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Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1982

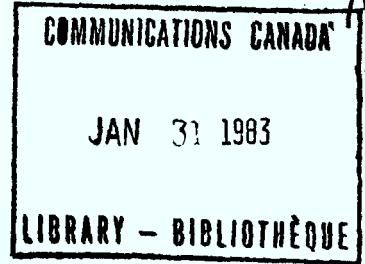


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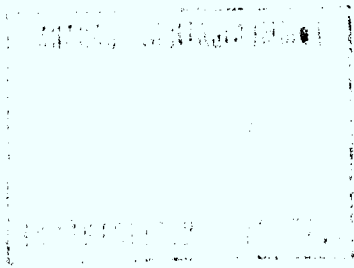
Combines Investigation Act

for the year ended March 31, 1982
to the Hon. André Ouellet, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
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December 23, 1982

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

DEAR SIR:

I have the honour to submit, pursuant to section 49 of the Combines Investigation Act, the following report of proceedings under the Act for the fiscal year ended March 31, 1982.

Yours very truly,
Lawson A.W. Hunter
Director of Investigation
and Research

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CHAPTER I

INTRODUCTION AND SUMMARY OF ACT AND PROCEDURES

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

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

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

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

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

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

1. Criminal Offences and Penalties under Part V of the Act

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

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

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

(b) Mergers and monopolies

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

(c) Specified trade practices

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

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

(d) Misleading advertising and deceptive marketing practices

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

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

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

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

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

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

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

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

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

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

Part IV.1 of the Act applies to certain specified situations which, although not prohibited, are capable of being desirable or undesirable depending upon the particular facts of the case. The Part therefore provides that where the situation comes within the criteria set out, the

Director, if he considers that action is warranted, may make application to the Restrictive Trade Practices Commission for an order as provided in the relevant section. The Commission may, after affording the parties an opportunity to be heard, make remedial orders if appropriate.

- Refusal to sell. Where a person is substantially affected in his business by such refusal even though he is willing and able to meet the usual trade terms, and when his inability to obtain supplies of a product that is in ample supply is because of insufficient competition, the Commission may order that he be supplied or recommend reduction in customs duties (section 31.2).
- Consignment selling introduced by a supplier who ordinarily sells the product for resale for the purpose of controlling dealer prices or discriminating in price. The Commission may order the supplier to cease the practice (section 31.3).
- The practices of exclusive dealing, tied selling and market restriction. Exclusive dealing occurs when a purchaser is required to deal in particular products only or primarily. Tied selling occurs when the sale of one product is tied to the sale of another. Market restriction occurs when a supplier, as a condition of sale, imposes restrictions as to the market in which his customer may deal. Where any of these practices is engaged in by a major supplier or is widespread in a market and competition is or is likely to be lessened substantially, the Commission may order a supplier to cease or modify such practice (section 31.4).
- The implementation in Canada of foreign judgments, decrees, orders or other processes adversely affecting competition, efficiency or trade. The Commission may prohibit such implementation in whole or in part (section 31.5).
- The making of a decision in Canada as a result of a foreign law or directive adversely affecting competition, efficiency or trade. The Commission may prohibit implementation in whole or in part (section 31.6).
- The making of a decision in Canada as a result of a communication from a person abroad where the communication is to give effect to a conspiracy, combination, agreement or arrangement entered into outside Canada, that, if entered into in Canada would have been in violation of section 32 relating to combinations unduly lessening competition. The Commission may prohibit implementation. This section may not be used against a company where proceedings have been commenced against it under section 32.1 (section 31.6).
- Refusal by a foreign supplier to supply a person in Canada by reason of the exertion of buying power outside Canada by another person. The Commission may order any person in Canada on whose behalf the buying power was exerted to sell the product at cost to the person refused, or not to deal in the product (section 31.7).

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

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

3. Procedures

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

(1) Initiation and Conduct of Inquiries

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

Once an inquiry has begun the Director may, under certification of a member of the Restrictive Trade Practices Commission, require anyone to make written returns of information and authorize his representatives to search premises for evidence pertaining to the matter under inquiry. During the year, there were 48 new inquiries in which the use of these formal powers was certified by the Commission. The Director may also apply to the Commission under section 17 for an order that any person be examined under oath. During the year four hearings were held pursuant to this section.

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

(2) The Restrictive Trade Practices Commission

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

The second role of the Commission is to act, pursuant to Part IV.1 of the Act, as a court of record to receive applications from the Director to review various situations which may be undesirable and to make remedial orders binding upon persons to whom they are addressed. In these proceedings the Commission is acting in a judicial capacity and is required to give reasonable opportunity to be heard to affected parties at hearings held in public unless in some particular situation the Chairman orders them closed.

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

(3) Enforcement

At any stage of an inquiry, whether or not the matter has been referred to the Commission and a report made thereon, the Director may submit the evidence gathered in the inquiry to the Attorney General of Canada for such action as he may be pleased to take. Each offence provision of the Act specifies whether the matter is to be prosecuted by way of summary conviction or on indictment and sets out the amount of any fine or the length of imprisonment that may be imposed. The Act also provides that prosecutions for indictable offences and cer-

tain other proceedings under the Act may be conducted in the Federal Court — Trial Division, thereby giving it concurrent jurisdiction with provincial superior courts of criminal jurisdiction, and that an appeal from a judgment of this court lies to the Federal Court of Appeal and from that court to the Supreme Court of Canada. The consent of an individual accused is, however, required before prosecution may be instituted in the Federal Court — Trial Division.

(4) Special Remedies

In addition to the penalties set out in Part V of the Combines Investigation Act, the Act provides certain special remedies.

(i) Injunctive proceedings under sections 29.1 and 30

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

(ii) Damages

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

(iii) Patent and trademark rights

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

(iv) Tariff adjustment

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

(5) Representations Before Regulatory Boards

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

4. Information and Compliance Program

While the enforcement of the Combines Investigation Act depends largely upon investigation of complaints of violations received from consumers and businessmen and from press reports, careful attention is given to the encouragement of voluntary compliance. Businessmen have for many years come to the Bureau for advice respecting the application of the Combines Investigation Act. Consultation with businessmen about their problems has been sponsored as a positive program. It has been referred to in earlier annual reports as the program of compliance and it is intended to be a vigorous and sustained program involving education and explanation, discussion of business problems and the giving of opinions concerning the application of the Act. During the year, 21 formal compliance opinions were provided (not including Marketing Practices) and approximately 100 informal discussions were held with businessmen.

As part of the program, businessmen are invited to discuss their problems before they decide to introduce policies that might prove to be in conflict with the Combines Investigation Act. The Director of Investigation and Research has no authority to regulate business practices or to decide the law, but he tries to assist businessmen to avoid coming into conflict with the Act by studying matters they submit to him and indicating to them whether or not the adoption of proposed plans would lead him to launch an inquiry. Businessmen who consult him are not bound by any opinion he gives and remain free to adopt practices which they are prepared to have tested before the Restrictive Trade Practices Commission and the courts. The Director, similarly, cannot bind himself or his successors by such opinions and always makes it clear that the matter would be subject to review if there should be any change in the details of the proposed plan or its method of implementation.

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

CHAPTER II

CURRENT DEVELOPMENTS

1. The State of Competition

The Combines Investigation Act places at the disposal of the Director a number of tools for the maintenance of the machinery of competition in the Canadian economy. This Annual Report provides a summary of the way in which these tools have been used and permits some judgments as to their adequacy for the purpose. This chapter includes comment on recent jurisprudence of particular interest relating to the constitutional validity of the legislation and to precedents in formal inquiries. The chapter also sets out, with respect to several questions of broad interest to businessmen, the position that the Director would take in deciding whether he had reason to initiate an inquiry.

Demand for services of the Bureau of Competition Policy as represented by the number of files opened was maintained at a comparatively high level, while the slightly upward trend in the number of complainants utilizing the formal application route continued. The rate of throughput was encouraging, the number of inquiries referred to the Attorney General under section 15 of the Act reaching an all-time high. At the same time there was a full recovery from last year's dip in the number of prosecutions or other proceedings commenced.

The year marked completion of proceedings in two cases under the predatory pricing provisions of the Act. Both cases cast light on the meaning of "unreasonably low," which subject is discussed later in this chapter. Fines totalling \$65,000 were imposed on H.D. Lee of Canada Ltd., which had been convicted of price maintenance on jeans. Four firms were convicted of price maintenance in connection with the sale of stereo equipment, coins and stamps and pet food. (All of these cases are reported in Chapter III.)

As a result of an inquiry that followed the simultaneous closing of the *Ottawa Journal* and the *Winnipeg Tribune*, and the purchase by Southam Inc. of the interest held by Thomson Newspapers Limited in the *Montreal Gazette* and Pacific Press, charges under sections 32 and 33 of the Act were laid against Thomson Newspapers Limited, FP Publications Limited, Southam Inc. and certain subsidiary corporations. (This case is reported in Chapter V.)

In the first application concerning tied selling to be heard by the Restrictive Trade Practices Commission, the Commission prohibited BBM Bureau of Measurement from continuing to engage in the tied selling of radio audience measurement services and television audience measurement services. An application to the Federal Court of Appeal to have the Commission's Order set aside was made by BBM, who also sought unsuccessfully to secure a stay of the Order. (This case is reported in Chapter V.)

The section 47 general inquiry into the state of competition in the Canadian petroleum industry continued throughout the year. The Restrictive Trade Practices Commission held regional hearings respecting current concerns, and then commenced hearings concerning the international sector of the industry. (This matter is reviewed in Chapter IV.)

After lengthy hearings into the issue of customer ownership of telecommunication terminal equipment, the Restrictive Trade Practices Commission released its report on this matter on September 10, 1981. The RTPC concluded that terminal attachment was in the public interest and made a number of recommendations to ensure that the benefits of this program were maximized through competition in the marketplace (further details later in this Chapter). The Canadian Radio-television and Telecommunications Commission undertook a final review of the same matter with public hearings beginning in November 1981. The CRTC, which had released its interim decision in August 1980, is expected to issue its final decision in the summer of 1982. Terminal attachment was also the subject of public hearings before the Alberta Public Utilities Board in July and October 1981. Of final note with respect to the Director's involvement in telecommunications and regulation, the Nova Scotia Board of

Commissioners of Public Utilities ruled that Maritime Telegraph and Telephone Company Limited is required to supply outpulsing services to licensed radio common carriers. The Director intervened in this matter presenting evidence and arguments along the lines of earlier evidence presented by him to the CRTC during similar deliberations in the *Collins* case. (Further details on these matters can be found in Chapter VI.)

During the year the Honourable André Ouellet conferred with a number of organizations in the private sector regarding the broad outlines of proposed amendments to the Combines Investigation Act. Many helpful comments were received. Mr. Ouellet made public his intention to introduce the amendments early in the next session of Parliament.

2. Statistics

Table I presents a statistical picture of the work of the Bureau of Competition Policy during the past year in comparison with other years, excluding work related to misleading advertising and deceptive marketing practices. On receipt of each complaint or inquiry in the nature of a complaint, a file is opened, and the number of such files is the figure that appears in the table as Item 1. Certain complaints that concern the same practice or incident may duplicate each other and are counted as a single complaint whenever appropriate. Some complaints give rise to very little inquiry, since they turn out to be lacking in real substance. Other cases require more attention but are discontinued at an early stage because, for lack of evidence or other reason, they do not appear to justify further inquiry. Item 2 inquiries are initiated under sections 7 and 8 of the Act by formal application of six persons. Item 3 refers to inquiries in which powers to search, to secure information or to examine witnesses have been used. Items 4 to 8 and 11 and 12 are self-explanatory.

The new items 9 and 10 have been added this year. Item 9 includes only those representations made formally by the Director under section 27.1. Item 10 includes all other representations in the nature of interventions but which are outside the scope of section 27.1, e.g., representations to provincial regulatory bodies.

During the year ended March 31, 1982, 47 cases under the Act (excluding misleading advertising and deceptive marketing practices cases) were considered by the courts. These consisted of 24 proceedings commenced during the year, and 23 proceedings before the courts from previous years. Twelve cases related to conspiracy under section 32, including one which also involved a charge under section 33; one related to bid-rigging under section 32.2; four related to predatory pricing under section 34, including one which also involved a charge under section 33 and one which also involved a charge under section 35; one related to promotional allowances under section 35; 28 related to price maintenance under section 38 and there was one case under section 41. Eleven proceedings were concluded during the year and a total of \$157,000 in fines was imposed. One of the concluded proceedings related to section 32, three to section 34, including the case involving the additional charge under section 33 and the case involving the additional charge under section 35; and seven involved price maintenance. These proceedings are listed in Appendix II showing the products involved, persons charged, the place of trial and details of disposition.

Statistics of the work relating to misleading advertising and deceptive marketing practices are presented in Chapter VII. During the year ended March 31, 1982, 278 misleading advertising and deceptive marketing practices cases were considered by the courts. These consisted of 176 proceedings commenced during the year and 102 proceedings before the courts from previous years. This includes 17 cases which had received court consideration in previous fiscal years, but were under appeal at the start of the year. There were 122 proceedings concluded during the year, 95 of which resulted in convictions and 27 in acquittals, charges with-

drawn and other completions of court proceedings that were not convictions. Fines totalling \$225,132 were imposed during the year and an additional \$99,400 in fines was under appeal at the end of the year.

