an Information laid at Ottawa on October 23, 1979, Durex Marketing Corporation was charged with eight counts under section 38 of the Act.

At the preliminary hearing at the Peel Provincial Court on July 3, 1980, the company was ordered to stand trial on all counts. A trial date has not been set.

(14) Moncton and District Landlords Association

This inquiry was initiated by the Director in December 1978 following the receipt of information which indicated that the Moncton and District Landlords Association had agreed on uniform rent increases. In May 1979 the evidence obtained in the inquiry was referred to the Attorney General of Canada. An Information containing one count under paragraph 38(1)(a) was laid at Moncton on November 9, 1979, against the following individuals and corporations:

Alan D. Schelew

52
Irving Schelew
Pine Park Realty Ltd.
Bram Enterprises Ltd.
J.S. Management & Consultants Ltd.
Moncton & District Landlords Association Inc.
Alyre J. Boucher
Keith Richardson
Jamb Enterprises Ltd.
Moncton Family Outfitters Ltd.
A.I. Enterprises Ltd.

During the preliminary hearing, which proceeded intermittently between February 1980 and January 1981, the Court dismissed motions by the accused for the dismissal of charges on the grounds that the Attorney General lacked constitutional authority in the matter and that an abuse of due process had been committed by the Crown. On October 29, 1980, one of the accused, Alyre Boucher, elected to waive the preliminary hearing. Except for Keith Richardson and Pine Park Realty who were not committed for trial, all of the remaining accused were, on January 22, 1981, ordered to stand trial.

A trial date had not yet been scheduled at the end of the fiscal year.

(15) J. Tynan Company Limited — Household Furniture

This inquiry was commenced in November 1978 following receipt of a complaint from a retailer that John Tynan & Company Limited was refusing to supply him because of his low-pricing policy. The evidence obtained by the Director was referred to the Attorney General of Canada on May 18, 1979. On November 21, 1979, an Information was laid at Medicine Hat, Alberta against John Tynan & Company Limited. The Information contained four counts, one of which was pursuant to section 35 of the Act and three of which were pursuant to section 38 of the Act.

A preliminary hearing was held on February 22, 1980, and the accused was ordered to stand trial on two counts under section 38. The accused was not committed for trial on the count under section 35 and one count under section 38 were dismissed at the preliminary hearing. The trial for both remaining section-38 counts was held on September 8, 1980. The accused was found not guilty on both counts.

(16) Rolph-McNally Limited — Maps and Cartographical Material

This inquiry was commenced on January 11, 1979, following the receipt of a complaint alleging that Rolph-McNally Limited had refused to supply a retailer because of the latter's low-pricing policy. On November 17, 1980, the evidence in this inquiry was submitted to the Attorney General of Canada. On March 31, 1981, an Information containing one count under paragraph 38(1)(a) and one count under paragraph 38(1)(b) was laid at Toronto. At the end of the fiscal year a date for the preliminary hearing had not been set.

(17) Food Services — Automobile Plant

Following receipt of information alleging that a large automobile manufacturer in Southern Ontario was attempting to influence upward, or discourage the reduction of prices at which caterers located on its premises were selling food and related products, the Director commenced a formal inquiry.

Evidence was obtained under the authority of sections 10 and 17 of the Act and the matter was referred to the Attorney General of Canada on June 9, 1980. Following a review of the evidence, the Attorney General concluded that a prosecution or other proceeding was not warranted.
3. Applications by the Director to the Restrictive Trade Practices Commission under Part IV.1

(1) **BBM Bureau of Measurement — Radio and Television Rating Services**

This inquiry was commenced following the receipt of a complaint alleging that BBM Bureau of Measurement was engaged in the practice of tied selling as defined in subsection 31.4(1) of the Act. The preliminary stage of the inquiry revealed that as a condition of supplying radio data to certain member categories, BBM required or induced these members to acquire its television data.

Evidence was obtained under the authority of section 10 and subsection 9(1) of the Act in June 1977 and December 1978, respectively. On August 21, 1979, the Director filed an Application with the Restrictive Trade Practices Commission pursuant to section 31.4 of the Act, asking for an order prohibiting BBM Bureau of Measurement from continuing to engage in tied selling of its radio and television data to its advertising agency, station representatives and advertiser members.

In the Application, the Director alleged that BBM Bureau of Measurement was engaged in tied selling, and was the sole supplier of radio data and a major supplier of television data in Canada. The Director further alleged that BBM's tied selling policy was likely to impede entry into or expansion of a firm in the Canadian radio and television data market or impede expansion of sales of the television data in the market, with the result that competition had been or was likely to be lessened substantially.

BBM Bureau of Measurement filed its Reply to the Director's Application with the Restrictive Trade Practices Commission on February 28, 1980. In its Reply, BBM denied that any of the allegations in the Director's Application or any combination thereof constituted tied selling as defined in the Act.

Public hearings before the Restrictive Trade Practices Commission commenced on November 25, 1980. Hearings were also held in December 1980, and January and March 1981. At the end of the fiscal year, the hearings were still in progress. The Director's Application and the documents upon which his Application relies and BBM's response are on file with the Restrictive Trade Practices Commission.

4. Discontinued Inquiries Reported to the Minister in Accordance with Subsection 14(2) of the Act

**SECTION 31.4**

(1) **Cement and its Transportation**

This inquiry was commenced in August 1979 following receipt of a complaint from the owner of a haulage company to the effect that the only cement manufacturer in a provincial market had a delivered pricing policy that inhibited the expansion of the complainant's cement haulage business. Preliminary inquiry established that the complainant's company had a licence to haul cement and that the cement manufacturer reserved the right to designate the carrier on deliveries to its customers.

During the course of the inquiry, hearings were held under section 17 of the Act and 12 witnesses gave evidence under oath before a member of the Restrictive Trade Practices Commission. In addition, notices requiring written returns under oath pursuant to section 9 of the Act were sent to four companies, including the complainant's.

Evidence obtained in the inquiry substantiated that the cement manufacturer did have a delivered price policy and did designate the carrier of its cement. However, the evidence did not establish that the delivered price policy was likely to have an exclusionary effect in the market with the result that competition was or was likely to be lessened substantially, as is required under the tied selling provision.
On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry and should be discontinued. On February 3, 1981, the Commission concurred in the Director's decision to discontinue the inquiry and the matter was reported to the Minister on February 9, 1981.

(2) **Real Estate Sales — Sarnia, Ontario**

This inquiry was commenced in July 1980 following receipt of an application pursuant to section 7 of the Act from six Canadian residents.

The application alleged that the real estate divisions of three trust companies in Sarnia, Ontario were engaging in conduct that raised questions pursuant to the tied selling provisions of the Act. The specific allegations were that the three companies had published statements to the effect that they were only providing new mortgage loans on transactions arranged by their respective real estate divisions. Further, the three companies were all advertising the fact that they could supply interest-free bridge financing, preferential mortgage rates and the transfer of existing low-interest mortgages from one property to another if the prospective customers buy and sell through their respective real estate divisions.

Information assembled during the course of the inquiry established that one of the companies against whom allegations had been made did not offer any of the financial services referred to in the application. In addition, the other two companies identified in the application offered only interest-free bridge financing and portable mortgages respectively, and the conditions under which the services are offered are very exacting. In the first instance, interest-free bridge financing is offered only to vendors who have already sold their home through the company and need money for the purchase of a second house before the closing date of the first transaction. Further, since the money is advanced from the trust company's financial division to its real estate division, the real estate division pays interest on the loan and therefore the net commission must more than compensate. With respect to portable mortgages, it was established that such a mortgage is only offered to clients who already have a mortgage with the respective trust company. Therefore, the ultimate market for such services is much smaller than the allegations suggested.

Information obtained from the Sarnia Real Estate Board disclosed that of 4,071 MLS listings in 1980, less than 10 involved the type of conduct which was the subject of the section 7 application.

In view of the information assembled, the Director concluded that the matter was not such as to provide grounds to the Restrictive Trade Practices Commission for a remedial order pursuant to section 31.4 of the Combines Investigation Act, and in March 1981 discontinued further inquiry into the matter. Discontinuance of the matter was subsequently reported to the Minister.

**SECTION 34**

(3) **Multi-Modal Transportation Rates**

This inquiry was commenced in May 1980 following the receipt of a section-7 application from six Canadian residents. The applicants alleged that a number of steamship companies operating on routes from overseas locations to a major Canadian port were offering comprehensive multi-modal transportation rates, to inland destinations which were lower than the sum of the published ocean freight rates to the port, terminal charges at the port and published inland transportation rates, and that this resulted in a situation where the actual price of ocean transportation for cargo going to inland destinations was lower than that paid for cargo destined for the port. It was further alleged that the intent of this pricing policy was to eliminate Canadian freight forwarders who have traditionally handled the inland movement of the traffic. The matter was considered under paragraphs 34(1)(b) and (c) and section 31.4.
Under paragraph 34(1)(b), it would have had to be shown that the steamship companies had engaged in a policy of selling a product in an area of Canada at prices lower than those exacted for the same product elsewhere in Canada. However, there was considerable doubt as to whether it could be argued that the product sold by the steamship companies to shippers from overseas locations to the port was the same as that offered to shippers to inland destinations since the transportation service supplied differed not only in the distance involved but also the transport modes involved and the type of services provided. In addition, it would have had to be shown that the pricing policy had had the effect or tendency of substantially lessening competition or eliminating a competitor, or that it had been designed to have such effect. Given the variety of route options open to shippers from the overseas locations to the inland destinations, the competition among steamship companies in the provision of the multi-modal service and the ease of entry into the freight forwarding industry, it was doubtful that it could be shown that the steamship companies' pricing policy had substantially lessened competition. Furthermore, since the freight forwarding companies derived a substantial amount of their revenues from the provision of other services, there was no indication that any of them would go out of business as a result of the pricing policy of the steamship companies. There was also no indication that the steamship companies had introduced the multi-modal rates with the intention of eliminating the freight forwarders. Instead, it appeared that the multi-modal rates were an extension of intense rate competition on the ocean routes involved.

Under paragraph 34(1)(c), it would have had to be shown that the steamship companies had engaged in a policy of selling at prices that were unreasonably low which had had the effect or tendency of substantially lessening competition or eliminating a competitor or that it had been designed to do so. The jurisprudence suggests that if a seller is at least covering the costs that vary with the amount of product supplied, a court will not find that the prices in question are unreasonably low, and information obtained during the course of the inquiry suggested that the multi-modal rates allowed the steamship companies to cover their direct variable costs of providing the service. Furthermore, as referred to above, there was no evidence that the steamship companies had introduced these rates with the intention of eliminating the freight forwarders.

Finally, under section 31.4, it would have been necessary to demonstrate to the Restrictive Trade Practices Commission that the steamship companies were offering to supply one portion of the multi-modal service to shippers on more favourable terms if the shippers acquired the other portion from them. Since the multi-modal service was offered as a total package, it would have been impossible to determine on which portion of the service the favourable terms were being offered, and it was therefore concluded that section 31.4 did not apply.

However, in order to examine the implications of the situation under section 31.4, consideration was given to the theory that since the steamship companies were primarily in the business of providing ocean transportation and faced relatively fixed costs on the inland portion, the more favourable terms were being offered on the ocean portion. Given that the steamship companies were not primarily in the business of supplying inland transportation and did not offer it as a separate product, it would have been difficult to argue that the steamship lines were selling ocean transportation at a favourable price in order to promote the sale of inland transportation.

In view of these considerations, and the fact that the pricing practices of the steamship companies had resulted in lower rates for shippers on the routes involved, the decision was made to discontinue the inquiry.

The Minister was informed of the discontinuance on December 31, 1980, and the applicants were so advised.
(4) **Dry Cleaning Services — Victoria B.C.**

This inquiry concerned the pricing of dry cleaning services in Victoria, B.C. It was initiated by the Director in February 1978 following the receipt of information indicating that an attempt to influence prices upward contrary to paragraph 38(1)(b) had been made concurrently with the introduction of a schedule of prices by three independent firms. Documentary evidence was subsequently obtained from the premises of each company but did not substantiate that the Act had been violated.

Accordingly, the Director concluded that the matter did not warrant further inquiry. The inquiry was discontinued and reported to the Minister on September 22, 1980.

(5) **Television Sets**

This inquiry was begun in May 1980 following receipt of a complaint from a Vancouver retailer alleging that the Canadian distributor of a line of television sets was pursuing a policy of resale price maintenance. The retailer claimed that he had been refused further supply of the sets following the publication of an advertisement in the Vancouver Sun in which he featured the sets at significantly reduced prices.

Documentary evidence was gathered from the premises of the distributor and it revealed no violations of section 38 of the Act. The inquiry was therefore discontinued and reported to the Minister on February 19, 1981.

(6) **Real Estate Advertising — British Columbia**

This inquiry was commenced in January 1979 following receipt of a complaint from a real estate broker who commonly offered lower commission rates than those prevailing in the industry. The complainant alleged that a number of real estate brokers had entered into agreement with the publisher of a local newspaper which was distributed solely for the purpose of advertising real estate in order to prevent him from advertising.

In June 1979 searches at several premises were carried out under the authority of section 10 of the Act, and in September 1979 the oral evidence of 10 persons was heard before a member of the Restrictive Trade Practices Commission.

Analysis of both the oral and documentary evidence did not reveal an agreement between the alleged parties. It was determined that although the newspaper's policy excluded the advertisement of commission rates, this policy was set solely by the principals of the newspaper. The complainant was initially prevented from advertising due to the lack of available advertising space.

On the basis of the foregoing, the Director concluded on March 24, 1981, that the matter did not warrant further inquiry and decided to discontinue the inquiry. The Restrictive Trade Practices Commission concurred in the discontinuance of the inquiry and the discontinuance was reported to the Minister.

5. **Other Matters**

(1) **Inquiry in Progress — Law Society of British Columbia**

This matter was reported at pages 66 and 10-11 of last year's Annual Report. In 1978 the Director commenced an inquiry as a result of actions taken by the Law Society of British Columbia to enforce its rulings prohibiting fee advertising. The Law Society commenced an action in the B.C. Supreme Court to prevent the Director from conducting the inquiry and, in a related action, North Vancouver lawyer Donald Jabour commenced a civil action under section 31.1 of the Act against the Society.
On August 20, 1980, the Court of Appeal of British Columbia reversed the trial decision and found that the Society's virtual prohibition on advertising was authorized by provincial law and that the Combines Investigation Act did not apply to the Society. Earlier, the Court of Appeal had upheld a decision of the trial court dismissing an application by the Attorney General of Canada to dismiss the Law Society's action on the grounds that only the Federal Court of Canada had jurisdiction to hear it by virtue of sections 17 and 18 of the Federal Court Act.

On December 2, 1980, the Supreme Court of Canada granted leave to appeal from the decisions of the Court of Appeal in the Law Society and Jabour cases with respect to the issues of the jurisdiction of the Court, whether or not the Combines Investigation Act applies to the Society, and if so whether or not it is *ultra vires*, and, in the Jabour action, whether or not the Society's action against Jabour violates his right to freedom of speech. The appeal was heard in May 1981, and decision is awaited.

(2) *Department Stores — The Hudson's Bay Company*

During the period under review, information was brought to the Director's attention which indicated that steps had been taken by the Hudson's Bay Company (the Bay) to obtain volume incentives from a number of major apparel manufacturers based on the combined purchases of the Bay and Simpsons. The Director immediately commenced an in-depth examination to determine whether he was obliged to re-open his inquiry into the Bay's acquisition of Simpsons and an interest in Simpsons-Sears which was commented on in his 1979 Annual Report.

During the course of this examination, the Director assembled information from a number of apparel manufacturers and senior personnel in various apparel manufacturers' associations. The assembled information disclosed that volume rebates were not in themselves a new development in the industry and that the Bay, as well as certain other major retailers, was already receiving such discounts from certain manufacturers. It was evident that Simpsons had not pressed for such discounts in the past and it was the joint nature of the request which appeared to be causing concern among the manufacturers who already granted such rebates. There was also concern among those manufacturers who had not granted volume rebates in the past that they might be forced to give them because of the purchasing power of the Bay. There was also a fear that Zeller's might be included in future joint requests. The assembled information also suggested, however, that only a limited number of apparel manufacturers were approached by the Bay/Simpsons and that these were relatively major suppliers.

There was no evidence that the Bay/Simpsons share of "traditional" department store sales had increased significantly since the merger. Furthermore, since the apparel manufacturers did not appear to consider department stores as a separate market from chain stores, there was some thought that it might be necessary to define the relevant markets as the total retail sales of garments, in which case the market share of the Bay group would be much smaller.

For the foregoing reasons, the Director concluded that the matter did not provide grounds for re-opening his inquiry.

Later in the year, it was announced in the press that the Bay proposed to acquire the balance of the outstanding shares of Zeller's not already owned by it. Concerns similar to those outlined above were expressed by the apparel industry regarding this proposal. The matter was examined in considerable detail and during the course of this examination concern was also expressed regarding other potential effects of the merger including a further decrease in consumer choice, increased influence by the Bay over shopping centre development, the potential for the Thomson organization to use its control over the Bay group to control the direction of Zeller's advertising, and the potential for the Bay to direct Zeller's to purchase from Hudson's Bay Wholesale to the detriment of independent distributors.
However, the Director concluded that, in the light of the available evidence and the adverse jurisprudence under the merger provisions of the Act, the matter did not provide grounds for a formal inquiry.

(3) **B.C. College of Dental Surgeons**

This inquiry commenced in February 1980 following receipt of a section-7 application from six persons on behalf of CU & C Health Services Society, a non-profit health insurance company in British Columbia. The applicants alleged that members of the College of Dental Surgeons had conspired to unduly lessen competition by fixing fees for their services by utilizing a fee guide published by the College. An action to recover damages under section 31.1 of the Act commenced concurrently with the section-7 application was dropped by CU & C Health Services Society when the provincial government entered the dental care field.

The inquiry was continuing at the end of the fiscal year.

(4) **Daily Newspapers**

Following the closing of the Ottawa Journal, the closing and sale of the assets of the Winnipeg Tribune to its competitor, and the purchase by Southam Inc. of the interests in the Montreal Gazette and Pacific Press in Vancouver held by Thomson Newspapers Limited, a formal inquiry was commenced under the Combines Investigation Act to investigate alleged violations of section 32 (conspiracy) and 33 (merger and monopoly). Searches were conducted under section 10 of the Act in September 1980 as reported in the media at that time. Hearings before the Restrictive Trade Practices Commission under section 17 were also conducted in September. Evidence obtained in the inquiry was referred to the Attorney General of Canada under subsection 15(1) for his consideration on January 15, 1981. Prosecution proceedings were instituted in May 1981 under sections 32, 33 and 41 of the Act.

(5) **Merger Register**

This register has been maintained by the Director since 1960. It attempts to record all reported mergers in industries subject to the Combines Investigation Act.

Accordingly, until the recent amendments, firms in most of the service sectors of the economy were largely excluded. Information available under the Corporation and Labour Unions Returns Act (Calura) indicates that a large number of very small acquisitions are not reported in the press. Calura information itself is not used in the preparation of the register because many companies report late, many acquisitions of extremely small companies are reported without any indication as to size, many acquisitions are of non-operating companies, and it is often impossible to tell whether there has been a real change in control.

The merger register depends upon comprehensive coverage of the major financial news media, including daily and financial newspapers, trade journals, business magazines and other publications of Canada, the United States and Britain. To the extent that the intensity of press reports of merger activity does not vary significantly from year to year, to the extent that it is accurately reported, and to the extent that the canvass of press reports by the Bureau is consistent from year to year, the number of acquisitions recorded in the merger register provides an indication of merger trends.

Since the Foreign Investment Review Act came into force in April 1974, the information respecting “foreign” acquisitions in the merger register now includes acquisitions which have been allowed under the Foreign Investment Review Act. Information respecting applications for acquisition of Canadian business enterprises by foreign persons (“non-eligible persons” in terms of FIRA) is brought to the attention of the Director for the purpose of obtaining advice with respect to the competition policy implications of proposed acquisitions. However, as is the case with respect to the Compliance Program, such information would not of itself be used to initiate an inquiry or in any subsequent proceedings under the Combines Investigation Act.
Although the register does reflect a fairly comprehensive coverage of published sources of information, attempts to verify its accuracy have shown that there is need of more adequate continuing sources of information about mergers. At this time, therefore, the merger register should not be regarded as more than an initial review of public information.

The following table shows the total number of acquisitions recorded yearly since 1960:

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<td>1978</td>
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<tr>
<td>1980***</td>
<td>234</td>
<td>180</td>
<td>414</td>
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* Acquisitions involving a foreign-owned or foreign-controlled acquiring company (the nationality of the controlling interest in the acquired company prior to the merger could have been foreign or Canadian).

** Acquisitions involving an acquiring company not known to be foreign-owned or foreign-controlled (the nationality of the controlling interest in the acquired company prior to the merger could have been foreign or Canadian).

*** Preliminary.
CHAPTER VI

REGULATED SECTOR BRANCH

1. Activities

The Regulated Sector Branch was formed on October 1, 1980. Currently, the Branch is mainly concerned with the behaviour and performance of regulated industries in the telecommunications and transport areas. It also has prepared studies on the effects of tariffs and quotas on competition in Canada. Expansion of branch activities into the energy and food sectors is being contemplated.

In announcing the formation of the Branch, the Minister of Consumer and Corporate Affairs, the Honourable André Ouellet, stated:

"The main reason for the formation of the Branch is to ensure that effective competitive forces are allowed to work to the greatest extent in the increasing proportion of the Canadian economy that is now subject to regulation.

"We are not particularly interested in the process of creating regulations, but rather in the performance of those sectors of the economy subject to regulation."

While the formation of the Regulated Sector Branch is new, the Bureau of Competition Policy has had the authority to intervene before federal regulatory boards since the 1976 amendments to the Combines Investigation Act. Also, the Director has from time to time intervened before a provincial regulatory board with the permission of such board or at its invitation. In addition to interventions under section 27.1 of the Act, the Branch also enforces when it is appropriate other sections of the Act which may be applicable to the unregulated activities of regulated industries.

Section 27.1 provides

"The Director, at the request of any federal board, commission or other tribunal or upon his own initiative, may, and upon direction from the Minister shall, make representations to and call evidence before any such board, commission or other tribunal in respect of the maintenance of competition, whenever such representations or evidence are or is relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other tribunal is entitled to take into consideration in determining such matter.

(2) For the purposes of this section, ‘federal board, commission or other tribunal’ means any board, commission, tribunal or person who is expressly charged by or pursuant to an enactment of Parliament with the responsibility of making decisions or recommendations related directly or indirectly to the production, supply, acquisition or distribution of a product and includes an ad hoc commission of inquiry charged with any such responsibility but does not include a court. 1974-75-76 c. 76, s. 9."

Since 1976, the Director of Investigation and Research has made representations before the Canadian Radio-television and Telecommunications Commission, the Canadian Transport Commission, the Board of Commissioners of Public Utilities for the Province of Nova Scotia, the Board of Commissioners of Public Utilities of the Province of New Brunswick, and the Ontario Securities Commission.

These interventions have dealt with such varied items as the CNCP Telecommunications application for access to the Bell Canada system for telecommunications traffic, Telesat's proposed agreement with the Trans Canada Telephone System, a number of cases dealing with both mobile telephone and radio paging services, and the proposed acquisition of Nordair by Air Canada.

61
The Director liaises with other appropriate groups during the preparation of an intervention to ensure that his representations are not redundant but complementary.

At the time of the formation of the Branch, a number of existing cases and interventions were transferred to it from the Manufacturing Branch and the Services Branch. The status of these existing proceedings are now reported in this Chapter together with the representations made by the Director for which the Branch has responsibility.

2. Proceedings Following Direct Reference to the Attorney General of Canada Pursuant to Subsection 15(1) of the Act

SECTION 32

(1) "For-hire" Trucking — Western Canada

This inquiry was commenced following receipt of complaints of collusion in the trucking industry from a shippers' organization as well as from individuals in Western Canada.

On November 5, 1979, following referral of the evidence assembled in the inquiry to the Attorney General of Canada, an Information was laid under section 32 of the Act against 20 companies and 11 individuals whose names are listed on page 55 of the 1980 Annual Report.

As noted in Chapter II, the arguments relating to the constitutionality of this case are still being heard before the Alberta Court of Appeal.

