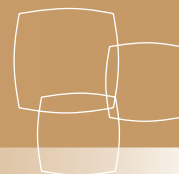




Competition Bureau
Canada

Bureau de la concurrence
Canada



ANNUAL REPORT²⁰

OF THE
COMMISSIONER OF COMPETITION
FOR THE YEAR ENDING
MARCH 31, 2010

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LETTER OF PRESENTATION



Gatineau, Quebec

The Honourable Christian Paradis, PC, MP
Minister of Industry
Ottawa, Ontario K1A 0H5

Dear Minister,

I have the honour to submit, pursuant to section 127 of the *Competition Act*, the following report on the operation of the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act* for the fiscal year ended March 31, 2010.

Melanie L. Aitken
Commissioner of Competition

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MESSAGE FROM THE COMMISSIONER



I am pleased to present the Competition Bureau's Annual Report, for the fiscal year ending March 31, 2010.

In March 2009, Parliament passed significant amendments to the *Competition Act*, ushering in a new era in Canadian competition law. The amendments established a new two-stage merger review process, created a more effective criminal enforcement regime, introduced the potential for administrative monetary penalties for abuse of dominance, and repealed criminal offences for certain pricing practices.

My top priority as Commissioner of Competition this year has been the successful implementation of these amendments. With the aim of providing as much transparency and predictability as possible, we reached out immediately to businesses, consumer groups, and the legal community in the wake of the amendments, and quickly updated many of our guidance documents and created new ones, including the introduction of the *Competitor Collaboration Guidelines*, and the *Merger Review Process Guidelines*. The dedicated team at the Competition Bureau (Bureau) has worked diligently to put the new provisions into action, and I am extremely proud of what we have accomplished.

The changes to our merger review regime were tested almost immediately by a very significant and complex merger between two firms in the oil and gas industry. I am pleased to report that the new two-step process resulted in an efficient review of

the transaction and robust remedies to maintain a competitive market for Canadian consumers.

Combating cartels continues to be a priority for the Bureau and, by way of example, in June 2009, three international air carriers pleaded guilty for their part in an air cargo cartel affecting Canada. The new cartel provisions will enhance our efforts to combat this type of harmful anti-competitive behaviour in the future.

Going forward, we are on the watch for misleading and fraudulent representations in areas that hit close to home for Canadians. In December 2009, in a move that I hope is indicative of an increased recognition of the damage deceptive marketing practices impose on our economy, the Ontario Superior Court imposed a record \$15 million fine against a Toronto company for operating a business directory scam targeting Canadian and U.S. businesses.

The Bureau is also pursuing an abuse of dominance case against the Canadian Real Estate Association (CREA). In February 2010, the Bureau filed an application with the Competition Tribunal seeking to prohibit CREA from imposing rules on its members that limit consumer choice and prevent innovation in the market for residential real estate services.

It has been an extraordinarily exciting and rewarding time at the Bureau, as we use our new tools to ensure that Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Melanie L. Aitken

Commissioner of Competition







I. ABOUT THE COMPETITION BUREAU

I. ABOUT THE COMPETITION BUREAU

The Competition Bureau (Bureau) is an independent law enforcement agency that ensures Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Headed by the Commissioner of Competition (Commissioner), the Bureau is responsible for the administration and enforcement of the *Competition Act* (Act), the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*.

This annual report summarizes the Bureau's activities under these statutes for the fiscal year ending March 31, 2010. It demonstrates how the Bureau's activities over the past year have benefited Canadians. For information on the activities described throughout the report, including information notices, new releases, and backgrounders, please visit the Bureau's Media Centre (http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_02766.html). For statistical data, please refer to the [Appendix](#), which is found at the end of this report. Legal references and further information about the Bureau's work can be found on the Bureau's Web site (www.competitionbureau.gc.ca).

I.1 Organizational Structure

The Commissioner is the head of the Bureau. The Bureau is organized into eight Branches. In 2009-2010, the Bureau employed 435 people (including students). Of that number, 338 were located in the National Capital Region, and 97 in seven regional offices. The Bureau's regional offices are located in Halifax, Montreal, Toronto, Hamilton, Winnipeg, Calgary and Vancouver.

The **Civil Matters Branch** is responsible for detecting and deterring restrictive trade practices that have

a negative impact on competition, such as abuse of dominance, refusal to deal, exclusive dealing, tied-selling and price maintenance. Activities of concern can also extend to certain types of anti-competitive agreements or arrangements of a non-criminal nature.

The **Compliance and Operations Branch** oversees the Bureau's compliance program, training programs and client services. It manages the Bureau's Information Centre, as well as Bureau-wide planning, resource management, administration and informatics activities.

The **Criminal Matters Branch** is responsible for detecting, investigating, and deterring hard core cartels including conspiracies, agreements or arrangements among competitors and potential competitors to fix prices, allocate markets or restrict supply, and bid-rigging.

The **Economic Policy and Enforcement Branch** provides economic advice and expertise, as well as enforcement support, to the Bureau's Chief Economist and to the Bureau as a whole.

The **Public Affairs Branch** is the Bureau's communications division. It ensures that Canadian consumers, businesses, parliamentarians and the international community are aware of the Bureau's contributions to competition in the marketplace and to the growth of the Canadian economy.

The **Fair Business Practices Branch** administers and enforces the provisions of the Act on misleading representations and deceptive marketing practices. The Branch also enforces the *Consumer Packaging*

and Labelling Act, the Precious Metals Marking Act and the Textile Labelling Act.

The **Legislative and International Affairs Branch** is responsible for the ongoing modernization of the Act, as well as managing and coordinating the Bureau's work within Parliament's law-making process, and assists with policy and advocacy matters. The Branch promotes the Bureau's interests in international cooperation, negotiations and policy development.

The **Mergers Branch** reviews merger transactions to assess whether mergers are likely to prevent or substantially lessen competition in the marketplace.

1.2 Bureau Operations

The Bureau's operating budget for 2009-2010 was \$50.8 million, including \$10.5 million collected from user fees. The majority of the budget, \$35.7 million, was allocated to salaries for 420 authorized full-time staff, consisting of 27 executives, 14 economists, 241 competition law officers, and 138 employees carrying out informatics, administrative services and support functions.

The Bureau has administrative responsibility for collecting fines imposed by the courts. Over \$33 million in fines were imposed in 2009-2010. This money is remitted to the Government of Canada's Consolidated Revenue Fund.

In 2009-2010, the Bureau undertook a complete revision of its budget allocation; this excludes revenues generated through merger notifications and written opinions. The aim of the review was, and continues to be, to realign the Bureau's resources with its priorities. The exercise has proven valuable in equipping senior management with the necessary focus to develop responsible, focused and disciplined plans consistent with our enforcement focus and priority. As well, it has provided an opportunity for managers to undertake an in-depth review and make appropriate resource level adjustments across the Bureau's lines of work, to better ensure the Bureau is responsive to the demands of Canadians.

1.3 Priorities 2009-2010

The Bureau had several priorities for action in 2009-2010 including the following¹.

Competition Bureau Priorities

1. The Bureau committed to developing the most effective, transparent and efficient ways to implement the amendments to the *Competition Act* in 2009-2010.
 2. Combating international and domestic cartels were important priorities for the Bureau. In 2009-2010, the Bureau committed to continue to focus its efforts on domestic cartels and bid-rigging.
 3. The Bureau continued to review mergers and acquisitions, and to challenge those few that were likely to result in a substantial lessening or prevention of competition.
 4. As part of the Food and Consumer Safety Action Plan, the Bureau committed to engage in consultations to ensure the clarity of "Product of Canada" and "Made in Canada" representations.
 5. The Bureau also planned to focus its advocacy efforts on certain key areas where it would have the most potential to affect change, such as the Internet.
-

These priorities are demonstrated throughout this report and are reported upon across the Bureau's major lines of business.

¹ For further information see the 2009-10 Industry Canada Departmental Performance Report (DPR) and the 2009-10 Industry Canada Part III – Report on Plans and Priorities (RPP).





2. MODERNIZING CANADA'S COMPETITION LAW



2. MODERNIZING CANADA'S COMPETITION LAW

As reported in the Bureau's 2008-2009 Annual Report, the Government of Canada introduced significant amendments to the Act on January 27, 2009, which were designed to modernize the Act and to align it more closely with the competition laws of Canada's major trading partners.