Table I

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

	1972- 73	1973- 74	1974- 75	1975- 76	1976- 77	1977- 78	1978- 79	1979- 80	1980- 81	1981- 82
1. Number of files opened on receipt of complaints or inquiries in the nature of complaints.....	188	165	84	158	143	173	205	262	238	249
2. Formal applications for inquiries.....	2	6	5	4	7	5	7	7	8	9
3. Formal inquiries in progress at the end of the year.....	76	77	81	71	73	76	73	78	69	67
4. Inquiries disposed of by reports of discontinuance to the Minister.....	19	8	13	14	8	14	16	21	26	20
5. Inquiries referred direct to the Attorney General of Canada under section 15.....	9	14	11	18	26	22	14	24	21	34
6. Inquiries closed on the recommendation of the Attorney General of Canada.....	5	7	2	2	4	6	6	3	5	6
7. Prosecutions or other proceedings commenced.....	14	8	7	12	16	24	11	21	6	24
8. Applications under Part IV.1.....						1	1	2	0	0
9. Formal interventions under section 27.1.....					3	4	0	3	4	6
10. Other representations to bodies dealing with regulatory change.....					1	1	2	1	0	9
11. Research projects completed.....	0	0	1	0	2	3	8	11	8	6
12. Research projects in progress.....	3	3	3	3	8	8	12	5	7	8

3. Decisions, Reports and Other Matters of Special Interest

(1) *Authority of the Attorney General of Canada to Prefer Indictments and Conduct Prosecutions under the Combines Investigation Act*

The Annual Report for the year ended March 31, 1980, pages 13 to 15, reviewed the decision of the Supreme Court of Canada in *The Queen v. Hauser*¹, in which the majority held Parliament could validly enact legislation (paragraph 2(b) of the Criminal Code) authorizing the Attorney General of Canada to institute and conduct proceedings for a violation or conspiracy to violate any federal statute whose constitutional validity does not depend upon head 27 (criminal law power) of section 91 of the B.N.A. Act. The majority decision left open, however, the question of whether Parliament similarly could validly authorize the Attorney General of Canada in respect of violation of a federal statute where its constitutional validity depends upon the criminal law power.

As pointed out in the Report, this decision *inter alia* raised the question of the right of the Attorney General of Canada to institute and conduct prosecutions under the Combines Investigation Act pursuant to subsection 15(2) of the Act.

This question was raised immediately thereafter in *The Queen v. Hoffmann-LaRoche Limited*², a prosecution under the predatory pricing provision, paragraph 34(1)(c) of the Act, which was instituted and conducted by the Attorney General of Canada, pursuant to paragraph 2(b) of the Criminal Code and subsection 15(2) of the Act. Counsel for the accused and Counsel for the Attorney General of Ontario submitted that the Attorney General of Ontario has exclusive authority to prefer indictments and prosecute criminal offences by virtue of head 14 (Administration of Justice in the Province) of section 92 of the B.N.A. Act.

The Combines Investigation Act has been upheld as valid criminal law in *Proprietary Articles Trade Association v. Attorney General of Canada*³. Section 34 (enacted in 1935 as section 498A of the Criminal Code) was upheld as valid criminal law in *Reference re Section 498A of the Criminal Code*⁴.

In the *Queen v. Hoffmann-LaRoche Limited*, Linden, J. of the Supreme Court of Ontario in convicting the accused held that

"the power granted to the federal Parliament in section 91(27) to make laws in relation to criminal law and procedure in criminal matters includes, in my view, the authority to determine the manner in which the criminal law will be enforced. This involves, in my opinion, not only the authority to proscribe the *rules* for enforcement of the criminal law, but also *who* should conduct it."

In *dictum*, he also concluded that the Act was within the residual power of the federal Parliament to enact legislation for the peace and order and good government of Canada and was constitutionally supported under the federal power to regulate trade and commerce. In other words, the legislation authorizing the Attorney General of Canada to institute and conduct prosecutions under the Combines Investigation Act is also valid under the decision of the Supreme Court of Canada in *The Queen v. Hauser (supra)*, since the Act does not *depend upon* head 27 of section 91 of the B.N.A. Act by virtue of its constitutional validity under the trade and commerce power (head 2) and under the residuary power contained in the peace, order and good government clause of section 91.

On appeal to the Ontario Court of Appeal, the conviction was upheld and the cross-appeal by the Crown on sentence was dismissed.⁵

Martin, J.A. in delivering the judgment of the Court dealt extensively with the constitutional issue under the above three heads of federal power under section 91 of the B.N.A. Act and the question of provincial power under heads 13 (property and civil rights in the province) and 14 (the administration of justice in the province) of section 92.

With respect to the criminal law power, he agreed with the trial judge that even if the constitutional validity of the Combines Investigation Act depends upon the criminal law power, it was within the jurisdiction of Parliament as provided in both the Act and the Criminal Code to authorize the Attorney General of Canada to institute and conduct prosecutions for violations of the Act. In this respect Mr. Justice Martin stated:

"Where a federal enactment, like the *Combines Investigation Act*, is mainly directed to the suppression as criminal of activities which are essentially trans-provincial in nature, as distinct from being merely local or provincial in nature, and in respect of which the investigative function is performed by federal officers, Parliament, in my view, has concurrent jurisdiction with the provinces to enforce such legislation, even though in a particular case the activities giving rise to the charge occur within a single province. In the present case, however, the activities giving rise to the charge were, in fact, trans-provincial."

While he considered that, strictly speaking, in view of the foregoing, it was unnecessary to consider whether the Act might also be supported under the trade and commerce power and the general power of Parliament to make laws for the peace and order and good government of Canada, the learned judge was of the view that since the trial judge had considered these ques-

tions comprehensively and the court had received conspicuously able arguments from all counsel, it was appropriate to express his views. Furthermore, he went on to say:

"... there is a definite relationship between the criminal law power and the general power"

and subsequently elaborated as follows:

"The fact that legislation creating offences which have a national aspect or dimension may properly be characterized as criminal law, does not in my view preclude the legislation from also being supported under Parliament's general power . . . On the contrary, where the subject matter of the legislation has a national dimension, the residual power and the criminal law power are mutually supportive."

After referring to the jurisprudence, including *The Queen v. Hauser*, with respect to the exercise of the general power by Parliament, he went on to say:

"If the trade in drugs may, as a matter of general concern, invoke the peace, order and good government general power, it is difficult to think that the protection of free competition which affects the entire Canadian community is not equally the concern of Canada as a whole."

Finally, for the reasons he had stated and also those given by the trial judge, Martin, J.A. concluded that the Act could also be supported under Parliament's general power and since its validity therefore does not depend entirely upon the criminal law power, the Attorney General of Canada could institute and conduct a prosecution under the Act.

With respect to the submissions on the trade and commerce power, after reviewing the jurisprudence, he stated that the learned trial judge, in his view, had rightly concluded that the Act also could be supported under that power. Therefore, the prosecution was validly instituted and conducted by the Attorney General of Canada.

The identical question has also arisen in *Re Canadian Pacific Transport Co. et al. and Provincial Court of Alberta et al.* and *Re Canadian National Transportation Ltd. et al. and Provincial Court of Alberta et al.*⁶ Proceedings under paragraph 32(1)(c) of the Combines Investigation Act were commenced under authority of the Attorney General of Canada. Applications were made by the accused to the Court of the Queen's Bench of Alberta for an order to prohibit the Provincial Court of Alberta from permitting further proceedings so long as they were conducted exclusively by or on behalf of the Attorney General of Canada. Medhurst, J., in dismissing the applications, held that while the legislation has been upheld as valid criminal law, it can be supported as valid federal legislation under the trade and commerce power. Therefore, the power of the Attorney General of Canada to prosecute for the offence was validly exercised. (See Annual Report for the year ended March 31, 1981, pages 13-14.)

On appeal to the Court of Appeal of Alberta the decision of Medhurst, J. was reversed in a unanimous judgment delivered by Prowse, J.A. (*Canadian National Transportation Limited, Canadian National Railway Company v. The Provincial Court of Alberta and the Attorney General of Canada* and in the matter of *Regina v. Alltrans Express Ltd. et al.*⁷) In so doing, and after concluding that the Combines Investigation Act depends for its validity on the federal criminal law power, he considered he was bound to follow the earlier decision of the majority of this Court in the *Hauser* case, which held that it was not within the competence of Parliament to give the Attorney General of Canada power to prosecute for violations of a statute, the constitutional validity of which depends upon the criminal law power under section 91 of the B.N.A. Act.

The learned judge then turned to the submission that the legislation could be supported under the trade and commerce power. After extensively reviewing the jurisprudence under this

head he concluded that the Act and in particular paragraph 32(1)(c) does not depend in whole or in part for its validity on head 2 of section 91 of the B.N.A. Act. In reaching this conclusion, he stated, *inter alia*:

"To adopt the position urged by the Attorney General of Canada would in my opinion be tantamount to creating a new enumerated head of power under s. 91 entitled 'competition'. . . . Competition involves many factors including credit, duties, transportation, contracts and their terms. Those powers have been dealt with under the B.N.A. and as one would expect they have been distributed by giving certain powers to the federal government. In my view and with due respect, I am of the view that the judgments in *Hoffmann-LaRoche* give no effect to the federal system of government enshrined in the B.N.A. Act. They overlook and, indeed, perpetuate the two fallacies set out in the judgment of Duff, J. in *The Eastern Terminal* judgment... [viz: first, that the mere fact that a substantial portion of the trade in a commodity is export trade does not bring local trade within its jurisdiction; second, that Parliament has such power because no single province nor all the provinces acting together could put such a sweeping scheme into effect.]

...

When s. 32(1)(c) is considered under s. 91(27) of the B.N.A. Act it is clear that it is directed at conduct which is harmful and iniquitous. If it is considered under s. 91(2) 'the regulation of trade and commerce' it would be the commercial aspect that comes to the fore. It would then be directed not at conduct per se but to matters such as commercial practices related to contracts. In my view merely because the exercise of federal power under s. 91(27) has a commercial aspect does not bring it within s. 91(2). If it requires support under the criminal law power then it is not a valid exercise of power set out in s. 91(2)."

With respect to submissions concerning peace, order and good government, the appeal judgment did not consider that the mere fact that the practices prohibited by the Act were matters transcending the power of the provinces to solve by legislation, without more, could be treated as enabling Parliament to legislate in respect of property and civil rights. Thus, no basis could be seen here for treating such an aggregate of provincial concerns as a matter of national concern lending support to the legislation under this residual power. Finally, after referring to the 'reading down' doctrine, the judgment concluded that it has no application in interpreting the Act.

This judgment is now under appeal to the Supreme Court of Canada. It is not possible at this time to say whether that Court will find it necessary in the circumstances to determine the constitutional validity of the Combines Investigation Act in relation to the trade and commerce and residual powers under section 91 of the B.N.A. Act.

(2) *Application of Subsections 38(3) and (4) of the Combines Investigation Act*

Paragraph 38(1)(a), which was amended effective January 1, 1976, makes it an offence for a supplier of a product, directly or indirectly, by agreement, threat, promise or any like means to attempt to influence upward or discourage the reduction of the price at which any other person engaged in business in Canada supplies or offers to supply or advertises a product within Canada. Subsections (3) and (4) also became effective at this time.

Subsection (3) provides that the suggestion of a resale price or minimum resale price by a supplier is proof of an attempt to influence the person to whom the suggestion was made in accordance with the suggestion in the absence of proof that, in making the suggestion, the supplier also made it clear to such person that there was no obligation to accept the suggestion and that he would in no way suffer in his business relationship with the supplier or with any other person if the suggestion were not accepted.

Subsection (4) states that publication by a supplier of a product, other than a retailer, of an advertisement that mentions the resale price is an attempt to influence upward the selling

price of the person obtaining the product for resale unless there is some clearly expressed qualification of the price so that any person to whose attention the advertisement comes is aware that the product may be sold at a lower price.

Guidelines concerning the requirements of subsections (3) and (4) were published in the Annual Report of the Director for the year ended March 31, 1980.

The application of subsection (4) was an issue in *Regina v. Philips Electronics Ltd.*, an item concerning which appears in Chapter III of this Report. In a majority decision in this case, the Ontario Court of Appeal⁸, dismissing the Crown's appeal, disagreed with the Crown's submission that the effect of subsection 38(4) was to deem "for purposes of the section" that conduct set out in the subsection was "like means" within subsection 38(1)(a). The Court stated further:

"Parliament has, however, by enacting s. 38(4), relieved the Crown of the burden of showing that conduct described in s. 38(4) constitutes an attempt. The Crown need only prove the conduct. Once proven, it constitutes an attempt notwithstanding any evidence adduced or argument which might be made by an accused that it had an entirely different purpose, no matter how compelling such evidence and argument might be. To that extent the provisions of s. 38(4) are very meaningful and effective and this is so even though the section is not given the interpretation suggested by the appellant, namely, that the conduct set out in s. 38(4) should be deemed to be 'any like means' within the meaning of s. 38(1). In effect it removes the necessity of the Crown proving intent or 'mens rea' on the part of the accused in so far as conduct falling within the provisions of s. 38(4) is concerned."

Jessup, J.A. dissented. After reviewing the statutory and common law principles pertaining to the interpretation of statutes, he concluded:

"In this case the words 'any like means' are clearly intended to have a very broad meaning because they must embrace means as diverse as those like an agreement, threat or promise. Then, the plain purpose of s. 38(3) and (4) is to proscribe the suggestions or advertisements (a subtle form of suggestion) therein described. It is, therefore, clear to me that to effect the purpose or intent of s. 38 as a whole 'like means' must be taken to include the advertisements in this case."