(2) Transportation of Household Goods

This case arose out of an inquiry by the Director into an alleged conspiracy to prevent or lessen competition in the transportation of household goods.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on August 3, 1978. An Information containing one count under paragraph 32(1)(c) of the Act was laid at Toronto on February 20, 1980, against the following companies and industry associations:

- Allied Van Lines Limited
- United Van Lines (Canada) Ltd.
- North American Van Lines Canada Ltd.
- Aero Mayflower Transit Co. Ltd.
- Atlas Van Lines (Canada) Ltd.
- Canadian Warehousing Association

In addition, several individuals and one other industry association were named as unindicted co-conspirators.

It is expected that the preliminary hearing in this matter will commence in October 1981.

3. Director's Representations to Regulatory Boards

(1) Bell Rate Application, 1978

This matter was referred to at page 44 of the 1978-79 Annual Report.

The Director has continued to monitor two components of this application: (i) direct sale and lease or purchase of equipment and (ii) new tariff filings for other charges.

62
Bell Canada and British Columbia Telephone Company Applications for Approval of Increases in Rates for Services Provided by the Members of the Trans-Canada Telephone System (TCTS)

On March 15, 1978, Bell Canada filed with the Canadian Radio-television and Telecommunications Commission (CRTC) an application for approval of increases in the rates for a number of services and facilities furnished on a Canada-wide basis by the members of the Trans-Canada Telephone System (TCTS). A similar application was filed by the British Columbia Telephone Company on June 12, 1978. On August 4, 1978, the Commission requested written comment on the proposed new TCTS rates following which it approved such rates on an interim basis effective October 15, 1978, pending the final conclusion of the Commission's general review of TCTS rates, practices and procedures.

Citing the complexity and volume of TCTS material, the Commission determined that an extensive study of TCTS settlement procedures and other matters was necessary in preparation for eventual public hearings. On December 18, 1978, the CRTC retained the services of Peat, Marwick and Partners, a consulting firm, to do certain studies related to the TCTS revenue settlement plans. Released in three phases, the final report was published in January 1980.

In a public notice dated September 18, 1979, the Commission outlined seven issues that would be considered at the public hearings:

(a) whether the settlement procedures employed by the TCTS member companies are fair and reasonable and in the best interests of subscribers and the public;

(b) whether the rates charged on a cross-Canada basis for each of the TCTS services, including those of Telesat Canada, are just and reasonable;

(c) whether the terms or restrictions upon which services or facilities are offered by the TCTS members, including Telesat Canada, are reasonable and do not confer an unjust advantage on any person or company;

(d) whether the relative treatment by TCTS of competitive and non-competitive services is just and reasonable;

(e) whether the TCTS construction program is reasonable and whether the information generated and employed in the planning of TCTS facilities and services is appropriate and sufficient;

(f) whether TCTS, including Telesat Canada, is sufficiently responsive to the demand for the transmission of programming and other information services at a reasonable cost; and

(g) what the information requirements of the regulatory agency should be in regard to future TCTS rate cases.

At the same time the CRTC determined that, since the services offered by Telesat were considered to be related to TCTS services provided on a Canada-wide basis, Telesat Canada would be joined as a party to these proceedings to consider whether Telesat's rates for its satellite telecommunications services were just and reasonable. The CRTC later announced that a pre-hearing conference would be held on March 18, 1980, and that the main public hearings would commence on April 8, 1980.

On January 11, 1980, the Director filed with the CRTC a letter indicating his intention to intervene in these proceedings pursuant to section 27.1 of the Combines Investigation Act. In his letter of intervention the Director referred to the seven issues cited by the CRTC in their public notice and indicated that his intervention would be directed towards assisting the CRTC in assessing the competitive implications relating to TCTS rates to be dealt with at the public hearings.
The hearings concluded on May 9, 1980, and final arguments were submitted June 20, 1980. As of March 31, 1981, there had been no decision by the CRTC.

(3) Bell Canada, Connection of Customer-Provided Terminal Devices

On November 13, 1979, Bell Canada applied to the Canadian Radio-television and Telecommunications Commission (CRTC) for an order approving an amendment to rule 9 of the General Regulations of Bell Canada. This rule is one of the conditions which governs the connection of telecommunication equipment to the Bell Canada network. Basically, the Bell application would permit customer-owned terminals to be connected to the network if such equipment was certified under a program administered by the Department of Communications. In the same application, Bell filed proposals for interim requirements governing the attachment of customer-owned equipment. These interim proposals set out that if a piece of equipment is not provided by Bell Canada, or is not the subject of a special agreement between the subscriber and Bell Canada, such equipment could nevertheless be connected if the equipment in question was authorized by the CRTC and the subscriber entered into a special agreement with Bell Canada.

On November 30, 1979, the CRTC issued a public notice which requested comments on Bell's application. The CRTC also amended Bell's proposed interim requirements by eliminating the requirement for CRTC approval of equipment and requested comments on this amendment. Comments on the interim requirements were to be filed by January 15, 1980.

On January 9, 1980, the Director filed his comments pursuant to the CRTC's public notice. The Director stated that the requirements requested by Bell Canada and the CRTC would involve unnecessary delays. The Director further stated that there was no need for special agreements in the interim and that equipment standards presently in force could be used. The Director submitted that a subscriber should be permitted to connect equipment to Bell's facilities provided that the subscriber complied with existing tariffs, the equipment had been certified by the U.S. Federal Communications Commission (FCC), and the subscriber had notified Bell Canada of the proposed attachment and the relevant Federal Communications Commission certification.

On February 1, 1980, a CRTC public notice acknowledged receipt of comments from 29 parties on the interim requirements and invited further submissions from all interested parties on the interim requirements to be filed on February 14, 1980, the same date as filings for comments on the main hearing.

On February 13, 1980, the CRTC in a public notice following submissions by Bell Canada and certain other parties ordered Bell to file with all parties the forms of the special agreements proposed to be used by Bell Canada as well as its proposed standards for the equipment. Comments on these documents were invited by interested parties and were to be filed by February 25, 1980. This date was subsequently extended to March 7, 1980.

On February 15, 1980, the Director submitted his comments concerning the issues and procedures relating to the main hearing. The Director noted that there were a number of issues relating to the technical protection of the network, the extent to which Bell Canada should be entitled to sell the equipment, the effect of terminal connection on subscribers and the question of whether the hearings should involve other telecommunication carriers in Canada. The Director also submitted that, rather than attempt to forecast the economic effect of the application, the parties should consider developing procedures that would enable any actual economic harm to be demonstrated and would allow for the development of mechanisms for relief. The Director also submitted that the effect of terminal interconnection on Canadian manufacturers is presently under consideration by the Restrictive Trade Practices Commission and that the CRTC might therefore wish to delay considering this issue until the Restrictive Trade Practices Commission Report is available.

On March 7, 1980, the Director filed comments on the technical standards and draft special agreements filed by Bell with the CRTC on February 15, 1980. The Director stated that
the standards submitted by Bell Canada were very similar to those under the certification procedure of the FCC and, subject to certain other specific comments by the Director, would be adequate in the interim period. With regard to the special agreements, the Director again argued that there was no reason why a subscriber of a basic telephone should need a special agreement with Bell Canada. With respect to special agreements with more sophisticated equipment, the Director suggested several specific amendments relating to the notification procedures to be used where Bell changes its network or disconnects equipment. On March 17, 1980, Bell Canada submitted its comments on the issues and procedures for the main hearings as well as on the comments from other interested parties on the technical standards and special agreements.

The CRTC issued its interim decision on this matter (Telecom Decision 80-13) on August 5, 1980. In this interim decision, the Commission stated that, until there was a full hearing on the matter, terminal attachment of residential extension telephones would be allowed and that FCC standards would be acceptable.

Bell Canada, supported by the governments of the Provinces of Ontario and Québec, has appealed this decision to Cabinet. As of March 31, 1981, no decision has been announced.

The full hearing on terminal attachment by the CRTC will commence in November 1981 and will take into consideration the concerns of all other telecommunications carriers so that an overall policy on this topic will be enunciated in the CRTC's final report.

(4) British Columbia Telephone Company Proposed Acquisition of GTE Automatic Electric (Canada) Limited and Microtel Pacific Research Limited

On March 13, 1979, British Columbia Telephone Company (B.C. Tel) applied to the Canadian Radio-television and Telecommunications Commission (CRTC) for approval of an agreement with GTE International Incorporated (GTE) whereby B.C. Tel would acquire GTE Automatic Electric (Canada) Limited (Automatic Electric). On April 30, 1979, B.C. Tel applied to the CRTC seeking approval of the purchase of Microtel Pacific Research Limited (Microtel) from Elizabeth J. Harrison. The CRTC decided to consider the two applications together.

GTE is a wholly-owned subsidiary of General Telephone and Electronics Corporation, which is the ultimate majority and controlling shareholder in B.C. Tel through Anglo-Canadian Telephone Company, while Automatic Electric is a wholly-owned subsidiary of GTE. Automatic Electric owns all of the issued and outstanding shares of GTE Lenkurt Electric (Canada) Limited (Lenkurt).

B.C. Tel is an operating telephone company providing telephone service, and Automatic Electric manufactures telephone sets and telephone switching equipment. Lenkurt manufactures telephone transmission equipment and related components. Microtel was incorporated to conduct telecommunications research and development, but was not yet conducting any business at the time of B.C. Tel's application to the CRTC.

The Director of Investigation and Research intervened in the applications pursuant to section 27.1 of the Combines Investigation Act, expressing his concern that vertical integration between telephone operating companies and equipment manufacturers might have an adverse effect on the level of competition in the equipment market.

The CRTC held public hearings in Vancouver from June 12 to June 15, 1979. The Director and several other interveners, including the Consumers' Association of Canada (British Columbia Advocacy) (CAC), participated in the hearings. The Director called evidence in support of his view that the acquisitions could result in foreclosure of the B.C. Tel equipment market to competitive suppliers, which could, in turn, lead to higher-than-necessary equipment costs for B.C. Tel. The Director argued that the application should be denied or, if approved, B.C. Tel should be required to institute competitive bidding procedures.
In its decision of September 18, 1979 (Telecom Decision CRTC 79-17), the CRTC concluded that the evidence relating to whether the application was in the public interest was equally balanced. The CRTC approved the applications, but established certain safeguards. The CRTC stated that it was not persuaded by the evidence that B.C. Tel’s purchasing practices had been or would be harmful to B.C. Tel subscribers or competitive suppliers, but that, at the same time, it considered that B.C. Tel should give effect to the purchasing principles stated in B.C. Tel’s final argument. The CRTC ordered B.C. Tel to file within two months of the decision, with a copy to interveners, the specific procedures it intended to introduce.

Following the decision, the CAC applied to the Federal Court of Appeal for a review of the decision pursuant to section 28 of the Federal Court Act and for leave to appeal the decision pursuant to subsection 64(2) of the National Transportation Act. The Director filed notices of intent to participate in the two applications. In January 1980 the Federal Court of Appeal granted leave to appeal and directed the CAC to seek an order joining the appeal and the section-28 application. On December 23, 1980, the Federal Court of Appeal dismissed the appeal. The CAC has subsequently appealed this decision to the Supreme Court of Canada.

(5) Maritime Telegraph and Telephone Company Limited Application for Tariff Approval of Voice Page Service

On November 23, 1978, Maritime Telegraph and Telephone Company Limited made an application to the Board of Commissioners of Public Utilities for the Province of Nova Scotia to have tariffs approved for a voice paging service. The Director appeared before this Board on December 19, 1978, and after explaining his reasons for wanting to make a representation, was granted intervener status.

The Director stated that his primary interest in this matter was to inquire into the competitive effect of the proposed tariff and whether the tariff would eliminate current competition to the applicant. In particular, the Director was concerned whether such action would constitute unreasonable discrimination against competitors within the meaning of Section 104 of the Public Utilities Act of Nova Scotia.

To allow time for preparation of evidence, the Board approved an adjournment of the proceedings until February 6, 1979. Sometime prior to this date, the Director was made aware that Maritime Tel and the other intervener in this case, Air Page Communications Limited, had entered into private negotiations to resolve the issue. In order to assist these negotiations, the Board granted further adjournments on two separate occasions. Since this did not appear to be an adequate procedure, the Board ordered an adjournment of the proceedings sine die, with the matter to be resumed on 10 days’ notice to the parties of record. Hearings in this matter resumed on March 11, 1980.

Heardings were completed on June 11, 1980, and written arguments were submitted on July 28, 1980. As of March 31, 1981, no decision has been announced in this matter.

(6) New Brunswick Telephone Company Limited Application for Network Extension Telephone Service

On December 22, 1978, the New Brunswick Telephone Company Limited made an application to the Board of Commissioners of Public Utilities of the Province of New Brunswick for approval of proposed rates and charges for a new service to be offered by the applicant known as Network Extension Telephone Service (i.e. radio paging service). On January 29, 1979, the Director notified the Board of his intention to make a representation in the matter.

The Director stated that he was concerned that the proposed tariff, which provided that the applicant’s radio paging service be directly interconnected with the applicant’s telephone network, would grant the applicant an unfair competitive advantage in the event firms competing with the applicant with respect to radio paging were not granted similar access to the
network. The Director also stated his concern that competitors would be seriously disadvantaged in their inability to provide the wide-area roaming feature which the applicant proposed to offer its customers by allowing one-way messages from one calling area to another without payment of toll charges. Finally, the Director noted his concern that the proposed classification of radio paging service as a telephone service might serve to create a monopoly in radio paging in the province of New Brunswick.

Public hearings were held in this matter on February 12, 1979, and March 27 and 28, 1979. Counsel for the Director participated in the cross-examination of witnesses called by the applicant and other interveners, as well as calling expert evidence on behalf of the Director. The Director filed written argument in this matter on April 20, 1979. The Board released a decision dated October 10, 1979, which approved the tariff but held that the complaint of unjust discrimination filed by the Director and other interveners was a valid complaint, and that further hearings would be held concerning this matter. However, the Director was subsequently informed that he had been named as a defendant in an injunction proceeding before the New Brunswick Supreme Court sought by Instant Communications, another intervener in the matter. Appearing before the court on November 1, 1979, the Director was considered by the presiding judge not to be a proper defendant and was struck from the application. At the conclusion of this proceeding, an injunction was handed down against New Brunswick Telephone Company prohibiting it from advertising its new paging service until the Board had reached its final decision. This injunction was later removed in proceedings before the New Brunswick Court of Appeal.

Subsequently, the Board ordered that hearings in the matter would resume on November 8, 1979. Additional written argument was filed on behalf of the Director on November 15, 1979. New Brunswick Telephone Company filed argument on November 23, 1979, and reply argument was submitted by November 27, 1979. Unfortunately, during the Board's deliberations on this matter, the Chairman of the Board died and a decision in this matter was consequently delayed. At the end of the fiscal year, no decision has been announced.

(7) Garden of the Gulf Motel Application for Connection of COAM PABX to Island Telephone Company Limited System

On June 12, 1979, Garden of the Gulf Motel of Summerside, Prince Edward Island, brought an application before the Public Utilities Commission of Prince Edward Island seeking the connection of the applicant's crossbar PABX, manufactured by OKI Electronics of America Inc., to the Island Telephone Company Limited's facilities. On August 3, 1979, the Director sought intervener status to appear before the Commission in this matter.

In his letter of intervention the Director expressed his desire to address the issue of the competitive impact of this application and to assist the Commission by calling an expert witness. The services of an expert witness were retained and preparations were made to appear before the Commission at the commencement of the hearings on August 14, 1979.

However, prior to this date, the Director was informed that the Commission's position was that this be an inter partes hearing and the Commission would not permit other interested parties to intervene. As a result, counsel for the Director did not make an appearance before the Commission. The services of the expert witness originally retained by the Director were subsequently retained by the applicant. While it was unfortunate that the Commission chose not to hear from other parties, the competitive issues in this application were addressed by the applicant through counsel and witness.

Proceedings in this matter were reconvened on October 11, 1979. On July 23, 1980, the Commission denied the application.

On August 11, 1980, the proprietor of the Garden of the Gulf Motel filed an appeal in this matter before the Prince Edward Island Supreme Court. As of March 31, 1981, this matter is still before the Court.
The Director has continued to monitor a number of follow-up matters originating from the Air Transport Committee Decision #5369 on Domestic Advance Booking Charters and the Order in Council varying this decision. The Air Transport Committee Decision permitted Air Canada and C.P. Air each to offer a maximum of 25 inter-regional return flight Domestic Advance Booking Charters between points on their respective licences and Regional Carriers were permitted to operate Domestic Advance Booking Charters within their respective operating territories. The Order in Council removed the ceiling of 25 inter-regional Domestic Advance Booking Charter return flights and permitted Regional Carriers to fly Domestic Advance Booking Charters anywhere in Canada for a trial period of three years, after which time the matter is to be reviewed.

In one matter, relating to air travel offered under Domestic Advance Booking Charter Regulations, the Director filed his submission following the Air Transport Committee's invitation to comment on a discussion paper dealing with this matter. The proposed simplified rules (Class 10) were to replace existing regulations on domestic charter services. To promote administrative convenience and to enhance competition, several existing regulations were to be eliminated. However, proposed new entrants in the domestic charter market would be required to prove public convenience and necessity. In addition, the current Domestic Advance Booking Charter requirements for a passenger to purchase round-trip transportation and to observe a minimum stay at the destination until after the first Sunday from departure would be retained. The Director stressed competitive parity and noted that further innovations in the low-priced air fare market are most likely to be achieved through the operation of a market system in which entry is free and governed to the maximum possible extent by competitive forces. As of March 31, 1981, the matter has not been concluded.

The Canadian Radio-television and Telecommunications Commission (CRTC), in its decision on Bell Canada's 1978 application for a general increase in rates, enunciated certain principles relating to the prices paid by Bell Canada for equipment manufactured by Northern Telecom Limited and its U.S. subsidiary, Northern Telecom Inc. On October 16, 1979, the CRTC directed Bell Canada to file a proposed methodology for price comparison tests to demonstrate compliance with these principles.

In subsequent submissions to the CRTC, Bell Canada argued that the principles enunciated by the CRTC in 1978 should be amended. On May 8, 1980, the CRTC issued a public notice, indicating that it deemed Bell Canada's submissions to be an application pursuant to section 63 of the National Transportation Act to review the principles, and that it would consider the application in the context of the central hearing on Bell Canada's 1980 application for a general increase in rates. Although the Director had not registered as an intervener in the central hearing on Bell Canada's rate application, he did serve notice of his intention to participate in the public discussion on price comparisons. The Director represented by Counsel participated by cross-examining key Bell Canada witnesses on the principles and by making an argument on the application for review.

In its decision on the general rate application, Telecom Decision CRTC 80-14, issued on August 12, 1980, the CRTC concluded that it should examine more closely than it did in 1978 the nature and extent of the evidence with respect to the implications of any new pricing principles. The CRTC stated that "the implications of any changes to previous practice are so important as to require a thorough investigation by the Commission and all interested parties prior to the adoption of final pricing principles."

The CRTC stated that a public notice would be issued in due course providing appropriate information as to the details of the review. As of March 31, 1981, the CRTC has not issued the notice.
(10) Bell Canada, General Rate Increase, 1981

On February 12, 1981, Bell Canada filed with the Canadian Radio-television and Telecommunications Commission (CRTC) an application for a general increase in rates to be implemented on September 1, 1981.

On March 16, 1981, the Director notified the CRTC of his intention to participate at the central hearing to be held in connection with Bell Canada's application, pursuant to section 40 of the CRTC Telecommunications Rules of Procedure and to section 27.1 of the Combines Investigation Act. In his notice, the Director referred to his long-standing interest in certain practices of Bell Canada that affect competition in Canada, mentioning particularly Bell Canada's terminal attachment policies and Bell Canada's reliance on the Northern Telecom price comparison tests to justify its telecommunications equipment purchases.

The central hearing is scheduled to commence on May 26, 1981.

(11) Tariff Board Reference 158 — General Preferential Tariff Extensions and Reductions

After carefully reviewing the evidence submitted by interested parties in this matter, the Director submitted to the Tariff Board a letter containing his reasons for concluding that Canada's interests would be best served by adopting the extensions and reductions of the General Preferential Tariff proposed by the Minister of Finance and that reliance should be placed on existing safeguard mechanisms in cases in which injury did in fact materialize.

(12) Tariff Board Reference 159 — Modification of the Value for Duty Provisions of the Customs Act

This issue relates to the procedures used in placing a value on dutiable imports following Canada's agreement with reservations to adopt the Brussels' system of valuation; the reservations in question relate to Canada's right to revise tariffs upward to compensate for losses due to reductions in valuations. The Director's intervention in this instance centered on:

(i) a provision in the Customs Act which allows exporting firms to impose marketing restrictions on the product or products in Canada, and

(ii) the means of taking transportation costs into account.

The Director objected to the first of these aspects by pointing to the market restriction provisions of section 31.4 of the Act as well as the general prohibition of such anti-competitive acts in O.E.C.D. and U.N.C.T.A.D. Code of Conduct for multinational enterprises. The Director proposed that products should be valued f.o.b. factory in the case of the second of the aspects in so far as this approach would eliminate the possibility of tying the sale of a product to its transportation so as to preclude raising an issue under the tied sales provision of section 31.4 of the Act and arbitrarily imputing the import tariff on an item to its transportation.

4. Other Matters

(1) Telecommunication Equipment Inquiry

This inquiry was referred to on page 52 of the Annual Report of the Director for the year ended March 31, 1973.

The Director of Investigation and Research, having examined the evidence obtained in the original inquiry under section 33 of the Act, concluded that it did not disclose a situation contrary to any provision of Part V of the Combines Investigation Act. It did, however, disclose that there existed conditions or practices relating to a monopolistic situation such as to warrant inquiry under section 47 of the Act. On January 23, 1973, the Director filed a notice of his decision to commence such an inquiry with the Restrictive Trade Practices Commission, stating that the evidence and material obtained in the earlier inquiry would form part of the evidence and material.
On December 20, 1976, a statement of material was submitted by the Director of Investigation and Research to the Restrictive Trade Practices Commission (RTPC) pursuant to section 47 of the Combines Investigation Act. The statement of material or “Green Book” is entitled The Effects of Vertical Integration on the Telecommunications Equipment Industry in Canada. The Director concluded in the statement of material that the existing vertical integration between Bell and Northern Electric would appear to be contrary to the public interest and indeed ultimately against the interest of both Bell Canada and Northern Electric (now Northern Telecom).

The opening hearing was held in Ottawa on June 15, 1977, at which time the RTPC heard submissions from interested parties. As of March 31, 1981, the RTPC had held 224 days of hearings in a number of major cities across Canada including Vancouver, Edmonton, Regina, Winnipeg, Toronto, Ottawa, Montréal, Fredericton, Halifax, Charlottetown and St. John’s. The evidence heard by the RTPC was from various manufacturers, distributors, telephone companies, and expert witnesses called by the Director. As well, many firms and individuals had appeared on their own behalf to present evidence. On January 16, 1980, the RTPC began hearing evidence from witnesses called by Bell Canada and Northern Telecom. The evidence gathering portion of the hearing will be completed in the spring of 1981.

In a letter to the RTPC dated October 5, 1977, counsel for Bell Canada requested “that directions be given by the Commission to limit the scope of the interconnection arguments that can either be presented to this Commission or pursued under cross-examination during the course of this inquiry.” After a special hearing was held on October 13 to argue this motion, the RTPC denied Bell’s motion.

On November 3, 1977, Bell Canada instituted proceedings in the Federal Court of Canada appealing the RTPC’s decision and requesting an order requiring the Attorney General of Canada to instruct the RTPC to desist from hearing evidence on interconnection. In February 1978 the Federal Court dismissed an application by the Attorney General to dismiss Bell Canada’s motion, but the court added the names of the RTPC members as defendants and struck out the paragraph of Bell Canada’s claim relating to the Attorney General instructing the RTPC concerning the evidence which may be heard. In May 1979, prior to hearing full argument on this matter, Bell filed a Notice of Discontinuance with the Federal Court.

In the matter of interconnection, the Director filed his argument before the RTPC on September 22, 1980.

Bell Canada filed its argument on terminal attachment on September 29, 1980. The reply arguments of the Director and Bell Canada were filed, respectively, on October 16, 1980, and November 3, 1980. The CRTC report on interconnection is expected in April 1981.

