



Competition Bureau
Canada

Bureau de la concurrence
Canada



This publication is not a legal document. It is intended to provide general information and is provided for convenience. To learn more, please refer to the full text of the Acts or contact the Competition Bureau.

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

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

Tel.: 819-997-4282

Toll free: 1-800-348-5358

TTY (for hearing impaired): 1-866-694-8389

Fax: 819-997-0324

Website: www.competitionbureau.gc.ca

This publication can be made available in alternative formats upon request.
Contact the Competition Bureau's Information Centre at the numbers listed above.

This publication is also available online in HTML at:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/0424.html>

Permission to reproduce

Except as otherwise specifically noted, the information in this publication may be reproduced, in part or in whole and by any means, without charge or further permission from the Competition Bureau provided due diligence is exercised in ensuring the accuracy of the information reproduced; that the Competition Bureau is identified as the source institution; and that the reproduction is not represented as an official version of the information reproduced, nor as having been made in affiliation with, or with the endorsement of the Competition Bureau. For permission to reproduce the information in this publication for commercial redistribution, please [Apply for Crown Copyright Clearance](#) or write to:

Communications and Marketing Branch

Innovation, Science and Economic Development Canada
C.D. Howe Building
235 Queen Street
Ottawa, ON Canada
K1A 0H5
Email: ISDE@Canada.ca

Cat. No. lu50-8E-PDF

ISSN 2560-8282

2017-05-24

Aussi offert en français sous le titre Aperçu de l'exercice





WE ARE CANADA'S COMPETITION BUREAU

The Competition Bureau (Bureau) has a legislated mandate to ensure that Canadian businesses and consumers prosper in a competitive and innovative marketplace. We are committed to doing so through all means available, from law enforcement to competition promotion.

Our responsibilities

Headed by the Commissioner of Competition, the Bureau administers and enforces the *Competition Act*, the *Consumer Packaging and Labelling Act* (except enforcement as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act* (collectively referred to as the Acts).

Our guiding principles

VISION

To be one of the leading competition agencies in the world; one that is open, transparent and collaborative, and that vigorously enforces and promotes competition to provide Canadians with the benefits of a competitive and innovative marketplace.

MISSION

To promote and protect competition for the benefit of Canadians, the Bureau will administer and enforce the Acts with fairness and predictability to:

- Prevent and deter anti-competitive behaviour and deceptive marketing practices
- Review mergers to ensure they do not harm competition
- Empower consumers and businesses

Our core values

OPENNESS AND TRANSPARENCY

We engage with our stakeholders through a wide range of new and existing means of communication to dialogue and share information, and to explain to Canadians and our partners the benefits of competition for consumers, businesses and the productivity of the Canadian economy.

COLLABORATION

We work with our partners to advance competition to ensure our marketplace is functioning efficiently.

INTEGRITY AND FAIRNESS

We act with integrity and fairness and in the public interest at all times. This requires a principles-based approach to enforcing and administering the Acts. Our decisions are based on facts, evidence and sound judgement. We are committed to protecting the confidentiality of sensitive information.

RESPECT

We interact honestly and respectfully with our colleagues, partners and all Canadians — recognizing their diversity and their individual contributions to healthy competition.

LEADERSHIP

We show leadership through our actions, strategic approach and commitment to continuous innovation.



2016–2017 YEAR IN REVIEW¹ HIGHLIGHTS

APRIL 2016

1. Competition Tribunal rules in favour of Bureau in Toronto Real Estate Board case.
2. Showa Corporation fined \$13 million for participating in a bid-rigging conspiracy. Second largest fine ever ordered by a court in Canada for a bid-rigging offence.



MAY 2016

3. Bell customers to receive up to \$11.82 million for unwanted “premium text messaging” charges.
4. Bureau launches FinTech market study to examine innovation in the Canadian financial services sector.
5. Bureau withdraws its court challenge of Staples’ acquisition of Office Depot in light of announcements by the parties that they are abandoning the proposed merger.