The majority of these amendments received Royal Assent and came into force on March 12, 2009. The remaining amendments, relating to reform of the conspiracy provisions and new provisions on competitor collaborations, came into force on March 12, 2010. The coming into force of these particular sections of the Act was delayed for one year to allow businesses time to adjust to the new law.

The introduction of a two-stage merger review mechanism, as described in last year's annual report, necessitated amendments to the *Notifiable Transactions Regulations*, SOR/87-348 (Regulations). In particular, amendments were required to eliminate the separate "short form" and "long form" notification information requirements in favour of a uniform notification. Other amendments to the Regulations included corrections to outdated statutory section references, a mechanism to facilitate the electronic submission of certain documents, and a reduction in the amount of information that parties to a proposed transaction are required to supply to the Commissioner for the purpose of pre-merger notification. These amendments were published for public consultation on April 4, 2009, and came into force on February 2, 2010.

Beginning in May 2009, the Bureau held general consultations and outreach to multiple constituencies to give businesses and consumers an opportunity to develop a better understanding of how the amendments to the Act would affect them. These information sessions were held in Toronto, Montreal, Vancouver, Calgary and Halifax.

The Bureau also issued a number of guidance documents to assist the public in understanding the new provisions and the Bureau's enforcement approach. In September 2009, the Bureau published its Merger Review Process Guidelines. These guidelines are designed to offer a high degree of transparency and predictability regarding the Bureau's procedural approach to merger review. The guidelines reflect the Bureau's experience to date and the positive and constructive feedback received during the Bureau's consultations with external stakeholders.

In addition, recognizing the need for transparency and predictability in its assessment of competitor collaborations, the Bureau issued its Competitor Collaboration Guidelines in December 2009.

Additional information is included in [Chapter 9](#) of this report.







3. PURSUING CRIMINAL MATTERS

3. PURSUING CRIMINAL MATTERS

The Bureau enforces the criminal cartel and bid-rigging provisions of the Act. Combating international and domestic cartels and addressing domestic bid-rigging remained important enforcement priorities for the Bureau in 2009-2010.

On March 12, 2010, two amended provisions of the Act came into force, creating a dual track (criminal and civil) approach for agreements between competitors. The criminal prohibition, section 45, the cornerstone cartel provision of the Act, applies to agreements between actual or potential competitors to fix prices, allocate markets or reduce output in respect of the supply of products, and where the restraint on competition is not in furtherance of a legitimate joint venture or collaboration. The new section 45 made “hard-core” cartel agreements *per se* offences, while other forms of competitor collaborations, joint ventures and strategic alliances are subject to review under a civil provision, s. 90.1, that prohibits agreements only where they are likely to substantially lessen or prevent competition.

The changes to the Act allow for more effective criminal enforcement against the most serious cartel agreements, while providing businesses with greater freedom and flexibility to benefit from legitimate alliances with their competitors. While these changes were introduced by amendments to the Act that received Royal Assent on March 12, 2009, the coming into force of these sections of the Act was delayed for one year to allow businesses time to adjust to the new law.

Bid-rigging, a criminal offence prohibited by section 47 of the Act, consists of an agreement where, in response to a call for bids or tenders, bidders agree not to submit a bid, or agree to submit bids that have been pre-arranged among themselves.

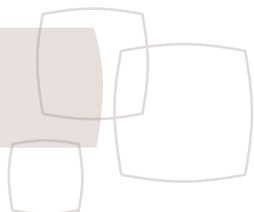
The Bureau has a range of tools at its disposal, including the Immunity Program, to enforce these provisions. The most serious matters are referred to the Director of Public Prosecutions with a recommendation for prosecution. Offenders may receive heavy fines, prison terms or a combination of both.

3.1 Enforcement Actions

Gasoline

In May 2009, two individuals and a company pleaded guilty to criminal charges for conspiring to fix the price of gasoline at the pump in Victoriaville, Quebec. These guilty pleas followed the laying of charges in June 2008 against 13 individuals and 11 companies accused of fixing the price of gas at pumps in Victoriaville, Thetford Mines, Magog, and Sherbrooke, Quebec. Jean-Yves Plourde was sentenced to pay a fine of \$10,000 and perform 150 hours of community service for his involvement in the conspiracy. Daniel Drouin received an absolute discharge and made a charitable donation of \$10,000, and Les Pétroles Cadrin Inc. was fined \$90,000.

In October 2009, Gisèle Durand was sentenced to four months in jail and ordered to make a \$20,000 donation to a charitable organization. Michel Dubreuil was sentenced in December 2009 to six months in jail and ordered to make a \$25,000 donation to a charitable organization for his role in a conspiracy to fix the price of gasoline at the pump in Sherbrooke, Quebec.



The 2009 guilty pleas bring the total fines in the Bureau's Quebec gas inquiry to over \$2.7 million, with ten individuals and six companies pleading guilty, as of March 31, 2010. Of the ten individuals who pleaded guilty, six were sentenced to terms of imprisonment totalling 54 months.

Air Cargo

In June 2009, three international air carriers, Société Air France, Koninklijke Luchtvaart Maatschappij N.V. and Martinair Holland N.V. pleaded guilty and were fined \$4 million, \$5 million and \$1 million, respectively, for their parts in an air cargo cartel affecting Canada. The carriers admitted to fixing surcharges on air cargo exported on certain routes from Canada.

In July 2009, Qantas Airway Limited (Qantas) pleaded guilty and was fined \$155,000 for its participation in the cartel. Qantas admitted that its Freight Division fixed surcharges on air cargo exported on certain routes from Canada.

In October 2009, British Airways Plc (British Airways) pleaded guilty and was fined \$4.5 million for its role in the cartel. British Airways admitted to fixing surcharges on the sale and supply of international air cargo exported on certain routes from Canada. The Bureau's investigation into the alleged conduct of other air cargo carriers is ongoing.


TPG Technology Consulting Ltd. et al.

In June 2009, Theodore Martin, the former owner of TRM Technologies Inc. (TRM), pleaded guilty to a criminal charge of rigging bids in a Transport Canada tendering process for an information technology contract, and was fined \$25,000. In addition, a prohibition order was issued against TRM. This plea followed the laying of charges in February 2009 against 14 individuals and seven companies. The case is ongoing against the remaining companies and individuals accused of rigging bids to obtain Government of Canada contracts for information technology services.

3.2 Anti-Bid-Rigging Program

The Bureau has placed considerable emphasis on preventing and detecting bid-rigging in both the public and private sectors. The Bureau uses different vehicles to raise awareness about the impact of bid-rigging on Canadians, and to educate procurement officials on how to detect this illegal activity. In 2009-2010 the Bureau conducted 52 outreach presentations for 1,772 people, aimed at deterring bid-rigging activity, particularly in the Canadian public sector.





4. PREVENTING ABUSE OF DOMINANCE AND OTHER ANTI-COMPETITIVE BUSINESS PRACTICES

4. PREVENTING ABUSE OF DOMINANCE AND OTHER ANTI-COMPETITIVE BUSINESS PRACTICES

The Bureau administers and enforces provisions of the Act relating to abuse of dominance, as well as refusals to deal and tied selling, among others. These provisions are often referred to as the civil provisions of the Act.

Abuse of a dominant position occurs when a dominant firm or a dominant group of firms in a market engages in a practice of anti-competitive acts, with the result that competition is prevented or lessened substantially.

In cases of non-compliance with the civil provisions of the Act, the Commissioner may file an application with the Competition Tribunal (Tribunal) for an order to remedy the situation. In addition, the Tribunal may order administrative monetary penalties (AMPs) where an abuse of a dominant position is found.

The Bureau encourages voluntary compliance with the Act. Voluntary compliance includes a broad spectrum of solutions to remedy anti-competitive behaviour, ranging from an informal resolution to the registration of a consent agreement with the Tribunal or contested proceedings. Examples of alternative case resolutions are available on the Bureau's web site.

4.1 Enforcement Actions

Canadian Real Estate Association

In February 2010, the Bureau filed an application with the Tribunal seeking an order to prohibit the Canadian Real Estate Association (CREA) from imposing rules on its members that limit consumer choice and prevent innovation in the market for residential real estate services.

The Bureau determined that CREA's rules restrict the ability of consumers to choose the real estate

services they want, forcing them to pay for services they do not need. The rules also prevent real estate agents from offering more innovative service and pricing options to consumers.


In March 2010, the Bureau reported that it would continue with its challenge to the anti-competitive rules imposed by CREA. This case was ongoing at fiscal year-end.