Final argument on the entire Telecommunication Equipment Inquiry will be filed in the summer of 1981.
CHAPTER VII

MARKETING PRACTICES BRANCH

1. Activities

The main function of this Branch is to deal with complaints and other evidence from a broad variety of sources with respect to violations of the misleading advertising and deceptive marketing practices provisions of the Act. These provisions play a significant role within the overall framework of competition policy in ensuring that the market mechanism operates effectively and that consumers are protected from deceptive practices. It was with this purpose in mind that the original misleading advertising provisions were included in the Combines Investigation Act in 1960 and 1969 and that the scope of these provisions was expanded by the amendments to the Act which came into force on January 1, 1976. Moreover, it can be shown that where there is a lack of complete information or where distorted information in relation to a product exists, the functioning of the marketplace will be adversely affected and the distortion will be injurious to honest competitors.

The misleading advertising and deceptive marketing practices provisions are contained in sections 36 to 37.3 and apply to all persons promoting the supply or use of a product or promoting any business interest. The responsibilities of the Branch are therefore not restricted to any particular industry or type of distribution. Although the legislation in general relates to all representations made to the public and to specified marketing practices, some provisions are restricted solely to representations in the form of advertisements.

Since the number of complaints continues to increase and the staff resources that are available to investigate them are limited, it is necessary to concentrate on those cases that are most likely to bring about an overall improvement in the quality of market information directed to the public, thereby contributing to the objectives of the legislation. The principles followed in assessing the priority of complaints are the degree of coverage of the representation, its impact on the public and the deterrent effect of a successful prosecution. A high priority is also given to cases that will afford a court the opportunity of establishing new principles or of clarifying the law.

The Branch continues to be the only one in the Bureau of Competition Policy to operate on a decentralized basis with investigating officers stationed in 13 offices across Canada. Regional managers who are located in six of these offices also maintain the necessary liaison with provincial authorities responsible for consumer protection and trade practices matters. (A complete list of field offices can be found in Appendix VIII.)

2. Proceedings

Prosecutions completed during the year under the former and present provisions of the Act are listed in Appendix II showing the products involved, the persons charged, the location of the offence, and the details of the disposition. Summaries of cases in which convictions are registered appear quarterly in the Misleading Advertising Bulletin and appeals in such cases are also noted. Prosecutions that are not completed are listed in Appendix IV.

(1) Operations Under Sections 36 to 37.2 of the Act

The following table shows operations under the present misleading advertising and deceptive marketing practices provisions and begins with 1977-78. Operations before that time are to be found in previous reports.
OPERATIONS UNDER MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS

Part I — Inquiries and Investigations

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Part II — Prosecutions

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* Including conditional and absolute discharges, stays of proceedings etc.

(2) Proceedings Under Former Provisions

At the beginning of the fiscal year there were 10 proceedings outstanding under the former provisions. Three of the cases under the former section 37 and the three cases under the former section 36 had been completed in previous years or involved outstanding warrants for arrest issued in previous years. These cases, which had not been reported as completed, have now been closed and are reported in Part II of Appendix II together with the four remaining proceedings under section 37 that were completed during the year.

(3) Section 38 Prosecution

Matsushita Electric of Canada Limited — Panasonic Microwave Ovens

This inquiry was commenced in January 1979 following receipt of a complaint from a British Columbia retailer alleging that, because of his low-pricing policy, he had been refused supply of microwave ovens by Matsushita Electric of Canada Limited carrying on business as Panasonic, British Columbia.

The evidence in this matter was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act on July 25, 1979. On October 1, 1979, an Information containing one count under paragraph 38(1)(b) of the Act was laid at Vancouver against Matsushita Electric of Canada Limited.
On September 30, 1980, the County Court of Vancouver acquitted Matsushita Electric of Canada Limited of the charge.

(4) Subsection 30(2) Order of Prohibition in Relation to Section 36.3

Shaklee Canada Inc. — Food supplements, cleaning and personal care products

This inquiry was commenced in June 1978 following receipt of a complaint alleging that Shaklee Canada Inc. was operating a scheme of pyramid selling.

The evidence in this matter was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act on July 6, 1979. On November 14, 1980, an application by way of an Information claiming an order of prohibition pursuant to subsection 30(2) of the Act was filed and made returnable in the Federal Court of Canada (Trial Division). The Information claimed, inter alia, an order prohibiting the defendant, Shaklee Canada Inc., and its directors, officers, servants and agents, from doing any act or thing constituting or directed toward the commission of an offence under section 36.3 of the Combines Investigation Act, by inducing or inviting another person to participate in a scheme of pyramid selling.

The case was heard before Mahoney, J. of the Federal Court on January 27 and 28, 1981. On February 11, 1981, the Information was dismissed. The Crown has filed a Notice of Appeal. (For statistical purposes this case is recorded under section 36.3.)

3. Discontinued Inquiries Reported to the Minister in Accordance with Subsection 14(2) of the Act

Sections 36 to 37.2

(1) Cosmetics

A complaint was received early in 1977 relating to an advertisement by a cosmetics company which claimed that the company prepared its own cosmetics from pure natural components and purified British Columbia water. The complainant alleged that the company imported prepared cosmetics from the United States and affixed its own labels before distribution. A search undertaken in January 1978 pursuant to section 10 of the Act revealed that although the company imported some prepared cosmetics, all the creams and lotions distributed by the company were prepared from imported ingredients and distilled British Columbia water. In view of the foregoing, it was determined by the Director that the advertisement did not contain a representation which could be established beyond a reasonable doubt to be false or misleading in a material respect pursuant to paragraph 36(1)(a) of the Act. The inquiry was therefore discontinued and reported to the Minister on May 22, 1980.

(2) Fur Coats

A complaint was received in February 1980 concerning a newspaper advertisement by a retailer offering a selection of fur coats on sale at half price.

The complainant alleged that the coats were not being sold at half price because coats of the quality being sold were worth less than the represented regular prices. A search pursuant to section 10 of the Act was undertaken in April 1980. Based on information seized and voluntarily supplied by the retailer, it was determined that the represented regular prices were, in fact, the ordinary selling prices of coats of similar quality in the relevant market area. In view of the foregoing, the inquiry was discontinued and reported to the Minister on July 4, 1980.

(3) Banking Services and Related Products

Several complaints were received following the Canada-wide newspaper and television promotion in late 1979 of a bank's inter-branch banking service. Preliminary investigation revealed that a uniform computer link-up between branches did not exist, thereby resulting in the non-availability of, or the imposition of service charges for, the inter-branch service in
some instances. On March 14, 1980, a notice requiring the bank to make a written return under oath pursuant to section 9 of the Act was issued. The information submitted by the bank in response to the notice showed that a manual alternative plan had been established prior to the introduction of the service for those branches that did not have the computer link-up and that the complaints had arisen from a lack of implementation of the alternative plan by those branches as a result of faulty communication by the bank. In view of the fact that the bank was taking corrective measures to ensure better communication of the alternative plan to its branches, the inquiry was discontinued and reported to the Minister on October 28, 1980.

(4) **Business Opportunities**

Complaints were received concerning the newspaper advertising by a mail order operation offering the opportunity to participate in the business of mailing circulars at home. Preliminary investigation revealed that the business opportunities were not available. As a result of a search undertaken in May 1980 pursuant to section 10 of the Act, it was apparent that the purpose of the advertisements was to promote the sale of a book instructing recipients to advertise in a similar manner, thereby promoting additional sales of the book. Shortly thereafter, the individual operating the mail order business voluntarily executed a statutory declaration to the effect that he had ceased operation of his business and undertook to refrain from engaging in a similar business in the future. In view of the foregoing, the inquiry was discontinued and reported to the Minister on January 29, 1981.

(5) **Furniture**

Several complaints were received following the distribution of flyers in March 1980 which advertised that a furniture retailer was going out of business and that discounts of up to 53% were available. The complainants alleged that the prices before and after the sale period had not changed and in some instances had increased during the sale period. A search pursuant to section 10 of the Act was undertaken in September 1980. On October 30, 1980, the retailer was declared bankrupt and a trustee was appointed to dispose of the assets. In view of the foregoing, the inquiry was discontinued and reported to the Minister on February 18, 1981.

(6) **Motor Oil and Related Products**

Following the Canada-wide radio and television advertising by a company claiming that a motor oil "helps cars last" it was determined, after consultation with the Department of Justice and the National Research Council, that the claim might be interpreted as implying superior performance in comparison with other motor oils and might not have been based on an adequate and proper test. A search undertaken in October 1978 pursuant to section 10 of the Act did not produce conclusive data. A notice pursuant to section 9 of the Act requiring the written return under oath of information relating to tests of the product conducted by the company was issued on October 3, 1979. The detailed methodology and results of relevant tests, which were provided in response to the notice, indicated that the product demonstrated better performance than other products in some areas that might reasonably relate to engine durability. In view of the foregoing, the inquiry was discontinued and reported to the Minister on March 5, 1981.

4. **Other Matters**

(1) **Program of Compliance**

The staff of the Branch provided 182 written advisory opinions to firms that had requested review of proposed promotional material under the Director's Program of Compliance. A majority of compliance opinions relate to proposed promotional contests. In addition, a large number of informal discussions were held with individual businessmen who wished clarification of the possible application of the misleading advertising and deceptive marketing practices provisions of the Act.
(2) *Misleading Advertising Bulletin*

During the year the Branch's quarterly publication, the *Misleading Advertising Bulletin*, contained summaries of concluded prosecutions that resulted in convictions under the misleading advertising and deceptive marketing practices provisions of the Act; and statements of the Director's position in relation to various issues. Copies of recent issues of the *Misleading Advertising Bulletin* are available from the Communications Service of the Department.
RESEARCH AND INTERNATIONAL RELATIONS BRANCH

During the period under review, international relations, in-house research and contract research activities were combined to form the Research and International Relations Branch.

A. Research

1. Legislation and Objectives

Section 47 of the Combines Investigation Act provides that the Director of Investigation and Research may undertake research inquiries into situations having restrictive features which, while they may not provide grounds for believing that a violation of the Act has occurred, nevertheless warrant examination with a view to determining their effect on the public interest. General research inquiries may lead to recommendations for new legislation or the application of remedies outside those provided by the Act where conditions are found that appear to require corrective measures. Such inquiries are to be distinguished from inquiries into alleged infractions of the Combines Investigation Act.

This section reads as follows:

"47.(1) The Director

(a) upon his own initiative may, and upon direction from the Minister or at the instance of the Commission shall, carry out an inquiry concerning the existence and effect of conditions or practices relating to any product that may be the subject of trade or commerce and which conditions or practices are related to monopolistic situations or restraint of trade, and

(b) upon direction from the Minister shall carry out a general inquiry into any matter that the Minister certifies in the direction to be related to the policy and objectives of this Act, and for the purposes of this Act, any such inquiry shall be deemed to be an inquiry under section 8.

(2) It is the duty of the Commission to consider any evidence or material brought before it under subsection (1) together with such further evidence or material as the Commission considers advisable and to report thereon in writing to the Minister, and for the purposes of this Act any such report shall be deemed to be a report under section 19."

As an integral part of the function of the Bureau of Competition Policy, the role of the Branch is to contribute to a better understanding of the organization and performance of the Canadian economy and to recommend changes to increase its efficiency.

Research studies are conducted both internally and under external contract. Research is contracted when recognized external expertise and comparative advantage exist; when the source materials are not confidential; when the research does not rely heavily on Bureau operational experience; when collection of information does not involve powers provided in the Act; and when the internal resources cannot be deployed without disrupting existing Branch priorities and ongoing internal research.

2. Studies Distributed

The following studies, although completed earlier, became available for public distribution during the period under review:

(1) Professional Licensing and Competition Policy: Effects of Licensing on Earnings and Rates of Return Differentials
The objective of this study is to identify the contribution of certain restrictive practices (fee-setting, restrictions on entry and limitations on advertising) to professional incomes. Estimates presented in the study indicate that these restrictive practices contributed significantly to the average incomes of the cross-section of professions examined. This study was released in the spring of 1980.

(2) The Administration and Enforcement of Competition Policy in Canada, 1960 to 1975

This study develops indices of efficiency and effectiveness of competition policy and applies them to the period 1960 to 1975. In addition it makes recommendations for improving the operations of the Bureau of Competition Policy.

3. Studies Completed

(a) Studies completed and approved for publication but not available as of March 31, 1981, include:

(1) Concentration in Manufacturing Industries of Canada: Analysis of Post War Changes

This study describes trends, directions and magnitudes of change in concentration in selected Canadian manufacturing industries during the period 1948-1972. The analysis shows that already high levels of concentration in Canadian industry increased over the post-war period. It identifies multiplant operations and horizontal mergers as the main contributors to high levels of concentration. This study, approved for publication in 1979, is expected to become available to the public during the summer of 1981.

(2) Transport Costs and Their Implications for Price Competitiveness in Canadian Goods-Producing Industries

This study, done internally, documents the hitherto unknown contribution of transport costs to the total cost of goods production in Canada, by industry and commodity, and by the impact of changes in these costs on final selling prices. In addition, it employs Statistics Canada input-output matrices in estimating the magnitude of private trucking activities in Canada. The study is expected to be released early in the summer of 1981.

(3) Performance Under Regulation: The Canadian Inter-city Bus Industry

This study examines performance of carriers in one of the most highly regulated modes of transport in Canada. It surveys the regulatory process in the 10 provinces and in the United States. Drawing heavily from three case studies, this research also analyses load factors, cross-subsidies, financial performance, etc. and concludes that the costs of regulation to the travelling public have been very high. A program of regulatory reform is proposed which stresses the benefits to be derived from easing conditions for granting operating authorities. The study is expected to be released in the fall of 1981.

(4) The Role of Manufacturing in the Concentration and Multinational Control of Canadian Manufacturing Industry

This study examines the relative contribution of factors such as marketing, R & D, tariffs and economics of scale in explaining multinational control of various sectors of Canadian industry. The study's results have implications for industrial, commercial and research and development policies in this country. The study was prepared under external contract and funded jointly by the Departments of Consumer and Corporate Affairs, Industry, Trade and Commerce and Supply and Services. This study is expected to be released during the fall of 1981.

(b) Over the period under review, the Branch was involved in an interdepartmental research program conducted jointly by the Canadian Transport Commission and Consumer and Corporate Affairs, under the chairmanship of Transport Canada. The objective of this research was to examine the interface between regulation and competition across the major modes of com-
Commercial transport in Canada in order to make recommendations designed to improve efficiency. In this connection, several studies were prepared, both internally and under external contract by the Branch, as the Department's contributions to this interdepartmental program.

In addition to the two studies described above on transport costs and inter-city bus operations, the following studies have been completed and await publication approval:

1) **Performance of Regulated Canadian Airlines in Domestic and Transborder Operations**

   This study compares the operations and performance of Canadian airlines for the 1975-1978 period (prior to U.S. deregulation) with those of major U.S. intrastate carriers (in California, Florida and Texas) and selected U.S. interstate airlines. Evidence presented in the study suggests that performance differences between federally regulated airlines in Canada and in the U.S. on the one hand, and U.S. intrastate carriers on the other, were attributable to differences in regulatory environments.

2) **Trucking Industry: Analysis of Performance**

   This study draws together analytical highlights from selected studies of motor carrier industry structure and conduct produced under the aegis of the interdepartmental program. It examines the allocative and technical efficiency dimensions of motor carrier performance with particular emphasis on (i) rates and costs associated with regulated motor carrier operations in Ontario and Québec compared to those associated with unregulated operations in Alberta and (ii) the size and rate of growth of private trucking activity in these provinces.

   The study finds that there are significant differences in the performance of regulated and unregulated carriers in Canada and concludes that substantial room exists for improvement in the performance of the motor carrier industry.

3) **Examination of Effects of Regulation on For-Hire Motor Carriers in Canada: A Revenue and Cost Analysis**

   This study compares the revenues and costs of unregulated general freight motor carrier operations in Alberta to regulated operations in the provinces of Ontario and Québec. The study shows that there are significant economies of scale in motor carrier operations and that substantial cost and rate differences exist among carriers in the three provinces, with Alberta carriers exhibiting consistently superior rate and cost characteristics. The Alberta carriers' superior performance remains after adjustment for important characteristics such as capacity utilization and traffic mix. Consideration of relevant factors affecting costs and rates suggests that differences among carriers in the several provinces are likely attributable to effects of regulation.

4) **Private Trucking: Analysis and Implications**

   This study examines the size and rate of growth of private trucking activity in Canada and compares the level of private trucking activity in regulated and unregulated provinces. Recent research on the topic indicates that private trucking is the dominant transport mode in Canada and that private trucking activity appears to have increased sharply since 1970. Both quantitative and qualitative evidence suggests that the growth in private trucking is, at least in part, a function of the gap between for-hire rates and private costs, the gap itself being attributable to the effects of for-hire regulation.

4. Studies in Progress

The following studies, at various stages of completion, were underway during the period under review:
(1) *Allocation of Retail Space in Shopping Centres in Canada*

This study examines the various conditions on which shopping centre space is allocated. In particular, it analyses the economic implications of restrictive covenants in leases as a basis for assessing the adequacy of competition policy in this area. Part I of the study, which deals with the experience and practices of large retailers, was prepared by a consultant and made publicly available during the last fiscal year. Completion of Part II of the study, dealing with developers and financial institutions, was delayed. Completion of the overall study, which entails synthesis of these two parts, is expected to be completed during the summer of 1981.

(2) *The Effects of Product Selection and Government Reimbursement Programs on the Prescription Drug Industry*

This study will present an in-depth analysis of steps taken in Ontario to reduce the retail prices of prescription drugs. The analysis covers issues such as generic product selection, third-party drug benefit plans and the interaction of public and private third party plans. Planned earlier as the Bureau's part of a joint research program with the Economic Council of Canada, it is now expected that, owing to differences in timing, the study will be published separately from the Council's work, which focuses on the related topic of compulsory licensing. Conducted internally, this study is expected to be completed in the summer of 1981.

(3) *Rates of Return in Trucking: Selected Markets*

This study has as its objective the analysis of financial performance in selected segments of the Canadian for-hire trucking industry. The study focuses on risk-return relationships among carriers in Ontario and Alberta. The study's findings are expected to contribute to discussions on the effects of regulation on efficiency in the movement of freight in Canada. This in-house study is a by-product of Branch involvement in the interdepartmental research program and is expected to be completed in July, 1981.

(4) *Merger Survey and Analysis*

This study, proposed to be undertaken jointly with Statistics Canada, is designed to bridge the existing data gap in merger statistics and to develop a methodology for the annual collection and publication of such data. Preliminary statistics on enterprise and establishment acquisitions in the manufacturing, mining and logging sectors for 1971-1978 have been compiled. As indicated in Chapter V, the merger register maintained by the Director since 1960 provides an indication of merger trends, but a more comprehensive continuing source of information would be desirable. It is intended that this study will represent the first step in closing this important data gap. Discussions are currently underway to obtain similar data on merger activity for all sectors of the Canadian economy. The first part of the study, containing a series of tables and descriptive analysis of recent merger activity in Canada, is expected to be available in the spring of 1982.

(5) *The Interface Between Collective Bargaining and Competition Policy*

This study examines the relationship between competition policy and collective bargaining. Collective bargaining is within that range of regulated activities exempted from the Combines Investigation Act. The focus in this study on clarification of policy concerning labour services arises out of the 1976 amendments, which brought services under the Combines Investigation Act. The study is expected to be completed by the end of 1981.

(6) *The Industrial Strategy Debate: Competition Policy Implications*

This paper examines the competition policy implications of the broad industrial strategy proposals currently being debated. It argues that there is both a need and an opportunity to co-ordinate various industrial strategy recommendations with competition policy, to ensure consistency and harmony in these two policy areas. This paper is currently being edited.
(7) Trade and Industrial Organization in Canadian Manufacturing

The purpose of this study is to provide empirical information concerning the interrelationships between trade, industrial market structure and behaviour in the Canadian secondary manufacturing sector. The results of this analysis are expected to contribute to an understanding of the issues relating to industrial, commercial, competition and science policies. The first part of the study will analyse the determinants of trade performance. The second part will examine relationships among trade, competition and market performance. The data base for this study is currently being prepared with the co-operation of Statistics Canada. Preliminary results are expected early in 1982.

B. International Relations

Chapter VII of the 1980 Annual Report provides a detailed review of the Bureau's international relations activities.

Co-operation with the competition policy enforcement agencies of other countries, i.e. notifications, exchanges of information and consultations continued during the year, within the context of bilateral and multilateral agreements with those countries. Some information on these exchanges is provided in a report by the OECD Committee of Experts on Restrictive Business Practices on the operation of the 1967 Council Recommendation concerning co-operation among member countries on restrictive business practices affecting international trade, during the period 1976 to 1979, which was made public in 1980.

Participation in the work of the OECD Committee of Experts on Restrictive Business Practices of the OECD continued during the year. In 1981 the OECD published a report by the Committee of Experts on Restrictive Business Practices, entitled "Buying Power." The report analyses the market power of large buyers in their trade relations with smaller suppliers and its control in Canada and 14 other OECD member countries. The report suggests that the experience in those countries that prohibit price discrimination, including Canada, indicates that this prohibition is neither practicable nor effective. It suggests rather, that only those forms of price discrimination which systematically favour large buyers or threaten to eliminate from the market otherwise competitive, viable firms should be controlled.

The United Nations General Assembly, in its Resolution 35/63 of December 5, 1980, adopted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices which had been approved by the United Nations Conference on Restrictive Business Practices held from April 8 to 22, 1980.

The resolution also calls for the convening in 1985, under the auspices of UNCTAD, of a United Nations conference to review all aspects of the Set of Principles and Rules. The resolution requested the UNCTAD Trade and Development Board to establish an Intergovernmental Group of Experts on Restrictive Business Practices to perform the functions designated in the Principles and Rules. In March 1981 the Trade and Development Board established the expert group, and instructed it to meet as often as necessary, but at least once a year.

Further information on OECD and UN reports may be obtained from the Canadian sales agent: Renouf Publishing Company Ltd., 2182 Ste. Catherine St. W., Montréal, Québec, H3H 1M7.
# APPENDIX I

**Reports by R.T.P.C. and Action Taken Thereon***

<table>
<thead>
<tr>
<th>Report</th>
<th>Nature of Inquiry</th>
<th>Date of Report</th>
<th>Recommendations</th>
<th>Actions Taken on Recommendations and Results***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report Concerning the Use of Bid Depositories in the Construction Industry</td>
<td>General Inquiry under section 47 of Combines Investigation Act</td>
<td>October 14/76</td>
<td>The Commission expressed the opinion that bid depositories have tended over the years to extend their original function by rules and procedures having the effect of increasing the control of trade associations over the bidding practices of their members. The Commission therefore suggested that, in order to eliminate the most serious restrictions on market freedom in existence in bid depositories, a bid depository should have a set of rules that would not contain any authority for a bid depository management to enforce comparability of tenders or to set and enforce standards of tendering conduct.</td>
<td>The Director has undertaken a program of information and consultation to bring the Commission's recommendations to the attention of the various participants in the construction industry. In addition, the Director has been engaged in discussions with federal government bodies active in the construction field in an attempt to implement a new set of standard rules for use on federal government projects. It is expected that these discussions will lead to a satisfactory resolution of the matter in the very near future.</td>
</tr>
</tbody>
</table>
| Report Concerning the Ophthalmic Products Industry in Canada           | General Inquiry under section 47 of Combines Investigation Act | December 29, 1978 | The recommendations may be summarized as follows:  
1. The establishment of minimum national standards of quality, which it is suggested could be expressed in the regulations for medical devices under the Food and Drugs Act.  
2. Provincial licensing of contact lens fittings. Some provinces have already adopted legislation in this area, but it should be more uniform.  
3. Elimination of existing provincial regulations banning price advertising.  
4. Reciprocity agreements among provinces with respect to licensing requirements for opticians. | The Minister has written to his provincial counterparts and to his colleague at Health and Welfare, drawing the report to their attention and asking for their views on the recommendations which fall within their jurisdictions. Some of the provinces have not yet completed their consideration of the report's recommendations. The Department of Health and Welfare is working on the development of appropriate standards. |
5. Consumer representation on provincial opticians' boards.
6. Elimination of the "85% rule" whereby dispensers agree to purchase 85% of their ophthalmic products from Imperial Optical Company Ltd.
7. Imperial Optical Company Ltd. should divest itself of Hudson Optical to create competition at the laboratory level in British Columbia and Alberta.
8. Imperial Optical Company Ltd. should divest itself of several chains in Western Canada and Ontario to create competition at the dispensing level.
9. Imperial Optical Company Ltd. should be precluded from further growth through merger at the laboratory and dispensing levels of the market.