With respect to this view, Goodman, J.A., delivering the majority opinion, stated:

"My brother Jessup has stated that the plain purpose of s. 38(3) and s. 38(4) is to proscribe the suggestions and advertisements therein described. I do not share that view. It is clear that under s. 38(3) a producer or supplier of a product may suggest a resale price or minimum resale price provided that he otherwise complies with the provisions of the section. In my view s. 38(3) and (4) do not proscribe any particular conduct. What they do is merely provide that certain conduct therein described, in the absence of the fulfillment of certain conditions, constitutes proof of an attempt or the attempt itself as provided in each subsection respectively. It is only the conduct described in s. 38(1) which is proscribed."

On the basis of this decision it appears that proof of publication by a supplier other than a retailer that mentions the resale price but does not include the qualifying information set out in subsection (4) is insufficient by itself to discharge the Crown's onus under paragraph 38(1)(a). In a prosecution based on other evidence of conduct contrary to paragraph 38(1)(a), however, where proof of such an advertisement is available, it may be expected that it will be introduced as supporting evidence.

The Crown appealed to the Supreme Court of Canada which dismissed the appeal and confirmed the acquittal⁹.

(3) *Unreasonably Low*

Paragraph 34(1)(c) of the Act makes it an offence to engage in a policy of selling products at prices unreasonably low, having the effect or tendency of substantially lessening competition or eliminating a competitor, or designed to have such effect. Although the original provision was enacted in 1935, Canadian jurisprudence has until recently thrown very little light on the question of when prices may be considered "unreasonably low." In the past three years, however, the question has been dealt with on two occasions, on each of which the court has had the benefit of expert economic evidence on this point. In the *Hoffmann-LaRoche*¹⁰ case, in which evidence was heard from Professors H.B. Steele and T.R. Stauffer, Linden, J. rejected the view that any price below cost, save for a few exceptions, was unreasonable in economic terms. Rather, he found, the court must consider all the circumstances involved in the case. The actual difference between production cost and sale price was held to be important. It was also stated that if an article is sold for more than cost, the price can never be held to be unreasonable. If the price is below cost, the greater the reduction below cost the more likely it is that the price is an unreasonable one.

The second factor to be considered was the length of time during which the prices in question prevailed. A price below cost available for a brief period for promotional purposes, for example, might be entirely reasonable, but if it lasted for a protracted period, what had been a reasonable price at first could become an unreasonable one.

The circumstances of the sale were also held to be a factor requiring consideration. Defensive price cutting was considered differently than offensive price cutting and a price reduction of 50 per cent might not be unreasonable if a competitor had just reduced his price by 40 per cent.

Linden J. also found that it might be reasonable for a firm to sell below cost for reasons such as keeping its business alive and its employees working during a difficult economic period, even though it could not do so profitably. Similarly, below-cost selling might be justified by other long-run economic benefits, such as getting representation in a particular market.

In this case the court found that both the extent and duration of the price reduction were such that even in response to reductions by a competitor, the prices at which the accused had sold Valium were unreasonably low.

In the *Consumers Glass Company*¹¹ case the court heard evidence from Professors Donald F. Turner and Douglas F. Greer. It was the position of Dr. Turner, a witness called by the defence, that any price above reasonably anticipated average variable cost (direct cost of production) should not be considered predatory and that a price below average variable cost should be conclusively presumed unlawful.

Dr. Greer, appearing for the Crown, was critical of the test proposed by Dr. Turner, maintaining that a court should consider evidence of intent coupled with proof of pricing below average *total* cost. Dr. Greer pointed out that in the long run a price below average total cost will cause a firm to go out of business unless the operation in question is subsidized from some other source.

It was recognized by both that prices below total cost but above average variable cost could under certain circumstances serve to minimize losses in the short run. O'Leary, J. concluded that where there is no evidence that the accused was not profit maximizing or loss minimizing and where chronic over capacity exists, an accused cannot be said to have sold at unreasonably low prices regardless of intent if at all times the product was sold at prices above average variable cost, there being no suggestion that such price was not above average marginal cost. He stated that in his view paragraph 34(1)(c) was not intended to make such cutting of price an offence so long as the cutting of price was loss minimizing. In this case he held that the price behaviour in question was in fact loss minimizing and the accused was found not guilty of the offence.

While the decisions provide considerable guidance as to when prices may be found unreasonably low, many questions remain to be answered. The judgment in *Consumers Glass*, for example, would appear to leave open the question of whether a price below average total cost but above average variable cost might be considered unreasonable if it had been demonstrated that the accused was not loss minimizing or profit maximizing in the short run. In the long run each seller must meet his overhead expenses such as interest payments and property taxes whether or not his operations are profitable, and an aggressor whose cash position is substantially stronger than that of a competitor may be able to eliminate the latter by making it impossible for him to make such payments out of current revenue even if the competitor is equally efficient. If the aggressor can recoup his losses only by raising his prices after the demise of his competitor, a strong argument can be made that his prices had been unreasonably low even if above variable cost.

A second question concerns the test that should be applied to "loss minimizing" or "profit maximizing." While pricing above variable cost by definition makes some contribution to overhead, the possibility remains that a still greater contribution could have been made at a price at or above average *total* cost and evidence to the effect that the accused unnecessarily sacrificed opportunity to do so would merit consideration. (In *Consumers Glass*, O'Leary, J. stated that he was not aware of any such evidence.)

In *Hoffmann-LaRoche* the court did not have reason to distinguish, for purposes of its analysis, between average total cost and average variable cost or marginal cost. The attention given the duration of the prices in question, however, suggests that intent or consequences of long run behaviour should be distinguished from those of short term.

Until the questions are further clarified, each allegedly predatory pricing situation will be examined by the Director in the light of the relevant facts. While it is unlikely that a price above average total cost of the firm complained against would be found to be unreasonably low, a price below that level will be considered in the light of its relationship to that cost standard or to variable cost, its duration, apparent purpose, whether aggressive or reactive, the market position of the parties, history of their behaviour and apparent long term consequences.

The analysis will also take into consideration any indication that the alleged aggressor had used pricing selectively for disciplinary purposes, the extent to which that firm would be the beneficiary of the weakening or demise of the complainant, and whether barriers to entry were such that any firm driven out of the industry could not readily be replaced as a competitor.

(4) *Report of the Restrictive Trade Practices Commission on Telecommunications in Canada — Phase 1, Interconnection*

On September 10, 1981, the Restrictive Trade Practices Commission (RTPC) issued its first of two reports arising out of a section 47 general inquiry initiated by the Director concerning the telecommunications industry in Canada. The report deals with the issue of interconnection — the connection of customer-owned and maintained (COAM) terminal equipment to telecommunication networks and the interconnection of telecommunications networks. A second report will be released by the RTPC probably in the fall of 1982 on the issue of the effects of vertical integration in the Canadian telecommunications industry — the relationship between Bell Canada, Northern Telecom and Bell-Northern Research Inc. as well as the relationship between British Columbia Telephone Company (B.C. Tel), GTE Automatic Electric (Canada) Ltd., GTE Lenkurt (Canada) Ltd. and AEL Microtel Limited.

This section 47 general inquiry was the result of an earlier investigation into the telecommunications equipment industry initiated by the Director in September 1966.

The earlier investigation stemmed from complaints received by the Director which led him to conclude that Bell Canada's ownership of its principal equipment supplier, Northern Electric Company (Northern Telecom Limited as of March 1, 1976), was likely to spread monopoly from Bell's activities, which are regulated, into the non-regulated activities of

Northern Electric which were primarily the production and sale of telecommunication equipment. Consequently, the Director initiated a formal inquiry under section 33 of the Act dealing with illegal mergers and monopolies.

In January 1973, after having examined all the evidence obtained in the section 33 inquiry, the Director concluded that it did not disclose a situation contrary to any provision of Part V of the Act, which relates to criminal offences including merger or monopoly. The Director determined, however, that the evidence did disclose the existence of conditions or practices relating to a monopolistic situation such as to warrant inquiry and reporting under section 47 of the Act. Accordingly, on January 23, 1973, the Director filed a notice of his decision to commence a section 47 inquiry with the RTPC stating that the evidence and material obtained in the earlier inquiry would form part of the evidence and material of this new inquiry.

On December 20, 1976, the Director submitted to the RTPC a Statement of Material or "Green Book" entitled *The Effects of Vertical Integration on the Telecommunications Equipment Industry in Canada*. The Statement of Material outlined certain alleged anticompetitive practices relating to the vertical integration between Bell Canada and Northern Telecom which the Director concluded were contrary to the public interest and indeed ultimately against the interest of both Bell Canada and Northern Electric. One of these practices was the refusal by Bell Canada to permit subscribers to attach customer-owned and maintained terminal equipment to Bell Canada's facilities.

A pre-hearing conference was convened by the RTPC on June 15, 1977, at which time the RTPC heard submissions from various interested parties. Hearings commenced in September 1977 and continued on an intermittent basis until May 8, 1981. Over that period of time the RTPC heard evidence from 228 witnesses and over 2000 exhibits were filed. Hearings were held in the major cities across Canada including Vancouver, Edmonton, Regina, Winnipeg, Toronto, Ottawa, Montréal, Fredericton, Halifax, Charlottetown and St. John's. The Director called evidence from various manufacturers, suppliers, users, small telephone companies and industry experts. As well, many firms and individuals appeared before the RTPC to present evidence on their own behalf. Beginning on January 15, 1980, Bell Canada and Northern Telecom presented evidence from corporate witnesses, academics and business consultants.

Early in the Commission's public hearings, evidence was heard on the issue of terminal attachment or interconnection. As a result, in a letter to the RTPC dated October 5, 1977, Counsel for Bell Canada requested:

".... that directions be given by the Commission to limit the scope of the interconnection arguments that can either be presented to this Commission or pursued under cross-examination during the course of this inquiry."

A special hearing on this matter was held on October 13, 1977, at which time arguments on this issue were presented by Bell Canada, Northern Telecom, B.C. Tel, the Director and the Provinces of Ontario and Québec. The Commission ruled on October 25, 1977, that it was entirely within their jurisdiction to seek information on interconnection/attachment policies.

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

Due to the volume of the evidence before it and in order to be as timely as possible, the RTPC decided to divide its Report in two parts. On May 16, 1980, all parties were instructed

to file written final arguments by the end of September 1980 on the issue of interconnection. Bell Canada, Northern Telecom, B.C. Tel and the Director did so and the same parties, save B.C. Tel, later filed reply arguments during October and November 1980. The Director then submitted final reply arguments on January 12, 1981.

While the RTPC hearings were in progress a number of interconnect matters arose before the CRTC and the courts. The most important event was the November 13, 1979, application by Bell Canada to the CRTC requesting a review of Rule 9 of Bell's General Regulations, the rule which prohibited the connection of customer-provided terminal equipment. After seeking public comments and submissions on Bell's application (the Director filed a submission), the CRTC rendered Telecom Decision 80-13 on August 5, 1980, in which it permitted terminal attachment and prescribed the *"Interim Requirements Regarding the Adjustment of Subscriber-Provided Terminal Equipment."*

In the Director's final argument to the RTPC on interconnection, which was prepared shortly after Telecom Decision 80-13, he submitted that the RTPC in its report should recommend that the CRTC Interim Requirements be enacted in a permanent form. In addition, the Director submitted that the RTPC should recommend that the CRTC require Bell Canada to unbundle its rates for terminal equipment service in a fashion which would provide separate equipment and network charges. Regarding Bell Canada's proposal to participate in direct sale markets in competition with other interconnect companies, the Director submitted that Bell should only be permitted to engage in these markets subject to some necessary prohibitions relating to the concern that Bell Canada, through the monopoly power acquired in both service and equipment markets, might obtain an unwarranted competitive advantage in the direct sale of telecommunication equipment. Accordingly, the Director's main submission was that Bell Canada should be permitted to enter into such markets only on condition that it do so through a separate arm's-length subsidiary. In addition, the Director recommended that Bell Canada be prohibited for a period of five years from acquiring, directly or indirectly, any company competing with Bell Canada or any affiliate with respect to the sale of equipment.

On September 10, 1981, the RTPC issued a report on interconnection entitled *Telecommunications in Canada — Phase I, Interconnection*. As a basic conclusion, the RTPC urged the CRTC to adopt a permanent position that subscribers have the right of customer ownership of telecommunications equipment. The RTPC recommended the establishment of an economic structure which would allow for the development of an increased number of suppliers in a competitive, unregulated rental and sale market.

Specifically, the Commission adopted the Director's major recommendation that Bell Canada, B.C. Tel, CNCP and other telephone companies who wish to sell or rent terminal equipment in a competitive market should be required to do so through an arm's-length subsidiary providing separate managerial, marketing, servicing and accounting resources. The Commission also recommended that telecommunication carriers should not be allowed to acquire interconnect sellers competing against them and that Bell and B.C. Tel should not, directly or indirectly, be allowed to acquire terminal equipment manufacturing companies in Canada which are in competition with any affiliates of the two telephone companies. Furthermore, it was recommended that telecommunications carriers should also be prevented from utilizing their buying power to obtain exclusive selling rights to terminal equipment on their own behalf or on that of their subsidiaries. A complete list of the RTPC's recommendations and conclusions is set out in Appendix I.

In the Director's opinion, the RTPC's Phase I Report on Interconnection is a continuation of the logical move towards the liberalization of terminal attachment. The RTPC's report thoroughly reviewed the state of the Canadian telecommunications networks and industry and carefully examined the alternate views on the various issues pertinent to the question of relaxed interconnection rules.