NOVEMBER 2016

14. Bureau advocates for competition in drywall markets before the Canadian International Trade Tribunal.



OCTOBER 2016

13. Bureau releases report advocating for limiting restrictions on health care advertising and new *Competition Advocate* on best practices to balance regulation and competition.



DECEMBER 2016

15. Volkswagen and Audi to pay up to \$2.1 billion to consumers and a \$15 million penalty for environmental marketing claims.
16. Moose Knuckles resolves the Bureau’s “made in Canada” concerns about parkas and agrees to donate \$750,000 to Canadian charities.
17. Bureau reaches divestiture agreement with McKesson Corporation regarding its acquisition of Rexall Health.



JANUARY 2017

18. Amazon Canada changes pricing practices and pays \$1.1 million to settle price advertising case.
19. Consent agreements reached with Apple and Hachette, Macmillan and Simon & Schuster to restore retail price competition for ebooks in Canada.

¹ Government’s fiscal year is from April 1st to March 31st.

JUNE 2016

6. Avis and Budget agree to pay \$3 million in administrative monetary penalties to resolve concerns over unattainable prices.



JULY 2016

7. Cooperation with US antitrust enforcement authority leads to guilty plea and US\$130 million fine from Nishikawa for its participation in a bid-rigging conspiracy.



SEPTEMBER 2016

10. Bureau files Tribunal application to stop Vancouver Airport Authority from restricting competition for in-flight catering.
11. Bureau reaches agreement with Crop Production Services (Canada) Inc. requiring the company to sell certain retail outlets to resolve competition concerns from acquisition of Andrekow Group Solutions Inc.
12. Comwave to pay over \$300,000 to settle telecom services advertising case.



AUGUST 2016

8. Bureau receives 2016 *International Compliance and Ethics Award* for commitment to Corporate Compliance.
9. Second individual sentenced for rigging bids for federal government contracts. Former IT senior officer pleads guilty, commits to assisting with compliance efforts.

FEBRUARY 2017

20. Bureau sues Hudson Bay Company over alleged deceptive regular price claims and clearance promotions.
21. FinTech workshop held in Ottawa to examine competition, innovation and regulation in Canada's FinTech sector.



MARCH 2017

22. New issue of *Competition Advocate* published encouraging regulators to review restrictions for nurse practitioners.
23. Bureau receives a 2017 Antitrust Writing Award for its *Intellectual Property Enforcement Guidelines*.



CARTEL ENFORCEMENT

Price fixing and bid-rigging are serious criminal offences that harm consumers and businesses by driving up prices and reducing choice. We continued to crack down on cartels in 2016–2017, securing significant fines and laying criminal charges against companies that participated in bid-rigging and collusion schemes in the auto parts and infrastructure sectors, among others.

A huge win against international cartels

Our investigation into an international bid-rigging conspiracy led to the second-largest fine ever ordered by a Canadian court for bid-rigging. Showa Corporation, a Japanese manufacturer of automobile components, pleaded guilty to bid-rigging and was fined \$13 million by the Ontario Superior Court of Justice for engaging in a secret illegal arrangement with another supplier of electric power steering gears sold to Honda Motor Co., Ltd. for cars manufactured in Canada.

Stopping bid-rigging in the infrastructure sector

With the Government of Canada investing billions in public infrastructure, our work to prevent and detect bid-rigging — through a combination of outreach and enforcement — is more important than ever. In 2016–2017, our investigations led to several guilty pleas and fines for bid-rigging and collusion on infrastructure projects in Quebec. We count on our solid enforcement

\$13.28 MILLION Total fines imposed in cartel cases

- 5 Guilty pleas (non-contested)
- 2 Individuals sentenced
- 1 Company charged criminally
- 35 Bid-rigging presentations delivered to targeted audiences

partnerships throughout Canada to tackle bid-rigging in the infrastructure sector. For example, our joint investigation with the *Sûreté du Québec's Service des enquêtes sur la corruption* into corruption and bid-rigging led to several charges of bid-rigging in infrastructure projects in the municipality of Saint-Jean sur Richelieu.