* An Appendix in this form was first included in the Report of the Director of Investigation and Research for the year ended March 31, 1961, and contained all reports received from the Restrictive Trade Practices Commission since July 1, 1957.

** In many cases the reports do not specifically name persons or companies to which the recommendations apply. Unless, therefore, the recommendations in the report are stated specifically to apply to named persons or companies, nothing is shown under this heading.

*** The reports of the Restrictive Trade Practices Commission do not contain recommendations in respect of prosecution proceedings, apart from tariff action. Any action under the Act arising out of alleged contraventions of the anti-combines legislation can be taken only through the courts. The comments under this heading, therefore, set out not only the consultative activities taken by the Director but also, where applicable, any court proceedings contemplated or commenced and the outcome of such proceedings. *sh03
## APPENDIX II

Proceedings Completed in Cases Referred to the Attorney General of Canada Direct

### Part I - Proceedings under sections 32 to 35 and section 38 of the Act

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of persons or Companies Proceeded Against</th>
<th>Action Taken and Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price maintenance (Hairdressing supplies)</td>
<td>Dannyco Trading (Canada) Ltd., Nicholas Bilek</td>
<td>One charge was laid under each of paragraphs 38(1)(a) and (b) at Montréal, Québec on July 4, 1979. On May 29, 1980, Dannyco Trading (Canada) Ltd. was convicted and fined $1,250 on each charge for a total fine of $2,500. The charges against the individual were withdrawn.</td>
</tr>
<tr>
<td>Combination (Golf equipment)</td>
<td>Canadian Professional Golfers' Association, Canadian Professional Golfers' Association of British Columbia</td>
<td>One charge was laid under paragraph 32(1) (c) at Vancouver, British Columbia on February 14, 1979. On June 13, 1980, both accused pleaded guilty and were convicted. Canadian Professional Golfers' Association was fined $40,000 and Canadian Professional Golfers' Association of British Columbia was fined $10,000.</td>
</tr>
<tr>
<td>Combination (Radio and television advertising)</td>
<td>British Columbia Television Broadcasting System Ltd., Western Approaches Limited, Radio NW Ltd., Q Broadcasting Ltd., CKWX Radio Ltd., Jim Pattison Industries Ltd., Great Pacific Broadcasting Ltd., CHUM Western Limited, Moffat Communications Limited, City and Country Radio Ltd., Kenneth Lapp, J. Edward Smith, Noel Hullah, Donald Browning, J. Bart Gibb, Allan L. Anaka</td>
<td>One charge was laid under paragraph 32(1)(c) at Vancouver, British Columbia on May 31, 1979. On July 8, 1980, all the accused were acquitted.</td>
</tr>
<tr>
<td>Combination (Sugar)</td>
<td>Atlantic Sugar Refineries Co. Limited, Redpath Industries Limited, St. Lawrence Sugar Limited and SLSR Holdings Limited (predecessor of St. Lawrence)</td>
<td>One charge was laid under each of paragraphs 32(1)(b) and 32(1)(c) at Montréal, Québec on May 31, 1973. On December 19, 1975, the accused were acquitted. The Crown appealed to the Québec Court of Appeal and on March 14, 1978, that Court allowed the appeal on the charge under paragraph 32(1)(c) registered a conviction, and returned the case to the Trial Court for sentencing. On October 6, 1978, the three main accused were each fined $750,000. The accused appealed to the Supreme Court of Canada and on July 18, 1980, the appeals were allowed and the acquittals restored.</td>
</tr>
<tr>
<td>Price maintenance (Phonographic records)</td>
<td>A &amp; M Records of Canada Limited</td>
<td>Ten charges under the former section 38 and under section 38 as amended were laid at Ottawa, Ontario on September 22, 1978. On January 21, 1980, the company pleaded guilty to all charges. On August 5, 1980, A &amp; M Records was fined $35,000 on the first charge. Sentence was suspended on the other nine charges.</td>
</tr>
<tr>
<td>Price maintenance (Household furniture)</td>
<td>John Tynan &amp; Company Limited</td>
<td>Three charges were laid under section 38 and one charge was laid under section 35 at Medicine Hat, Alberta on November 21, 1979. On February 22, 1980, the accused was discharged at the preliminary hearing on the charge under section 35 and one of the charges under section 38. On September 8, 1980, the accused was acquitted on the remaining two charges.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

#### Part I - Proceedings under sections 32 to 35 and section 38 of the Act

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<tbody>
<tr>
<td>Price maintenance (Microwave ovens)</td>
<td>Matsushita Electric of Canada Limited</td>
<td>One charge under paragraph 38(1)(b) was laid at Vancouver, British Columbia on October 1, 1979. On September 30, 1980, the accused was acquitted.</td>
</tr>
<tr>
<td>Price maintenance (Gasoline)</td>
<td>Arrow Petroleums Limited, Ultramar Ontario Limited</td>
<td>One charge was laid under subsection 38(1) at London, Ontario on June 22, 1979. On April 24, 1980, Ultramar Ontario Limited was discharged at the preliminary hearing. On October 17, 1980, Arrow Petroleums pleaded guilty and was convicted and fined $7,500.</td>
</tr>
<tr>
<td>Predatory pricing (Liquid bleach)</td>
<td>Bristol-Myers Canada Limited</td>
<td>One charge under paragraph 34(1)(b) and one charge under paragraph 34(1)(c) were laid at Toronto, Ontario on June 29, 1979. The charges were withdrawn on November 19, 1980.</td>
</tr>
<tr>
<td>Combination (Waste disposal)</td>
<td>Acme Sanitation Services Ltd. and Haul-A-Way Waste Services Ltd., now continuing as Acme Sanitation Services (1979) Ltd., Browning-Ferris Industries of Winnipeg (1974) Ltd.</td>
<td>One charge was laid under paragraph 32(1)(c) at Winnipeg, Manitoba on April 2, 1979. On October 27, 1980, the accused were acquitted.</td>
</tr>
<tr>
<td>Combination (Paradichlorobenzene)</td>
<td>Chemicals Refineries Corporation, Record Chemical Co. Inc., Joseph Kuchar</td>
<td>On March 23, 1978, one charge was laid against each accused under paragraph 32(1)(c). On May 28, 1979, the accused were discharged at the preliminary hearing. On July 18, 1979, new charges were laid against Chemicals Refineries Corp. and Record Chemical Co. A preliminary hearing was held January 20, 1981, and both the accused were discharged.</td>
</tr>
<tr>
<td>Price maintenance (Shoes)</td>
<td>Church and Co. (Canada) Limited</td>
<td>Twenty-eight charges under section 38 were laid at Toronto, Ontario on March 11, 1980. On June 6, 1980, the company pleaded guilty to all 28 charges. On September 3, 1980, Church and Co. (Canada) Limited was fined $3,000 on each of eight counts, and $2,000 on each of the remaining 20 counts for a total fine of $64,000. The Crown and the Defence subsequently applied for leave to appeal the sentence but on January 29, 1981, the Supreme Court of Ontario refused the application.</td>
</tr>
<tr>
<td>Price maintenance (Stereo components)</td>
<td>Matsushita Electric of Canada Limited</td>
<td>Two charges were laid at Toronto, Ontario under subsection 38(1) on August 23, 1979. On January 31, 1981, the accused was found guilty on both charges and on February 13, 1981, Matsushita Electric was fined $50,000 on one charge. Sentence was suspended on the other charge.</td>
</tr>
<tr>
<td>Price maintenance (Women’s shoes)</td>
<td>De Carlo Shoe Company Limited, Jakub Kranz Limited</td>
<td>Two charges under paragraph 38(1)(b) were laid at Toronto, Ontario on March 4, 1980. On November 3, 1980, the accused were ordered to stand trial on both charges. On March 20, 1981, the accused were acquitted.</td>
</tr>
</tbody>
</table>
Part II - Misleading and False Advertising (former provisions)

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>False advertising (Condominiums)</td>
<td>Southdown Builders Limited (Toronto, Ontario)</td>
<td>One charge was laid on October 2, 1978, under subsection 37(1). On July 30, 1980, the accused pleaded not guilty but was convicted and on August 8, 1980, was fined $10,000.</td>
</tr>
<tr>
<td>False advertising (Olympic coins)</td>
<td>La Boutique de Pièces de Monnaies Rares Inter-Exchange Inc. and Chawki Alnahas (Montréal, Québec)</td>
<td>One charge was laid on December 8, 1975, under subsection 37(1). On December 9, 1980, a stay of proceedings was entered.</td>
</tr>
<tr>
<td>False advertising (Auto accessories)</td>
<td>Water Matic Canada Inc., Rodrigue Dugas and Clément Gareau (Québec, Québec)</td>
<td>One charge was laid on July 16, 1976, under subsection 37(1). On February 13, 1978, the accused were acquitted. The Crown appealed and on April 27, 1979, the appeal was allowed and a conviction registered. Water Matic Canada Inc. was fined $500, Rodrigue Dugas was fined $200 and Clément Gareau was fined $200 for a total fine of $900. The accused appealed the convictions and the Crown appealed the sentences. The appeals were heard in the Québec Court of Appeal on November 4, 1980, and on January 7, 1981, the appeals were dismissed.</td>
</tr>
<tr>
<td>False advertising (Diamonds)</td>
<td>Sandhold Enterprises Limited, Professional Gemmological Services Ltd., Howard Milne, Philip West, Samuel Kleinberg, Samuel Kleinberg Jewellery Limited, Richard Covent, carrying on business as International Diamond Merchants (Toronto, Ontario)</td>
<td>Two charges were laid on December 20, 1977, under subsection 37(1). S. Kleinberg and Samuel Kleinberg Jewellery Limited had been ordered to stand trial on June 5, 1979, but on January 29, 1980, the order was quashed. On February 18, 1980, Sandhold Enterprises pleaded guilty and was convicted and fined $10,000 on each charge for a total fine of $20,000. On May 28, 1980, Professional Gemmological Services Limited and Richard Covent were acquitted. On May 30, 1980, Philip West and Howard Milne were acquitted.</td>
</tr>
<tr>
<td>Misleading price advertising (Oven-ware sets)</td>
<td>Stewart Bernard Freedman (Montréal, Québec)</td>
<td>One charge was laid on July 10, 1974, under subsection 36(1). A warrant for arrest was issued and remained outstanding. The case has now been closed.</td>
</tr>
<tr>
<td>Misleading price advertising (Oven-ware sets)</td>
<td>Donald S. Cole and Ronald Howard Barris (Toronto, Ontario)</td>
<td>Two charges were laid on June 25, 1974, under subsection 36(1). Warrants for arrest were issued against both accused. On December 13, 1974, D.S. Cole was arrested. He pleaded guilty to both charges and was fined $200 on the first charge and $100 on the other. The warrant against R.H. Barris continued to be outstanding. The case has now been closed.</td>
</tr>
</tbody>
</table>
APPENDIX II — (Continued)

Part II - Misleading and False Advertising (former provisions)

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Misleading price advertising (Ovenware sets)</td>
<td>Jack Rubenstein, Sidney Gordon, Steven Ross Smith, Gary Rubenstein, Bernard Schwartz and Tom Bycofski (London, Ontario)</td>
<td>One charge was laid on July 17, 1974, under subsection 36(1) against the first four accused and one charge was laid against the remaining two accused under paragraph 423(2)(a) of the Criminal Code alleging a conspiracy with the first four accused to commit an offence under subsection 36(1) of the Act. Sidney Gordon pleaded guilty on July 17, 1974, and was fined $500. Warrants for arrest were issued for the other five accused and remained outstanding. The case has now been closed.</td>
</tr>
<tr>
<td>False advertising (Gas-saving device)</td>
<td>Mitchell Gold, carrying on business as Gas Misers Sales Company (Toronto, Ontario)</td>
<td>One charge was laid on February 2, 1975, under subsection 37(1). A stay of proceedings was subsequently entered and the case has now been closed.</td>
</tr>
<tr>
<td>False advertising (Drivers licence tests)</td>
<td>Mark Johnson (Toronto, Ontario)</td>
<td>One charge was laid under subsection 37(1) on April 25, 1975. On April 6, 1977, the charge was dismissed. The case has now been closed.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

#### Part III - Misleading Advertising and Deceptive Marketing Practices

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>False or misleading representation in a material respect (Camera)</td>
<td>T. Eaton Company Limited (Toronto, Ontario)</td>
<td>One charge was laid on April 1, 1977, under paragraph 36(1)(a). On December 2, 1977, the accused pleaded guilty and was convicted but sentence was suspended. An appeal was filed by the Crown and on April 4, 1980, the appeal was allowed and the accused was fined $7,500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Condominiums)</td>
<td>Douglas MacDonald Homes Limited (Ottawa, Ontario)</td>
<td>Two charges were laid on January 2, 1980, under paragraph 36(1)(a). On April 9, 1980, the accused pleaded not guilty but was convicted and fined $100 on each charge for a total fine of $200.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Jay-Norris Corporation of Canada Ltd. (St. Léonard, Québec)</td>
<td>One charge was laid on July 6, 1979, under paragraph 36(1)(a). On April 11, 1980, the accused pleaded guilty and was convicted and fined $100.</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>Jay-Norris Corporation of Canada Ltd. (St. Léonard, Québec)</td>
<td>One charge was laid on July 6, 1979, under paragraph 36(1)(b). On April 11, 1980, the charge was withdrawn.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Provigo (Detail) Inc. carrying on business as Jato (Québec, Québec)</td>
<td>Twenty-nine charges were laid on April 12, 1979, under section 37.1. On April 11, 1980, the accused was acquitted. An appeal was filed by the Crown but on April 17, 1980, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Houses)</td>
<td>Les Entreprises H.G.B. Inc. (Québec, Québec)</td>
<td>Three charges were laid on May 1, 1979, under paragraph 36(1)(a). On August 10, 1979, the accused was acquitted. An appeal was filed by the Crown but on April 17, 1980, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Christmas tree decorations)</td>
<td>Jay-Norris Corporation Canada Ltd.—Corporation Jay-Norris Canada Ltée (Montréal, Québec)</td>
<td>One charge was laid on November 27, 1979, under paragraph 36(1)(a). On April 22, 1980, the accused pleaded guilty and was convicted and fined $2,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Automotive tune-up)</td>
<td>P. Simard Inc. carrying on business as Canadian Tire (Vanier, Québec)</td>
<td>One charge was laid on December 4, 1979, under paragraph 36(1)(a). On April 22, 1980, the accused pleaded guilty and was convicted and fined $2,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Carpeting)</td>
<td>Tapis Métrique Ltée (Montréal, Québec)</td>
<td>One charge was laid on July 30, 1979, under paragraph 36(1)(a). On April 22, 1980, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Restaurant services)</td>
<td>Pizza Hut (Canada) Limited (Toronto, Ontario)</td>
<td>Two charges were laid on July 10, 1979, under paragraph 36(1)(a). On April 23, 1980, the accused pleaded not guilty but was convicted and fined $2,000. The remaining charge was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Feed mill)</td>
<td>Alvin Lilje and A.E. Lepage Melton Real Estate Ltd. (Edmonton, Alberta)</td>
<td>One charge was laid on January 7, 1980, under paragraph 36(1)(a). On April 25, 1980, the charges were dismissed.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

#### Part III - Misleading Advertising and Deceptive Marketing Practices

<table>
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<tr>
<td>False or misleading representation in a material respect (Fur coats)</td>
<td>Canadian Fur Shop of Saitoh Limited (Toronto, Ontario)</td>
<td>One charge was laid on February 12, 1979, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on August 8, 1979, and fined $1,000. An appeal was filed by the accused but was dismissed on April 28, 1980.</td>
</tr>
<tr>
<td>Sale above advertised price (Gasoline)</td>
<td>Marcel Tremblay (St. Germain de Grantham, Québec)</td>
<td>One charge was laid on January 8, 1980, under section 37.1. On May 5, 1980, the accused pleaded guilty and was convicted and fined $100.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Marcel Tremblay (St. Germain de Grantham, Québec)</td>
<td>One charge was laid on January 8, 1980, under paragraph 36(1)(a). On May 5, 1980, the accused pleaded guilty and was convicted and fined $100.</td>
</tr>
<tr>
<td>Sale above advertised price (Household and hardware products)</td>
<td>LaSalle Factories Ltd. (Montréal, Québec)</td>
<td>Seventeen charges were laid on December 7, 1979, under section 37.1. On May 6, 1980, the accused pleaded guilty and was convicted and fined $500 on each charge for a total fine of $8,500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Insulation)</td>
<td>Le Castor Bricoleur Ltée—Beaver Handy Man Ltd. (Québec, Québec)</td>
<td>One charge was laid on December 17, 1979, under paragraph 36(1)(a). On May 16, 1980, the accused pleaded not guilty but was convicted and fined $1,500.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Jean-Paul Dorion Inc. carrying on business as Casino d’Aubaines (Québec, Québec)</td>
<td>Forty-one charges were laid on April 12, 1979, under section 37.1. The accused pleaded not guilty but was convicted on February 8, 1980. On May 16, 1980, the accused was fined $50 on each charge for a total fine of $2,050.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Advertising service)</td>
<td>Yellow Directory of Canada Ltd. (Edmonton, Alberta)</td>
<td>Five charges were laid on January 17, 1980, under paragraph 36(1)(a). On May 23, 1980, the accused pleaded not guilty but was convicted and fined $2,000 on each charge for a total fine of $10,000.</td>
</tr>
<tr>
<td>Misleading price representation ( Carpets)</td>
<td>Gestion Pervenche Ltée—Pervenche Holdings Ltd. carrying on business as Tapiscolor Enr. (St. Léonard, Québec)</td>
<td>Three charges were laid on May 2, 1980, under paragraph 36(1)(d). On May 28, 1980, the accused pleaded guilty and was convicted and fined $500 on each charge for a total fine of $1,500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Employment offer)</td>
<td>Eugène Lajeunesse carrying business as Poly-Net, Poly-Clean (Montréal, Québec)</td>
<td>One charge was laid on July 30, 1979, under paragraph 36(1)(a). On May 29, 1980, the accused pleaded guilty and was convicted and fined $500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Insulation)</td>
<td>M.J. Isolation Inc. (La Malbaie, Québec)</td>
<td>One charge was laid on January 7, 1980, under paragraph 36(1)(a). On May 29, 1980, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Hair and scalp treatment)</td>
<td>Vincent Giguère carrying business as Les Salons Jeanne Gauthier Enr., Coiffure Style, Vincent Giguère (Québec, Québec)</td>
<td>One charge was laid on January 24, 1980, under paragraph 36(1)(a). On May 29, 1980, the accused pleaded guilty and was convicted and fined $1,000.</td>
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</table>
APPENDIX II — (Continued)

Part III - Misleading Advertising and Deceptive Marketing Practices

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<tr>
<td>Representation without proper test (Hair and scalp treatment)</td>
<td>Vincent Giguère carrying on business as Les Salons Jeanne Gauthier Enr., Coiffure Style, Trichologiste (Québec, Québec)</td>
<td>One charge was laid on January 24, 1980, under paragraph 36(1)(b). On May 29, 1980, the accused pleaded guilty and was convicted and fined $300.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Diamonds)</td>
<td>Sandhold Enterprises Limited Professional Gemmological Services Limited, Howard Milne, Philip West, Samuel Kleinberg, Samuel Kleinberg Jewellery Limited and Richard Covent, carrying on business as International Diamond Merchants (Toronto, Ontario)</td>
<td>One charge was laid on December 20, 1977, under paragraph 36(1)(a). S. Kleinberg and Samuel Kleinberg Jewellery Limited had been ordered to stand trial on June 5, 1979, but on January 29, 1980, the order was quashed. On February 18, 1980, Sandhold Enterprises pleaded guilty and was convicted and fined $10,000. On May 28, 1980, Professional Gemmological Services Limited and Richard Covent were acquitted. On May 30, 1980, Philip West and Howard Milne were acquitted.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Kitchen cabinets)</td>
<td>Menuiseries de Chicoutimi Inc. (Chicoutimi, Québec)</td>
<td>One charge was laid on April 2, 1980, under paragraph 36(1)(a). On June 2, 1980, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Carpet cleaning)</td>
<td>The T. Eaton Company Limited and Adler &amp; Son (Calgary, Alberta)</td>
<td>Two charges were laid on May 23, 1979, under paragraph 36(1)(a). On June 2, 1980, Adler &amp; Son pleaded guilty to one charge and was convicted and fined $2,500. The remaining charge was withdrawn. The charges against The T. Eaton Company Limited were withdrawn.</td>
</tr>
<tr>
<td>Sale above advertised price (Carpet cleaning)</td>
<td>The T. Eaton Company Limited and Adler &amp; Son (Calgary, Alberta)</td>
<td>One charge was laid on May 23, 1979, under section 37.1. On June 2, 1980, the charge was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Car rental)</td>
<td>Dartmouth Dodge Chrysler Ltd. (Dartmouth, Nova Scotia)</td>
<td>Three charges were laid on May 9, 1980, under paragraph 36(1)(a). On June 2, 1980, the accused pleaded guilty to one charge and was convicted and fined $750. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Newspaper circulation)</td>
<td>North Shore Free Press Ltd. (Vancouver, British Columbia)</td>
<td>Two charges were laid on February 12, 1979, under paragraph 36(1)(a). On June 3, 1980, the accused pleaded guilty and was convicted and fined $250 on each charge for a total fine of $500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Ebrahim Walli carrying on business as White Rock Husky Service (Surrey, British Columbia)</td>
<td>Two charges were laid on March 14, 1980, under paragraph 36(1)(a). On June 10, 1980, the accused pleaded guilty to one charge and was convicted and fined $250. A stay of proceedings was entered on the remaining charge.</td>
</tr>
<tr>
<td>Sale above advertised price (Gasoline)</td>
<td>Ebrahim Walli carrying on business as White Rock Husky Service (Surrey, British Columbia)</td>
<td>Two charges were laid on March 14, 1980, under section 37.1. On June 12, 1980, the accused pleaded guilty to five charges and was convicted and fined $1,600 on each charge for a total fine of $8,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>Sale above advertised price (Automotive and hardware products)</td>
<td>Keith W. Pearson Limited (Edmonton, Alberta)</td>
<td>Ten charges were laid on January 22, 1980, under section 37.1. On June 10, 1980, the accused pleaded guilty to five charges and was convicted and fined $1,600 on each charge for a total fine of $8,000. The remaining charges were withdrawn.</td>
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## APPENDIX II — (Continued)

### Part III - Misleading Advertising and Deceptive Marketing Practices

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<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Norman McLean, carrying on business as NRG Canmark Company (Montréal, Québec)</td>
<td>One charge was laid on May 6, 1980, under paragraph 36(1)(a). On June 12, 1980, the accused pleaded guilty and was convicted and fined $200.</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>Norman McLean, carrying on business as NRG Canmark Company (Montréal, Québec)</td>
<td>One charge was laid on May 6, 1980, under paragraph 36(1)(b). On June 12, 1980, the charge was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Swimming pools)</td>
<td>Le Roi des Bas Prix de la Région de Montréal Ltée (Montréal, Québec)</td>
<td>One charge was laid on September 14, 1979, under paragraph 36(1)(a). On June 12, 1980, the accused pleaded not guilty but was convicted and fined $50.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>Abram C. DeFehr &amp; Sons Distributors Ltd., Cornelius C. DeFehr &amp; Sons Distributors Ltd., William C. DeFehr &amp; Sons Distributors Ltd. and B.B. Fast &amp; Sons Distributors Ltd. carrying on business as C.A. DeFehr Furniture and Appliances (Regina, Saskatchewan)</td>
<td>One charge laid on February 15, 1979, under paragraph 36(1)(a). On August 18, 1979, the accused were acquitted. An appeal was filed by the Crown but was dismissed on June 13, 1980.</td>
</tr>
<tr>
<td>Misleading price representation (Furniture)</td>
<td>Abram C. DeFehr &amp; Sons Distributors Ltd., Cornelius C. DeFehr &amp; Sons Distributors Ltd., William C. DeFehr &amp; Sons Distributors Ltd. and B.B. Fast &amp; Sons Distributors Ltd. carrying on business as C.A. DeFehr Furniture and Appliances (Regina, Saskatchewan)</td>
<td>One charge laid on February 15, 1979, under paragraph 36(1)(d). On August 18, 1979 the accused were acquitted. An appeal was filed by the Crown but was dismissed on June 13, 1980.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Building design and construction)</td>
<td>Muer Construction Ltd. (Guelph, Ontario)</td>
<td>One charge was laid on March 18, 1980, under paragraph 36(1)(c). The accused pleaded not guilty but was convicted on June 16, 1980, and fined $300.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Wood stoves)</td>
<td>W.M. Enterprises Ltd. carrying on business as Solar-Tech (Winnipeg, Manitoba)</td>
<td>Four charges were laid on December 27, 1979, under paragraph 36(1)(a). On June 25, 1980, the charges were dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>Raymond Gagnon, Alphonse Gagnon and Les Entreprises W. Blackburn Inc., carrying on business as Gagnon Frères, Dollard Blackburn (Jonquière, Québec)</td>
<td>One charge was laid on December 10, 1979, under paragraph 36(1)(a). On June 30, 1980, all the accused pleaded guilty and were convicted and jointly fined $3,500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Prefabricated houses)</td>
<td>Les Maisons de Pièces du Québec Inc. (Lac du Cerf, Québec)</td>
<td>One charge was laid on March 27, 1980, under paragraph 36(1)(a). On July 2, 1980, the accused pleaded guilty and was convicted and fined $300.</td>
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**Part III - Misleading Advertising and Deceptive Marketing Practices**