Waste Management of Canada and Waste Services Inc.

In June 2009, the Bureau registered a consent agreement with the Tribunal involving two Canadian waste services companies, Waste Management of Canada Co. and Waste Services (CA) Inc. Under the terms of the agreement, the companies agreed to stop using long-term contracts that locked in customers and contained highly restrictive terms, which had the effect of foreclosing competitors from the market. These contracts resulted in substantially less competitive markets for commercial waste collection services, leading to higher prices and reduced choice for businesses. The Bureau has observed new entry and the significant expansion of smaller existing competitors since the registration of the consent agreement.

Interac

In September 2007, Interac, Canada's dominant firm in the provision of debit payment services, asked the Bureau to consent to a variation of a consent order previously imposed on Interac in 1996 in response to its anti-competitive conduct at



that time. In February 2010, the Bureau determined it was not appropriate to consent to the requested variation, concluding that the safeguards in the consent order remained necessary to protect consumers. In particular, the Bureau did not agree that the removal of the restriction against for-profit activities by Interac would be pro-competitive, or necessary to allow Interac to remain competitive.


To provide Interac with greater flexibility to respond to any material entry in the future by a competitor, the Bureau also evaluated other changes to the governance structure and corporate status of Interac. Those changes would allow Interac to continue as a not-for-profit corporation with independent directors. The Bureau had concluded that such changes would be acceptable, as they would maintain the necessary safeguards against anti-competitive activity that are contained in the consent order.

Individual v Hockey Canada

In July 2008, the Bureau received a complaint regarding Hockey Canada's bulletin A09-02, which outlined sanctions against so-called "outlaw" hockey leagues, defined as leagues that operate outside the auspices of Hockey Canada, and in direct competition with the organization. The Bureau examined the bulletin and concluded that some aspects of the sanctions gave rise to issues under section 79 of the Act, which prohibits abuse of dominant position.

The Bureau contacted Hockey Canada to discuss its concerns and the ensuing dialogue ultimately led Hockey Canada to eliminate or substantially modify the problematic sanctions. A revised bulletin containing new sanctions was posted on Hockey Canada's Web site. This issue was formally resolved in May 2009.





5. ELIMINATING FALSE OR MISLEADING REPRESENTATIONS AND DECEPTIVE MARKETING PRACTICES

5. ELIMINATING FALSE OR MISLEADING REPRESENTATIONS AND DECEPTIVE MARKETING PRACTICES

The Bureau administers and enforces the civil and criminal false or misleading representations and deceptive marketing practices provisions of the Act, as well as the three regulatory statutes promoting fair and truthful representations in the marketing of consumer products; namely, the Consumer Packaging and Labelling Act as it relates to non-food products, the Precious Metals Marking Act and the Textile Labelling Act.

The Bureau promotes truth in advertising in the marketplace by discouraging deceptive business practices and encouraging the provision of information to allow consumers to make informed choices.

In 2009-2010 the Bureau targeted the increasing number of misleading and fraudulent performance claims affecting Canadians in areas of health and the environment. The Bureau was also focused on deterring illegal telemarketing and other scams.

5.1 Enforcement Actions

Dynasty Spas

In June 2009, the Bureau announced that it had secured commitments from seven Canadian hot tub and spa retailers making representations that their Dynasty Spas products were associated with the ENERGY STAR program, an international standard for energy-efficient consumer products. In January 2010, the Bureau announced that it had reached settlements through consent agreements with two additional Canadian hot tub retailers who were making unsupported claims that their Dynasty Spas products were associated with the program. These companies agreed to stop making representations involving the ENERGY STAR program and to take action to correct the misinformation in the

marketplace. Companies had used a variety of energy efficiency claims in the sale and promotion of hot tubs and spas, conveying the impression that the products were eligible for certification. The Bureau concluded that these representations violated the Act, in that they were materially false or misleading and influenced consumers in their decision to purchase the products.

Bamboo Labelling and Advertising

In January 2010, the Bureau announced that more than 450,000 textile articles had been re-labelled and over 250 Web pages had been corrected as a result of the Bureau's efforts to ensure that textile articles derived from bamboo are accurately labelled and advertised. As part of this initiative, the Bureau contacted a variety of retailers, importers, manufacturers, sellers, processors and finishers to inform them of its concerns regarding the labelling and advertising of certain textiles. The Bureau took action over potentially misleading labelling and advertising in the marketplace with respect to textile articles labelled "bamboo". While such textile articles may have been derived from bamboo pulp, they had not been made from natural bamboo fibre, but were, in fact, rayon fibres made through a chemical process. Consumers may have been paying a higher price for such articles on the assumption that the articles had environmentally friendly or health-enhancing qualities.

Operation Mirage

Recognizing the seriousness of deceptive telemarketing, the Bureau launched Operation Mirage in June 2009, a campaign designed to combat fraudulent telemarketing operations. The campaign targeted fraudsters who used illegal techniques to market phoney business directories to businesses and not-for-profit organizations. It was the largest-ever Bureau sweep against deceptive telemarketing and one of the largest ever in Canada.

This action was conducted under the newly amended Act, which allows for significantly higher penalties for those convicted of criminal telemarketing offences. Operation Mirage also aims to educate, through an outreach campaign, thousands of vulnerable job seekers who may unknowingly work for deceptive telemarketing operations, thereby exposing themselves to criminal penalties.

As a result of this initiative, the Bureau took action against 50 organizations and individuals in the Montreal area. The Bureau was assisted in this initiative by the COLT partnership (Royal Canadian Mounted Police, Sûreté du Québec, City of Montreal Police Service, Canada Border Services Agency, U.S. Federal Trade Commission, Federal Bureau of Investigation, U.S. Department of Homeland Security and the U.S. Postal Inspection Service).

DataCom Marketing Inc.

Toronto-based DataCom Marketing Inc. (DataCom) telemarketers contacted customers in Canada and the United States, claiming that they were updating information in their business directory listings. The telemarketers implied that the businesses had ordered a listing in the past and that someone in the company had already authorized an order. By using this “assumed sale” technique, which led customers to believe that they had already ordered a listing when in fact they had not, the company deceived businesses.

The telemarketers failed to disclose which company they represented, the price of the product, the terms and conditions to return it, the purpose of the call and the nature of the product, contrary to the requirements of the telemarketing provisions of the Act. Customers subsequently received a business directory, which they had ordered based on this fraudulent representation. Victims lost hundreds of

dollars each while the scam netted \$12.9 million in profits.

In July 2009, the Bureau announced that Bernard Fromstein had been sentenced to two years in a federal penitentiary, and the maximum period of probation of three years for his involvement in the DataCom telemarketing scheme. In addition to his jail sentence, Mr. Fromstein was also prohibited from engaging in any form of telemarketing for a period of 10 years.

Another senior manager, Paul Barnard, received a two-year conditional sentence after cooperating in the investigation. The Ontario Superior Court of Justice also imposed a record \$15 million fine against DataCom for operating a business directory scam targeting Canadian and U.S. businesses, a record amount under the deceptive marketing provisions of the Act.

Job Opportunity Scams

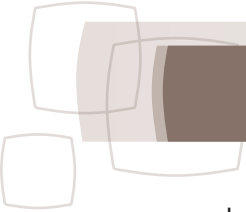
Lookman Temidayo Adegbola operated an employment opportunity scam involving counterfeit cheques. The victims, located in the United States, were led to believe they had been hired as secret shoppers to evaluate the services of MoneyGram, an international money transfer service. They were provided with cheques and instructed to deposit them in their own accounts, then withdraw the money and wire it to Canada under the pretext of assessing the customer service provided by the money transfer outlet.

The cheques were subsequently identified as counterfeit. When the banks reversed the counterfeit deposits, the victims were left liable for the money withdrawn. Victims reported losses ranging from \$2,400 (USD) to \$9,000 (USD) each.

Bureau officers seized approximately 600 counterfeit cheques totalling over \$1 million (USD) during a search of Adegbola’s residence in Brampton, Ontario.

Following a trial by judge and jury in the Ontario Superior Court of Justice, Adegbola, 33, was found guilty pursuant to the *Criminal Code* to fraud over \$5000; forgery; possession of instruments of forgery; and uttering forged documents.

In October 2009, Adegbola was sentenced to three and a half years in prison for operating an



employment opportunity scam involving counterfeit cheques. The accused was also ordered to pay \$26,000 in restitution.