We also increased our efforts to raise awareness about cartel behaviour, delivering presentations to help public procurement officials better recognize and prevent bid-rigging. In addition, we continued to work in collaboration with Public Services and Procurement Canada on the development of a new screening mechanism — algorithms that sift through data from bid submissions for signs of agreements between competitors — to detect bid-rigging.

PROMOTING CORPORATE COMPLIANCE

We expanded our outreach efforts in 2016–2017 to encourage businesses across Canada to adopt credible and effective compliance programs. Our Compliance Unit delivered presentations to stakeholders across the country, some of which

focused specifically on small and medium-sized businesses. We held 32 compliance outreach events, including 28 presentations attended by approximately 695 participants and 4 tradeshow with 768 people in attendance. We also collaborated with organizations like the Canada Business Network to promote our compliance messaging and educational material, which last year included compliance blogs and a compliance crossword puzzle to help stakeholders familiarize themselves with compliance concepts in a fun and innovative way.

- 32 Compliance outreach events
- 36 Targeted outreach efforts (presentations and guidance) to small and medium-sized businesses
- 5 Compliance publications

COMPETITION AND INNOVATION

Competition drives innovation, while anti-competitive conduct can stifle innovation. We continued to support innovation generally and in the digital economy by investigating and deterring anti-competitive conduct in several key sectors. We investigated 80 percent more digital economy cases² compared to 2015–2016. Our ongoing abuse of dominance case against the Toronto Real Estate Board (TREB) reached a critical point in April 2016 when the Competition Tribunal ruled against TREB and found that the company had abused its market power by imposing restrictions on the ability of real estate agents to offer innovative products and services to consumers over the internet to help them make the most informed choice about one of the most significant investments of their lives. This decision has since been appealed by TREB to the Federal Court of Appeal.

We also achieved an important milestone in our ebooks case, signing consent agreements in January 2017 with Apple and three major publishers — Hachette, Macmillan and Simon & Schuster — to resolve concerns related to their conduct in the ebooks industry. These agreements would allow Canadian retailers such as Amazon and Kobo to offer discounts on ebooks by these publishers. As no agreement has been reached with a fourth publisher, HarperCollins, the Commissioner has filed an application with the Competition Tribunal for an order to stop its alleged anti-competitive conduct.

Providing guidance on digital economy cases

In addition to securing consent agreements and court orders, we supported competition in the digital economy and provided greater transparency to Canadian businesses. In 2016, we published Position Statements summarizing the results of our investigations into alleged anti-competitive conduct by Google, TMX Group Limited and Apple. After conducting an extensive investigation into a number of allegations that Google engaged in conduct contrary to the abuse of dominance provisions of the *Competition Act*, we found evidence to support only one of the allegations relating to certain contracts with advertisers. This issue was resolved when Google made changes to its contracts, giving advertisers more flexibility to use competing advertising platforms. Our investigation into allegations of anti-competitive conduct by TMX Group Limited, which operates the Toronto Stock Exchange, focused on access to securities market data. In this case, we found that while TMX Group had refused requests by investment dealers to share private market data, the conduct was unlikely to violate the *Competition Act*, as even in the absence of TMX Group's contractual clauses, it was unlikely that sufficient future competition would have materialized. We also closed our investigation into anti-competitive conduct by Apple related to its contracts with Canadian wireless carriers that sell and market iPhones. Our investigation did not find sufficient evidence to conclude that Apple had engaged in abuse of dominance under the *Competition Act*.



80% Increase in enforcement cases in the digital economy compared to 2015–2016

43 Digital enforcement cases commenced

35 Digital enforcement cases concluded


44 Digital enforcement cases ongoing

² Digital economy cases are defined as cases that support innovation and the competitiveness of the digital economy (including but not limited to e-business, online promotions, sales and transfers, infrastructure support) by deterring anti-competitive conduct such as impeding new entrants, products or services and by stopping deceptive marketing practices online including activities that engage the CASL provisions.