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<tr>
<td>False or misleading representation in a material respect (Used automobiles)</td>
<td>City Chrysler Plymouth 1971 Ltd., Cleveland E. Banks and Michael Ryan (Moncton, New Brunswick)</td>
<td>Six charges were laid on June 9, 1980, under paragraph 36(1)(a). Three charges were laid against City Chrysler Plymouth 1971 Ltd., two charges were laid against Cleveland E. Banks and one charge was laid against Michael Ryan. On July 8, 1980, City Chrysler Plymouth 1971 Ltd. pleaded guilty and was convicted and fined $700 on each charge for a total fine of $2,100. Cleveland E. Banks pleaded guilty and was convicted and fined $300 on each charge for a total fine of $600. Michael Ryan pleaded guilty and was convicted and fined $300.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Ladies' jackets)</td>
<td>Dalmys (Canada) Limited—Dalmys (Canada) Limitée (Halifax, Nova Scotia)</td>
<td>One charge was laid on June 16, 1980, under paragraph 36(1)(a). On July 10, 1980, the accused pleaded guilty and was convicted and fined $300.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Air transportation)</td>
<td>Henley Holidays Limited (St. Catharines, Ontario)</td>
<td>One charge was laid on July 9, 1979, under paragraph 36(1)(a). On July 14, 1980, the accused pleaded guilty and was convicted and fined $200.</td>
</tr>
<tr>
<td>Misleading price representation (Speakers)</td>
<td>Western Speakerlab Corp. carrying on business as Soundlab (Vancouver, B.C.)</td>
<td>One charge was laid on March 12, 1980, under paragraph 36(1)(d). On July 15, 1980, the accused pleaded guilty and was convicted and fined $200.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Airline tickets)</td>
<td>Air Canada (Edmonton, Alberta)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a). On July 24, 1980, the accused pleaded guilty and was convicted and fined $500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Clothing)</td>
<td>Thrifty Riding and Sport Shop Limited (St. John's, Newfoundland)</td>
<td>One charge was laid on April 11, 1980, under paragraph 36(1)(a). On July 29, 1980, the accused pleaded guilty and was convicted and fined $1,200.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Caron, Gagnon et Santerre Inc. (Rivière-du-Loup, Québec)</td>
<td>One charge was laid on June 19, 1980, under paragraph 36(1)(a). On August 11, 1980, the accused pleaded guilty and was convicted and fined $250.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>London Furniture Co. Limited, carrying on business as London Furniture (London, Ontario)</td>
<td>Four charges were laid on November 10, 1978, under paragraph 36(1)(a). On August 12, 1980, the accused pleaded guilty to one charge and was convicted and fined $1,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>Misleading price representation (Mattresses—Beds)</td>
<td>Beverley Bedding Corporation and London Furniture Co. Limited (London, Ontario)</td>
<td>Five charges were laid on November 10, 1978, under paragraph 36(1)(d). Beverley Bedding Corporation was jointly charged with London Furniture Co. Limited on one charge. London Furniture Co. Limited was solely charged on four charges. On August 12, 1980, Beverley Bedding Corporation pleaded guilty and was convicted and fined $5,000. London Furniture Co. Limited pleaded guilty to one charge and was convicted and fined $3,000. The remaining charges were withdrawn.</td>
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<tr>
<td>False or misleading representation in a material respect (Beds and Mattresses)</td>
<td>Beverley Bedding Corporation and London Furniture Co. Limited (London, Ontario)</td>
<td>Five charges were laid on November 10, 1978, under paragraph 36(1)(a). The accused were jointly charged on one charge. London Furniture Co. Limited was solely charged on three charges and Beverley Bedding Corporation was solely charged on one charge. On August 12, 1980, London Furniture Co. Limited pleaded guilty to one charge and was convicted and fined $1,000. The remaining charges against both accused were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Skin cream)</td>
<td>The Mail Store Limited, carrying on business as Dominion Pharmacals, and Steve Burke (Rexdale, Ontario)</td>
<td>One charge was laid on July 7, 1980, under paragraph 36(1)(a). On August 14, 1980, the corporate accused pleaded guilty and was convicted and fined $2,000. The charge against the individual accused was withdrawn.</td>
</tr>
<tr>
<td>Representation without proper test (Skin cream)</td>
<td>The Mail Store Limited, carrying on business as Dominion Pharmacals, and Steve Burke (Rexdale, Ontario)</td>
<td>One charge was laid on July 7, 1980, under paragraph 36(1)(b). On August 14, 1980, the corporate accused pleaded guilty and was convicted and fined $2,000. The charge against the individual accused was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Bicycle)</td>
<td>D. J. Provencher Limited (Greenwood, Nova Scotia)</td>
<td>One charge was laid on November 6, 1979, under paragraph 36(1)(a). On August 8, 1980, the accused pleaded not guilty but was convicted and on August 27, 1980, was fined $300.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Apartments)</td>
<td>Hargate Apartments Ltd. and First Western Development Ltd. (Edmonton, Alberta)</td>
<td>One charge was laid on May 23, 1980, under paragraph 36(1)(a) against First Western Development Ltd. and on July 9, 1980, an additional charge under paragraph 36(1)(a) was laid against Hargate Apartments Ltd. On August 28, 1980, the Crown entered a stay of proceedings in respect of the earlier charge and the later charge was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Apartments)</td>
<td>Multi-Investments Ltd. (Fredericton, New Brunswick)</td>
<td>Two charges were laid on June 9, 1980, under paragraph 36(1)(a). On August 29, 1980, the accused pleaded not guilty but was convicted on one charge and on September 5, 1980, was fined $800. The remaining charge was withdrawn.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Boucherie Davis Meat Shop Ltee (Jonquiere, Quebec)</td>
<td>Thirty-one charges were laid on April 2, 1980, under section 37.1. On July 21, 1980, the accused pleaded guilty to 30 charges and was convicted and on September 5, 1980, was fined $50 on each charge for a total fine of $1,500. The remaining charge was withdrawn.</td>
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</tr>
<tr>
<td>False or misleading representation in a material respect (Pendant)</td>
<td>Marc Kowalczyk and Les Laboratoires Scientex Inc. (Montréal, Québec)</td>
<td>One charge was laid on October 10, 1978, under paragraph 36(1)(a). On March 19, 1979, the corporate accused pleaded guilty and was convicted and on January 23, 1980, was fined $1,000. On December 12, 1979, the individual accused pleaded not guilty but was convicted and on January 23, 1980, was fined $1,500. An appeal was filed by both accused but was abandoned on September 9, 1980.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Hotel accommodation)</td>
<td>Commonwealth Holiday Inns of Canada Limited, carrying on business as Downtown Holiday Inn (Toronto, Ontario)</td>
<td>One charge was laid on February 20, 1980, under paragraph 36(1)(a). On September 9, 1980, the charge was dismissed.</td>
</tr>
<tr>
<td>Representation without proper test (Pendant)</td>
<td>Marc Kowalczyk and Les Laboratoires Scientex Inc. (Montréal, Québec)</td>
<td>Two charges were laid on October 10, 1978, under paragraph 36(1)(b). On March 19, 1979, the corporate accused pleaded guilty and was convicted and on January 23, 1980, was fined $1,000 on each charge for a total fine of $2,000. On December 12, 1979, the individual accused pleaded not guilty but was convicted and on January 23, 1980, was fined $1,500 on each charge for a total fine of $3,000. An appeal was filed by both accused but was abandoned on September 9, 1980.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Swimming pools)</td>
<td>304291 Ontario Limited, carrying on business as Imperial Pools (Toronto, Ontario)</td>
<td>Four charges were laid on January 17, 1980, under paragraph 36(1)(a). On September 9, 1980, the accused pleaded guilty to two charges and was convicted and fined $2,500 on each charge for a total fine of $5,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Cookware)</td>
<td>Lanover Products Inc.—Produits Lanover Inc. and Pierre Benoit (Montréal, Québec)</td>
<td>Five charges were laid on May 9, 1979, under paragraph 36(1)(a). On September 12, 1980, both accused pleaded not guilty but were convicted on four charges. The corporate accused was fined $800 on each charge for a total fine of $3,200. The individual accused was fined $200 on each charge for a total fine of $800. The remaining charge was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Tires)</td>
<td>Merson Tire Ltd. (Montréal, Québec)</td>
<td>Two charges were laid on May 9, 1980, under paragraph 36(1)(a). On September 24, 1980, the accused pleaded guilty and was convicted and fined $500 on each charge for a total fine of $1,000.</td>
</tr>
<tr>
<td>Sale above advertised price (Household products)</td>
<td>K-Mart Canada Limitée (Longueuil, St. Laurent and LaSalle, Québec)</td>
<td>Thirty charges were laid on December 7, 1979, under section 37.1. On April 4, 1980, the accused pleaded guilty and was convicted and fined $2,000 on each charge for a total fine of $60,000. The accused appealed the sentence and on September 24, 1980, the appeal was allowed and the fine was reduced to $1,000 on each charge for a total fine of $30,000.</td>
</tr>
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**APPENDIX II — (Continued)**

**Part III - Misleading Advertising and Deceptive Marketing Practices**

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<tr>
<td>False or misleading representation in a material respect (Health club services)</td>
<td>D. Wakefield Management Ltd., carrying on business as European Spa Fitness Centres (Edmonton, Alberta)</td>
<td>Two charges were laid on March 14, 1980, under paragraph 36(1)(a). On October 3, 1980, the accused pleaded guilty and was convicted and fined $5,000 on each charge for a total fine of $10,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Jewellery)</td>
<td>Claudette Abdallah, carrying on business as The Gold Mart (Windsor, Ontario)</td>
<td>One charge was laid on April 25, 1980, under paragraph 36(1)(a). On October 8, 1980, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Jewellery)</td>
<td>Importateur E. Lavoie Inc. (Jonquière, Québec)</td>
<td>One charge was laid on July 4, 1979, under paragraph 36(1)(a). On October 8, 1980, the charge was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Health spa)</td>
<td>21st Century Health Spas Limited (Winnipeg, Manitoba)</td>
<td>Thirty-three charges were laid on December 27, 1979, under paragraph 36(1)(a). On October 1, 1980, 14 charges were stayed and, on October 15, 1980, the remaining charges were dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Service station)</td>
<td>Sedco Enterprises Ltd., carrying on business as 10 Minit Pit Stop (Winnipeg, Manitoba)</td>
<td>One charge was laid on July 20, 1980, under paragraph 36(1)(a). On October 15, 1980, the accused pleaded not guilty but was convicted and fined $250.</td>
</tr>
<tr>
<td>Sale above advertised price (Gasoline)</td>
<td>ESF Limited and Ernest Gross, carrying on business as E &amp; J Garage (Toronto, Ontario)</td>
<td>One charge was laid on June 13, 1980, under section 37.1. On October 27, 1980, the charge was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Fertilizer)</td>
<td>Alpine Plant Foods Limited (Kitchener, Ontario)</td>
<td>One charge was laid on February 9, 1979, under paragraph 36(1)(a). On October 29, 1980, the accused pleaded not guilty but was convicted and fined $1,000.</td>
</tr>
<tr>
<td>Misleading testimonial or test (Fertilizer)</td>
<td>Alpine Plant Foods Limited (Kitchener, Ontario)</td>
<td>One charge was laid on February 9, 1979, under section 36.1. On October 29, 1980, the accused pleaded not guilty but was convicted and fined $2,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Newspaper)</td>
<td>Le Courrier du Sud Inc. (Longueuil, Québec)</td>
<td>One charge was laid on March 11, 1980, under paragraph 36(1)(a). On November 6, 1980, the charge was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Stereo equipment)</td>
<td>Arnick Limited, carrying on business as National Sound (Toronto, Ontario)</td>
<td>Nineteen charges were laid on August 12, 1980, under paragraph 36(1)(a). On November 7, 1980, the charges were withdrawn.</td>
</tr>
<tr>
<td>Misleading price representation (Stereo equipment)</td>
<td>Arnick Limited, carrying on business as National Sound (Toronto, Ontario)</td>
<td>Two charges were laid on August 12, 1980, under paragraph 36(1)(d). On November 7, 1980, the accused pleaded guilty and was convicted and fined $1,500 on each charge for a total fine of $3,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Carpeting)</td>
<td>375696 Ontario Limited, carrying on business as Carpet Industries, and Phil Givner (Toronto, Ontario)</td>
<td>Twelve charges were laid on September 13, 1979, under paragraph 36(1)(a). On November 17, 1980, the corporate accused pleaded guilty to one charge and was convicted and fined $12,500. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

**Part III - Misleading Advertising and Deceptive Marketing Practices**

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
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<tbody>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Westfair Foods Ltd., carrying on business as Loblaws (Winnipeg, Manitoba)</td>
<td>Nine charges were laid on April 8, 1980, under section 37.1. On November 20, 1980, four charges were laid and the original nine charges were withdrawn. The accused pleaded guilty and was convicted and fined $750 on each charge for a total fine of $3,000.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Dominion Stores Limited—Les Super-marchés Dominion Limitée (Winnipeg, Manitoba)</td>
<td>Twenty-six charges were laid on April 8, 1980, under section 37.1. On November 20, 1980, seven charges were laid and the original 26 charges were withdrawn. The accused pleaded guilty and was convicted and fined $1,000 on each charge for a total fine of $7,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>359027 Ontario Limited carrying on business as Yolles Furniture (Sudbury, Ontario)</td>
<td>Four charges were laid on October 22, 1980, under paragraph 36(1)(a). On November 20, 1980, the accused pleaded guilty to one charge and was convicted and fined $1,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Automobile tune-up)</td>
<td>Day’s Enterprises &amp; Service Centre Limited (St. John’s, Newfoundland)</td>
<td>One charge was laid on September 16, 1980, under paragraph 36(1)(a). On November 20, 1980, the accused pleaded not guilty but was convicted and fined $100.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Hair restorative treatment)</td>
<td>Richard William Wage, carrying on business as National Hair and Scalp Institute (Halifax, Nova Scotia)</td>
<td>One charge was laid on February 29, 1980, under paragraph 36(1)(a). On November 27, 1980, the accused pleaded guilty and was convicted and made the subject of a probation order containing inter alia the following terms: (1) that restitution in the total amount of $865 be made to two customers; and (2) that in all advertising and other representations he must alert the public that the treatment cannot help individuals suffering from hereditary baldness, and that any such member of the public should consult a physician before undergoing any treatment such as offered by the accused.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Indian rugs)</td>
<td>Alexanian &amp; Sons Limited (Hamilton, Ontario)</td>
<td>Eleven charges were laid on March 17, 1980, under paragraph 36(1)(a). On December 1, 1980, the accused pleaded guilty to one charge and was convicted and fined $10,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>Sale above advertised price (Toy)</td>
<td>Marks &amp; Spencer Canada Inc., carrying on business as Peoples (Liverpool, Nova Scotia)</td>
<td>One charge was laid on November 24, 1980, under section 37.1. On December 1, 1980, the accused pleaded guilty and was convicted and fined $300.</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>362922 Ontario Limited, carrying on business as Alex’s Esso Service (Brantford, Ontario)</td>
<td>Three charges were laid on October 29, 1980, under paragraph 36(1)(b). On November 26, 1980, the accused pleaded guilty to two charges and was convicted and on December 3, 1980, was fined $500 on each charge for a total fine of $1,000. The remaining charge was withdrawn.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

**Part III - Misleading Advertising and Deceptive Marketing Practices**

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
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<tbody>
<tr>
<td>False or misleading representation in a material respect (Building lots)</td>
<td>Les Aménagements G.F.C. Inc. (Québec, Québec)</td>
<td>Two charges were laid on March 26, 1980, under paragraph 36(1)(a). On December 5, 1980, the accused pleaded not guilty but was convicted and fined $600 on the first charge and $800 on the second charge for a total fine of $1,400.</td>
</tr>
<tr>
<td>False or misleading representation in material respect (Air transportation)</td>
<td>Wardair Canada (1975) Ltd. and International Vacations Ltd., carrying on business as Intervac (Malton, Ontario)</td>
<td>Six charges were laid on September 5, 1978, under paragraph 36(1)(a). On April 4, 1979, the accused were acquitted. The Crown appealed the acquittal of International Vacations Ltd. and on February 2, 1980, the appeal was allowed and a conviction registered. International Vacations was fined $1,000 on each charge for a total fine of $6,000. The accused appealed the conviction and the appeal was allowed and the conviction was set aside by the Ontario Court of Appeal on December 9, 1980.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Cookware)</td>
<td>Promail Canada Inc. (Montréal, Québec)</td>
<td>One charge was laid on November 23, 1979, under paragraph 36(1)(a). On December 9, 1980, the accused pleaded not guilty but was convicted and fined $1,000,</td>
</tr>
<tr>
<td>Misleading price representation (Cookware)</td>
<td>Promail Canada Inc. (Montréal, Québec)</td>
<td>One charge was laid on November 23, 1979, under paragraph 36(1)(d). On December 9, 1980, the accused pleaded not guilty but was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Promotional products)</td>
<td>Comda Services Limited (Toronto, Ontario)</td>
<td>Four charges were laid on May 1, 1980, under paragraph 36(1)(a). On December 10, 1980, the accused pleaded guilty to one charge and was convicted and fined $2,500. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Pottery)</td>
<td>Heritage Craftmen Incorporated (Ottawa, Ontario)</td>
<td>Two charges were laid on June 3, 1980, under paragraph 36(1)(a). On December 10, 1980, the accused pleaded guilty to one charge and was convicted and fined $2,000. The remaining charge was withdrawn. An order of prohibition was issued.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Television rental)</td>
<td>Mad Man Murphy Limited (St. John's, Newfoundland)</td>
<td>Two charges were laid on July 29, 1980, under paragraph 36(1)(a). On December 10, 1980, the accused pleaded not guilty but was convicted and fined $500 on one charge. The remaining charge was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Stereo speakers)</td>
<td>Laserphase Inc. (Toronto, Ontario)</td>
<td>Ten charges were laid on April 28, 1980, under paragraph 36(1)(a). On December 12, 1980, the accused pleaded guilty to one charge and was convicted and fined $2,000. The remaining charges were withdrawn.</td>
</tr>
<tr>
<td>Misleading warranty (Modular homes)</td>
<td>GIC Industries Ltd. (Edmonton, Alberta)</td>
<td>Two charges were laid on August 29, 1980, under paragraph 36(1)(c). On December 16, 1980, the charges were dismissed.</td>
</tr>
</tbody>
</table>

97
<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>False or misleading representation in a material respect (Stereo equipment)</td>
<td>Brack Electronics Limited (Toronto, Ontario)</td>
<td>One charge was laid on July 16, 1979, under paragraph 36(1)(a). On November 29, 1979, the accused was acquitted. The Crown appealed the acquittal of the accused but on July 30, 1980, the appeal was dismissed. The Crown appealed the decision but on December 22, 1980, the Ontario Court of Appeal upheld the decisions of both lower courts and dismissed the appeal.</td>
</tr>
<tr>
<td>Sale above advertised price (Coats)</td>
<td>Manufacture d’Habits Dorion Ltée—Dorion Suits Manufacturing Ltd. (Montréal, Québec)</td>
<td>Two charges were laid on August 28, 1980, under section 37.1. On January 6, 1981, the accused pleaded guilty and was convicted and fined $1,000 on each charge for a total fine of $2,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Auto accessories)</td>
<td>Water Matic Canada Ltd., Rodrigue Dugas and Clément Gareau (Québec, Québec)</td>
<td>One charge was laid on July 16, 1976, under paragraph 36(1)(a). On February 13, 1978, the accused were acquitted. The Crown appealed and on April 27, 1979, the appeal was allowed and a conviction registered. Water Matic Canada Ltd. was fined $500, Rodrigue Dugas was fined $200 and Clément Gareau was fined $200 for a total fine of $900. The accused appealed the convictions and the Crown appealed the sentences. The appeals were heard in the Québec Court of Appeal on November 4, 1980, and on January 7, 1981, the appeals were dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Lamps)</td>
<td>Super-Lite Electric Mfg. Co. Ltd. (Winnipeg, Manitoba)</td>
<td>Six charges were laid on March 14, 1980, under paragraph 36(1)(a). On January 13, 1981, one charge was laid and the original six charges were stayed. The accused pleaded guilty to the one charge and was convicted and fined $500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Stereo equipment)</td>
<td>Cameo Importers Ltd. (Montréal, Québec)</td>
<td>One charge was laid on October 27, 1980, under paragraph 36(1)(a). On January 16, 1981, the accused pleaded not guilty but was convicted and fined $1,000.</td>
</tr>
<tr>
<td>Misleading price representation (Stereo equipment)</td>
<td>Cameo Importers Ltd. (Montréal, Québec)</td>
<td>One charge was laid on October 27, 1980, under paragraph 36(1)(d). On January 16, 1981, the accused pleaded not guilty but was convicted and fined $500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Van conversions)</td>
<td>Coquitlam Plymouth Chrysler Ltd., carrying on business as Coquitlam Plymouth (British Columbia)</td>
<td>One charge was laid on June 12, 1980, under paragraph 36(1)(a). On January 22, 1981, the accused was acquitted.</td>
</tr>
<tr>
<td>Non-availability (Van conversions)</td>
<td>Coquitlam Plymouth Chrysler Ltd., carrying on business as Coquitlam Plymouth (British Columbia)</td>
<td>One charge was laid on June 12, 1980, under section 37. On January 22, 1981, the accused was acquitted.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

#### Part III - Misleading Advertising and Deceptive Marketing Practices

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
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<tbody>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Loblaw's Limited (Toronto, Ontario)</td>
<td>Thirty-eight charges were laid on August 27, 1979, under section 37.1. On April 10, 1980, the accused pleaded guilty to 30 charges and was convicted and fined $15,000 on each of three charges for a total fine of $45,000 and sentence was suspended on 27 charges. The remaining charges were withdrawn. The accused appealed the sentence. On January 22, 1981, the appeal was dismissed and the total fine of $45,000 was upheld but the sentence was varied to a fine of $1,500 on each of the 30 charges.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Trucks)</td>
<td>Scotia Chevrolet Oldsmobile Limited (Halifax, Nova Scotia)</td>
<td>One charge was laid on March 10, 1980, under paragraph 36(1)(a). On August 29, 1980, the charge was dismissed. The Crown appealed the acquittal and on December 17, 1980, the appeal was allowed and a conviction was registered. On January 23, 1981, the accused was fined $500.</td>
</tr>
<tr>
<td>Representation without proper test (Fabric softener)</td>
<td>Bristol-Myers Canada Limited (Toronto, Ontario)</td>
<td>One charge was laid on August 11, 1978, under paragraph 36(1)(b). The accused pleaded not guilty but was convicted on July 27, 1979, and was fined $25,000 on June 6, 1980. The accused appealed the conviction and the sentence but on January 29, 1981, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Fabric softener)</td>
<td>Bristol-Myers Canada Limited (Toronto, Ontario)</td>
<td>One charge was laid on August 11, 1978, under paragraph 36(1)(a). On March 31, 1980, the accused was acquitted. The Crown appealed the acquittal but on January 29, 1981, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Steel buildings)</td>
<td>Wonder Steel Buildings (Central) Limited and Lyle Boland (Baltimore, Ontario)</td>
<td>One charge was laid on September 25, 1979, under paragraph 36(1)(a). On July 9, 1980, the charge was dismissed. The Crown appealed the decision but on January 30, 1981, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Les Distributions Robert Coté Inc. (Ville Dégelis, Québec)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a). On February 9, 1981, the accused pleaded guilty and was convicted and fined $200.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Alice Thibodeau Martin, carrying on business as Gas-bar Martin Enr. (Cabano, Québec)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a). On February 9, 1981, the accused pleaded guilty and was convicted and fined $100.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Bertrand Gagnon, carrying on business as Gagnon B.P. Service (Ville Dégelis, Québec)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a). On February 9, 1981, the accused pleaded guilty and was convicted and fined $150.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Wood stoves)</td>
<td>Sheffield Woodstoves of Western Canada Ltd. (formerly Fisher Stoves of Western Canada Ltd.) (Winnipeg, Manitoba)</td>
<td>Ten charges were laid on August 18, 1980, under paragraph 36(1)(a). On February 10, 1981, the accused pleaded guilty to one charge and was convicted and fined $500. A stay of proceedings was entered on the remaining charges.</td>
</tr>
</tbody>
</table>
## APPENDIX II — (Continued)