Olufemi Olutunde, of Brampton, Ontario, was sentenced to 12 months in jail for his part in an employment opportunity scam involving counterfeit cheques. The scam targeted Canadian residents who applied for employment positions through local newspapers or online. After being hired, victims were provided with cheques and instructed to deposit them, then withdraw cash and wire it to individuals through Western Union Financial Services, an international money transfer service.

A variation of this scheme involved victims believing that they had been hired to act as payment processors for a fictitious company located abroad. Employment duties involved accepting payments on behalf of the company from alleged customers and wiring money as instructed. All cheques were subsequently identified as counterfeit and the victims were left liable to their banks for the money withdrawn from their accounts. Victims reported losses ranging from \$1,900 to \$18,000 each.

Olutunde pleaded guilty to fraud over \$5,000 pursuant to the *Criminal Code* of Canada. He also admitted to picking up approximately \$460,000 in transfers at Western Union outlets during an eight month period under aliases supported by false identification documents. The Ontario Superior Court of Justice ordered Olutunde to pay restitution of \$23,000 to 14 victims for his part in the employment opportunity scam.

The Bureau's investigation has led to further arrests, with three other individuals currently before the Ontario courts.

H1N1 Flu Virus

In November 2009, the Bureau partnered with Health Canada in releasing a joint consumer warning to Canadians about unauthorized products to treat or prevent the H1N1 flu virus. For more information, please visit the advisory page (http://www.hc-sc.gc.ca/ahc-asc/media/advisories-avis/_2009/2009_179-eng.php).







6. REVIEWING MERGERS

6. REVIEWING MERGERS

Mergers in Canada are subject to review by the Bureau to ensure that they will not result in a substantial lessening or prevention of competition. When the Bureau finds that a proposed merger is likely to substantially lessen competition or prevent competition, the Commissioner may ask the parties to restructure the merger, block, or require remedies to resolve particular competition issues.

When concerns cannot be addressed by negotiation, the Commissioner may bring an application to the Tribunal to alter or block the proposed transaction. Where mergers involve more than one jurisdiction, Bureau staff work with other competition authorities to coordinate the timing of the review process and the review itself, to the extent possible, and, when appropriate, seek consistent (or at least non-conflicting) remedies.

6.1 Key Merger Reviews

Pfizer and Wyeth

In January 2009, Pfizer Inc. (Pfizer) announced that it would acquire Wyeth in a transaction valued at \$68 billion. As part of its comprehensive review of the proposed transaction, in May 2009, the Bureau issued one of its first Supplementary Information Requests under the new two-stage merger review process that came into force in March 2009. To resolve the serious competition concerns raised by the proposed merger, in October 2009, the Bureau and the parties entered into a consent agreement requiring the divestiture of a significant number of animal pharmaceutical and vaccine products to Boehringer Ingelheim Vetmedica, Inc. Pfizer was also required to amend an arrangement with Paladin Labs Inc. governing the supply in Canada of a human pharmaceutical product marketed under the name “Estring” to ensure continued competition in the supply of hormone replacement therapy products in Canada. Over the course of its review,

the Bureau cooperated closely with the U.S. Federal Trade Commission.

Ticketmaster and Live Nation

In February 2009, Ticketmaster Entertainment, Inc. (Ticketmaster) and Live Nation, Inc. (Live Nation) announced their intention to merge. Historically, Ticketmaster had been Canada’s largest supplier of ticketing services and, during 2008 and early 2009, Live Nation had taken certain steps to enter the Canadian ticketing services market. Following a detailed review, the Bureau concluded that the proposed merger between Ticketmaster and Live Nation raised serious competition concerns, owing to the fact that it would prevent Live Nation from entering the Canadian marketplace as a direct competitor to Ticketmaster. It would also raise barriers that would deter other companies from entering the market to compete against the merged Ticketmaster-Live Nation entity.

To resolve these concerns, the parties made certain commitments to the Bureau and U.S. antitrust authorities in January 2010, whereby Ticketmaster agreed to sell its subsidiary ticketing business (Paciolan) to a leading venue management company, and to license its ticketing system for use by the second-largest promoter of live events in North America. Ticketmaster and Live Nation also consented to certain behavioural commitments to preclude anti-competitive bundling of their services. The divestiture of Paciolan was completed in March 2010.

Agrium and CF Industries

In February 2009, Agrium Inc. (Agrium) proposed to acquire CF Industries through a hostile bid. After an extensive review of the proposed transaction, the Bureau concluded that the acquisition would likely result in a substantial lessening or prevention of competition in the wholesale supply of certain nitrogen fertilizer products in Alberta and Saskatchewan.

To resolve these competition issues, the Bureau and Agrium entered into a consent agreement in November 2009, requiring Agrium to divest half of its nitrogen-based fertilizer production facility in Carseland, Alberta, and to supply additional product to Terra Industries Inc., a new entrant into Western Canada.

Merck and Schering-Plough

In March 2009, Merck & Co., Inc. (Merck) and Schering-Plough Corporation (Schering-Plough) entered into a merger agreement. After an extensive review of the transaction, competition concerns related to certain animal health markets were resolved when Merck divested its 50 percent interest in Merial Limited (Merial) to Sanofi-Aventis in September 2009. However, Merck, Schering-Plough and Sanofi-Aventis entered into a Call Option Agreement on July 29, 2009, that provides Sanofi-Aventis with the ability to eventually combine the Merial and Schering-Plough animal health businesses. In October 2009, the Bureau, Merck and Schering-Plough entered into a consent agreement, whereby any combination of these assets contemplated within 10 years would be subject to prior review and approval by the Bureau. The consent agreement also required the divestiture of a human health product in development for the treatment of chemotherapy-induced and post-operative side effects to OPKO Health, Co., to remedy serious competition concerns raised by the proposed merger in relation to the supply of products used in the treatment of these medical conditions. The Bureau cooperated closely with the U.S. Federal Trade Commission over the course of its review.

Suncor Energy and Petro-Canada

In March 2009, Suncor Energy Inc. (Suncor) and Petro-Canada announced that the companies planned to merge to create an entity with an

estimated market value of \$43.3 billion. After an extensive review of the proposed transaction, which involved the issuance of the Bureau's first Supplementary Information Request following the 2009 amendments to the Act, the Bureau concluded that the acquisition would likely result in a substantial lessening or prevention of competition in the retail marketing of gasoline in southern Ontario, and in respect of the wholesale supply of gasoline in the Greater Toronto Area (GTA).

To resolve the competition issues raised by the proposed merger, in July 2009, the Bureau entered into a consent agreement with Suncor and Petro-Canada, requiring them to divest and supply 104 retail gas stations in southern Ontario, and to sell approximately 1.1 billion litres of terminal storage and distribution capacity annually, to be used for wholesale distribution at their terminals in the GTA for a period of 10 years. The merged company must also supply 98 million litres of gasoline each year, for 10 years, to independent gasoline marketers. In August 2009, pursuant to the terms of the consent agreement, the Bureau approved the divestiture of terminal storage and distribution capacity to Ultramar Ltd., following which Suncor entered into terminalling agreements with Ultramar Ltd. for the acquired capacity for the full 10 year period. In December 2009, the Bureau approved the divestiture of 98 retail gas stations in southern Ontario to Husky Energy Inc. As of the end of fiscal 2009-2010, arrangements are also in place for the remaining six stations to be divested.

Clean Harbors and Eveready

In April 2009, Clean Harbors Inc. (Clean Harbors) announced its intention to acquire Eveready Inc. Following an extensive review, the Bureau concluded that the proposed transaction would likely substantially lessen or prevent competition for the disposal of Class I solid hazardous waste in Alberta. The Bureau was concerned that, among other things, the transaction could result in higher prices for solid hazardous waste disposal, as Clean Harbors would have owned the only two Class I hazardous waste landfills in Alberta. In July 2009, the Bureau reached an agreement with Clean Harbors requiring the divestiture of the Pembina Area Landfill.





7. COMPLIANCE AND OPERATIONS



7. COMPLIANCE AND OPERATIONS

The Compliance and Operations Branch is divided into three divisions, overseeing activities to ensure the Bureau has the tools it needs to conduct its work. The three divisions are as follows:

7.1 Capacity Building

This division is responsible for facilitating Information Management (IM) within the organization, as well as the long-term development of the Bureau's staff, including the development and implementation of initiatives for training, recruitment and retention.