TACKLING DECEPTIVE MARKETING PRACTICES

Record-setting compensation for Canadian consumers

We continued to achieve results for Canadian consumers, including record-setting refunds for customers who were unknowingly charged for unwanted "premium" text messages such as ringtones and trivia quizzes. In 2012, we took Canada's three big telecom carriers (Bell, Rogers and TELUS) and the Canadian Wireless Telecommunications Association to court for allowing third parties to advertise and charge customers for unauthorized text messages. In May 2016, Bell agreed to pay up to \$11.82 million to affected customers — the largest restitution ever obtained in a consent agreement — and to donate approximately \$800,000 to public interest advocacy groups. We also settled our case with car rental companies Avis and Budget related to their false or misleading price and discount advertisements. The two companies agreed to stop advertising unattainable prices and pay a \$3 million administrative monetary penalty and \$250,000 towards the Bureau's investigative costs.



Up to \$11.82 MILLION	Customer restitution obtained
\$19.3 MILLION	Administrative monetary penalties
15	Consumer and business alerts issued
44,736	Bureau video views
8,669	Twitter Hits

We took necessary action as a result of our investigation which concluded that false or misleading environmental marketing claims were used to promote certain vehicles with 2.0 litre diesel powered engines by Volkswagen and Audi. We participated in a Canadian class action settlement against the two car companies, which were ordered to pay up to \$2.1 billion to affected consumers, one of the largest consumer settlements in Canadian history³. We also reached a separate consent agreement with Volkswagen and Audi for an additional monetary penalty of \$15 million.

In addition, Amazon changed its pricing practices and agreed to pay a \$1 million monetary penalty, as well as \$100,000 towards the Bureau's investigative costs, as part of a registered consent agreement. Amazon often compared its prices to regular prices — or "list prices" signaling attractive savings for consumers. We concluded that these claims created the impression that prices for items offered on www.amazon.ca were lower than prevailing market prices and determined that Amazon relied on its suppliers to provide list prices without verifying that those prices were accurate. Amazon made changes to the way it advertises list prices on its Canadian website to accurately represent the savings available to consumers. The policies put in place by Amazon have had an effect beyond the Canadian website, including on savings claims for products sold on www.amazon.com. On January 11, we released a position statement to provide stakeholders with transparency and guidance on our analysis, our first position statement ever in regards to a deceptive marketing practices case.

3 The settlement was approved by the courts on April 21, 2017.



Leading the fight against fraud and deceptive marketing practices

Giving Canadians the tools and guidance to protect themselves against fraud and deceptive marketing practices is essential to our consumer-focused work. In 2016–2017, we increased our engagement efforts to reach out to more Canadians than ever about these important issues. We published 15 consumer alerts highlighting scams and deceptive marketing practices, covering topics such as fake charity and donation appeals and deceptive door-to-door tactics used to sell water heaters and HVAC systems. We also released an alert just before Valentine's Day, warning consumers about hidden terms and fees and the use

of false profiles to entice customers to subscribe to online dating websites.

We continued to take a leading role in fraud prevention, developing an anti-fraud public-awareness campaign in collaboration with the Royal Canadian Mounted Police for the 2017 Fraud Prevention Month in March. As part of this campaign, we held a "2 Good 2 B True" Twitter chat about fake online endorsements. In addition, we leveraged our social media presence throughout the year to reach as many Canadians as possible, doubling our Twitter followers, increasing our number of tweets by more than 60 percent and boosting the number of views of our videos posted on YouTube.

THE FINAL WORD ON MERGERS



As part of our mandate, we review mergers of all sizes and in all sectors to ensure they do not substantially lessen or prevent competition, which would result in higher prices, stifle innovation, or reduce product choice.

In 2016–2017, the wave of complex mergers in key sectors of the economy continued. We completed 222 merger reviews, including 53 complex reviews in industries that matter to Canadians like pharmaceutical products, wireless telecommunications, retail gasoline and agricultural products. After significant investigations, we entered into consent agreements that required merging companies to sell assets or take other measures to address concerns in eight proposed mergers, including Rexall Health/McKesson, Teva/Allergan, Crop Production Services (Canada) Inc./Andrukow Group Solutions Inc., and Bell/Manitoba Telecom Services. We also completed our reviews of several other high-profile transactions, including Rona/Lowe's, ChemChina/Syngenta and a series of mergers involving the sale of all of Imperial Oil's retail gas assets in Canada.