### Part III - Misleading Advertising and Deceptive Marketing Practices

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<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>World Wide Energy Marketing Ltd., Joseph Cormier, Roger Dupuis and Rosario Toscano (Dieppe, New Brunswick)</td>
<td>One charge was laid on July 30, 1980, under paragraph 36(1)(b). On August 18, 1980, the charge was withdrawn and a new charge was laid under paragraph 36(1)(a). World Wide Energy Marketing Ltd., Joseph Cormier and Roger Dupuis pleaded guilty and were convicted and each was fined $2,500 for a total fine of $7,500. The charge against Rosario Toscano was withdrawn on February 10, 1981.</td>
</tr>
<tr>
<td>Referral selling (Books)</td>
<td>World Book Childcraft of Canada Limited (Manuels, Newfoundland)</td>
<td>One charge was laid on August 17, 1979, under section 36.4. On December 20, 1979, the accused was acquitted. The Crown appealed the acquittal but on February 11, 1981 the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Costs)</td>
<td>Manufacture d'Habits Dorion Ltee—Dorion Suits Manufacturing Ltd. (Montréal, Québec)</td>
<td>Three charges were laid on August 28, 1980, under paragraph 36(1)(a). On January 6, 1981, the accused pleaded guilty and was convicted and fined $1,000 on each charge for a total fine of $3,000. On February 16, 1981, an order of prohibition was issued.</td>
</tr>
<tr>
<td>Double Ticketing (Food and sundry items)</td>
<td>Marché Richard Novak Inc., carrying on business as I.G.A. Boniprix (Montréal, Québec)</td>
<td>Two charges were laid on January 30, 1981, under section 36.2. On February 19, 1981, the accused pleaded guilty and was convicted and fined $100 on each charge for a total fine of $200.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>Marché Richard Novak Inc., carrying on business as I.G.A. Boniprix (Montréal, Québec)</td>
<td>Sixteen charges were laid on January 30, 1981, under section 37.1. On February 19, 1981, the accused pleaded guilty and was convicted and fined $100 on each charge for a total fine of $1,600.</td>
</tr>
<tr>
<td>Sale above advertised price (Food and sundry items)</td>
<td>New Westminster Supermarket Inc.—Supermarché New Westminster Inc., carrying on business as I.G.A. Boniprix and Equaldino De Jésus (Côte St. Luc, Québec)</td>
<td>Thirty-two charges were laid on January 30, 1981, under section 37.1. On February 19, 1981, the corporate accused pleaded guilty and was convicted and fined $100 on each charge for a total fine of $3,200. The charges against the individual accused were withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Used automobiles)</td>
<td>Dryden Motors Limited (Moncton, New Brunswick)</td>
<td>Nine charges were laid on December 29, 1980, under paragraph 36(1)(a). On February 20, 1981, the accused pleaded guilty and was convicted and fined $500 on each charge for a total fine of $4,500.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Ski packages)</td>
<td>Collegiate Sports Ltd. (Scarborough and Hamilton, Ontario)</td>
<td>Four charges were laid on July 7, 1980, under paragraph 36(1)(a). On February 24, 1981, the accused pleaded guilty to one charge and was convicted and fined $2,000. The remaining charges were withdrawn.</td>
</tr>
</tbody>
</table>
### APPENDIX II — (Continued)

**Part III - Misleading Advertising and Deceptive Marketing Practices**

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<tr>
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</thead>
<tbody>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Consumers Distributing Company Limited (London, Ontario)</td>
<td>One charge was laid on November 10, 1978, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on June 5, 1979, and was fined $5,000. The accused appealed the conviction and the sentence and, on February 7, 1980, the appeal was allowed. The Crown appealed the decision and, on December 23, 1980, the Ontario Court of Appeal allowed the appeal and restored the conviction. The case was returned to the County Court for consideration of the accused’s appeal against sentence and on March 3, 1981, the appeal was allowed and the fine was reduced to $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>Terry Parker Sit and Sleep Shop Limited (Hamilton, Ontario)</td>
<td>One charge was laid on September 12, 1980, under paragraph 36(1)(a). On March 6, 1981, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Snowmobiles)</td>
<td>Don Hyde Marine Limited (Hagersville, Ontario)</td>
<td>One charge was laid on September 12, 1980, under paragraph 36(1)(a). On March 6, 1981, the accused pleaded guilty and was convicted and fined $750.</td>
</tr>
<tr>
<td>Misleading price representation (Furniture)</td>
<td>W.F. Midgehall, carrying on business as Mobile Auctions, and Gordon McComb</td>
<td>One charge was laid on January 20, 1981, under paragraph 36(1)(d). On March 13, 1981, the accused were acquitted.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Lawn furniture)</td>
<td>M.L. Beardsley Limited carrying on business as Stedmans (St. Andrews, New Brunswick)</td>
<td>One charge was laid on October 17, 1980, under paragraph 36(1)(a). On December 2, 1980, the accused was acquitted. The Crown appealed the decision but, on March 13, 1981, the appeal was dismissed.</td>
</tr>
<tr>
<td>Promotional Contest (Lawn furniture)</td>
<td>M.L. Beardsley Limited carrying on business as Stedmans (St. Andrews, New Brunswick)</td>
<td>One charge was laid on October 17, 1980, under section 37.2. On December 2, 1980, the accused was acquitted. The Crown appealed the decision but, on March 13, 1981, the appeal was dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>The Moss Music Group (Canada) Inc., being an amalgamated corporation of which Ky-Cam Marketing Ltd. is an amalgamating corporation, and John Edward Leetham (Toronto, Ontario)</td>
<td>Five charges were laid on August 18, 1980, under paragraph 36(1)(b). On March 16, 1981, the individual accused pleaded guilty to one charge and was convicted and fined $4,000 and an order of prohibition was issued. The remaining charges against the individual accused and all charges against the corporate accused were withdrawn.</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>The Moss Music Group (Canada) Inc., being an amalgamated corporation of which Ky-Cam Marketing Ltd. is an amalgamating corporation, and John Edward Leetham (Toronto, Ontario)</td>
<td>One charge was laid on November 13, 1980, under section 37.2. On March 20, 1981, the individual accused pleaded guilty and was convicted and fined $8,000. The charge against the corporate accused was withdrawn.</td>
</tr>
<tr>
<td>Promotional contest (Driving lessons)</td>
<td>Atlas Driving School Limited and Robert Maurice (Hamilton, Ontario)</td>
<td>Two charges were laid on August 18, 1980, under paragraph 36(1)(a). On March 16, 1981, the charges were withdrawn.</td>
</tr>
</tbody>
</table>
APPENDIX II — (Continued)

Part III - Misleading Advertising and Deceptive Marketing Practices

<table>
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<tr>
<th>Nature of Inquiry</th>
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<tbody>
<tr>
<td>Representation without proper test (Oil additive)</td>
<td>Karlsbow Corporation Inc. (Toronto, Ontario)</td>
<td>One charge was laid on January 23, 1981, under paragraph 36(1)(b). On March 20, 1981, the accused pleaded guilty and was convicted and fined $200.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Circus)</td>
<td>Ray W. Hogan, carrying on business as Jungle Wonders Wild Animal Circus (Gravelbourg, Saskatchewan)</td>
<td>One charge was laid on August 8, 1978, under paragraph 36(1)(a). On August 25, 1978, a Canada-wide warrant of arrest was issued. On March 23, 1981, the warrant of arrest was withdrawn and proceedings were discontinued.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Automobiles)</td>
<td>Nova Motors Limited (Dartmouth, Nova Scotia)</td>
<td>Two charges were laid on October 7, 1980, under paragraph 36(1)(a). On March 23, 1981, both charges were dismissed.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Mobile home development)</td>
<td>Central Homes Ltd. (Saskatoon, Saskatchewan)</td>
<td>Three charges were laid on July 7, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on March 25, 1981, and fined $100 on each charge for a total fine of $300.</td>
</tr>
<tr>
<td>Sale above advertised price (Houses)</td>
<td>Van Arnhem Construction Limited (London, Ontario)</td>
<td>One charge was laid on August 15, 1980, under section 37.1. On March 26, 1981, the accused pleaded guilty and was convicted and fined $1,000.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Vacations)</td>
<td>The T. Eaton Company Limited and Eaton Travel Limited (Toronto, Ontario)</td>
<td>One charge was laid on October 28, 1980, under paragraph 36(1)(a). On March 26, 1981, Eaton Travel Limited pleaded guilty and was convicted and fined $5,000. The charge against The T. Eaton Company Limited was withdrawn.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Department store merchandise)</td>
<td>La Compagnie de la Baie d'Hudson (Québec) Limitée (Rimouski, Québec)</td>
<td>Two charges were laid on December 9, 1980, under paragraph 36(1)(a). On March 27, 1981, the accused pleaded guilty and was convicted and fined $1,500 on each charge for a total fine of $3,000.</td>
</tr>
</tbody>
</table>
## APPENDIX III

**Proceedings Completed following Applications to the Restrictive Trade Practices Commission under Part IV.1 of the Act**

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of persons or Companies Proceeded Against</th>
<th>Action Taken and Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exclusive Dealing (Snowmobiles)</td>
<td>Bombardier Limitée—Bombardier Limited (Montréal, Québec)</td>
<td>On February 9, 1979, the Director filed an Application with the RTPC pursuant to subsection 31.4(2) of the Act. Public hearings into the matter commenced on September 24, 1979. On October 14, 1980, the Commission dismissed the Application.</td>
</tr>
<tr>
<td>Refusal to Supply (Gasoline)</td>
<td>Imperial Oil Limited, Petrofina Canada Inc., Irving Oil Company Ltd.</td>
<td>On November 2, 1979, the Director filed an Application with the RTPC pursuant to section 31.2 for an order requiring the named companies to accept Perrette Dairies Ltd. as a customer. On October 8, 1980, after Perrette Dairies had been successful in finding new suppliers, the Director notified the Commission of his intention to withdraw the Application, and the Commission discontinued the proceeding.</td>
</tr>
</tbody>
</table>
## APPENDIX IV

### Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>False or misleading representation in a material respect (Building frames)</td>
<td>A-1 Continental Steel Company Limited (St. Lina, Alberta)</td>
<td>One charge was laid on October 2, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Office equipment)</td>
<td>A M International Inc. (Toronto, Ontario)</td>
<td>Two charges were laid on December 16, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Fertilizer)</td>
<td>Alpine Plant Foods Limited (London, Ontario)</td>
<td>Four charges were laid on May 4, 1979, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Glassware)</td>
<td>Paul Arel and Ronald Roux carrying on business as Regency Distribution Co. Ltd. (Toronto, Ontario)</td>
<td>Two charges were laid on February 23, 1978, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Household appliances)</td>
<td>Berry’s Furniture Limited (Truro, Nova Scotia)</td>
<td>One charge was laid on March 26, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Muffler)</td>
<td>Jack Butkus Limited carrying on business as Midas Muffler Shops (London, Ontario)</td>
<td>Three charges were laid on March 31, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Newspaper)</td>
<td>Buy and Sell Limited, Perry Breblin and Blake Breblin (Toronto, Ontario)</td>
<td>Two charges were laid on February 8, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (T.V. antennas)</td>
<td>C.C.C.L. Canadian Consumer Company Ltd. (Montréal, Québec)</td>
<td>One charge was laid on November 23, 1979, under paragraph 36(1)(a). Accused was convicted on December 11, 1980, and fined $7,500 on January 10, 1981. On January 5, 1981, an appeal was filed re conviction.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Bust developer)</td>
<td>C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)</td>
<td>One charge was laid on May 5, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Astro trimmer)</td>
<td>Canadian Consumer Company Limited (Toronto, Ontario)</td>
<td>One charge was laid on December 13, 1979, under paragraph 36(1)(a). A second charge was laid on August 28, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Bed)</td>
<td>Carubba Furniture and Sleep Shop Ltd. and Angelo Carubba (Hamilton, Ontario)</td>
<td>Three charges were laid on February 25, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Real estate)</td>
<td>Corporation Immobilière Côte St-Luc Inc. and Les Développements Backport Inc. (St. Bruno, Québec)</td>
<td>Three charges were laid on March 9, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Clothing)</td>
<td>Dalen’s Discount Outfitters Ltd. (Bathurst, New Brunswick)</td>
<td>Three charges were laid on February 18, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Employment offer)</td>
<td>Debonair Industries Ltd., Kenitex Canada Ltd. and Louis Harry Fei (Mississauga, Ontario)</td>
<td>Six charges were laid on March 27, 1978, under paragraph 36(1)(a). On January 31, 1980, Kenitex was convicted and fined $5,000 on each charge. Debonair Industries and L.H. Fei were acquitted. Acquittal of the individual under appeal by Crown.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Melons)</td>
<td>Dominion Stores Limited (Toronto, Ontario)</td>
<td>Three charges were laid on January 17, 1980, under paragraph 36(1)(a). On January 9, 1981, charges were dismissed. Under appeal by Crown.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Printing)</td>
<td>Downs Copy Centre Ltd. (Winnipeg, Manitoba)</td>
<td>One charge was laid on January 27, 1981, under paragraph 36(1)(a).</td>
</tr>
</tbody>
</table>
## APPENDIX IV — (Continued)

### Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

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<tr>
<th>Nature of Inquiry</th>
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<tbody>
<tr>
<td>False or misleading representation in a material respect (Tires)</td>
<td>Family Auto Ltd. and Family Auto (Ontario) Ltd. (Toronto, Ontario)</td>
<td>Four charges were laid on June 12, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Fur coats)</td>
<td>Fourrures A.J. Alexander (Montréal) Ltée and René Akitinos (Montréal, Québec)</td>
<td>One charge was laid on September 9, 1979, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Beds)</td>
<td>Gary’s Give-Aways Incorporated and Gary Clemmenson (St. Catharines, Ontario)</td>
<td>Two charges were laid on February 16, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Furniture)</td>
<td>M. Goldsmith and Company Limited (Montréal, Québec)</td>
<td>Ten charges were laid on October 3, 1978, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Tax service)</td>
<td>H &amp; R Block (Canada) Ltd. (Edmonton, Alberta)</td>
<td>One charge was laid on February 18, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Home furnishings)</td>
<td>Jesse Holmes and United Waterbed (1980) Ltd. (Burnaby, British Columbia)</td>
<td>Five charges were laid on March 5, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Boat kits)</td>
<td>Hughes-Columbia Inc. and Hughes Marine Sales Inc. (Stephens, Ontario)</td>
<td>Five charges were laid on October 24, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Employment opportunities)</td>
<td>ILS Realty and Independent Listing Service Inc., Richard Ng and Marvin Fine (Burnaby, British Columbia)</td>
<td>Two charges were laid on June 12, 1980, under paragraph 36(1)(a). On March 3, 1981, Richard Ng pleaded not guilty but was convicted and fined $500 on each charge for a total fine of $1,000. ILS Realty and Independent Listing Service Inc. pleaded not guilty but was convicted on March 17, 1981, and fined $2,000 on each charge for a total fine of $4,000. Charges are pending against Marvin Fine.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Vending machine distributorships)</td>
<td>Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)</td>
<td>Three charges were laid on March 6, 1980, against the first three accused and two charges were laid against D. Paton under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Glue)</td>
<td>Kirby &amp; Wilson Ltd. and Leonard Wayne Kirby (Toronto, Ontario)</td>
<td>One charge was laid on October 27, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Televisions)</td>
<td>KJLTT Electronics Limited and Keith Horton carrying on business as Big Daddy Electronics (Hamilton-Wentworth, Ontario)</td>
<td>Six charges were laid on November 12, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Air conditioners)</td>
<td>Krazy Kelly’s Limited, carrying on business as Krazy Kelly’s (London, Ontario)</td>
<td>One charge was laid on September 15, 1978, under paragraph 36(1)(a). On September 10, 1980, the accused pleaded not guilty but was convicted and fined $1,000. The Crown appealed the sentence and on February 2, 1981, the appeal was allowed and the fine was increased to $2,500. Under appeal by Defence.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Peter Kreft and Joseph Fuerat (Toronto, Ontario)</td>
<td>Three charges were laid on September 15, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Léo Laforge carrying on business as Laforge Eso Service Enrg. (Ville Dégelis, Québec)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a).</td>
</tr>
</tbody>
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### APPENDIX IV — (Continued)

**Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases**

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<tr>
<td>False or misleading representation in a material respect (Manual of employment opportunities)</td>
<td>Robert Joseph Leahy and Alfred Kwinter operating under the name and style of Arctic Employment Guide (Toronto, Ontario)</td>
<td>One charge was laid on February 4, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Real estate)</td>
<td>A. E. Lepage (Ontario) Limited (Brampton, Ontario)</td>
<td>One charge was laid on January 15, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Copying machines)</td>
<td>Magnastatics Corporation Limited and William Shore (Mississauga, Ontario)</td>
<td>One charge was laid on April 10, 1979, under paragraph 36(1)(a). On June 11, 1980, the charge was dismissed. Under appeal by Crown.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Mobile homes)</td>
<td>Maison Mobiles Thetford Inc. (Québec, Québec)</td>
<td>Fifty-one charges were laid on February 12, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Chlorine)</td>
<td>Les Manufacturiers d’Armoires de Cuisine Nu-Mode Inc. (Montréal, Québec)</td>
<td>One charge was laid on December 4, 1979, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Renovation costs)</td>
<td>Claude Mathieu carrying on business as Claude Mathieu Gas-Bar (Rivière Verte, Québec)</td>
<td>One charge was laid on November 4, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Miller’s T.V. Ltd. (Winnipeg, Manitoba)</td>
<td>One charge was laid on November 4, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Stereo equipment)</td>
<td>Clyde Trevor Milliken carrying on business as C.T.M. Marketing Services (Grimsby, Ontario)</td>
<td>Four charges were laid on October 9, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Teflon motor treatment)</td>
<td>Money-matic Investments Limited and Michael Turchyn (Edmonton, Alberta)</td>
<td>Eight charges were laid on March 22, 1979, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Franchises)</td>
<td>Joan Montegani and Joan Montegani Limited (Toronto, Ontario)</td>
<td>One charge was laid on October 2, 1980, under paragraph 36(1)(a). On January 26, 1981, the corporate accused pleaded not guilty but was convicted and fined $5,000. Charges are pending against the individual.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Cosmetics)</td>
<td>Okanagan Park Hospitality Co. Ltd. carrying on business as Okanagan Park Country Club Resort Hotel (Kelowna, British Columbia)</td>
<td>One charge was laid on January 15, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Resort hotel facilities)</td>
<td>Poste d’Essence Dégelis Inc. (Dégelis, Québec)</td>
<td>One charge was laid on January 9, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gasoline)</td>
<td>Robin Hood Multifoods Limited (Hull, Québec)</td>
<td>One charge was laid on June 20, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Flour)</td>
<td>Royal Trust Company (Halifax, Nova Scotia)</td>
<td>One charge was laid on October 30, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Real estate)</td>
<td>Royal Trust Corporation of Canada (Surrey, British Columbia)</td>
<td>One charge was laid on March 27, 1981, under paragraph 36(1)(a). Two charges were laid on February 6, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Real estate)</td>
<td>Guy St-Onge, Louis Michaud and Jean Coutu, carrying on business as Pharmacie Jean Coutu (Hamel, Québec)</td>
<td>Three charges were laid on December 17, 1976, under paragraph 36(1)(a). On August 8, 1978, the charges were dismissed. Under appeal by Crown.</td>
</tr>
</tbody>
</table>

106
## APPENDIX IV — (Continued)

### Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

<table>
<thead>
<tr>
<th>Nature of Inquiry</th>
<th>Names of Accused and Location of Offence</th>
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<tbody>
<tr>
<td>False or misleading representation in a material respect (Jewellery)</td>
<td>Simpsons-Sears Limited and H. Forth &amp; Co. Limited carrying on business as Gem Lab (Toronto, Ontario)</td>
<td>Thirteen charges were laid on September 15, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Jewellery)</td>
<td>The Robert Simpson Company Limited and H. Forth &amp; Co. Limited, carrying on business as Gem Lab (Toronto, Ontario)</td>
<td>Thirteen charges were laid on September 29, 1978, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Travel tours)</td>
<td>Skylark Holidays Limited (Stephenville, Newfoundland)</td>
<td>One charge was laid on November 6, 1979, under paragraph 36(1)(a). On April 17, 1980, the charge was dismissed. Under appeal by Crown.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Jewellery)</td>
<td>Jack Snow and Richer et Snow Limitée carrying on business as Richer and Snow Jewellers (Ottawa, Ontario)</td>
<td>One charge was laid on May 29, 1980, under paragraph 36(1)(a). The charge was dismissed on October 29, 1980. Under appeal by Crown.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Job opportunity)</td>
<td>Mahmood Somani carrying on business as Mr. Martyn (Don Mills, Ontario)</td>
<td>Two charges were laid on June 3, 1980, under paragraph 36(1)(a). Amended on October 30, 1980.</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Clothing)</td>
<td>359286 Ontario Limited carrying on business as Trans Atlantic Import and Sales (St. John’s, Newfoundland)</td>
<td>One charge was laid on December 17, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Wallpaper)</td>
<td>Tonecraft Limited carrying on business as Colour Your World (Toronto, Ontario)</td>
<td>One charge was laid on March 31, 1981, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Voguil Inc. and Pierre Guillemette (Québec, Québec)</td>
<td>Three charges were laid on July 8, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Gas-saving device)</td>
<td>Webster Fuel Products Limited and Garnet Neil Webster (Hamilton, Ontario)</td>
<td>Six charges were laid on August 18, 1980, under paragraph 36(1)(a).</td>
</tr>
<tr>
<td>False or misleading representation in a material respect (Trucks)</td>
<td>Yukon Automobile Brokers Ltd. and Roger Parent (Whitehorse, Yukon)</td>
<td>One charge was laid on September 5, 1978, under paragraph 36(1)(a). On November 20, 1978, the corporate accused was acquitted. The Crown appealed but on February 19, 1979, the appeal was dismissed. The Crown has applied for leave to appeal this decision. A stay of proceedings was entered against the individual on March 15, 1979.</td>
</tr>
<tr>
<td>Representation without proper test (Fertilizer)</td>
<td>Alpine Plant Foods Limited (London, Ontario)</td>
<td>Three charges were laid on May 4, 1979, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Representation without proper test (Oil developer)</td>
<td>C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)</td>
<td>One charge was laid on May 5, 1980, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>Champion Petrochemicals Ltd. (Calgary, Alberta)</td>
<td>Six charges were laid on February 27, 1981, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>F.K. Products of B.C. Ltd. (Richmond and Vancouver, British Columbia)</td>
<td>Three charges were laid on November 20, 1979, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Representation without proper test (Household glue)</td>
<td>Kirby &amp; Wilson Brokerage Ltd. and Leonard Wayne Kirby (Toronto, Ontario)</td>
<td>One charge was laid on October 27, 1980, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Representation without proper test (Gas-saving device)</td>
<td>Peter Kroft and Joseph Fuerst (Toronto, Ontario)</td>
<td>Three charges were laid on September 15, 1980, under paragraph 36(1)(b).</td>
</tr>
</tbody>
</table>
## APPENDIX IV — (Continued)

### Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

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<tbody>
<tr>
<td>Representation without proper test</td>
<td>Clyde Trevor Milliken carrying on business as C.T.M. Marketing Services (Grimsby, Ontario)</td>
<td>Eight charges were laid on March 22, 1979, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>(Teflon motor treatment)</td>
<td>Sautzen Graphics Limited and Frederick Lipsky and Bev Strucke (Owen Sound, Ontario)</td>
<td>One charge was laid on March 2, 1981, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Misleading price representation (Fur coats)</td>
<td>Voguil Inc. and Pierre Guillemette (Québec, Québec)</td>
<td>Three charges were laid on July 8, 1980, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Misleading price representation (Radio)</td>
<td>Webster Fuel Products Limited and Garnet Neil Webster (Hamilton, Ontario)</td>
<td>One charge was laid on August 18, 1980, under paragraph 36(1)(b).</td>
</tr>
<tr>
<td>Misleading price representation (Furniture)</td>
<td>Fourfures A.J. Alexander (Montréal) Ltée and René Akstin (Montréal, Québec)</td>
<td>Two charges were laid on March 6, 1980, under paragraph 36(1)(c).</td>
</tr>
<tr>
<td>Misleading price representation (Household appliances)</td>
<td>Jean-Paul Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)</td>
<td>Three charges were laid on September 14, 1979, under paragraph 36(1)(d).</td>
</tr>
<tr>
<td>Misleading price representation (Carpets)</td>
<td>Earl D. Hain carrying on business as Radio Shack (Surrey, British Columbia)</td>
<td>Three charges were laid on August 12, 1980, under paragraph 36(1)(d). On February 16, 1981, the accused was acquitted. Under appeal by Crown.</td>
</tr>
<tr>
<td>Misleading price representation (Wallpaper)</td>
<td>K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Calgary, Alberta)</td>
<td>One charge was laid on February 6, 1981, under paragraph 36(1)(d).</td>
</tr>
<tr>
<td>Misleading price representation (Drugstore items)</td>
<td>Lanteigne et Frères Ltée (Caraquet, New Brunswick)</td>
<td>One charge was laid on June 23, 1980, under paragraph 36(1)(d). On January 21, 1981, the accused was acquitted. Under appeal by Crown.</td>
</tr>
<tr>
<td>Misleading price representation (Drugstore items)</td>
<td>Marchenski Lumber Co. Ltd. (Yorktown, Saskatchewan)</td>
<td>One charge was laid on March 2, 1981, under paragraph 36(1)(d).</td>
</tr>
<tr>
<td>Misleading price representation (Drugstore items)</td>
<td>Tonecraft Limited carrying on business as Colour Your World (Toronto, Ontario)</td>
<td>Four charges were laid on March 31, 1981, under paragraph 36(1)(d).</td>
</tr>
<tr>
<td>Double ticketing (Drugstore items)</td>
<td>Jean-Paul Savard and Jean-Paul Thibault carrying on business as Pharmacies Jean-Paul Savard et Thibault Enr. (Sherbrooke, Québec)</td>
<td>Five charges were laid on November 2, 1978, under section 36.2. On October 23, 1979, the accused were convicted and fined $25 jointly on each charge for a joint total of $125. Under appeal by Crown.</td>
</tr>
<tr>
<td>Double ticketing (Food items)</td>
<td>Steinberg Inc. (Ville LaSalle, Québec)</td>
<td>Thirty-two charges were laid on January 30, 1981, under section 36.2.</td>
</tr>
<tr>
<td>Double ticketing (Food items)</td>
<td>Les Supermarchés Dominion Ltée (Montréal, Verdun and St. Léonard, Québec)</td>
<td>Eleven charges were laid on January 20, 1981, under section 36.2.</td>
</tr>
<tr>
<td>Pyramid selling (Food supplements</td>
<td>Shaklee Canada Inc. (Edmonton, Alberta)</td>
<td>Proceedings were instituted on November 14, 1980, in Edmonton, Alberta under subsection 30(2) for an Order of Prohibition. On February 11, 1981, the order was refused by the Federal Court. Under appeal by the Crown.</td>
</tr>
</tbody>
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## APPENDIX IV — (Continued)

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<th>Nature of Inquiry</th>
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<tr>
<td>Non-availability (Air conditioners)</td>
<td>Krazy Kelly’s Limited, carrying on business as Krazy Kelly’s (London, Ontario)</td>
<td>One charge was laid on September 15, 1978, under section 37. On September 10, 1980, the accused pleaded not guilty but was convicted and fined $1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine was increased to $2,500. Under appeal by Defence.</td>
</tr>
<tr>
<td>Non-availability (Tires)</td>
<td>Green and Ross Tire Co. Limited and Green and Ross Tire Co. (1979) Limited (Toronto, Ontario)</td>
<td>Two charges were laid on February 9, 1981, under section 37.</td>
</tr>
<tr>
<td>Non-availability (Stereo)</td>
<td>KJLT Electronics Limited and Keith Horton carrying on business as Big Daddy Electronics (Hamilton-Wentworth, Ontario)</td>
<td>Six charges were laid on November 12, 1980, under section 37.</td>
</tr>
<tr>
<td>Sale above advertised price (Beauty products)</td>
<td>Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)</td>
<td>Twelve charges were laid on March 17, 1981, under section 37.1</td>
</tr>
<tr>
<td>Sale above advertised price (Food items)</td>
<td>Centre D’Escompte Racine Inc. carrying on business as Uniprix (Beauport, Québec)</td>
<td>Fifteen charges were laid on March 17, 1981, under section 37.1</td>
</tr>
<tr>
<td>Sale above advertised price (Food items)</td>
<td>Dominion Stores Limited—Les Supermarchés Dominion Ltée (Ste-Foy, Québec)</td>
<td>Seventeen charges were laid on March 17, 1981, under section 37.1</td>
</tr>
<tr>
<td>Sale above advertised price (Beauty products)</td>
<td>Les Entreprises Pierre Deschenes Inc. carrying on business as Pharmescomptes Jean Co. (Jonquière, Québec)</td>
<td>Twenty-two charges were laid on March 23, 1981, under section 37.1</td>
</tr>
<tr>
<td>Sale above advertised price (Air fare)</td>
<td>Great Lakes Airlines Limited (London, Ontario)</td>
<td>One charge was laid on January 30, 1981, under section 37.1. The accused pleaded not guilty but was convicted on February 2, 1981. Sentence to be handed down on June 1, 1981.</td>
</tr>
<tr>
<td>Sale above advertised price (Food items)</td>
<td>Kelly, Douglas &amp; Company, Commercial Supermarkets (1971) Ltd., Lockhart Foods Ltd., and McLellan’s Supermarket Ltd., carrying on business as Super Valu (Vancouver, British Columbia)</td>
<td>On August 1, 1980, 18 charges were laid under section 37.1 against Kelly, Douglas &amp; Company. Three of the charges were jointly laid against Commercial Supermarkets (1971) Ltd., four of the charges were jointly laid against Lockhart Foods Ltd., and eleven of the charges were jointly laid against McLellan’s Supermarket Ltd. On January 13, 1981, Commercial Supermarkets was acquitted and a stay of proceedings was entered against Kelly, Douglas &amp; Company on all charges. On January 20, 1981, Lockhart Foods was acquitted. An appeal was filed on February 13, 1981, by the Crown against the decision. Charges are still pending against McLellan’s Supermarket.</td>
</tr>
<tr>
<td>Sale above advertised price (Beauty products)</td>
<td>Florent Letourneau carrying on business as Pharmacie de la Couronne Enr. and Uniprix (Québec, Québec)</td>
<td>Eight charges were laid on March 17, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Nature of Inquiry</td>
<td>Names of Accused and Location of Offence</td>
<td>Action Taken</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sale above advertised price (Beauty products)</td>
<td>Justin Maltais and Luc Maltais carrying on business as Justin Maltais, Luc Maltais Pharmaciens and Uniprix (Chicoutimi, Québec)</td>
<td>Ten charges were laid on March 23, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Household products)</td>
<td>Raymond Martel carrying on business as Pharmacie Martel Enr. and Uniprix (Loretteville, Québec)</td>
<td>Thirteen charges were laid on March 17, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Household products)</td>
<td>Miracle Mart Inc. (Brossard, Longueuil and Montréal, Québec)</td>
<td>Sixty-three charges were laid on December 7, 1979, under section 37.1. On January 30, 1981, accused was acquitted. Under appeal by Crown.</td>
</tr>
<tr>
<td>Sale above advertised price (Prefab cottage)</td>
<td>Peterborough Lumber Limited carrying on business as P.L. Building Centre and Peterborough Lumber Limited (Peterborough, Ontario)</td>
<td>Two charges were laid on November 7, 1980, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Beauty products)</td>
<td>Les Produits de Santé Beaulieu Ltée carrying on business as Pharmaprix (Giffard, Québec)</td>
<td>Twelve charges were laid on March 17, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Sundry items)</td>
<td>Guy St-Onge carrying on business as Pharmacie Jean Coutu (Guy St-Onge) Enr. (Québec, Québec)</td>
<td>Eleven charges were laid on March 31, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Food items)</td>
<td>Steinberg Inc. (Ville LaSalle, Québec)</td>
<td>Fifteen charges were laid on January 30, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Food items)</td>
<td>Les Supermarchés Dominion Ltée (Montréal, Verdun, and St. Léonard, Québec)</td>
<td>Thirty-one charges were laid on January 30, 1981, under section 37.1.</td>
</tr>
<tr>
<td>Sale above advertised price (Sports equipment)</td>
<td>L.J. Trabert Limited (Halifax, Nova Scotia)</td>
<td>Seven charges were laid on March 26, 1981, under section 37.1.</td>
</tr>
</tbody>
</table>
APPENDIX V

TABLE OF CASES

Requests are frequently received for case citations relating to Canadian anti-combines legislation and the following is a list of all reported decisions resulting from prosecutions under the Act together with the applicable citations. Also included are the unreported judgments available from the Secretariat of the Bureau of Competition Policy. Cases relating to misleading advertising and deceptive marketing practices and constitutional cases, dealing with the validity of the legislation and related civil administrative or procedural matters of interest, are listed under separate headings.

**Rex v. Elliott** (1905), 9 O.L.R. 648; 9 C.C.C. 505 (Trial and Appeal).


**The King v. McMichael** (1907), 10 O.W.R. 268; 18 C.C.C. 185.

**The King v. Gage (No. 1)** (1907), 6 W.L.R. 19; 13 C.C.C. 415 (Trial).


**Rex v. Clarke** (1907), 14 C.C.C. 46 (Trial); 1 Alta. L.R. 358 (Trial and Appeal); 9 W.L.R. 243 (Appeal); 14 C.C.C. 57 (Appeal).


**Singer v. The King** (1931), 56 C.C.C. 381 (Supreme Court of Canada).


**The King v. White et al.,** (Supreme Court of Ontario, 1932 — unreported).

**Rex v. Canadian Import Co. et al.** (1933), 61 C.C.C. 114 (Trial).


**Hartt & Adair Coal Co. Ltd. et al. v. The King** (Québec Court of King’s Bench, Appeal Side, 1935 — Appeal — unreported).


**Rex v. Container Materials Ltd. et al.** (1940), 74 C.C.C. 113; 4 D.L.R. 293 (Trial).


Rex v. Imperial Tobacco Co. et al. (1942), 1 W.W.R. 625; 1 D.L.R. 540; (1942), 77 C.C.C. 199; 2 D.L.R. 167 (Application for stay of judgment and for re-argument of appeal). (Leave to appeal to the Supreme Court of Canada refused (1942), 77 C.C.C. 316; 3 D.L.R. 33.)


Rex v. McGavin Bakeries Limited et al. (No. 6), (1951), 3 W.W.R. (N.S.) 289; 13 C.R. 63; 101 C.C.C. 22.

Rex v. Eddy Match Company Limited et al. (1952), 13 C.R. 217; 104 C.C.C. 39; 17 C.P.R. 17 (Trial).

Eddy Match Company Limited et al. v. The Queen (1954), 18 C.R. 357; 109 C.C.C. 1; 20 C.P.R. 107 (Appeal). (Leave to appeal to the Supreme Court of Canada refused.)


Regina v. Dominion Steel and Coal Corp. Ltd. et al. (1957), 27 C.P.R. 57; 116 C.C.C. 117; [1956] O.W.N. 753 (Sentence only); 25 C.R. 48 (Sentence only).

Regina v. Morrey et al. (1956), 24 C.R. 319; 19 W.W.R. 299; 115 C.C.C. 337; 26 C.P.R. 55; 6 D.L.R. (2d) 114 (Appeal). (Leave to appeal to the Supreme Court of Canada refused.)


Regina v. Howard et al. (1958, Police Court, South Burnaby, B.C. — unreported).

Regina v. Abitibi Power & Paper Company, Limited et al. (1961), 131 C.C.C. 201; 36 C.P.R. 188.


Regina v. British Columbia Sugar Refining Company Limited et al. (1961), O.R. 265; 131 C.C.C. 145; (1961), 27 D.L.R. (2d) 193 (Appeal); 37 C.P.R. 1 (includes Trial judgment). (Leave to appeal to the Supreme Court of Canada refused.)


Regina v. Cooper Campbell (County Court Judge's Criminal Court of the County of York, May 15, 1962 — unreported).

Regina v. Campbell, [1964] 2 O.R. 487; 46 D.L.R. (2d) 83; [1964] 3 C.C.C. 112 (Appeal); 50 C.P.R. 142 (Includes appeal to Supreme Court of Canada).

Regina v. Campbell, [1966] 4 C.C.C. 333; 58 D.L.R. (2d) 673 (Supreme Court of Canada).

Regina v. Kralinator Filters Limited (1962), 41 C.P.R. 201.


Regina v. Faith & Shaver (1966), 51 C.P.R. 126 (Judgment on motion for directed verdict of acquittal).


Regina v. William E. Coutts Company Limited (1968), 52 C.P.R. 21 (Trial).


Regina v. St. Lawrence Corporation Limited et al. (1966), 51 C.P.R. 170 (includes Sentence).


Regina v. Deschenes Construction Ltd. et al. (1967), 51 C.P.R. 255.

Regina v. Burrows et al. (1966), 54 C.P.R. 95.

Regina v. Philips Appliances Ltd. (1969), 57 C.P.R. 30 (Trial): 41 (Sentence).


Corning Glass Works of Canada Limited and The Queen, (motion to prohibit County Court Judge from enforcing subpoenas by the Crown directed to members of management of accused.), [1970] 3 O.R. 398; 1 C.C.C. (2d) 74; 12 C.R.N.S. 67; 63 C.P.R. 212.


Regina v. Corning Glass Works of Canada Ltd. (1972), 9 C.P.R. (2d) 69 (Sentence).


Regina v. Canadian Oxygen Ltd. and three other Corporations (1971), 6 C.C.C. (2d) 167; 3 C.P.R. (2d) 237.

Regina v. Canadian Oxygen Ltd. and three other Corporations (1975), 26 C.C.C. (2d) 398; 24 C.P.R. (2d) 258; 64 D.L.R.(3d) 151.*

Regina v. Arrow Petroleums Ltd. (1972), 8 C.P.R. (2d) 95 (Sentence).

Regina v. Black and Decker Manufacturing Co. Ltd. (1972), 9 C.P.R. (2d) 129 (Motion to quash indictment against amalgamated company).


Regina v. Canada Cement Lafarge Ltd. et al. (1973), 12 C.P.R. (2d) 12.

Regina v. K.C. Irving Ltd. and three other Corporations (No. 2); Regina v. K.C. Irving Ltd. et al. (No. 2) (1974), 22 C.C.C. (2d) 281; 19 C.P.R. (2d) 256; 61 D.L.R. (3d) 11 (Sentence).


Regina v. K.C. Irving Ltd. and three other Corporations (1977), 12 N.R. 458; 32 C.C.C. (2d) 1; 29 C.P.R. (2d) 83; 72 D.L.R. (3d) 82 (Supreme Court of Canada).


Regina v. Ocean Construction Supplies Ltd. et al. (1974), 15 C.P.R. (2d) 224 (Sentence).


Regina v. Anthes Business Forms Limited and 11 other Corporations (1977), 32 C.C.C. (2d) 207; 28 C.P.R. (2d) 33; (1978), 22 N.R. 541 (Supreme Court of Canada).


Regina v. Aetna Insurance Company and 72 other Corporations (No. 2) (1975), 30 C.C.C. (2d) 76; 13 N.S.R. (2d) 693; 24 C.P.R. (2d) 160; 69 D.L.R. (3d) 720. (Sentence).


Regina v. A.B.C. Ready-Mix Ltd. et al. (1972), 17 C.P.R. (2d) 91. (Sentence).


Regina v. Armco Canada Ltd. and nine other Corporations (No. 2) (1975), 24 C.C.C. (2d) 147; 8 O.R. (2d) 573; 19 C.P.R. (2d) 273 (Sentence).


Regina v. Allied Chemical Canada Ltd. and Cominco Ltd. (1975), 29 C.C.C. (2d) 460; 6 W.W.R. 481; 24 C.P.R. (2d) 221; 69 D.L.R. (3d) 506.

Regina v. Allied Chemical Canada Ltd. & Cominco Ltd. (1976), 33 C.C.C. (2d) 463; 28 C.P.R. (2d) 261; 73 D.L.R. (3d) 767. (Motion to quash appeal).


Regina v. Aluminium Co. of Canada Ltd. et al. (1975), 22 C.P.R. (2d) 216. (Preliminary Hearing).


Regina v. Alpa Industries Ltd. et al. (1974), 22 C.P.R. (2d) 231.

Regina v. Kito Canada Ltd. (1975), 22 C.P.R. (2d) 275. (Trial).


Regina v. Fairmont Plating (Alta) Ltd. and Fairmont Industries Ltd. (Supreme Court of Alberta (Trial Division) Edmonton, Alberta, 17 January, 1977, unreported).


Regina v. Ben Sanders Co. Ltd. (1977), 43 C.P.R. (2d) 68.


Regina v. Rolex Watch Co. of Canada Ltd. (1978), 44 C.P.R. (2d) 39. (Trial).


Regina v. Superior Electronics Inc. (British Columbia Court of Appeal, Vancouver, B.C., February 22, 1979, unreported). (Appeal.)

Regina v. Electrohome Limited (County Court, Ottawa, Ontario, January 19, 1979, unreported).


Regina v. La Fédération des Courtiers d’Assurance du Québec and l’Association Professionnelle des Courtiers d’Assurance de la Région de Charlevoix, (Superior Court, District of Saguenay, Québec, April 20, 1979, unreported).

Regina v. Albany Felt Co. of Canada Ltd. et al. (Sessions Court, Montréal, Québec, May 30, 1979, unreported, re admissibility of evidence).

Regina v. Albany Felt Co. of Canada Ltd. et al. (Superior Court, Montréal, Québec, June 13, 1979, unreported, re validity of indictment).

Regina v. Albany Felt Co. of Canada Ltd. et al. (1981), 50 C.P.R. (2d) 282. (Motion for non-suit).

Regina v. Albany Felt Co. of Canada Ltd., Ayers Ltd., Dominion Ayers Ltd., Huyck Canada Ltd., Penmans Ltd., Perrits and Spencer (Can.) Ltd. (Superior Court, Montréal, Québec, January 7, 1980, unreported). (Trial.)

Regina v. Albany Felt Co. of Canada Ltd. et al. (Superior Court, Montréal, Québec, February 29, 1980, unreported). (Sentence).

Regina v. Kroehler Manufacturing Co. Ltd. (County Court, Stratford, Ontario, May 1, 1979, unreported).


Regina v. Lethbridge Concrete Products Ltd. and Revelstoke Companies Ltd. formerly known as Revelstoke Building Materials Ltd. (1981), 24 A.R. 335.


Re Travelways School Transit Ltd. et al. and the Queen. (1980), 52 C.C.C. (2d) 399 (Motion to quash committal).


Regina v. British Columbia Television Broadcasting System Ltd. et al. (Supreme Court of British Columbia, Vancouver, B.C. June 11, 1980, unreported).


Regina v. H.D. Lee of Canada Ltd., (Court of Sessions of the Peace, Montreal, Quebec, November 19, 1980, unreported).

Re Canadian Pacific Transport Co. Ltd. et al. and Provincial Court of Alberta et al.; Re Canadian National Transportation Ltd. et al. and Provincial Court of Alberta et al. (1981) 119 D.L.R. (3d) 547

Regina v. Alltrans Express Ltd. et al, (Court of the Queen's Bench of Alberta, Calgary, Alberta, December 16, 1980, unreported.)

Regina v. Matsushita Electronics of Canada Ltd., (County Court, Toronto, Ontario, January 30, 1981 unreported). (Trial.)

Regina v. Matsushita Electronics of Canada Ltd. (County Court, Toronto, Ontario, February 13, 1981, unreported.) (Sentence.)

Misleading Advertising and Deceptive Marketing Practices

FORMER SECTION 36

Regina v. Eddie Black's Limited (1962), 38 C.P.R. 140.


Regina v. Products Diamant Ltée (Magistrate’s Court, Ottawa, Ontario, August 12, 1965 — unreported).


Regina v. Trans-Canada Jewelry Importing Co. Ltd. (Quebec Superior Court (In Appeal), June 12, 1967 — unreported).

Trans-Canada Jewelry Importing Co. Ltd. v. The Queen, (1968) B. R. 179 (Appeal).


Regina v. Genser & Sons Limited (1968), 54 C.P.R. 160 (Trial).

Regina v. Genser & Sons Limited (1969), 67 W.W.R. 19; 1969] 3 C.C.C. 87; 4 D.L.R. (3d) 389 (Court of Appeal); 57 C.P.R. 17 (includes Motion on Appeal and therefrom to the Court of Appeal).


Regina v. Colgate-Palmolive Limited (1968), 54 C.P.R. 190 (Trial).


Regina v. Miller's T.V. Ltd. (1968), 56 C.P.R. 237.

Regina v. Patton's Place Limited (1968), 57 C.P.R. 12.


Regina v. MacLeod Stedman Ltd. (1969), 60 C.P.R. 135 (Appeal on sentence).


Regina v. Michael Benes (Universal Agencies) (Provincial Court (Criminal Division) of the Regional Municipality of Ottawa-Carleton, October 7, 1969 — unreported).

Regina v. Ameublement Dumouchel Furniture Limited (Provincial Court (Criminal Division) of the Regional Municipality of Ottawa-Carleton, February 6, 1970 - unreported).


Regina v. Hamilton Harvey Ltd. (1970), 1 C.P.R. (2d) 206 (Trial).

Regina v. Hamilton Harvey Ltd. (1972), 7 C.P.R. (2d) 89 (Motion for non-suit).

Regina v. Hamilton Harvey Ltd. (1972), 6 C.C.C. (2d) 566; 5 C.P.R. (2d) 248 (Appeal).

Regina v. Charles P. Szegoe (Provincial Court (Criminal Division) County of Halton, January 14, 1971 — unreported).


Regina v. Acme Novelty (B.C.) Ltd. (1972), 7 C.C.C. (2d) 216; 5 C.P.R. (2d) 221 (Appeal).


Regina v. Perley Co. Ltd. (1972), 5 C.P.R. (2d) 177.


Regina v. Zeller's (Western) Limited (1972), 5 C.P.R. (2d) 3.
Regina v. Northern Holdings Ltd. (1972), 6 C.P.R. (2d) 244.
Regina v. The T. Eaton Company Limited (1972), 10 C.P.R. (2d) 73.
Regina v. Manufacture D'Habits Lachine Inc. (1972), 9 C.C.C. (2d) 75; 6 C.P.R. (2d) 18 (Trial).
Regina v. Ben Moss Jewellers Ltd. (1972), 8 C.C.C. (2d) 509; 7 C.P.R. (2d) 184.
Regina v. Gagnon et al. (1975), 27 C.P.R. (2d) 133.
Regina v. Anderson (1975), 28 C.P.R. (2d) 49.

FORMER SECTION 37
Regina v. Centennial Pharmacy Ltd. (1970), 64 C.P.R. 87.
Regina v. Imperial Tobacco Products Limited (1970), 64 C.P.R. 3; 2 C.C.C. (2d) 533; 16 D.L.R. (3d) 470 (Trial).


Regina v. G. Tamblyn Limited (1971), 4 C.P.R. (2d) 68 (Trial).


Regina v. S.S. Kresge Company Limited (1972), 5 C.P.R. (2d) 133.