In 2009-2010, the Bureau modified its existing training program to ensure that Bureau staff will have the competencies to effectively implement the new amendments, and the knowledge to address the challenges of today's Canadian marketplace. The Bureau also developed a Strategic Intelligence and Information Management Strategy that included the creation of a governance structure to better define project priorities relating to IM and Information Technology (IT) across the organization, provide a forum to improve IM processes, and ensure that IM/IT initiatives conform to Bureau and Government standards.

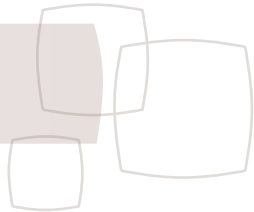
7.2 Management Services

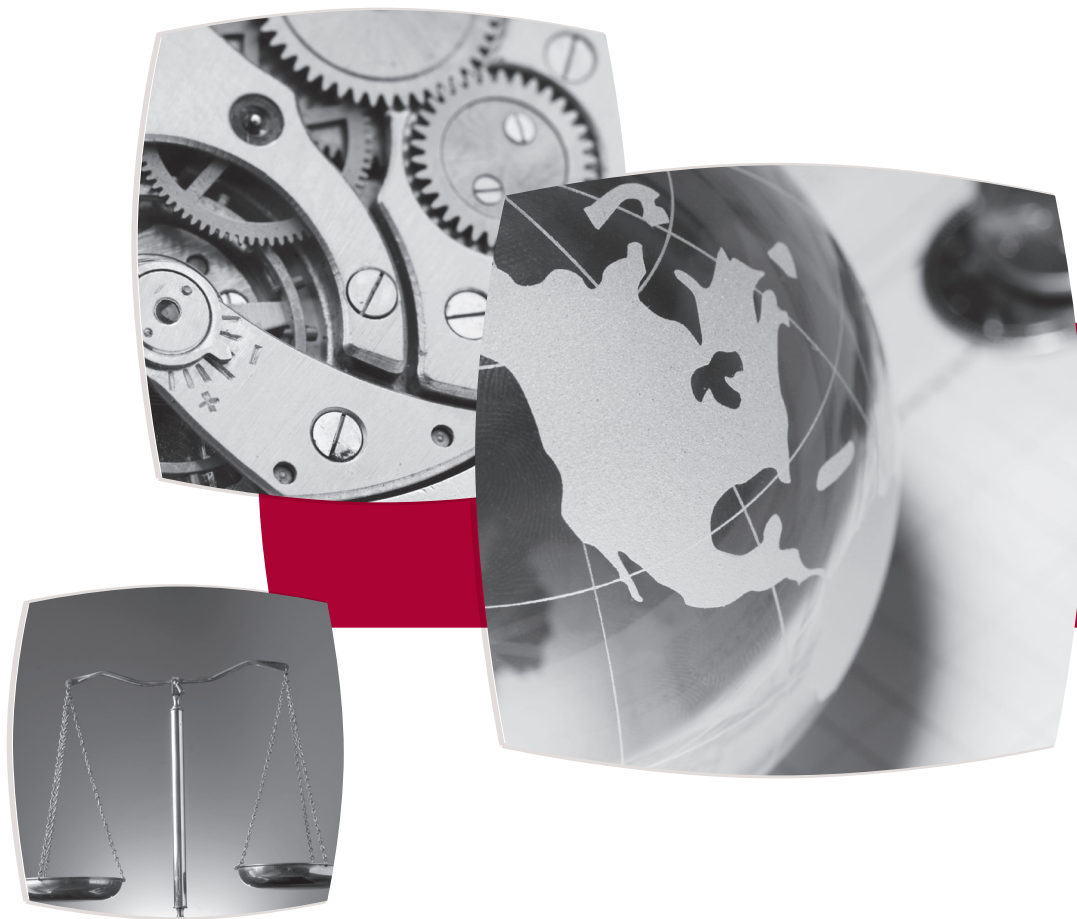
The Bureau's work is important to businesses, consumers and the economy as a whole, but in order to have the greatest impact for Canadians, the Bureau must ensure that its resources are focussed on areas that will benefit Canadians the most. In response to the challenging economic times in 2009-2010, the need to effectively implement the amendments and to ensure that resources were aligned with priorities, the Compliance and Operations Branch led an in-depth budget review exercise. The objective of the

exercise was to create a sustainable long-term plan for the organization that was not only responsive to Canadians, but also reflective of the unique demands faced by an independent law enforcement agency, dependant on funding fluctuations.

7.3 Enforcement Services

The Bureau Electronic Evidence Working Group continued to develop and deepen expertise and develop policy concerning electronic evidence (e-evidence) gathering by the Bureau. This year, the Working Group focused on court rulings with respect to warrants, and the search, seizure and disclosure of electronic evidence, assessing their implications on Bureau practice, and ensuring any necessary adjustments were implemented to keep policies and procedures at the leading edge of evolving electronic evidence issues. The Electronic Evidence Unit continues to develop an intelligence-led approach to seizing and analysing e-evidence to quickly identify relevant evidence for Bureau case teams. This approach aims to enhance the overall efficiency of Bureau investigations while protecting the integrity of evidence in the development of enforcement cases.







8. ADVOCATING FOR COMPETITION AND INTERNATIONAL COOPERATION

8. ADVOCATING FOR COMPETITION AND INTERNATIONAL COOPERATION

The Bureau participates in a wide range of activities to promote the benefits of a competitive marketplace, both at home and internationally. In the domestic realm, as appropriate, Bureau officials appear before federal and provincial government agencies and regulatory bodies.

Internationally, the Bureau plays a leading role in the International Competition Network, the International Consumer Protection Enforcement Network, and the Organisation for Economic Co-operation and Development.

8.1 Parliamentary Involvement

Industry Canada and Bureau officials appeared at Parliamentary Committees on four occasions between April 1, 2009, and March 31, 2010. The topics discussed were:

- Bill C-10, the *Budget Implementation Act* – In May 2009, as part of the Parliamentary review of the Federal Budget, which included significant amendments to the Act, Industry Canada and Bureau officials appeared before the Senate Standing Committee on Banking, Trade, and Commerce.
- Competitiveness of Canadian Agriculture – In May 2009, Bureau officials appeared before the House of Commons Standing Committee on Agriculture and Agri-Food to answer questions as part of the Committee's study of competitiveness issues in the agriculture sector. In particular, the Bureau was asked for details regarding a recent merger review in the beef processing industry. The Bureau provided information in the context of its confidentiality obligation in Section 29 of the Act.
- Bill C-27, the *Electronic Commerce Protection Act* – In June 2009, Industry Canada and Bureau officials

appeared before the House of Commons Standing Committee on Industry, Science and Technology to answer questions during the Committee's examination of Bill C-27.

- Credit and Debit Cards - In November 2009, Bureau officials appeared before the House of Commons Standing Committee on Industry, Science and Technology to answer questions in relation to the Committee's study on credit card interchange fees and the debit payment system in Canada.

8.2 Advocacy work within Canada

The Bureau had several important opportunities in 2009-2010 to promote the benefits of competition. The Bureau's achievements included:

Self-Regulated Professions

In 2009-2010, the Bureau continued to monitor progress in the provision of professional services since the release of the study entitled *Self-Regulated Professions - Balancing Competition and Regulation* in December 2007. As intended, the study initiated a dialogue on how to improve competition in self-regulated professions. Several professional groups indicated that the study prompted a review of their regulations with a view to removing or modifying those that unnecessarily restrict competition.

Pharmaceuticals

In November 2008, the Bureau published a report entitled *Benefiting from Generic Drug Competition in Canada: The Way Forward*. The report suggests ways to make the generic drug market work better for consumers, businesses and governments in order for Canadians to get the most value for their health-care dollars. In 2009-2010, the Bureau continued to monitor ongoing initiatives by public and private drug plan administrators to obtain lower drug prices.

Environment

In 2009-2010, the Bureau actively assisted regulators and dealt with complaints and queries from stakeholders on provincial programs dealing with recycling, and the design and implementation of waste management stewardship programs.