To ensure greater transparency into the merger review process, we published a template for merger consent agreements to give the Canadian legal and business communities more insight into terms that we negotiate for merger remedies.

- 222** Mergers reviews completed
- 169** Non-complex reviews
- 53** Complex reviews
- 93%** Mergers reviewed within service standard
- 8** Merger-related consent agreements registered with the Tribunal
- 1** Merger abandoned by the parties due to competition concerns
- 17** Position Statements



As part of our mandate, we participate in a wide range of activities to promote and advocate for the benefits of a competitive marketplace — lower prices, more choice and greater innovation — both in Canada and abroad.

- 
- 4 Representations before regulatory bodies
 - 29 Other advocacy interventions
 - 2 *Competition Advocates* published
 - 228 Participants at our FinTech workshop

Making the case for competition and innovation in the healthcare sector

We released two publications advocating for more competition in the healthcare sector. In October 2016, we published a [report](#) suggesting that restrictions on advertising in the healthcare industry, intended to protect consumer safety, can unintentionally reduce competition and stifle innovation. We advocated for governments and regulating bodies to collect evidence on the impacts of their policies and to move toward more evidence-based regulation. Better regulation means more competition for the benefit of all Canadians. At the same time, we released a new issue of the [Competition Advocate](#) on best practices to balance regulation and competition. Our March 2017 issue of the [Competition Advocate](#) focused on regulations for nurse practitioners. We underlined the importance of provincial/territorial health regulators incorporating non-restrictive policies and explained the benefits (to patients and the healthcare system

as a whole) that can result from reducing the barriers that prevent or discourage various nurse practitioner business models. This includes potentially reducing wait times for patients and costs on the health care system. The publication was well-received by regulators, and may inform further discussions about the role of nurse practitioners as these issues continue to develop.

Protecting the interests of Canadian consumers and businesses

We advocated for more competition in the telecommunications sector by calling on the Canadian Radio television and Telecommunications Commission (CRTC) to prohibit Internet service providers (ISPs) from using differential pricing with regard to their own or affiliated content. Differential pricing is the practice of charging one price for one type of online content and another price for other types of content. When ISPs receive financial benefit from content providers for favouring their content, differential pricing can harm competition, stifle innovation and impede consumer choice. It can also decrease product quality and increase the prices paid by consumers. In April 2017, the CRTC established a framework that prohibits differential pricing practices that favour certain types of content over others. This decision aligns with our recommendations.

We also provided expert advice to the Canadian International Trade Tribunal (CITT) in an anti-dumping proceeding involving duties imposed on U.S. drywall, by highlighting the harmful impact of the duties on competition and consumers in Western Canada. In its final decision, the CITT concluded that the imposition of duties in their full amount would be contrary to Canada's economic, trade and commercial interests, and would substantially reduce competition in the market and cause significant harm to consumers and businesses.



A closer look at innovation in the financial services sector

New services and products from financial technology (FinTech) companies are rapidly changing the way Canadians obtain financial services. In May 2016, we launched a market study into technology-led innovation in the Canadian financial services sector to understand the impact of these innovations on the competitive landscape. As part of this study, we organized a

workshop in February 2017 that brought together more than 228 representatives⁴ from the FinTech community, banks, provincial and federal regulators, and international experts to discuss the intersection of competition, innovation and regulation in Canada's financial services sector. This study will allow us to advise and guide financial sector regulators and other relevant authorities on maintaining a competitive landscape to ensure businesses can continue to innovate within the sector.

COLLABORATING WITH PARTNERS



Collaborating with our partners to tackle anti-competitive conduct in Canada and abroad is key to fulfilling our mandate.

When collaboration pays off

Last year we worked closely with the U.S. Department of Justice on a bid-rigging conspiracy involving Japanese auto parts manufacturer Nishikawa Rubber, which led to a USD\$130 million fine addressing the harm caused in both Canada and the U.S. By avoiding duplicate processes, we made efficient use of our limited resources to obtain the best resolution possible for Canadians.