Regina v. LePage's Ltd. (1972), 9 C.P.R. (2d) 16 (Preliminary Hearing).

Regina v. Trendsetter Developments Ltd. (1972), 5 C.P.R. (2d) 231 (Motion to quash).

Regina v. Sutson Ltd. (1972), 6 C.P.R. (2d) 246.

Regina v. Shell Canada Ltd. (1972), 8 C.C.C. (2d) 181; 5 C.P.R. (2d) 217.

Regina v. Carpet Villa Ltd. (1972), 8 C.C.C. (2d) 327; 7 C.P.R. (2d) 262 (Trial).

Regina v. Carpet Villa Ltd. (1972), 9 C.C.C. (2d) 368; 8 C.P.R. (2d) 246 (Appeal).


Regina v. J. Clark & Son Ltd. (1972), 8 C.C.C. (2d) 322; 6 C.P.R. (2d) 5; 4 N.B.R. (2d) 596 (Trial).


Regina v. Hillcrest Volkswagen Ltd. (1972), 9 C.C.C. (2d) 339; 7 C.P.R. (2d) 179.

Regina v. Rumpeli (1972), 7 C.P.R. (2d) 187.

Regina v. Mel Air Ltd. (1972), 7 C.P.R. (2d) 165.

Regina v. Gregory, Choquette and Hébert (1972), 7 C.P.R. (2d) 150 (Preliminary Hearing).

Regina v. Gregory, Choquette and Hébert (1973), 12 C.C.C. (2d) 137; 11 C.P.R. (2d) 32 (Trial) (Section 37(2)).

Regina v. Gregory, Choquette and Hébert (No.2) (1973), 15 C.C.C. (2d) 386; 12 C.P.R. (2d) 106 (Section 37(1)(b)).

Regina v. Gregory, Choquette and Hébert (No.2) (1975), 20 C.C.C. (2d) 509; 18 C.P.R. (2d) 205 (Appeal on sentence).
Regina v. Imperial Optical Co. Ltd. (1972), 9 C.C.C. (2d) 328; 7 C.P.R. (2d) 146.
Regina v. Contour Slim Ltd. (1972), 9 C.C.C. (2d) 482; 9 C.P.R. (2d) 107.
Regina v. O.E. McIntyre Ltd. (1972), 9 C.P.R. (2d) 105.
Regina v. Victoria Wood Development Corp. (1972), 9 C.P.R. (2d) 98 (Sentence).
Regina v. Cunningham Drug Stores Ltd. (1972), 12 C.C.C. (2d) 4; 8 C.P.R. (2d) 127 (Trial).
Regina v. Colgate-Palmolive Ltd. (1972), 9 C.P.R. (2d) 62.
Regina v. Centre City Supermarkets Limited (Provincial Court, Ottawa, July 13, 1972 — unreported).
Regina v. Consumers Distributing Co. Ltd. (1973), 12 C.P.R. (2d) 34.
Regina v. Dominion Stores Ltd. (1973), 20 C.C.C. (2d) 378; 15 C.P.R. (2d) 35.
Regina v. Dupli-Color Canada, Ltd. (1973), 16 C.P.R. (2d) 94 (Sentence).
Regina v. Alexanian & Sons Ltd. (1976), 17 N.R. 42; 33 C.P.R. (2d) 144. (Supreme Court of Canada).
Regina v. Armand Côté Liée (1973), 18 C.P.R. (2d) 125.


Regina v. O'Brien (County Court District One, Nova Scotia, December 11, 1974 — unreported).


Regina v. T. Eaton Co. Ltd. (1975), 26 C.P.R. (2d) 118.


Regina v. Family Tire Centres Limited (County Court, Toronto, May 16, 1975 — unreported).


Regina v. Loblaw's Ltd. (1976), 26 C.P.R. (2d) 121.

Regina v. Simpsons-Sears Ltd. (1976), 28 C.P.R. (2d) 249.

Regina v. Bidwell Food Processors Ltd. (1976), 29 C.P.R. (2d) 266.


Knickle v. Regina (1977), 31 C.P.R. (2d) 145.


Regina v. Universal China, Lamp & Glass Co. Ltd. (1976), 35 C.P.R. (2d) 286.

Regina v. L. Bussin & Marketing International Ltd. (County Court, Toronto, May 18, 1977 — unreported).


Regina v. The T. Eaton Co. Ltd. (Sessions of the Peace Court, Montréal, Québec, October 14, 1977 unreported).


Regina v. Sovereign Seat Cover Mfg. Ltd., (Provincial Court, Cornwall, Ontario, July 26, 1977 unreported.) (Trial.)

Regina v. Sovereign Seat Cover Manufacturing, Ltd., (Supreme Court of Ontario, Court of Appeal, January 18, 1978 unreported.) (Appeal.)

Regina v. R.M. Lowe Real Estate Limited and Pastoria Holdings Limited (County Court, Toronto, August 25, 1977 unreported). (Trial.)


Regina v. Frank Cotton (Provincial Court, Hull, Québec, October 31, 1977 unreported).


Regina v. G. Anders et al. (1978), 44 C.P.R. (2d) 152.

Regina v. Distributions JLL Ltee et al. (1978), 44 C.P.R. (2d) 154.


AMENDED PROVISIONS — SECTIONS 36 to 37.2

Regina v. Impala Agencies Ltd. (1976), 28 C.P.R. (2d) 42.


Regina v. N.R. Motors Ltd. (Provincial Court, Prince George, B.C. November 22, 1977 unreported). (Trial.)


Regina v. Parkland Village Heights Ltd. (1977), 37 C.P.R. (2d) 56.

Regina v. Jay Norris Corporation of Canada Ltd. & Jean-Claude Heroux, (Cour des sessions de la Paix, Montréal, Québec, June 29, 1977, unreported).


125

Regina v. The T. Eaton Co. Ltd. (Court of Sessions of the Peace, Montréal, Québec, October 14, 1977, unreported).


Regina v. Park Realty Ltd. et al. (1978), 43 C.P.R. (2d) 29.

Regina v. WCC Publishing Ltd. (1978), 44 C.P.R. (2d) 64.

Regina v. Marcel Lepine, (Summary Convictions Court, Montréal, Québec, June 8, 1978, unreported).


Regina v. Giftwares Wholesale Co. Ltd. (Provincial Judges' Court, Winnipeg, Manitoba, September 27, 1978, unreported). (Trial.)


Regina v. Yukon Automobile Brokers Ltd. (1980), 50 C.P.R. (2d) 85 (Trial).


Regina v. Charles R. Clark (County Court, County of Middlesex, London, Ontario, June 18, 1979, unreported). (Appeal.)

Regina v. Williams S. MacKay (County Court for District Number Seven, Sydney, Nova Scotia, February 19, 1979, unreported). (Appeal.)

Regina v. William S. MacKay (1979), 35 N.S.R. (2d) 553. (Further Appeal.)

Regina v. Exepro Inc. (Court of Sessions of the Peace, District of Montréal, Montréal, Québec, April 6, 1979, unreported).
Regina v. Jay-Norris Corporation of Canada Limited, (Court of Sessions of the Peace, Montréal, Québec, April 12, 1979, unreported).

Regina v. Wardair Canada (1975) Ltd. and International Vacations Ltd. (Provincial Court, Toronto, Ontario, April 26, 1979, unreported). (Trial.)

Regina v. International Vacations Ltd. c.o.b. under the name and style of Intervac (County Court, Toronto, Ontario, February 28, 1980 unreported). (Appeal.)

Regina v. International Vacations Ltd., (Supreme Court of Ontario, Court of Appeal, December 9, 1980, unreported). (Further Appeal.)


Regina v. Consumers Distributing Company Limited, (Supreme Court of Ontario, Court of Appeal, December 23, 1980, unreported). (Further Appeal.)


Regina v. Bristol-Myers of Canada Ltd. (1979), 48 C.C.C. (2d) 384 (Trial — s. 36(1)(b)).

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Regina v. Sherwood Dodge Chrysler Ltd. (Provincial Court, Sherwood, P.E.I., July 30, 1979, unreported).

Regina v. Les Distributeurs Cardinal Ltée, (Court of Sessions of the Peace, Montréal, Québec, November 21, 1979, unreported).

Regina v. Thermal Insulators Ltd. (Provincial Court, Fredericton, New Brunswick, November 22, 1979, unreported).

Regina v. Kenitex Canada Ltd. et al. (1981), 51 C.P.R. (2d) 103.

Regina v. Les Supermarchés Dominton Ltée (Superior Court, Chicoutimi, Québec, February 25, 1980, unreported).

Regina v. James Freeman Batt (Provincial Court, Victoria, B.C., February 29, 1980, unreported).


Regina v. Irving Oil (1980), 47 C.P.R. (2d) 179.


J. Bertrand Devost, representative of Director of Investigation and Research, and Minister of Consumer and Corporate Affairs of Canada, v. Jean Paul Dorion Inc. carrying on business under the name of Casino d’Aubaines, (Summary Conviction Court, Québec, Québec, May 16, 1980, unreported).
The Attorney General of Canada v. Les Editions du Reveil Ltée, carrying on business under the name of "La Librairie du Reveil" (Superior Court, Chicoutimi, Québec, February 27, 1980, unreported).


Regina v. Canadian Fur Shop of Saitoh Limited, (Provincial Court, Toronto, Ontario, August 19, 1979, unreported).

Canadian Fur Shop of Saitoh Limited v. Regina (County Court, Toronto, Ontario, April 28, 1980, unreported). (Appeal.)

K-Mart Canada Ltd. v. Regina, (Sessions of the Peace, Montréal, Québec, October 3, 1980, unreported).

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Regina v. Loblaw's Limited (County Court, Toronto, Ontario, January 22, 1981, unreported).

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Constitutional, Administrative and Other Related Cases

Constitutional Cases

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Regina v. Campbell, [1964] 2 O.R. 487; 46 D.L.R. (2d) 83; 3 C.C.C. 112 (Appeal); 50 C.P.R. 142 (includes appeal to Supreme Court of Canada).

Regina v. Campbell, [1966] 4 C.C.C. 333; 58 D.L.R. (2d) 673 (Supreme Court of Canada).


Administrative and Other Related Cases


* Prohibition order(s) only

129
APPENDIX VI

Recent publications of the Bureau of Competition Policy

Inquiries under the Combines Investigation Act:

The State of Competition in the Canadian Petroleum Industry, (7 volumes)

Economic Studies:

The Administration and Enforcement of Competition Policy in Canada, 1960 to 1975
Concentration in Manufacturing Industries of Canada: Analysis of Post War Changes

Other Publications:

Misleading Advertising Bulletin (Published quarterly)
Annual Report of the Director of Investigation and Research, Combines Investigation Act (for previous fiscal years)
Combines Investigation Act, Office Consolidation, 1978

Micro-fiche copies (available at cost):

Annual Report of the Director of Investigation and Research, Combines Investigation Act
Judgments under Combines Investigation Act
Addresses by Mr. D.H.W. Henry, Q.C., Director of Investigation and Research 1960 - 1970
Restrictive Trade Practices Commission Reports (forthcoming)
APPENDIX VII

ADMINISTRATION

1. Staff

In the administration of the Combines Investigation Act, Robert J. Bertrand is head of the Bureau of Competition Policy in the Department of Consumer and Corporate Affairs, for which he is the Assistant Deputy Minister. Roy M. Davidson is the Senior Deputy Director of Investigation and Research and is on temporary assignment to the Organization for Economic Co-operation and Development in Paris. Dennis P. De Melto has been appointed in the absence of Mr. Davidson and was formerly Director of the Manufacturing Branch and comes back to the Bureau from the Economic Council of Canada. J. Claude Thivierge occupies the position of Deputy Director, Investigation and Research, (Legal).

There are five enforcement Branches, each under a Director, as follows:

- Resources Branch — G. Lermer, Director
- Services Branch — W.F. Lindsay, A/Director
- Manufacturing Branch — G.D. Orr, Director
- Regulated Sector Branch — D.A. Dawson, Director
- Marketing Practices Branch — K.G. Decker, Director

The Director of Research and International Relations is occupied by Mr. D.F. McKinley. The position of Director of Legislative Development and International Programs was abolished and the responsibilities respecting international programs merged with those of the Research Branch.

As a result of reorganization of staff and functions, the Regulated Sector Branch has been established as tabled above. The Director of the Branch is D.A. Dawson who comes to the Bureau from the Canada Interchange Program. Mr. Dawson is Professor of Economics at McMaster University. All operational branches specialize in enforcement and investigations of all aspects of the legislation with respect to those sectors of the economy which fall within their purview.

The current Bureau establishment at Headquarters is 185 compared with 190 this time last year due to Bureau re-organization where five Headquarters' staff were reassigned to a field region. Staff turnover in the professional field has been higher than usual and replacements for these officers has provided some difficulty during the year despite active efforts by the Department and the Public Service Commission. Productivity has been maintained by the extra efforts and flexibility in staff deployment and it is hoped the establishment picture will improve in early summer.

The professional complement represents 114 person-years and is as follows:

7 Executive Officers
105 Commerce Officers and Research Economists
2 Field Coordination Officers pertinent to deceptive marketing practices;
and there was a total of 71 person-years for Program and Administrative Officers with support services:

9 Administrative Services Officers
8 Program and Research Officers
54 Clerical and Secretarial/Typing Service Positions.
In addition, functional and administrative direction is provided to 6 regional managers who, collectively, have 31 investigators and 11 clerks. These regional offices are responsible for conducting investigations relating to Marketing Practices cases in the following locations: Vancouver, Edmonton, Calgary, Regina, Winnipeg, London, Toronto, Ottawa-Hull, Montréal, Québec, Halifax, Moncton and St. John’s, Newfoundland.

The Director of Investigation and Research also received assistance during inquiry stages from members of the Departmental Legal Branch, who are lawyers from the Department of Justice. The Department of Justice is responsible for prosecutions and other legal proceedings performed under the Act.

2. Finance

In 1980-81, the budget for the administration of the Bureau of Competition Policy totalled $8,006,000. Of this amount, $1,343,000 was apportioned to maintain offices and staff across Canada at the five regional sectors. Included in the year’s expenditures was the amount of $792,545.00 required to meet the costs of prosecutions under the Act. This includes legal fees and disbursements for crown counsel in those prosecutions. Counsel is appointed by the Department of Justice, who set the fees, and billings receive their approval prior to being forwarded to the office of the Director of Investigation and Research for payment.

The Director is also charged with the administrative responsibility for collecting fines imposed by the courts. During 1980-81, a total of 99 fines was collected with a value of $989,000 and was deposited in the Government’s consolidated revenue account.
D. De Melto is Senior Deputy Director in place of R.M. Davidson who is on temporary assignment to O.E.C.D. in Paris.

G.D. Orr is the Director of the Services Branch, but is on temporary assignment as Director of the Manufacturing Branch due to a vacancy.

W.F. Lindsay is Acting Director of the Services Branch.
APPENDIX VIII

Any person wishing to obtain general information on the Act or an opinion under the program of compliance, or wishing to inform the Director of Investigation and Research of any matter that comes within the purview of the Act, can communicate with:

Bureau of Competition Policy
Consumer and Corporate Affairs Canada
50 Victoria Street
Hull, Québec
K1A 0C9

For any matters pertaining to marketing practices, such persons may also communicate with the regional offices listed below:

Box 10059
Pacific Centre Limited
Room 2500
700 West Georgia Street
VANCOUVER,
British Columbia
V7Y 1C9
Tel: 666-6971

1008 - 7th Avenue South West
CALGARY, Alberta
T2P 1A7
Tel: 231-5608

260 St. Mary Avenue
WINNIPEG, Manitoba
R3C 0M6
Tel: 985-5567

781 Richmond Street
LONDON, Ontario
N6A 3H4
Tel: 679-4032

50 Victoria Street
HULL, Québec
K1A 0C9
Tel: 997-4282

1410 Stanley Street
MONTRÉAL, P.Q.
H3A 1P8
Tel: 283-4571

1222 Main Street
MONCTON, New Brunswick
E1C 8P9
Tel: 858-2153
INDEX TO PRODUCTS, STUDIES AND OTHER SPECIFIC MATTERS

<table>
<thead>
<tr>
<th>Product/Study/Matter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising</td>
<td></td>
</tr>
<tr>
<td>—Outdoor</td>
<td>50</td>
</tr>
<tr>
<td>—Radio and T.V.</td>
<td>49</td>
</tr>
<tr>
<td>Antenna C.B.</td>
<td>52</td>
</tr>
<tr>
<td>Automobiles</td>
<td>32</td>
</tr>
<tr>
<td>Banking services</td>
<td>74</td>
</tr>
<tr>
<td>Bid depositories</td>
<td></td>
</tr>
<tr>
<td>Bleach, liquid</td>
<td>26</td>
</tr>
<tr>
<td>Builders Hardware</td>
<td>38</td>
</tr>
<tr>
<td>Bus services</td>
<td>51, 78</td>
</tr>
<tr>
<td>Business opportunities</td>
<td>75</td>
</tr>
<tr>
<td>Cement and its Transportation</td>
<td>54</td>
</tr>
<tr>
<td>Charters, domestic advance booking</td>
<td>68</td>
</tr>
<tr>
<td>Chemicals, agricultural</td>
<td>29</td>
</tr>
<tr>
<td>Clothing</td>
<td></td>
</tr>
<tr>
<td>—Cluett, Peabody Canada Inc.</td>
<td>30</td>
</tr>
<tr>
<td>—H.D. Lee of Canada Ltd.</td>
<td>26</td>
</tr>
<tr>
<td>Coins and stamps</td>
<td>30</td>
</tr>
<tr>
<td>Concrete, Quebec City</td>
<td>36</td>
</tr>
<tr>
<td>Copper rod, wire and cable</td>
<td>32</td>
</tr>
<tr>
<td>Cosmetics</td>
<td>74</td>
</tr>
<tr>
<td>Dental surgeons, B.C. College of</td>
<td>59</td>
</tr>
<tr>
<td>Department Stores</td>
<td>58</td>
</tr>
<tr>
<td>Drugs</td>
<td>25, 80</td>
</tr>
<tr>
<td>Dry Cleaning Services, Victoria, B.C.</td>
<td>57</td>
</tr>
<tr>
<td>Electrical wire and cable</td>
<td>33</td>
</tr>
<tr>
<td>Energy Supplies Emergency Act, section 23 exemption</td>
<td>46</td>
</tr>
<tr>
<td>Export agreements</td>
<td>17</td>
</tr>
<tr>
<td>Export exemptions</td>
<td>17</td>
</tr>
<tr>
<td>Fishing industry</td>
<td>44</td>
</tr>
<tr>
<td>Food services</td>
<td>53</td>
</tr>
<tr>
<td>Food Supplements, Cleaning &amp; personal care products</td>
<td>74</td>
</tr>
<tr>
<td>Fur coats</td>
<td>74</td>
</tr>
<tr>
<td>Furniture</td>
<td></td>
</tr>
<tr>
<td>—Sale of</td>
<td>75</td>
</tr>
<tr>
<td>—Sklar Furniture Ltd.</td>
<td>28</td>
</tr>
<tr>
<td>—John Tynan &amp; Co. Ltd.</td>
<td>53</td>
</tr>
<tr>
<td>Gasoline and Heating Oil</td>
<td></td>
</tr>
<tr>
<td>—Fuel oil, Prince George</td>
<td>46</td>
</tr>
<tr>
<td>—Independent Sellers</td>
<td>44</td>
</tr>
<tr>
<td>—Perrette Dairies</td>
<td>15, 39</td>
</tr>
<tr>
<td>—Peterborough</td>
<td>43</td>
</tr>
<tr>
<td>—Simcoe</td>
<td>43</td>
</tr>
<tr>
<td>—S.W. Ontario</td>
<td>38</td>
</tr>
<tr>
<td>—Sydney</td>
<td>38</td>
</tr>
<tr>
<td>Golf equipment</td>
<td>48</td>
</tr>
<tr>
<td>Grocery Products, wholesale</td>
<td>41</td>
</tr>
<tr>
<td>Hairdressing supplies</td>
<td>52</td>
</tr>
<tr>
<td>Hobby &amp; craft supplies</td>
<td>34</td>
</tr>
<tr>
<td>—Model Craft Hobbies Ltd.</td>
<td>30</td>
</tr>
</tbody>
</table>

135
Insurance ........................................................................................................................................ 48
Interpreters, conference .................................................................................................................. 50
Janitorial services .......................................................................................................................... 51
Landlords, Moncton & District Association .................................................................................. 52
Law societies .................................................................................................................................... 57
Lids, disposable plastic ................................................................................................................... 26
Maps & Cartographical Material ................................................................................................... 53
Merger
— Department store ....................................................................................................................... 58
— Register ....................................................................................................................................... 59
— Survey and analysis .................................................................................................................... 80
Microwave ovens ........................................................................................................................... 73
Motor oil .......................................................................................................................................... 75
Motor vehicle parts, Volkswagen .................................................................................................. 48
Newspapers, Daily ........................................................................................................................... 59
Oilfield equipment .......................................................................................................................... 34
Paper products ............................................................................................................................... 33
Papermaker's felts ............................................................................................................................. 47
Paradichlorobenzene ....................................................................................................................... 24
Petroleum Industry ........................................................................................................................ 43
Plastic pipe ....................................................................................................................................... 33
Propane ........................................................................................................................................... 42
Publishing, newspapers .................................................................................................................. 59
Pyramid selling ............................................................................................................................... 74
Rating services, Radio and T.V. ..................................................................................................... 54
Real estate sales .............................................................................................................................. 55, 57
Records and Tapes ........................................................................................................................... 27
Research studies
— Airlines, performance of regulated Canadian ............................................................................ 79
— Bus industry: Performance under regulation, Canadian inter-city ............................................. 78
— Collective bargaining and competition policy ............................................................................ 80
— Combines Investigation Act, administration and enforcement .................................................. 78
— Concentration in the manufacturing industries ........................................................................ 78
— For-hire motor carriers, effects of regulation on ........................................................................ 79
— Industrial strategy debate .......................................................................................................... 80
— Merger survey and analysis ........................................................................................................ 80
— Multinational control, role of manufacturing in ........................................................................ 78
— Professional licensing, earnings and rates of return differentials ............................................. 77
— Shopping centre, retail space allocation ...................................................................................... 80
— Trade and industrial organization in Canadian manufacturing ............................................... 81
— Transport costs and their implications for price competitiveness ............................................ 78
— Trucking industry, performance of
  private ........................................................................................................................................... 79
  rates of return in ............................................................................................................................ 80
Sewer castings ................................................................................................................................. 25
Sewing machines ............................................................................................................................ 52
Shoes
— Church & Co. (Canada) Ltd. ......................................................................................................... 29
— De Carlo Shoe Co. Ltd. .................................................................................................................. 29
Snowmobiles .................................................................................................................................... 12, 31
Soft drinks ....................................................................................................................................... 24
Sporting goods ................................................................. 31
Statistics ........................................................................... 9
Stereo components and related equipment
   — Magnasonic Canada Inc .............................................. 30
   — Matsushita Electric of Canada Ltd ............................. 29
   — Noresco Inc ............................................................ 28
   — Ravel Enterprises Ltd .............................................. 27
   — Stereo components .............................................. 35, 36
Sugar, Eastern .................................................................. 10, 20, 37

Tariff Board Reference
   — Preferential tariff extensions .................................... 69
   — Value for duty ......................................................... 69
Telecommunications
   — Bell rate application 1978 ........................................ 62
   — Bell rate application 1980 and price comparison tests 68
   — Bell rate application 1981 ......................................... 69
   — Bell Canada & B.C. Tel. application for new TCTS rates 63
   — Bell Canada, connection of customer provided terminal devices 64
   — B.C. Tel proposed acquisition of G.T.E. & Microtel ......... 65
   — Equipment industry ................................................ 69
   — Garden of the Gulf Motel application ......................... 67
   — Maritime Telegraph ................................................. 66
   — New Brunswick Telephone ........................................ 66
Telephone answering systems ............................................. 31
Television and television converters
   — Philips Electronics .................................................. 28
   — Television sets ...................................................... 36, 57
Transportation
   — household goods ..................................................... 62
   — rates, multi-modal .................................................. 55
Trucking, for-hire ............................................................ 12, 62
Uranium inquiry ............................................................... 45
Vending machines, food and beverage ............................... 35
Waste disposal .................................................................. 49
Wood industry .................................................................... 45