8.3 International Partnerships and Advocacy

The Bureau actively participates in a number of international organizations to foster greater cooperation among competition authorities around the world. These activities are critical to effective law enforcement, as coordination among agencies advances enforcement efforts. In 2009-2010, the Bureau participated in the following international organizations:

Organisation for Economic Co-operation and Development - Competition Committee

During this fiscal year, the Commissioner remained an active member of the Competition Committee (CC) of the Organisation for Economic Co-operation and Development (OECD), and the Bureau contributed to the work of the CC and its Working Parties. In 2009-2010, the Bureau provided input and submissions on the following topics: competition, patents and innovation; competition and regulation in accountancy; substantive test for merger review; the application of competition law to state-owned enterprises; margin squeezing; generic pharmaceuticals; failing firm defence; procedural fairness in civil competition law cases; and collusion and corruption in public procurement.

Committee on Consumer Policy

The Bureau also participated in the OECD's Committee on Consumer Policy (CCP). Specifically, the Bureau provided input on several projects of the CCP, including projects on green claims and e-commerce.

International Competition Network

Since the creation of the International Competition Network (ICN) in 2001, the Bureau has played a vital role in the organization's development through participation in the Steering Group and working groups on advocacy, agency effectiveness, mergers, cartels and unilateral conduct. In addition, the Bureau co-chairs the Cartel Working Group's subgroup on Enforcement Techniques and the Operational Framework Working Group. During the fiscal year, the Bureau continued to play a pivotal role in the organizational aspects of the ICN by acting as the Secretariat and through active involvement in the Annual Conference Planning Committee.

Cartel Working Group

The Bureau's involvement as Co-Chair of the Cartel Working Group's subgroup on Enforcement Techniques reflects the high priority the Bureau continues to place on cartel law enforcement. This subgroup aims to improve the effectiveness of anti-cartel enforcement by identifying and sharing specific investigative techniques and advancing education and information-sharing through its annual Cartel Workshop.

Merger Working Group

The Bureau participated in the activities of the Merger Working Group, including the development of new Recommended Practices for Merger Analysis on Competitive Effects and a report on Information Requirements for Merger Notification.

Unilateral Conduct Working Group

The Bureau actively participated in the drafting of the Report on the Analysis of Refusal to Deal with a Rival under Unilateral Conduct Laws, published by the Unilateral Conduct Working Group.



International Consumer Protection and Enforcement Network

In 2009-2010, the Bureau continued to play a leadership role in the International Consumer Protection and Enforcement Network (ICPEN). The Bureau assumed the role of Secretariat and actively participated in the bi-annual ICPEN meeting and Best Practices Workshop in November 2009, in Sydney, Australia.

As Chair of the Fraud Prevention Forum, the Bureau worked with its partners to raise awareness among consumers and businesses regarding the dangers of fraud, and participated in ICPEN's Fraud Prevention Month in March 2010. In November 2009, the Bureau participated in a joint Internet sweep by ICPEN members to expose fraudulent and misleading Web sites. This year, the Bureau focused on loan and grant scams.

Technical Assistance

The Bureau has provided technical assistance to foreign jurisdictions for a number of years. In 2009-2010, the Bureau engaged in technical assistance and capacity-building exercises with Australia, Brazil, Chile, China, Russia, and Tanzania.

8.4 International Cooperation

The Bureau cooperated with the following jurisdictions in 2009-2010 with respect to international cartel and merger cases: Australia, Brazil, Chile, the European Union, Japan, Korea, New Zealand, Taiwan, the United Kingdom and the United States.

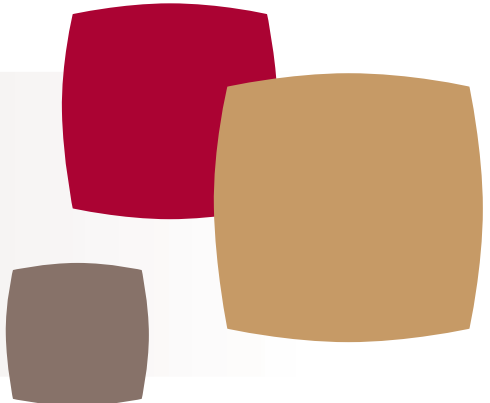
Free Trade Agreements

The Bureau, in partnership with Industry Canada and Canada's Department of Foreign Affairs and International Trade, develops competition policy provisions in bilateral and regional free trade agreements (FTAs), and acts as the lead negotiator on competition enforcement matters on behalf of the Government of Canada.

During the fiscal year, the Canadian government concluded negotiations on the FTA with Panama. A previously negotiated FTA with Jordan was signed on June 28, 2009, and signed agreements with Peru and the European Free Trade Association came into force in July and August, 2009.







9. COMMUNICATING WITH CONSUMERS AND BUSINESS

9. COMMUNICATING WITH CONSUMERS AND BUSINESS

Communicating the Bureau's work in the interests of Canadians is an important part of its mandate. The Bureau uses a number of different vehicles to draw attention to both its enforcement efforts and non-enforcement activities.

9.1 Announcements

The Bureau issued 67 announcements during the 2009-10 fiscal year describing the benefits of its activities to the economy and to Canadians. This is a slight increase above last year's total of 63. Announcements include news releases, information notices, and items in the Bureau's CB in Brief news digest. Launched in November 2009, the CB in Brief is an electronic publication distributed regularly to media and stakeholders to provide a snapshot of recent news and developments.

9.2 Media Relations

The Bureau also responded to enquiries from journalists in Canada and abroad, resulting in approximately 5,300 print, radio, television and online media reports on Bureau-related matters. This is a 33 per cent increase in coverage from 2008-09. The Bureau's media analysis found that 98 per cent of the coverage was positive.

Five high-profile Bureau media issues in 2009-2010

1. The Canadian Real Estate Association (CREA) and the Multiple Listing Service (MLS)
2. Suncor and Petro-Canada merger
3. Gasoline price-fixing in Quebec
4. Ticketmaster's misleading representations
5. Credit Card fees and new entrants into the debit market

9.3 Press Conferences

The Bureau held a press conference on June 2, 2009, to announce that it was taking action against 50 organizations and individuals in the Montreal area, including executing 10 search warrants, as part of "Operation Mirage". The press conference resulted in 48 print, online and television reports, with an estimated reach of 1.7 million people.

9.4 Bureau Web site

The Bureau's Web site (www.competitionbureau.gc.ca) provides a wealth of useful information to a wide audience ranging from consumers and businesses to legal and media professionals. The site also features an automatic email distribution list that sends subscribers information updates, and a Real Simple Syndication (RSS) news feed that provides easy access to all Bureau announcements.

9.5 Information Centre

The Information Centre is essential to the Bureau's public awareness and enforcement activities. It is the public's primary access point for information requests and complaints related to the four statutes the Bureau administers. Information officers provide information to clients, mainly over the telephone, and register complaints on a wide range of topics, including:

- False or misleading representations and deceptive marketing practices;
- Restraints to competition; and
- Mergers.

In 2009-10, the Bureau's Information Centre registered 17,827 requests via telephone, fax, mail and Internet.

Requests made to the Competition Bureau	
Total Bureau Requests	17,827
Complaints	6,585
Information requests	6,282
No-Issue ²	4,960
Canadian Anti-Call Fraud Call Centre (CAFCC) ³	3,446

The tables and illustration below summarize the main types of complaints and information requests received by the Bureau's Information Centre in 2009-2010.

Top 5 Complaints by Product or Service	
1. Directory listings	520
2. Contests, Sweepstakes & Lotteries	408
3. Electronics & Digital	305
4. Health, medical, dental & optical products	275
5. Clothing & personal accessories	271

Information Requests	
<i>Competition Act</i>	3,052
<i>Textile Labelling Act</i>	2,256
<i>Consumer Packaging and Labelling Act</i>	802
<i>Precious Metals Marking Act</i>	60

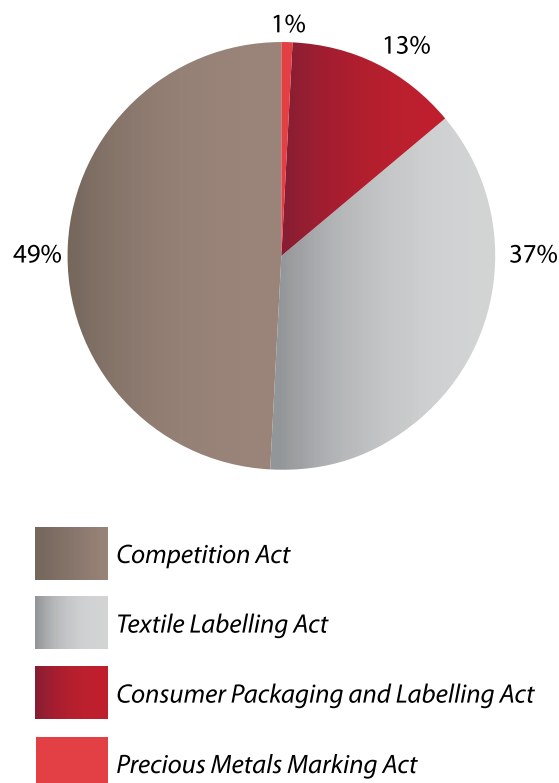
The public can contact the Information Centre in a number of ways:

- Through the toll-free telephone line (1-800-348-5358) from 8:30 a.m. to 4:30 p.m. Eastern Time;
- Via an electronic complaint form on the Bureau's Web site;
- By facsimile (819-997-0324); and
- By mail (Competition Bureau, 50 Victoria Street, Gatineau, Quebec, K1A 0C9).