We continued to meet with our international counterparts to share best practices and intelligence on matters related to competition law enforcement and policy development, including high level meetings with our American and Mexican counterparts in May 2016, the United Kingdom's Competition and Market Authority in July 2016, and the European Union Competition Commission in March 2017.

- 2 New international cooperation instruments signed
- 43 Meetings with foreign law enforcement agencies or competition authorities
- 35 International forum meetings and workshops
- 10 Technical assistance initiatives
- 3 New domestic memorandums of understanding signed



⁴ Approximately 95 webex participants and 133 participants in person



With a focus on increasing our engagement in the Asia-Pacific region, we met with partners and participated in events in the People's Republic of China, India, Indonesia, Taiwan, Hong Kong, Japan and Malaysia. We also engaged in technical cooperation with the Korea Fair Trade Commission, the Anti-Monopoly Committee of Ukraine, the Taiwan Fair Trade Commission and the African Competition Forum, among others.

We continued to serve important leadership roles and make substantive contributions to work products in both the OECD Competition Committee, the International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN). In particular, the Commissioner of Competition attended the OECD Ministerial on the Digital Economy, held the 21st to 23rd of June in Cancun, Mexico, where he participated in a panel on Consumer Trust and Market Growth in the digital economy. We also completed our three-year term as co-chair of the ICN Merger Working Group and attended ICPEN conferences in the United Kingdom and Germany, giving presentations, appearing on panels and participating in workshops about marketplace developments to discuss best practices to address consumer issues.

We continued to support the Government of Canada's trade liberalization efforts by working closely with our international counterparts to promote more effective international cooperation and the exchange of best practices in competition law enforcement and policy.

Strengthening our collaboration with new cooperation agreements

In 2016–2017, we signed two new cooperation instruments with our international partners, bringing the total number of instruments in place up to 14. We strengthened our network of international partners by signing a memorandum of understanding (MOU) with the Hong Kong Competition Commission, its first international cooperation instrument related to competition. We also signed a second-generation cooperation arrangement⁵ with the New Zealand Commerce Commission, enhancing our capacity to share information and provide investigative assistance.

Domestically, we signed several new MOUs, including undertakings with the Inspector General of the City of Montreal and Transport Canada's Policy Group. We now have MOUs with more than a dozen law enforcement and regulatory agencies across Canada that enhance our efforts in enforcement, outreach and competition promotion.

5 Second-generation agreements provide a framework for competition authorities to exchange confidential information under certain circumstances without seeking prior consent from the source of the information.



CONTINUOUS IMPROVEMENT



Our most valuable asset is our staff. In 2016–2017, we made significant progress on our Talent Management Strategy — a Bureau-wide approach to attract, grow and retain talent in our organization — consulting managers and employees on the draft Strategy. The three-year Strategy is designed to ensure that we continue to develop and nurture our high-performing workforce. It focuses on four priority areas identified by employees - development, training, mobility and

engagement and workplace issues — and outlines deliverables that will be implemented throughout 2017–2020. As part of our commitment to promote mental health awareness and well being within our organization, we created a Workplace Wellbeing Network within the Bureau and provided numerous training and information sessions on mental health to staff and senior management.

AWARDS AND NOMINATIONS



In 2016, the Society of Corporate Compliance and Ethics awarded the Bureau the International Compliance and Ethics Award for its renewed emphasis on compliance promotion.

In February 2017, the Global Competition Review nominated the Bureau for “Agency of the Year” in the Americas for its work conducted in 2016.



In March 2017, the Bureau won the “Most Innovative Soft Law” award at the 2017 Antitrust Writing Awards for its *Intellectual Property Enforcement Guidelines*.

The Bureau also received an honourable mention from the International Competition Network and World Bank Group for its competition advocacy in the drywall industry.



The awards and nomination, along with our enforcement and advocacy successes, made 2016–2017 a successful year for the Bureau. Using all of the tools at our disposal, we achieved excellent results for Canadian business and consumers and will continue our dedicated work to ensure that they can prosper in a competitive and innovative marketplace.