The Director submitted the Report during public hearings into the terminal attachment issue held before the Alberta Public Utilities Board (PUB) in October 1981 and the CRTC (in

its hearing to reach a final decision on terminal attachment) in November and December 1981 (for further details on these matters refer to Chapter VI). In each instance the Director urged the regulatory body to adopt the conclusion of the RTPC, reached after extensive public hearings and much study and deliberation, that terminal attachment is in the public interest. In addition, the Director urged both the Alberta PUB and the CRTC to adopt the RTPC's principal recommendations in order to ensure that terminal attachment proceeds in such a manner that the advantages available to subscribers and manufacturers alike may be fully realized.

(5) *Harold Irvine et al. v. The Restrictive Trade Practices Commission et al.*¹² — *Interpretation of subsection 20(1) of the Combines Investigation Act*

In 1981 an inquiry by the Director relating to the production, manufacture, purchase, sale and supply of flat rolled steel, plate steel bar and structural steel and related products and relating to section 32 had reached the stage where the exercise of the power of a member of the Commission pursuant to subsection 17(1) to require persons to be examined upon oath and to produce documents had been invoked on application by the Director. Thereupon, the Chairman issued orders directed to some 29 named persons to appear before him, or any other person named for the purpose by him, to give evidence upon oath in connection with the inquiry. About a week later a further order was issued by him designating a named hearing officer as the person before whom the evidence would be given.

At the commencement of the hearings various persons appeared. Some were witnesses, of whom some appeared with counsel; others, including corporations whose status appeared to be that of persons whose conduct was being inquired into, also appeared. Some of the corporations appeared through an officer, while others appeared through counsel. There was considerable discussion and argument regarding such matters as the right to counsel, the right to be present throughout the hearings of counsel, witnesses or persons whose conduct was being inquired into and the role of counsel in the examination of witnesses. These involved interpretation of subsection 20(1) of the Act, which provides:

"20.(1) A member of the Commission may allow any person whose conduct is being inquired into and shall permit any person who is being himself examined under oath to be represented by counsel."

It was also contended that some evidence should be put before the hearing officer by counsel for the Director that there were some objective grounds on which the Director had instituted the inquiry. Arising out of these issues the hearing officer made a number of rulings, some of which were objected to by counsel for the witnesses and parties under inquiry as being wrong or as being rulings he was not entitled to make.

In the result some 24 companies and individuals made an application under section 18 of the Federal Court Act for prohibition, *certiorari* and *mandamus* against the Commission, Director and hearing officer to overturn the decisions or rulings as follows:

- (1) Refusal to permit persons under inquiry and witnesses to be present throughout the whole of the examinations.
- (2) Refusal to permit counsel for persons under inquiry and counsel for witnesses to examine without restriction their own clients or to cross-examine other witnesses.
- (3) Refusal to require or permit a witness, J.T. Kirch, who having been sworn, to give evidence and to permit counsel for the Applicants to question him.
- (4) Refusal to grant an adjournment to one of the companies under inquiry to permit it to apply to a member of the Commission, pursuant to section 20, to be represented by counsel.

(5) From the hearing officer's decision to put questions to the witnesses during the course of their evidence.

(6) To set aside all proceedings pending before the hearing officer on the ground that he was without authority to preside over them.

(7) To overturn his decision that objective cause for initiation of the inquiry need not be given by counsel for the Director at the commencement of the inquiry.

Paragraphs (6) and (7) were the subject of a supplementary application, but both applications were heard together.

The applications came on for hearing before Mr. Justice Collier who quashed the rulings set out in paragraphs (1), (2) and (4) above and denied the relief requested in the remaining paragraphs. In reaching the decision to quash, he stated that the hearing officer had proceeded on the basis that he had the authority to permit a witness or a person under inquiry to be represented by counsel. He then went on to say that the hearing officer was wrong and counsel for the Respondents conceded this, as only a member of the Commission could allow a person whose conduct was being inquired into to be represented by counsel and similarly with respect to the mandatory permission for a witness to be represented by counsel.

With respect to the question of representation by counsel, Mr. Justice Collier was of the view that Parliament had not intended that this role should be interpreted as being narrowly restricted, stating:

"... where the Commissioners allow persons to have counsel, and in the case of witnesses whom they must on request, permit counsel, these consequences flow. Their counsel have the right to question their own so-called clients or witnesses, and other witnesses who are being examined."

He added that this right was not without limit but only pertained to those areas where their clients may be affected by the testimony being given.

The Respondents appealed to the Federal Court of Appeal in respect of the rulings granting the relief applied for by the Applicants and the latter cross-appealed in regard to those matters in which the relief requested was denied. In a unanimous judgment delivered by Chief Justice Thurlow, the Court allowed the appeal and dismissed the cross-appeal. This decision has substantially clarified the rights of witnesses, parties under inquiry and their counsel under subsection 20(1) and the limitations thereon.

Since there is no provision prescribing the procedure for examination of witnesses under subsection 17(1) the Chief Justice emphasized that regardless of whether the matter was at the inquiry stage or any other stage it was for a member of the Commission to determine the procedure to be followed and this would depend upon the particular proceeding. He then went on to say:

"... whether or not cross-examination by persons whose conduct is under investigation or by their counsel is to be permitted in the examination in the course of an inquiry of persons under oath under subsection 17(1) is, in my opinion, a matter for the decision of a member of the Commission. It is also for the Commissioner, subject to the provisions for privacy contained in subsection 27(1) to determine what persons will be permitted to attend the examination of a person under oath... save that he does not have the right to bar counsel representing the person being examined. Further, in my opinion, the requirement of subsection 20(1) that the Commissioner permit a person who is being examined under oath to be represented by counsel goes no further than to require the Commissioner to permit counsel for the person to be present and to represent his client while the client is being examined under oath. In my view, this imports no more than to advise the client as to his rights in respect of particular questions, to object to improper questioning and to

ensure that his client is given an opportunity to tell the whole of his story and in such a way as not to create false impressions of what he means by his answers. It does not, in my view, impart a right either to be present during the examination of other witnesses or to cross-examine any of them."

In addition, Chief Justice Thurlow pointed out that at the stage reached in this inquiry, this was simply the taking of evidence in private in an inquiry which might result in preparation of a statement of evidence for consideration and report by the Commission after allowing the parties full opportunity to be heard or in a reference to the Attorney General under subsection 15(1). He accordingly found that the rulings of the hearing officer referred to in paragraphs (1) and (2) above should not have been interfered with.

With respect to paragraph (4) above, he said he was at a loss to understand how the refusal of the hearing officer to grant an adjournment deprived him of jurisdiction or what basis might exist for quashing such refusal.

Dealing then with the cross-appeal, the Chief Justice stated that in regard to paragraph (3) above, the relief sought with respect to questioning of the witness Kirch was properly refused by the Trial Division. With respect to paragraph (5) above, while not recalling any argument on this aspect, he stated that in the absence of a provision in the Act, it plainly was open to either a member of the Commission or a hearing officer to put questions relating to the subject matter of the inquiry to witnesses being examined.

Although the supplementary application quoted in the judgment of the Federal Court of Appeal sets out the submission in paragraph (6) above, it makes no specific reference to the decision of the Trial Division in this regard. In his judgment Mr. Justice Collier did not agree with either the submission that in making an order under subsection 17(1) a member of the Commission could direct examination of witnesses only before himself or another member, or that the hearing officer should have been named in the first orders issued by the Chairman. In the latter respect he stated that even if it was accepted that the hearing officer should have been named in the first orders, this was at most a technical defect which, by virtue of section 3 of the Act, would not invalidate the proceedings. Presumably these submissions were not argued before the appellate Court or that in any event by reason of the ruling in relation to paragraph (7) which follows the Court would appear to have agreed with the Trial Division judgment on this aspect.

As to the submission in paragraph (7) above that counsel for the Director must show objective cause for initiation of the inquiry, the Chief Justice stated that he did not disagree with the refusal of relief by the learned trial judge. He further expressed the view that the order to attend and the designation of a person to take the evidence by a member of the Commission was all that was necessary to authorize a member or designated hearing officer to proceed forthwith to examination of the witnesses.

In the result the appeal was allowed and the cross-appeal dismissed, both with costs.¹³ On March 15, 1982, the Supreme Court of Canada granted leave to appeal this decision.

FOOTNOTES

1. [1979] 1 S.C.R. 948.

2. (1980), 53 C.C.C. (2d) 1.

3. [1931] A.C. 310.

4. [1937] A.C. 368.

5. (1981), 62 C.C.C. (2d) 118.

6. (1981), 119 D.L.R. (3d) 547.

7. (1982), 35 A.R. 132.

8. (1981), 30 O.R. (2d) 129.

9. (1981), 62 C.C.C. (2d) 234.

10. (1980), 53 C.C.C. (2d) 1.

11. (1981), 33 O.R. (2e) 228.

12. (1981), 56 C.P.R. (2d) 83.

13. (1982), 65 C.C.C. (2d) 108.

CHAPTER III

MANUFACTURING BRANCH

1. Activities

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

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

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

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

SECTION 32

(1) *Soft Drinks — Prince George, British Columbia*

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

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

The preliminary hearing, which had been scheduled for February 8-19, 1982, has been postponed and no new date has been set as of the end of the fiscal year.

(2) *Replated Automobile Bumpers — Toronto*

This inquiry was commenced in August 1979 following receipt of a complaint from a jobber of bumpers to the effect that a series of meetings had been held in Toronto by representa-

tives of companies engaged in the replating of bumpers at which an agreement was entered into to increase prices. During the course of this inquiry, the records of industry members were examined and hearings were held.

On September 12, 1980, the evidence obtained in this inquiry was referred to the Attorney General of Canada. Early in 1981, the Department of Justice, following a review of the evidence, concluded that a prosecution was not warranted.

SECTION 34

(3) *Hoffmann-LaRoche Limited — Drugs*

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

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

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

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

On June 18, 1980, Hoffmann-LaRoche was fined \$50,000. The Crown subsequently appealed the sentence, and the company appealed the conviction and sentence. Argument on the appeals was heard in the Ontario Court of Appeal on March 9 to 11 and March 31, 1981. On October 6, 1981, the Ontario Court of Appeal dismissed all the appeals.

(4) *Consumers Glass Company, Limited and Portion Packaging Limited — Disposable Plastic Lids*

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

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

The trial commenced on November 2, 1980, in Toronto in the Supreme Court of Ontario and was concluded on December 5, 1980. On June 17, 1981, the accused were acquitted.

(5) *Grocery Products*

This inquiry was commenced in June 1976 as a result of information obtained by the Director that indicated that a major supplier of these products was engaged in a policy of predatory pricing. During the course of the inquiry the records of the supplier were examined under the authority of section 10 of the Act. On May 9, 1979, the matter was referred to the Attorney General of Canada. On February 4, 1982, the Department of Justice, following a review of the evidence, concluded that a prosecution was not warranted.

SECTION 38

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

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

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

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

On November 19, 1980, the accused was convicted on all four counts. The Crown put forward its written submission on sentencing on January 28, 1981. The Defence made an oral submission on sentencing to the Court on May 21, 1981.

On December 2, 1981, the accused was fined a total of \$65,000 as follows: \$25,000 was imposed on the count relating to the refusal to supply, \$10,000 was imposed on the count relating to inducement preceding the refusal, and \$15,000 was imposed on each of two additional counts of inducement.

In February 1982 the defence abandoned an appeal on the convictions. No appeals were launched on the fines by either side.

(7) *Ravel Enterprises Limited — Stereo Components*

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

On February 6, 1976, the evidence in this matter was referred to the Attorney General of Canada. An Information containing one count under subsection 38(2) and one count under subsection 38(3) of the Act was laid at Toronto on May 4, 1976, against Ravel Enterprises Limited. The preliminary hearing took place on December 13, 1976, and the accused company was ordered to stand trial on both counts. On December 22, 1977, Ravel Enterprises Limited was found guilty on both counts and on January 24, 1978, the court imposed fines of \$25,000 and \$5,000. The company has appealed to the Ontario Court of Appeal. Since the Appeal in this matter involves many of the same issues as were raised in the Hoffmann-LaRoche appeal, it was agreed that the proceedings be postponed pending the decision in the Hoffmann-LaRoche appeal. On October 6, 1981, the Ontario Court of Appeal handed down its decision in the Hoffmann-LaRoche case. Argument on the appeal in this case has now been scheduled for June 1, 1982.

(8) *Sklar Furniture Limited — "Peppler" Furniture*

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

On March 23, 1978, the evidence in this inquiry was referred to the Attorney General of Canada. On July 19, 1978, an Information containing five counts under the former section 38 and under section 38 of the Act as amended was laid at Whitby, Ontario. The preliminary hearing was held on May 7 to 9, 1979, and, on May 31, 1979, the company was ordered to stand trial on two of the five counts. The Attorney General, on March 26, 1980, sought a preferred indictment under section 507 of the Criminal Code for two of the three dismissed counts. On September 2, 1981, the application for a preferred indictment was refused by the presiding judge. The trial on the two remaining counts is scheduled for June 23-24, 1982.

(9) *Noresco Inc. — Stereo Equipment*

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

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

On July 17, 1980, an Information containing three counts under paragraph 38(1)(a) of the Act was laid at Toronto. The preliminary hearing was held on January 28, 1981, and, on March 2, 1981, the company was ordered to stand trial on all counts. The trial commenced on February 22, 1982, and, on February 25, 1982, the company was convicted on two of the three counts. Submissions with respect to sentencing are to be heard on April 5, 1982.