² No-Issue includes requests that are not relevant to the Bureau's mandate or were referred to the Bureau in error.

³ Complaints received by the Canadian Anti-Fraud Call Centre (CAFCC), formerly Phonebusters, that are actionable by the Bureau. CAFCC is managed on a tripartite basis by the Bureau, the Ontario Provincial Police (OPP) and the Royal Canadian Mounted Police (RCMP). It is the central agency in Canada that collects information on telemarketing, advanced fee fraud letters (Nigerian letters) and identity theft complaints. The information is then disseminated to the appropriate law enforcement agencies.

INFORMATION REQUESTS

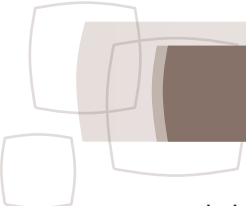


9.6 Outreach Initiatives

Fraud Prevention Month

Since 2004, the Fraud Prevention Forum (Forum), chaired by the Bureau, has organized Fraud Prevention Month in Canada. Activities and events conducted by Forum members throughout the month of March aim to raise awareness and educate consumers and businesses about the dangers of fraud in the Canadian marketplace. The Forum has approximately 120 members including public sector and law enforcement agencies, provincial and federal governmental departments, and business and consumer groups.

The 2010 Fraud Prevention Month was launched on February 25th. Throughout the month, members hosted a number of fraud awareness activities,



including regional news conferences, fraud seminars, workshops, interactive online quizzes and shredding events. Many Better Business Bureaus in communities across Canada hosted “Scam Jams”, one day anti-fraud events designed to educate consumers and businesses on how they can protect themselves from fraud.

The Commissioner conducted 20 media interviews on fraud-related issues during the month, and announcements were published in French and English language daily newspapers across the country, and aired on regional radio and TV stations. Articles or references to the Bureau and Fraud Prevention Month appeared in a total of 55 daily and community newspapers, and online, with a total print circulation of approximately 756,000 Canadians. There were also 16 related radio or TV broadcasts reaching an audience of approximately 2,945,000.

The Bureau also participated in a standalone supplement on fraud prepared by the *Globe and Mail* that was published on March 29, 2010. The Minister of Industry contributed an opinion piece for the supplement, and other Forum partners provided content and advertising.

Meetings with Consumer Groups

The Commissioner hosts sessions with consumer groups from across Canada. These meetings provide the Bureau with the opportunity to listen to consumer concerns, discuss its work and mandate directly with these stakeholders, and describe how the Bureau benefits consumers.

By way of example, Bureau officials met with representatives from various consumer groups including the Canadian Consumer Initiative, the Consumers’ Association of Canada, the Consumer Interest Alliance, the Consumers Council of Canada, the Automobile Protection Association, Option consommateurs, the Public Interest Advocacy Centre, L’Union des consommateurs, as well as Industry Canada’s Office of Consumer Affairs. Issues covered included telecommunications, the Fraud Prevention Forum, the Bureau’s regulated professions study, and collaboration on future Bureau enforcement guidelines.

Meetings with Business and Legal Community

The Commissioner and other Bureau officers communicate regularly with business and leaders

of the legal community across the country, through meetings, seminars, conferences, and consultations. The Commissioner and other senior Bureau representatives also often speak or participate in panels at major conferences to discuss competition law and policy issues, and to communicate the Bureau’s enforcement approach. The Bureau frequently engages directly with business, academic, and legal stakeholders through roundtables and consultations on its enforcement guidelines, and delivers presentations and seminars to interested groups on specific enforcement topics.

9.7 Bulletins and Guidelines

Enforcement guidelines are an articulation of the Bureau’s enforcement policy with respect to the various provisions of the Act, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act* based on the Bureau’s past experience, jurisprudence and economic theory. In 2009-10, the Bureau issued 10 sets of enforcement guidelines to provide information on its enforcement approach in various areas.

- *Application of the Competition Act to Representations on the Internet*
- *Competitor Collaboration Guidelines*
- *Consumer Rebate Promotions*
- *Deceptive Notices of Winning a Prize — Section 53 of the Competition Act*
- *Merger Review Process Guidelines*
- *Multi-level Marketing Plans and Schemes of Pyramid Selling — Sections 55 and 55.1 of the Competition Act*
- *Ordinary Price Claims — Subsections 74.01(2) and 74.01(3) of the Competition Act*
- *“Product of Canada” and “Made in Canada” Claims*
- *Promotional Contests — Section 74.06 of the Competition Act*
- *Telemarketing — Section 52.1 of the Competition Act*

9.8 Public Consultations

Throughout the year, the Bureau invites the public and interested parties to comment on various initiatives as part of its consultation process. Submissions are made available via the Bureau's Web site, unless the participants request that their responses remain confidential.

In 2009-10, the Bureau conducted a number of consultations to garner feedback from the Canadian business community and their legal advisors on its proposed enforcement approach in key areas. The full list of consultations, consultation documents and submissions are available on the Bureau's Web site. Some key consultations during 2009-2010 included the following.

Competitor Collaboration Guidelines

The 2009 amendments to the conspiracy provision of the Act created a more effective criminal enforcement regime for the most egregious forms of cartel agreements. The amendments also removed the threat of criminal sanctions for legitimate collaborations to avoid discouraging firms from engaging in potentially beneficial alliances. Accordingly, in December 2009, the Bureau published its *Competitor Collaboration Guidelines* after a period of extensive public consultation. These guidelines were designed to assist firms in assessing the likelihood that a competitor collaboration would raise concerns under the criminal or civil provisions of the Act and, if so, whether the Commissioner would be likely to commence an inquiry in respect of the collaboration.

Enforcement Guidelines relating to "Product of Canada" and "Made in Canada" Claims

In December 2009, following public consultations, the Bureau published its Enforcement Guidelines on "*Product of Canada*" and "*Made in Canada*" Claims, as part of the Bureau's efforts to ensure transparency and predictability in its enforcement policies.

These guidelines, consistent with the Government's commitment to improve truth in labelling for consumer products, describe the Bureau's approach in assessing "Product of Canada" and "Made in Canada" claims for non-food products under the false or misleading representations provisions of the

Act, the *Consumer Packaging and Labelling Act* and the *Textile Labelling Act*.

To provide businesses with sufficient time to adapt, the new guidelines took effect on July 1, 2010.

Merger Review Process Guidelines

In September 2009, the Bureau published its revised *Merger Review Process Guidelines* after extensive consultations with stakeholders. The *Merger Review Process Guidelines* describe the Bureau's general approach to administering the two-stage merger review process that was introduced pursuant to the 2009 amendments to the Act. In particular, the *Merger Review Process Guidelines* outline the supplementary information request (SIR) process, including a description of the practices and procedures that the Bureau will generally follow to ensure that the potential burden on parties in responding to a SIR is no greater than necessary, while at the same time enabling the Bureau to obtain information required to conduct its review.



HOW TO CONTACT THE COMPETITION BUREAU

Anyone wishing to obtain additional information about the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, the *Precious Metals Marking Act*, or the program of written opinions or to file a complaint under any of these statutes should contact the Bureau's Information Centre.