(10) *Philips Electronics Ltd. — T.V. Converters*

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

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

The appeal, which involved the application of subsection 38(4) of the Act was heard by the Ontario Court of Appeal on June 16, 1980, but on September 23, 1980, the appeal was dismissed. The matter was further appealed to the Supreme Court of Canada on October 8, 1980. On November 24, 1981, the Supreme Court of Canada dismissed the Crown's appeal and upheld the majority decision of the Ontario Court of Appeal.

(11) *Agricultural Chemicals Limited — Fertilizer Chemicals*

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

The preliminary hearing was held on September 26, 1980, at which time the accused was ordered to stand trial. The trial commenced on July 27, 1981, and lasted six court days. On October 1, 1981, the court acquitted the accused.

(12) *Model Craft Hobbies Limited — Hobby and Craft Supplies*

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

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

The preliminary hearing had been set for November 6, 1980, but was adjourned until March 19, 1981, pending the anticipated decision by the Supreme Court of Canada in the Philips Electronics appeal. However, when it became apparent, at that time, that Model Craft Hobbies Limited was experiencing serious financial difficulties and that the delay in the hearing of the Philips appeal would make the burden of this pending action unreasonably severe on the defendant, the Crown entered a stay of proceedings in this action on March 19, 1981. Since Model Craft Hobbies Limited had not reorganized or re-established itself as of March 19, 1982, as an operating business, the stay of proceedings was allowed to expire.

(13) *300335 Ontario Limited — Coins and Stamps*

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

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

The preliminary hearing in this matter which was scheduled for December 19, 1980, was waived by the accused. On June 30, 1981, the accused pleaded guilty to one count under paragraph 38(1)(a) and all other counts were withdrawn. The court imposed a fine of \$2,000.

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

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

On August 6, 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On November 14, 1980, an Information was laid at Toronto against Magnasonic Canada Inc. containing five counts under paragraph 38(1)(a) and two counts under paragraph 38(1)(b) of the Act. On September 8, 1981, the accused pleaded guilty to two counts under paragraph 38(1)(a). The remaining counts were withdrawn. The court imposed a fine of \$15,000 on each of the two counts.

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

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

On October 10, 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On March 16, 1981, an Information containing four counts under paragraph 38(1)(a) of the Act was laid at Toronto against Cluett, Peabody Canada Inc. The preliminary hearing was held in Toronto on October 6, 1981, and the company was ordered to stand trial on all four counts. The trial is scheduled to commence on April 5, 1982.

(16) *Pentagon Mold and Tool Co. Limited — Plastic Flower Pots*

This inquiry was initiated in June 1981 following receipt of a complaint from a distributor in Toronto, Ontario, alleging that he had been refused supply of plastic flower pots by Pentagon Mold and Tool Co. Limited due to his low pricing policy. During the course of this inquiry the company's records were examined pursuant to section 10 of the Act. Further information and evidence was obtained from the complainant in this matter.

On July 17, 1981, the evidence in this inquiry was referred to the Attorney General of Canada. On September 19, 1981, an Information containing one count under paragraph 38(1)(b) of the Act was laid at Toronto against Pentagon Mold and Tool Co. Limited. A subsequent Information under this paragraph was also laid on March 19, 1982, at Toronto.

The preliminary hearing in this matter began on March 19, 1982. The matter has been set over to a date to be determined for the continuation of the hearing.

(17) *Rolf C. Hagen Inc. — Pet Food and Supplies*

This inquiry was commenced in May 1980 following the receipt of a complaint alleging that Rolf C. Hagen Inc. had a policy of resale price maintenance and refused to supply persons who discounted their products.

On April 6, 1981, the evidence in this inquiry was referred to the Attorney General of Canada. On October 29, 1981, an Information containing three counts under paragraph 38(1)(a) of the Act was laid at Toronto against Rolf C. Hagen Inc.

On January 8, 1982, the company pleaded guilty to one count under paragraph 38(1)(a) and was fined \$10,000. The remaining counts were withdrawn.

(18) *Brown Shoe Company of Canada Limited — Footwear*

This inquiry was formally commenced in October 1978 following the receipt of information from eight current or former retailers which indicated that Brown Shoe Company had engaged in practices related to resale price maintenance. The evidence in the inquiry was referred to the Attorney General of Canada on March 27, 1981. An Information containing 13 counts under section 38 of the Act was laid at Perth, Ontario, on November 26, 1981, against Brown Shoe Company of Canada Limited.

A preliminary hearing has been set for the week of May 5 to May 9, 1982.

(19) *Parkland Furniture Mfg. — Furniture (Alberta)*

This inquiry was formally commenced in August 1980 following the receipt of a complaint from a retailer in Alberta who had been refused supply by Parkland Furniture Mfg., a business operated by Canadian Union College of Lacombe, Alberta. Evidence obtained in this inquiry was referred to the Attorney General of Canada on September 4, 1981. An Information containing two counts under section 38 of the Act was laid at Lacombe on November 27, 1981.

The preliminary hearing in this matter was scheduled for March 30, 1982. However, due to the decision of the Alberta Supreme Court in the *Western Trucking* case that the Attorney General of Canada does not have the jurisdiction to prosecute cases under the Act because it is criminal legislation, an adjournment of this matter was obtained. Therefore, the case has been put over until November 2, 1982, at which time a new date will be set for a preliminary hearing.

(20) *S. & E. Furnishings Limited — Furniture (Sudbury)*

This inquiry commenced in March 1981 after information gathered in other inquiries gave the Director reason to believe that S. & E. Furnishings Limited was acting in a manner contrary to subsection 38(6) and paragraph 38(1)(a) of the Act. Pursuant to section 10 of the Act, the records of S. & E. Furnishings Limited and its principal retail outlet, Sudbury Furniture Market, were examined in May 1981. Subsequently, the records of various furniture suppliers to S. & E. Furnishings Limited were examined in order to obtain further documentation relevant to possible violations of subsection 38(6).

The evidence in this matter was referred to the Attorney General of Canada on September 4, 1981. An Information containing seven counts under subsection 38(6) and two counts under paragraph 38(1)(a) of the Act were laid at Sudbury on November 30, 1981 against S. & E. Furnishings Limited. The preliminary hearing in this matter is set for May 18 and 19, 1982.

(21) *Meubles Daveluyville Ltée — Furniture (Hull)*

This inquiry commenced in August 1980 following the receipt of a complaint from a retailer in Hull that Meubles Daveluyville Ltée had decided to close his account because of his low pricing policy. In August 1980, the records of the company were examined.

On May 25, 1981, the evidence obtained in the inquiry was referred to the Attorney General of Canada. An Information containing one count under each of paragraphs 38(1)(a) and 38(1)(b) of the Act was laid at Hull on December 4, 1981, against Meubles Daveluyville Ltée. The preliminary hearing in this matter is set for May 21, 1982.

(22) *Pianos*

This inquiry was commenced in December 1979 following receipt of a complaint from a piano retailer that his major supplier had refused to supply pianos to him because of threats by a competing dealer not to do business with the supplier because of the complainant's low pricing policy. During the course of the inquiry the corporate records of the competing dealer and three piano manufacturers were examined in December 1979 and March and April 1980.

On June 23, 1981, the evidence in this inquiry was referred to the Attorney General of Canada. An Information containing two counts under subsection 38(6) of the Act was laid at Vancouver on December 24, 1981, against the competing dealer and its president and owner.

On March 24, 1982, the Crown entered a stay of proceedings as a result of the death of the accused president and owner.

(23) *Sealy Eastern Limited — Mattresses and Box Springs*

This inquiry was begun in December 1977 following receipt of several complaints from consumers regarding their inability to negotiate for a discount on the retail price of the various models of mattresses and box springs which comprise the "Posturepedic" brand of bedding which is manufactured in Eastern Canada by Sealy Eastern Limited under a licence granted by Sealy Inc. of Chicago, Illinois.

On July 20, 1981, the evidence gathered in the inquiry was referred to the Attorney General of Canada. On February 24, 1982, an Information containing three counts under the former subsection 38(2) and one count under the former subsection 38(3) of the Act was laid at Toronto against Sealy Eastern Limited.

At the end of the fiscal year, a date for the preliminary hearing had not been set.

(24) *BSR (Canada) Ltée/Ltd. — Stereo Components*

This inquiry was commenced in September 1979 following receipt of a complaint from a Toronto retailer alleging that BSR (Canada) Ltée/Ltd. had refused to continue to supply him with Bang & Olufsen stereo components because of his low pricing policy.

During the course of the inquiry documentary evidence was obtained from the premises of BSR pursuant to section 10 of the Act. In May 1980 and January 1981 hearings for the taking of oral evidence were conducted in Toronto during which a total of seven witnesses testified under oath.

On July 24, 1981, the evidence in this inquiry was referred to the Attorney General of Canada. On March 9, 1982, an Information was laid at Toronto against BSR (Canada) Ltée/Ltd. containing one count under paragraph 38(1)(b) of the Act.

The preliminary hearing has been scheduled for September 7, 1982.

(25) *Outdoor Signs*

This inquiry was commenced in June 1981 following the receipt of a complaint alleging an attempt to influence upward a competitor's bid for the supply of outdoor signs in the Montréal area.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on January 28, 1982. On March 26, 1982, an Information containing one count under paragraph 38(1)(a) of the Act was laid at Montréal against Acme Signalisation and Andre Vrouillette.

The preliminary hearing is scheduled for April 27, 1982.

(26) *Marine Engines*

This inquiry was commenced in March of 1979 following receipt of a complaint from a Hamilton retailer alleging that a supplier of marine engines had refused to continue to supply him due to his low pricing policy. Pursuant to section 10 of the Act the supplier's records were reviewed during March and July of 1979.

On December 10, 1980, the evidence in this matter was referred to the Attorney General of Canada. Following this referral, additional evidence was brought to the Director's attention which was relayed to the Department of Justice in May of 1981. On May 21, 1981, following a review of all the evidence, the Department of Justice concluded that a prosecution was not warranted.

(27) *Books and Book Stores*

This inquiry was commenced in August 1980 following the receipt of a complaint from the manager of a small chain of book stores in Ontario that a supplier of books, pamphlets and

study notes had attempted to influence upward the price at which these products were sold, contrary to section 38 of the Act. It was further alleged that this action was taken as a result of threats from a competing retailer, affiliated with the supplier.

During the course of the inquiry documentary evidence was obtained from the premises of the supplier and the competing retailer. This evidence was referred to the Attorney General of Canada on September 4, 1981. On September 16, 1981, the Department of Justice, following a review of the evidence, concluded that a prosecution was not warranted.

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

No applications were made under Part IV.1 during the year.

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

SECTION 31.2

(1) *Commercial Kitchen Equipment*

This inquiry was commenced in July 1980 following receipt of a complaint from the owner of an independent appliance repair service that the refusal by a major manufacturer of commercial kitchen equipment to sell repair parts to other than its own service and repair centres was having the effect of precluding him from carrying on business. The complainant gave the Director reason to believe that grounds existed for the granting of an order by the Restrictive Trade Practices Commission under section 31.2.

During the course of the inquiry the records of the company were examined and, in addition, the Director obtained information in writing from various suppliers of the product in question pursuant to subsection 9(1) of the Act.

While the evidence so obtained was being examined, the company informed the Director that it had discontinued the policy in question and was now prepared to sell to independent appliance repair services on normal trade terms and at regular prices. This fact was confirmed by the complainant.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the matter was discontinued and reported to the Minister on March 19, 1982.

SECTION 31.7

(2) *Glass Cutters*

This inquiry was initiated in August 1980 following a complaint from a retailer that he had been refused further supplies of a type of glass-cutting tool by its United States distributor, as a result of pressure having been applied to that company by the United States parent of the complainant's major Canadian competition.

During the course of this inquiry, the records of the complainant's Canadian competitor were examined pursuant to section 10 of the Act. As well, a representative of the United States supplier of the glass-cutting tool was interviewed.

The documents secured indicated that the complainant's Canadian competitor was indeed concerned about competition provided in the Canadian market by the complainant. The documents did not support the allegation of pressure being brought to bear on the United States supplier by the Canadian company's United States parent, neither did the information acquired through interviews support this key element of the complaint.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on March 31, 1982.

SECTION 32

(3) *Subcompact and Compact Automobiles*

This inquiry was commenced following receipt of an application pursuant to section 7 of the Act, made on January 28, 1981, by six Canadian residents associated with the Automobile Protection Association. In the application it was alleged that certain Ottawa-Hull area automobile dealers had entered into a pricing arrangement with respect to the sale of a particular make and model of compact vehicle in violation of section 32 of the Act. The allegation was based on the experience of one of the signatories to the application relating to his efforts at a dealership to better a previous offer for the purchase of a vehicle during which certain statements were made by a salesman at the dealership that were suggestive of collusive activity among various dealerships.

The information obtained during the course of the inquiry failed to disclose evidence in support of the applicant's allegation of the existence of an agreement among the dealers in question. Information that was obtained revealed that these dealers had in fact offered to sell the particular make and model of vehicle at substantially discounted and different prices. It was therefore concluded that the pricing behaviour of the firms in question was inconsistent with the existence of an agreement as alleged in the application.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on April 3, 1981.

SECTIONS 32 AND 32.2

(4) *Electrical Wire and Cable — British Columbia*

This inquiry was commenced in June 1977 after the receipt of an application pursuant to section 7 of the Act by six Canadian residents. The application contained allegations that several distributors of electrical wire and cable had violated the Act and outlined alleged irregularities which had occurred in tender calls by a municipal purchasing authority in December 1976 and February 1977.