Web site

www.competitionbureau.gc.ca

Address

Information Centre
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Telephone


Toll-free: 1-800-348-5358
National Capital Region: 819-997-4282
TTY (for hearing impaired) 1-800-642-3844

Facsimile

819-997-0324







APPENDIX: COMPETITION BUREAU STATISTICS

TABLE I: Competition Bureau Statistics

Law Enforcement Activity	FBPB	Civil	Criminal	Mergers
Inquiries commenced (Number of formal inquiry commenced between April 1 and March 31)	9	2	3	2
Inquiries in progress (Number of formal inquiries in progress on April 1)	29	9	14	2
Inquiries discontinued (Number of formal inquiries discontinued between April 1 and March 31)	0	1	1	0
Examinations in progress (Number of examinations in progress on April 1 - Examinations are complaints and information requests that have been assigned for further assessment as well as orders being reviewed)	80	15	37	16
Examinations commenced (Number of examinations commenced between April 1 and March 31)	40	13	31	216
Examinations concluded (Number of examinations concluded between April 1 and March 31)	74	12	23	221
Matters where charges were laid (Number of matters where charges were laid between April 1 and March 31)	4	-	1	-
Matters where applications were filed (Number of matters where applications were filed between April 1 and March 31)	0	1	-	0
Matters with criminal orders (Number of matters where there were orders between April 1 and March 31)	6	-	2	-
Convictions	12	-	4	-
Prohibition Orders without convictions	2	-	2	-
Interim injunctions (criminal)	0	-	0	-
Matters with civil orders (Number of matters where there were orders between April 1 and March 31)	4	3	0	6
Registered Consent Agreements	11	1	-	6
Final Order in contested proceedings	1	0	-	0
Interim injunctions (civil)	0	0	-	0
Alternative Case Resolutions (Examinations that raised an issue under the Act but were resolved without resort to the Court or Tribunal; these include agreements and voluntary compliance)	144	2	0	2
Compliance Contacts (Information letters and meetings)	11	-	6	0
Information Bulletins and Enforcement Guidelines published (All guidelines published between April 1 and March 31 including those for consultation, new publication and those that have been revised)	9	1	5	1
Total Fines Imposed	\$17,725,000	-	\$14,830,000	-
Administrative Monetary Penalties	\$400,000	-	-	-

TABLE 2: Advocacy of Competition Principles

Advocacy of Competition Principles	
Advocacy under Sections 125 & 126	
<ul style="list-style-type: none">In May 2009, the Bureau provided a submission to the Canadian Council of Ministers of the Environment (CCME), in response to the CCME's discussion document entitled <i>Towards a Proposed Canada-Wide Action Plan for Extended Producer Responsibility</i>.	2
<ul style="list-style-type: none">In February 2010, the Bureau provided a submission to the Government of Ontario's Ministry of the Environment in response to its document entitled <i>From Waste to Worth: The Role of Waste Diversion in the Green Economy</i>, which served as a discussion paper on reforms to Ontario's <i>Waste Diversion Act, 2002</i>.	
Representations to regulators outside of formal proceedings	
<ul style="list-style-type: none">On two occasions, the Bureau met with provincial governmental bodies and stewardship organizations involved in waste recovery stewardship programs in the province of Ontario to provide competition advocacy advice on the design and implementation of their programs.	2

TABLE 3: Speeches and Outreach

	FBPB	Civil	Criminal	Mergers	Commissioner of Competition
Speeches (Number of times Bureau staff speak to stakeholders. This includes information sessions and outreach activities, not the number of participants)	39	12	50	5	20
Recruitment Initiatives⁴ (Number of presentations made to potential Bureau recruits - this includes seminars)	0	1	1	8	0

⁴ In 2009-2010, an Executive of the Bureau also taught the Competition Law Course at Queen's University, Faculty of Law, with several Bureau officers contributing as guest lecturers.

**TABLE 4: Mergers Examinations**

Examinations Commenced	216
Notification filings and Advance Ruling Certificate requests	200
Notification filings only	10
ARC requests only	155
ARC requests and Notification filings	35
Other examinations	16
Examinations Concluded	221
No issues ⁵ under the <i>Competition Act</i>	211
Advance Ruling Certificates issued	139
“No-action” letters ⁶	57
Other examinations	15
Concluded with issues under the <i>Competition Act</i>	8
Consent Agreements Registered with the Competition Tribunal	6
Foreign remedies resolved Canadian competition concerns	1
Transactions abandoned owing to competition concerns	1
Section 92 applications concluded or withdrawn	0
Transactions abandoned for reasons unrelated to the Commissioner’s position	2
Supplementary Information Requests issued in concluded matters	5
Total Examinations during the year	232
Examinations ongoing at year-end	11

⁵ Examinations resulting in assessment of no current enforcement action.

⁶ Including ARC refusals

Reviewing Mergers

Number of mergers reviewed where the answer was provided to parties between April 1 and March 31, as well as the number of those provided where the service standard was met.

TABLE 5: Merger Review – Meeting Service Standards

	2007-2008			2008-2009			2009-2010		
	Provided	Met	%	Provided	Met	%	Provided	Met	%
Non-complex	279	267	95.69	180	174	96.67	173	162	93.64
Complex	23	21	91.30	23	20	86.96	27	24	88.8
Very Complex	4	4	100	5	3	60	6	5	83.33
Total:	306	292	95.42	208	197	94.71	206	191	92.72

CHART 1: Mergers Review – Meeting Service Standards

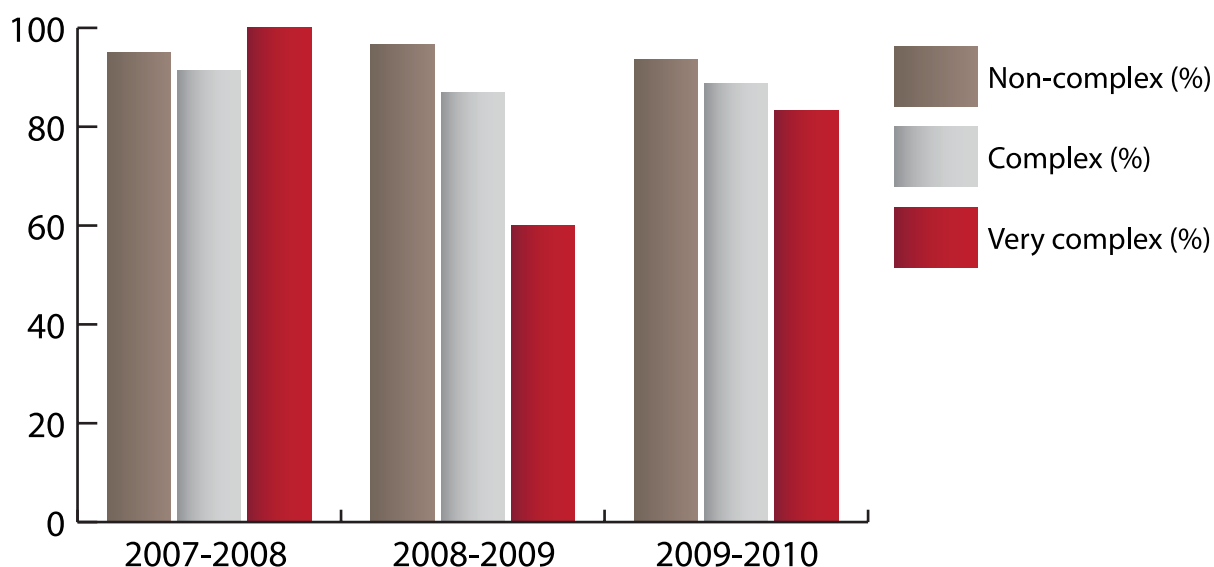


TABLE 6: Merger Review – Average Completion Time

	2007-2008	2008-2009	2009-2010
Non-complex (days)	9.5	9.6	9.7
Complex (weeks)	7.5	6.8	5.7
Very Complex (months)	2.5	8.6	3.1

Written Opinions

Number of Written Opinions provided between April 1 and March 31 as well as the number of those provided where the service standard was met.

TABLE 7: Written Opinions – Meeting Service Standards

	2007-2008			2008-2009			2009-2010		
	Provided	Met	%	Provided	Met	%	Provided	Met	%
FBPB									
Complex	1	1	100	0	0	0	0	0	0
Non-complex	15	3	20	8	4	50	11	5	45
Civil									
Complex	0	0	0	0	0	0	0	0	0
Non-complex	0	0	0	0	0	0	0	0	0
Criminal									
Complex	0	0	0	0	0	0	0	0	0
Non-complex	0	0	0	1	0	0	0	0	0
Mergers									
Complex	0	0	0	0	0	0	0	0	0
Non-complex	0	0	0	0	0	0	1	1	100
Total:	16	4	25	9	4	44	12	6	50