During the course of the inquiry documentary evidence was obtained pursuant to section 10 of the Act from the premises of six British Columbia distributors of electrical wire and cable products and from the British Columbia sales office of a major manufacturer of wire and cable. Pursuant to section 17 of the Act, hearings were held in Vancouver, British Columbia, in June 1980 at which time oral evidence was obtained from 14 witnesses.

The evidence obtained in this inquiry was examined with respect to the provisions of sections 32 and 32.2 of the Act. Analysis of all the documentary and oral evidence failed to disclose any violation of the Act. In particular, evidence was sought concerning the alleged irregularities occurring in bids, as outlined in the application pursuant to section 7 of the Act. However, after examining all the evidence, satisfactory explanations for these actions were obtained and it could not therefore be concluded that such actions indicated the existence of an agreement.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry and sought the concurrence of the Restrictive Trade Practices Commission to discontinue the inquiry. The Commission concurred in the discontinuance on January 29, 1982, and the matter was reported to the Minister on February 8, 1982.

(5) *Chemicals*

This inquiry was initiated in April 1981 following receipt of a complaint which alleged that certain chemical distributors were parties to a bid-rigging scheme involving the supply of a packaged chemical to customers located in the prairie and maritime regions.

During the course of the inquiry, the records of the distributors were examined pursuant to section 10 of the Act. The evidence so obtained did not disclose the existence of any agreement among the distributors of this product. On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on October 5, 1981.

SECTION 33

(6) *Cement Merger — Québec*

This inquiry concerned the acquisition of a Québec-based single-plant cement producer by a competitor which operated in several markets in Canada, including Québec. The inquiry was commenced with searches of the companies' premises in November 1976, on the basis of information available to the Director which indicated that the acquired firm had marketing policies which were substantially different from the other firms in the market.

However, while the unique marketing policies of the acquired firm and the reduced economic activity prevalent in Québec combined to stimulate discounting activity among all of the firms in the market between 1966 and 1973, the information obtained revealed that this phenomenon was transitory in nature. The evidence indicated that after 1973 and prior to the merger these independent practices were of a substantially reduced significance as general economic activity increased across the province.

After a thorough consideration of the matter, the Director concluded that there was not sufficient evidence to demonstrate that an offence had occurred and that it was unlikely that such evidence would be obtained by further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on September 9, 1981.

SECTION 34

(7) *Ready-Mix Concrete (Alberta)*

This inquiry was commenced as a result of a complaint received by the Director from an Alberta ready-mix concrete company. The complainant alleged that a larger western Canada ready-mix concrete operation was using predatory pricing tactics with the intent of driving his company out of business.

A formal inquiry into the matter was initiated and in October 1980 documentary evidence was obtained from the premises of a number of companies operating in the ready-mix concrete industry in Alberta. An examination of this evidence did not reveal a violation of paragraph 34(1)(b) or (c) of the Act, nor did it suggest that evidence of an offence could be obtained if the matter were pursued further. The Director therefore concluded that the matter did not warrant further inquiry.

Accordingly, the inquiry was discontinued and reported to the Minister on August 17, 1981.

SECTION 38

(8) *Stereo Components*

This inquiry was commenced in July 1980 following receipt of a complaint from a Vancouver retailer that a large distributor of stereo components had engaged in practices of price discrimination and resale price maintenance.

During the course of the inquiry, the records of the distributor were examined pursuant to section 10 of the Act. The evidence so obtained did not support the allegations made by the complainant and the Director therefore concluded that the matter did not warrant further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on May 5, 1981.

(9) *Automotive Audio Equipment*

This inquiry was commenced in August 1981 as a result of a complaint from a Toronto stereo retailer that a distributor of a national brand line of automotive audio equipment had refused to supply additional equipment due to his low pricing policy.

During the course of the inquiry the records of the distributor were examined pursuant to section 10 of the Act. The evidence so obtained revealed that the allegations were unfounded and that there were legitimate reasons for the refusal to supply. The Director therefore decided to discontinue the inquiry and his decision was reported to the Minister on September 28, 1981.

(10) *Shirts*

This inquiry was commenced in June 1981 following receipt of a complaint from an Alberta clothing retailer alleging that he had been refused supply of a particular brand of leisure shirts because of his low pricing policy.

During the course of the inquiry, documentary evidence was obtained from the premises of the supplier pursuant to section 10 of the Act. The evidence so obtained indicated that there were legitimate reasons for the refusal to supply. The Director therefore decided to discontinue the inquiry and his decision was reported to the Minister on December 3, 1981.

(11) *Professional Music Equipment*

This inquiry was initiated in August 1980 following the receipt of a complaint alleging a policy of resale price maintenance by a national distributor of professional music equipment.

During the course of the inquiry, the records of the distributor were examined pursuant to section 10 of the Act, and several interviews were conducted. The evidence so obtained failed to support any of the allegations. In particular, no documentary evidence was found to support the allegations of the enforcement of such a policy and, in fact, some of the documentary and oral evidence sharply contradicted these allegations.

On the basis of the foregoing, the Director concluded that the matter did not warrant further inquiry. Accordingly, the matter was discontinued and reported to the Minister on March 11, 1982.

(12) *Jeans and Related Products*

This inquiry was commenced in February 1981 following the receipt of a complaint from a retailer in Prince Edward Island that a distributor of a line of jeans had threatened to cease supplying him as he had failed to increase his selling price for the product to the then current suggested list prices.

During the course of the inquiry the records of the distributor were examined pursuant to section 10 of the Act. As well, oral evidence was obtained from the complainant and the distributor. Analysis of all of the evidence failed to disclose the commission of an offence by the supplier. Accordingly, the Director discontinued the inquiry, and reported the discontinuance to the Minister on March 31, 1982.

5. Other Matters

(1) *Québec City Concrete*

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

(2) *Bid Depositories*

The Bureau of Competition Policy in concert with federal government bodies active in the construction field, the Canadian Construction Association and the Treasury Board have reached a satisfactory resolution of this matter. A new set of standard federal rules for use on federal government projects has been promulgated and will be followed by all federal government bodies active in the construction field.

CHAPTER IV

RESOURCES BRANCH

1. Activities

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

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

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

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

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

SECTION 32

(1) *Uranium Inquiry*

As previously reported, this inquiry into the marketing of uranium in Canada began on September 30, 1977, at the direction of the then Minister, the Honourable Warren Allmand.

In May 1981 the evidence obtained in the inquiry was referred to the Attorney General of Canada. On July 7, 1981, an Information containing one count under paragraph 32(1)(c) was laid at Toronto against six Canadian uranium-marketing companies: Denison Mines Ltd.; Eldorado Nuclear Ltd./Eldorado Nucléaire Limitée; Gulf Minerals Canada Ltd./Minéraux Gulf du Canada Limitée; Rio Algom Limited; Uranerz Canada Ltd.; and Uranium Canada Ltd./Uranium Canada Limitée. Eighteen other corporations or agencies, all from outside Canada, and three individuals were also named though not charged. The Information alleges that the offence took place between September 1, 1970, and April 1, 1978.

Two of the companies charged, Eldorado Nuclear Ltd. and Uranium Canada Ltd. are federal Crown corporations. In March 1982, counsel for these companies brought a motion in the Supreme Court of Ontario seeking a Writ of Prohibition to prohibit the Provincial Court

of Ontario from proceeding with a preliminary inquiry involving them. The basis of the application was the contention that the two companies were at all times agents of the Crown and that as such they enjoyed immunity from prosecution. The matter was argued on March 24 and 25, 1982. [On April 23, 1982, decision was rendered in favour of the companies. The decision has been appealed and is scheduled to be heard in June 1982.]

(2) *Hogs — Alberta*

This inquiry was commenced in February 1980 following the receipt of information alleging that the major meat packers operating in the Province of Alberta had agreed to share slaughter hogs offered for sale by the Alberta Pork Producers Marketing Board on a predetermined percentage basis; to purchase slaughter hogs at an agreed price or within a given price range; and agreed on wholesale prices for pork or pork products.

Searches of the premises of the Alberta Pork Producers Marketing Board took place in February 1980. Hearings before the Restrictive Trade Practices Commission were held during 1980 and 1981 in Calgary, Edmonton, Ottawa and Toronto.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on December 21, 1981. On February 19, 1982, an Information containing two counts under paragraph 32(1)(c) of the Act was laid at Calgary against Burns Foods Limited; Burns Meats Ltd.; Canada Packers Inc.; Intercontinental Packers Limited; Red Deer Packers Ltd.; and Swift Canadian Co. Ltd. It is expected that preliminary hearings in this case will take place in the fall of 1982.

The evidence obtained during the inquiry shows that another meat packer, Gainers Limited, was a participant in the alleged agreements. Since this company was scheduled to be voluntarily wound up as of April 30, 1981, it could not be charged with the others. However, an application pursuant to the Alberta Companies Act has been filed requesting that the dissolution of Gainers Limited be made void. If the application is granted, this company will also be charged.

SECTION 38

(3) *Imperial Oil Limited — Gasoline*

This inquiry was commenced in November 1981 following receipt of a complaint from an independent reseller of petroleum in Waverley, Ontario, alleging that he had been refused supply of gasoline by Imperial Oil Limited because of his low pricing policy. During the course of the inquiry, the company's records were examined pursuant to section 10 of the Act for the purpose of obtaining documentary evidence.

On February 11, 1982, the evidence obtained in the inquiry was referred to the Attorney General of Canada. On February 25, 1982, an Information containing one count under paragraph 38(1)(a) and one count under paragraph 38(1)(b) of the Act was laid at Toronto against Imperial Oil Limited. A date for the preliminary hearing had not been set at the end of the fiscal year.

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

There were no applications under this Part during the year.

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

SECTION 34

(1) *Gasoline — British Columbia*

This inquiry was commenced in June 1981, following receipt of an application for an inquiry, pursuant to section 7 of the Act. The applicants alleged that certain retail gasoline outlets in a large British Columbia community had reduced the retail price of gasoline well below the then average tank-wagon price of regular gasoline, and that this was a policy of selling products at prices unreasonably low contrary to paragraph 34(1)(c) of the Act.

Information obtained in the inquiry revealed that one retail outlet attempted to gain market share by undercutting the price charged for regular gasoline by a second retail outlet. The latter responded by matching but not undercutting the prices charged by the first. This resulted in a price war that spread throughout the community as the two outlets continued to lower prices, and other retail outlets sought to maintain market share. As the futility of the situation became apparent, the outlets involved increased their prices, and the price war came to an end. Accordingly, the Director concluded that there had been no violation of paragraph 34(1)(c) and that no further inquiry was warranted.

The inquiry was therefore discontinued and reported to the Minister on November 23, 1981.

5. Other Matters

(1) *Petroleum Industry — Section 8*

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

Much of the material developed in this inquiry has been incorporated into the Statement of Evidence and Material submitted to the Restrictive Trade Practices Commission pursuant to section 47 of the Act as described in item (2).

In September 1978, Petrofina Canada Ltd. (now known as Petro-Canada Enterprises Inc.) challenged the powers of the Restrictive Trade Practices Commission and of the Director of Investigation and Research with respect to entry on premises and examination of documents pursuant to section 10 of the Act. On November 23, 1979, the Federal Court of Appeal denied Petrofina's challenge but on March 3, 1980, the Supreme Court of Canada granted leave to appeal. Early in 1982, certain documents, previously selected by representatives of the Director, were made available by the company. At the end of the fiscal year the inquiry was continuing.

(2) *Petroleum Industry — Section 47*

Over the years the Bureau of Competition Policy has received many complaints about practices and conditions in the petroleum industry. A number of these complaints led to for-

mal inquiries under the Combines Investigation Act, some of which resulted in reports by the Restrictive Trade Practices Commission, and prosecutions. These inquiries and reports were generally restricted to the examination of specific practices or situations, relating to particular products, or a particular geographic market within Canada. The types of situations that led to these inquiries into the petroleum industry included refusal to supply, price discrimination, predatory pricing, resale price maintenance, mergers and acquisitions within the industry, and conspiracies to lessen competition. A number of these investigations involved the major oil companies, while others also included local dealers and distributors. Much of the information gathered in these inquiries has been incorporated in a seven volume Statement of Evidence and Material or "Green Book" entitled *The State of Competition in the Canadian Petroleum Industry*, which was submitted on February 27, 1981, to the Restrictive Trade Practices Commission under section 47 of the Act. The Statement evaluates the Canadian petroleum industry's structure, conduct, and performance as well as recommending legislative, regulatory, and administrative changes. On March 3, 1981, the Chairman of the Commission ordered that the proceedings relating to the Statement be conducted in public.

Following a prehearing held on July 27, 1981, the Commission issued Rules of Practice and Procedure on August 17, 1981. Delivery of opening statements by interested parties commenced on October 19, 1981. Between December 1, 1981, and March 8, 1982, the Commission conducted regional hearings in Edmonton, Vancouver, Ottawa, Halifax, Montréal, Regina, Winnipeg and Toronto respecting current concerns. On March 9, 1982, the Commission commenced hearings into issues in the international sector of the industry. It is anticipated that the inquiry will continue throughout the next fiscal year. At the conclusion of the proceedings, the Commission will issue a report to the Minister as required by section 19 of the Act.

Parliament enacted the provision for a general or research inquiry power in 1952 following the recommendation of the MacQuarrie Committee which had been expressly established to study, so as to improve, the purpose and methods of combines law. In urging Parliament to enact the provision, that Committee gave a four-fold rationale as to why research inquiries should constitute "one of the most important assignments" of the Director. First, they would provide timely warning of competitive "danger spots" in the economy. Secondly, where the possibility of restoring competition was remote, they could identify alternate remedies superior to criminal penalties. Thirdly, where the problem involved exploitation or unfairness, but no illegality, they could publicize the inequities and so deter them. Fourthly, the identification of such inequities and of new remedies would assist Parliament to improve anti-monopoly legislation and to adapt it to the changing requirements of the public interest.

The Commission is statutorily enjoined to review the evidence it has received, appraise the effect on the public interest of the situation therein revealed, and to include recommendations as to the application of the remedies in the Act or other remedies. The injunction to consider remedies outside the Act must be stressed because it gives this process a broader potential remedial ambit than is granted regular and superior courts of criminal jurisdiction. The Commission is required to hear the opposing views in complex economic competition policy matters where the economic evidence of benefit or detriment can be assessed in its own terms and not as in the courts by the non-economic standards of law. Moreover, to emphasize that the Commission was indeed meant to proceed in a judicial manner, the legislation expressly prohibits it from making any report whatsoever unless it has given those whose interests may be jeopardized a full opportunity to be heard.

(3) *Gasoline — Sydney, Nova Scotia*

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

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

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

In September 1978, Petrofina Canada Ltd. (now known as Petro-Canada Enterprises Inc.) challenged the powers of the Restrictive Trade Practices Commission and of the Director of Investigation and Research with respect to entry on premises and examination of documents pursuant to section 10 of the Act. On November 23, 1979, the Federal Court of Appeal denied Petrofina's challenge but on March 3, 1980, the Supreme Court of Canada granted leave to appeal. Early in 1982, certain documents, previously selected by representatives of the Director, were made available by the company. At the end of the fiscal year the inquiry was continuing.

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

For several years the Director has been concerned with ensuring the survival and health of cost-efficient independent resellers of petroleum products. As mentioned in previous Annual Reports, the Director and his officials have continued to participate in interdepartmental consultations, particularly with the Department of Energy, Mines and Resources and the National Energy Board since these bodies have the primary policy responsibility in this matter. The Director has continued to express his concerns to the Foreign Investment Review Agency over proposed purchases of independent marketers by major oil companies.

Monitoring of supply problems experienced by independents continued, bearing in mind section 31.2 — refusal to deal. Through the program of monitoring and consultation, the Director has continued to assist in providing relief for some resellers, if sometimes only on a short-term basis.

Inability to obtain supply on usual trade terms must be demonstrated before a Commission order for supply can be issued pursuant to subsection 31.2(1). Thus success in arranging for the provision of product supplies eliminates one of the necessary grounds on which an application to the Commission must be based.

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

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

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

As the hearings continued, the three U.F.A.W.U. executives refused to answer most of the questions of counsel for the Director of Investigation and Research. Subsequently, Mr. L.A. Couture, Q.C., then a Member and Vice-Chairman of the Restrictive Trade Practices Commission applied to the Supreme Court of British Columbia to grant the acting chairman

of the hearings the power to penalize witnesses for refusing to respond to questions asked in the course of the hearings. This application was dismissed by the court on October 5, 1979. An appeal from this judgment was filed in 1979. It is expected that adjudication of this matter will take place in the summer of 1982.

Meanwhile, in December 1980, the evidence obtained in the inquiry was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act.

(6) *Inquiry in Progress — Wood Industry*

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

(7) *Inquiry in Progress — Fuel Oil, Prince George, B.C.*

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

Public hearings were held in Prince George in November 1979 and the evidence obtained in the inquiry was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act on August 25, 1981.

(8) *Energy Supplies Emergency Act 1979 — Section 23 Exemptions*

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

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

Following mandatory consultation with the Minister of Consumer and Corporate Affairs, conducted through the Director, the Board issued orders covering industry participation in the planning process only. Order No. 5 was issued on May 20, 1981 (SOR 81/406).

(9) *Use of Trademark in Restraint of Trade*

In August 1981, a number of food processing companies complained to the Director that they were being forced to discontinue the use of a term which, despite the fact that it was a registered trademark, had acquired the same generic characteristics as, for example, the term *frigidaire*. In view of the fact that the holder of the registered trademark, by application to the courts, sought to protect its trademark from unauthorized infringement, the complainants requested that the Director review their concerns in terms of section 29, a special remedy provision, of the Combines Investigation Act.

Under section 29, on application by the Attorney General of Canada, the Federal Court may direct that the registration of a trademark be expunged or amended whenever the exclusive rights and privileges conferred upon the holder of the trademark are used so as to *unduly* injure trade or commerce in relation to any article or commodity. Although section 29 has not been tested in the Canadian courts, the test for undue injury in an action brought under this section would likely be based on existing jurisprudence under section 32 where an arrangement is said to be undue only when it imposes improper, inordinate, excessive or oppressive restrictions upon competition with the effect of relieving the parties to the arrangement from the influence of free market forces.

Information obtained from the complainant companies, which have discontinued the use of the term under dispute, either in compliance with demands made by the firm holding the trademark or as a result of litigation, has revealed that the aggrieved companies continued to market their wares successfully under other names. These companies reported that the change of name describing their products has not confused their customers and, as a result, they have suffered no loss of trade.

Aside from the above considerations, the issue as to whether the trademark had become a generic term and is, therefore, no longer in a registrable form under the Trade Marks Act, provided no grounds for the purpose of initiating proceedings under section 29 of the Combines Investigation Act. However, as the inquiry revealed, in Canada, as well as in the United States, any party may challenge, in civil courts, the registration of a trademark on the basis that the trademark is no longer in a registrable form.

The conditions described above led the Director to conclude that the activities complained about, in relation to the exclusive rights and privileges conferred on the holder of the disputed trademark, did not restrain or injure trade unduly with respect to the product involved.

(10) Activities Related to Regulation in Agriculture

During the year, a number of issues and concerns relating to regulated agricultural activities were reviewed by the Director. These matters included the inability of market participants to freely import commodities, discriminatory product pricing in inter-regional trade, contractual arrangements leading to higher levels of industry concentration, difficulties in sourcing product domestically, tied sales arrangements between producers and processors, and the desire to extend supply management arrangements to other agricultural commodities. In each of these cases, the efforts of the Director were directed at developing information to determine the implications for competition policy and the extent to which the activities were permitted under valid legislation.

(11) Senate Hearings into Beef Marketing

Representatives of the Director attended hearings conducted by the Standing Senate Committee on Agriculture into the marketing of beef. The hearings, which commenced in November 1981, were held following the release of a working paper, prepared for the Committee, entitled *Alternative Marketing and Stabilization Programs for the Beef Industry in Canada*. The purpose of the hearings was to obtain the views of beef producers and other interested parties across the country on the present marketing system and on alternative marketing and stabilization programs for beef, including the establishment of a supply management program system. The hearings were monitored for the purpose of gathering information on the industry structure of beef production and to assess the competitive implications related to the alternative stabilization plans in the event that the Director might subsequently appear before a regulatory board to make representations on this matter.

CHAPTER V

SERVICES BRANCH

1. Activities

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

The Branch deals with violations of Part V of the Act not in the nature of misleading advertising or deceptive marketing practices and with situations which may be reviewable under Part IV.1. It is also concerned with inquiries relating to proceedings under the patent and trademarks provisions of section 29 of the Act, and maintains a general surveillance of competitive issues and activities in Canada in those industries for which it has responsibility. In addition, it participates in interdepartmental committees and provides input with respect to competition policy in relation to proposed mergers under review by the Foreign Investment Review Agency.

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

SECTION 32

(1) *Papermaker's Felts*

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

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

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

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

Albany Felt Company of Canada Ltd.	\$115,000
Ayers Limited-Ayers Limitée	\$ 57,500
Dominion Ayers Limited	\$ 57,500
Huyck Canada Limited	\$115,000
Penmans, Limited	\$ 85,000
Porritts & Spencer (Canada) Limited	\$115,000

The court also granted an Order of Prohibition against each of the accused. The convicted companies applied for and received leave to appeal. On March 20, 1981, a joint record was filed with the Court by Counsel representing the following companies:

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

The appeal in this matter is scheduled to commence on April 19, 1982, in Montréal before the Québec Court of Appeal.

(2) *Volkswagen Parts — British Columbia*

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

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

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

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

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

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

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

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

The preliminary hearing took place from February 6 to 9, 1978, and the Associations were ordered to stand trial before the Superior Court of the Province of Québec. The trial was held in La Malbaie from September 18 to 28, 1978. On April 20, 1979, the Associations were acquitted. On May 15, 1979, the Attorney General of Canada appealed the decision and, on March 30, 1982, the appeal was dismissed.

(4) *Conference Interpreters — Ontario and Québec*

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

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

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

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

The preliminary hearing commenced in Montréal in September 1980 and was concluded in August 1981. A decision in this matter is expected to be given on June 17, 1982.

(5) *Outdoor Advertising*

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

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

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

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

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

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

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

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

Outdoor Advertising Association of Canada
Gould Outdoor (Posters) Limited
John M. Gould Limited
J.C. Teron Company Limited
HOAL Investments Ltd.
Jim Pattison Enterprises Ltd.
Neonex Consumer Group Ltd.
Seaboard Advertising Co. Ltd.

The preliminary hearing commenced on January 20, 1982, at which time the accused companies moved to quash the Information. The motion was subsequently dismissed on the grounds that a magistrate presiding at a preliminary inquiry has no authority to quash an Information. Although a magistrate does have the power to discharge without hearing all or any of the Crown's evidence if the Information fails to disclose an offence known to Canadian law, no substantive grounds were found to support an argument that the counts were nullities.

The accused then made application to the Supreme Court of Ontario to quash the Information. The application was heard on February 23 to February 25, 1982. On February 25, 1982, the application was dismissed on the grounds that the earlier decision was not reviewable and that the Information charged offences known to law and was therefore not a nullity as had been argued by the accused.

On March 19, 1982, the decision of the Supreme Court of Ontario was appealed to the Ontario Court of Appeal. The hearing of the appeal has been set for May 27, 1982.

(6) *Daily Newspapers*

A formal inquiry was commenced following the closing of the *Ottawa Journal*, the closing and sale of the assets of the *Winnipeg Tribune* to its competitor, and the purchase by Southam Inc. of the interest held by Thomson Newspapers Limited in the *Montréal Gazette* and Pacific Press in Vancouver in August of 1980. Evidence obtained in this inquiry was referred to the Attorney General of Canada on January 15, 1981, and on May 1, 1981, an Information containing a total of seven counts under sections 32 and 33 of the Act was laid at Toronto.

Count 1 - alleges that Thomson Newspapers Limited, F.P. Publications Limited, Southam Inc., and certain subsidiary corporations during the years 1978, 1979 and 1980 unlawfully conspired to lessen unduly competition in English language daily newspapers published in Montréal, Winnipeg, Vancouver and Ottawa so that those markets would be dominated by one major publisher, contrary to paragraph 32(1)(c) of the Act. John A. Tory, George N.M. Currie and Gordon N. Fisher were named as unindicted co-conspirators.

Count 2 - alleges that Thomson Newspapers Limited, F.P. Publications Limited, Southam Inc. and certain subsidiary corporations unlawfully conspired in 1979 to lessen unduly competition in English language daily newspapers in Montréal contrary to paragraph 32(1)(c). Mr. Currie and Mr. Fisher were named as unindicted co-conspirators.

Count 3 - further alleges that the corporations were party or privy to a merger which resulted in a lessening of competition to the detriment of the public in English language daily newspapers, specifically the acquisition of the assets of the *Montréal Star* by the *Montréal Gazette*, contrary to section 33.

Count 4 - names the same corporations as party or privy to the formation of a monopoly, *Gazette-Montréal Limited - Gazette-Montréal Ltée*, which operated or is likely to operate to the detriment of the public, contrary to section 33.

Counts 5, 6 and 7 - similarly relate to conspiracy, merger and monopoly offences, respectively, arising from the closing of the *Winnipeg Tribune* on August 27, 1980, and the sale of its assets to the *Winnipeg Free Press*, which became the only major English language daily published in Winnipeg. Southam Inc. and Thomson Newspapers Limited and subsidiary companies were named in each count; Mr. Tory and Mr. Fisher were named as unindicted co-conspirators in count 5.

The preliminary hearing in this matter commenced on September 28, 1981, and concluded following the submission of written arguments on December 15, 1981. The accused were committed for trial on all counts on May 5, 1982.

In a separate Information laid on May 1, 1981, it was alleged that William J. Carradine unlawfully attempted to impede or prevent an inquiry being conducted under the Combines Investigation Act in September 1980 contrary to subsection 41(1). At the end of the fiscal year no trial date had been set.

(7) *Metropolitan Toronto Pharmacists Association*

This inquiry commenced in May 1979 upon receipt of information that the Metropolitan Toronto Pharmacists Association had agreed to implement a boycott of the third-party drug-prepayment plan administered by Green Shield Prepaid Services Inc., a major non-profit insurer. The insurer had revised the ingredient cost paid to pharmacists for drugs to reflect the volume discounts now common in the industry, which has moved from independent pharmacists purchasing in limited quantities to buying groups and chains of outlets purchasing in bulk. As a result of the alleged boycott and other harassment techniques, the insurer was compelled to reinstate its prior schedule of fees. Information obtained in the course of the investigation, including documentary evidence obtained under section 10 of the Act, was referred to the Attorney General of Canada on August 15, 1980.

An Information was laid on June 10, 1981, against seven individuals and the Association alleging offences under paragraph 32(1)(c) and paragraph 38(1)(a) between March 1979 and January 1980. Subsequently, the charge under paragraph 38(1)(a) and all charges against the individuals were withdrawn. Thus, the Metropolitan Toronto Pharmacists Association is charged that it unlawfully conspired to prevent or lessen, unduly, competition in the sale or supply of prescription drugs and pharmacists services within Metropolitan Toronto to subscribers of Green Shield Prepaid Services Inc., contrary to paragraph 32(1)(c).

The preliminary hearing is scheduled to begin on April 13 and to continue in June 1982.

(8) *Real Estate Agency Services — South-Western Ontario*

This inquiry was commenced in August 1977 following receipt of information that members of a real estate board in south-western Ontario had agreed to establish a minimum commission split on sales through the Multiple Listing Service of 60 per cent of the total commission to the selling agent.

During the course of the inquiry, the records of the real estate board and several member brokers were examined. In addition oral evidence was obtained under section 17 of the Act. In August 1979, the evidence gathered in this matter was referred to the Attorney General of Canada.

After reviewing all of the evidence obtained, the Department of Justice concluded that a prosecution or other criminal proceeding was not warranted.

The Director thereafter advised the parties involved of the disposition of the inquiry. It was made clear, however, that any future matters brought to his attention regarding commission split arrangements would be examined very carefully to determine whether or not there existed factors which gave evidence of the existence of an agreement to lessen competition in the supply of real estate agency services. If, for example, an agreement on the commission split were to have the effect of setting a minimum commission rate charged to members of the public, or if the intention or effect of the agreement was to prevent certain firms from charging rates lower than those prevailing in the market, then such information would likely provide grounds for inquiry.

SECTION 32.2

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

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

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

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

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

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

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

The decision of Mr. Justice Osler was appealed to the Court of Appeal. On June 27, 1980, the Court of Appeal upheld the lower courts' decision. The trial was held May 19-22, 1981, in the Supreme Court in and for the County of Peel, in Brampton, Ontario. All of the defendants were convicted on May 25, 1981, and on June 1, 1981, the following fines were imposed:

Travelways School Transit Ltd.	\$25,000
Charterways Transportation Limited	\$15,000
Lorne Wilson Transportation Limited	\$10,000
Arthur Elen	\$ 2,000

Two of the accused, Travelways and Lorne Wilson, filed notices appealing both convictions and fines. The appeals are scheduled to be heard April 29, 1982, in Toronto.

SECTION 34

(10) *Neptune Meters, Limited — Meters and Meter Parts*

This inquiry was initiated following receipt of a complaint from a meter sales and service firm alleging that Neptune Meters, Limited engaged in a pricing policy that discriminated against them. The evidence obtained in the inquiry was referred to the Attorney General of Canada on March 31, 1981. On December 23, 1981, an Information containing one count under paragraph 34(1)(a) of the Act was laid at Edmonton against Neptune Meters, Limited. At the end of the fiscal year a date for the preliminary hearing had not been set.

SECTIONS 34 AND 35

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

This inquiry commenced in September 1978 as a result of a complaint from a retailer of sewing machines in Hamilton, Ontario, that he had been discriminated against in that dis-

counts, rebates, price concessions, promotional and other allowances were made available to his competitor over and above those made available to him.

Evidence in this matter was referred to the Attorney General of Canada on April 16, 1980. On April 23, 1981, an Information containing one count under paragraph 34(1)(a) and one count under subsection 35(2) was laid at Ottawa against Pfaff Sewing Machine Co. of Canada Limited.

The preliminary hearing in this matter, which was held in Hamilton, commenced on January 18, 1982, and ended on January 21, 1982, at which time the accused company was discharged on both counts.

SECTION 35

(12) *Koss Limited — Stereo Headphones*

This case arose out of an inquiry by the Director into the manufacture, purchase, distribution, sale, storage, transportation and supply of stereo equipment and related products.

During the course of the investigation, the company's records were examined pursuant to section 10 of the Act. Oral evidence was obtained through hearings pursuant to subsection 17(1) before a member of the Restrictive Trade Practices Commission in Toronto, Ontario.

The evidence obtained in the inquiry was referred to the Attorney General of Canada and on June 15, 1981, an Information containing one count under subsection 35(2) of the Act was laid at Vancouver, British Columbia, against Koss Limited. A revised Information was laid in the same court on December 30, 1981, extending the time frame of the allegations from July 1, 1976, to July 1, 1979.

The first appearance took place on July 20, 1981, in Provincial Court in Vancouver and a trial date was set for April 15, 1982. (The trial was held commencing April 15, 1982, and the accused found guilty and sentenced to a fine of \$2,500. The Court also granted an Order of Prohibition).

SECTION 38

(13) *Durex Marketing Corporation — Citizen Band Antennae*

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

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

At the preliminary hearing at the Peel Provincial Court on July 3, 1980, the company was ordered to stand trial on all counts. At the end of the fiscal year, a trial date had not been set.

(14) *Moncton and District Landlords Association*

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

Alan D. Schelew
Irving Schelew
Pine Park Realty Ltd.
Bram Enterprises Ltd.

J.S. Management & Consultants Ltd.
Moncton & District Landlords Association Inc.
Alyre J. Boucher
Keith Richardson
Jamb Enterprises Ltd.
Moncton Family Outfitters Ltd.
A.I. Enterprises Ltd.

During the preliminary hearing, which proceeded intermittently between February 1980 and January 1981, the Court dismissed motions by the accused for the dismissal of charges on the grounds that the Attorney General lacked constitutional authority in the matter and that an abuse of due process had been committed by the Crown. On October 29, 1980, one of the accused, Alyre Boucher, elected to waive the preliminary hearing. Except for Keith Richardson and Pine Park Realty who were not committed for trial, all of the remaining accused were, on January 22, 1981, ordered to stand trial. The trial concluded in late January 1982. On February 15, all of the accused were acquitted. Notice of appeal was filed by the Crown on March 5 on the following grounds:

- (a) The learned trial Judge erred in law in finding that Parliament did not intend to cover a landlord/tenant relationship under paragraph 38(1)(a) of the Combines Investigation Act and also erred in law in finding that the landlord/tenant relationship was not included under the definition of "article" in section 2 of the Combines Investigation Act.
- (b) The learned trial Judge erred in law in finding that there was a principal and agent relationship between the parties in all cases and that the respondents were therefore exempt under subsection 38(2) of the Combines Investigation Act.
- (c) The learned trial Judge erred in law in finding that the respondents must have a means by which to enforce its recommendations whereas the charge against the respondents is one of *attempting* to influence upwards the price at which members of the Moncton and District Landlords Association Inc. and other landlords supplied, or offered to supply, rental accommodations.
- (d) The learned trial Judge erred in law in finding that the agreement must have the effect of limiting price competition whereas this element did not form part of the charge against the respondents.
- (e) The learned trial Judge erred in law in failing to consider the other attempts, by agreement, promise or threat, to influence upwards the price at which other members of the Moncton and District Landlords Association Inc. and other landlords supplied, or offered to supply, rental accommodations.
- (f) That the acquittal of the respondents was against the evidence as presented to the court.

At the end of the fiscal year a date for hearing the appeal had not yet been set.

(15) *Rolph-McNally Limited — Maps and Cartographical Material*

This inquiry was commenced on January 11, 1979, following the receipt of a complaint alleging that Rolph-McNally Limited had refused to supply a retailer because of the latter's low-pricing policy. On November 17, 1980, the evidence in this inquiry was submitted to the Attorney General of Canada. On March 31, 1981, an Information containing one count under paragraph 38(1)(a) and one count under paragraph 38(1)(b) was laid at Toronto. A preliminary hearing was held on December 9, 1981, and Rolph-McNally Limited was ordered to stand trial on both counts. A trial date has been set for August 17, 1982.

(16) *Lois Canada Inc. — Clothing*

This inquiry into the sale and supply of jeans and related products was commenced by the Director in 1979. The evidence obtained in the inquiry pursuant to sections 10 and 17 of the Act was referred to the Attorney General of Canada on March 10, 1981.

On March 1, 1982, an Information containing four counts under section 38 was laid at Montréal against Lois Canada Inc. The preliminary hearing in this matter has been scheduled for June 16-18, 1982, in Montréal.

(17) *Hurtig Publishers Ltd. — Books*

A formal inquiry was commenced in January 1980 following receipt of a complaint that Hurtig Publishers Ltd. had refused to supply the book *Alberta - A Celebration* to a retailer because of his low pricing policy and attempted to discourage a reduction of the price at which the retailer offered the book for sale. The evidence obtained in the inquiry was referred to the Attorney General of Canada on March 31, 1981. An Information was laid on June 25, 1981, at Edmonton against Hurtig Publishers Ltd. alleging a violation of paragraphs 38(1)(a) and 38(1)(b) between October 1979 and January 1980. The preliminary hearing was conducted in Edmonton on February 22 and 23, 1982, and the accused was ordered to stand trial on both counts.

No trial date had been set at the end of the fiscal year.

(18) *Trans Canada Glass Ltd. — Auto Glass*

This inquiry commenced in July 1980 following receipt of complaints that a branch of Trans Canada Glass Ltd. in Prince George, British Columbia, had refused to supply several independent auto glass installers with auto glass because of their low pricing policy, and exerted upward influence on the price at which these independents offered their products to the public. The evidence obtained in the inquiry was referred to the Attorney General of Canada on March 31, 1981. An Information was laid on June 30, 1981, against Trans Canada Glass Ltd. and two senior employees of the company, Arthur Allan Skidmore of Vancouver and Gary Hubbell of Prince George, alleging contravention of paragraph 38(1)(a) of the Act during April 1980. The corporation and Hubbell were named in a further count under paragraph 38(1)(a) alleged to have taken place in June and July of 1981.

Following a preliminary hearing in Prince George on December 8 and 9, 1981, all the accused were committed for trial. Trial is scheduled for the week of September 13, 1982, in the County Court of Caribou at Prince George.

(19) *Autostock Inc. — Automobile Radio Equipment*

This case arose out of an inquiry by the Director into the sale and supply of automobile radio equipment, accessories and related products.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on November 2, 1981. On February 26, 1982, an Information containing two counts under section 38 of the Act was laid at Montréal against Autostock Inc. The date for the preliminary hearing in this matter had not been set at the end of the fiscal year.

(20) *Television Repair Association — Ontario*

This inquiry concerned the supply of television repair services, replacement parts and related products. The inquiry was initiated by the Director in June 1978 as a result of infor-

mation assembled during the course of another inquiry which appeared to disclose an attempt by a television repair industry association to influence prices upward contrary to paragraph 38(1)(a). Documentary evidence obtained from the premises of two of the executives of the Association revealed that the Association had passed a by-law requiring members to abide by the manufacturer's published suggested list price, or fair value of any and all parts.

Subsequently, hearings for the taking of oral evidence were held pursuant to section 17. The evidence obtained revealed that the Association from time to time prepared suggested service prices and that certain members encouraged others to increase prices. There was also conflicting oral evidence given that the purpose of the by-law was to discourage members from charging more rather than less than manufacturers' suggested retail prices for parts in repairing televisions and evidence was given that the by-law had been revised.

In June 1981, the matter was referred to the Attorney General of Canada with a request that consideration be given to proceeding by way of a prohibition order under subsection 30(2). In September 1981, the Department of Justice concluded that the evidence was not sufficient to warrant such action.

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

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

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

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

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

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

Public hearings before the Restrictive Trade Practices Commission commenced on November 25, 1980. Hearings were also held in December 1980, and January, March and April, 1981. Argument was heard on June 8, 1981. On October 30, 1981, the Restrictive Trade Practices Commission rendered its decision in which it found that BBM was engaged in the tied selling of its TV audience measurement service to its radio audience measurement service in Canada as well as the tied selling of its radio audience measurement service to its TV audience measurement service.

On December 19, 1981, the Commission issued the following Order:

“ORDER

UPON reading the Application by the Director of Investigation and Research pursuant to section 31.4(2) of the Combines Investigation Act for an Order prohibiting the Respondent BBM Bureau of Measurement from continuing to engage in the practice of tied selling and containing any other requirement necessary to overcome the effects thereof in the market;

AND UPON reading the Reply by the Respondent;

AND UPON having heard and considered the evidence and the arguments by or on behalf of the above parties;

AND UPON having rendered a decision dated October 30, 1981;

AND UPON finding, *inter alia*, that the Respondent is a major supplier of radio audience measurement service in Canada and because it is engaged in tied selling of television audience measurement service to such radio service this practice is likely to impede entry of a firm into and expansion of A.C. Nielsen Company of Canada Limited in the television audience measurement service market with the result that competition is likely to be lessened substantially;

AND UPON also finding, *inter alia*, that the Respondent as a major supplier of television audience measurement service in Canada, has, by reason of its fee structure and billing system, tied radio audience measurement service to its television audience measurement service, and that in engaging in this practice it is likely to impede entry of a firm into the radio audience measurement service market with the result that competition is likely to be lessened substantially;

AND UPON having heard and considered the arguments by or on behalf of the above parties concerning the nature and terms of the Order applied for;

THIS COMMISSION DOTH ORDER that the Respondent is prohibited from continuing to engage, directly or indirectly, in tied selling of radio audience measurement service and television audience measurement service;

AND THIS COMMISSION DOTH FURTHER ORDER that, without limiting the generality of the foregoing, the Respondent is specifically prohibited

1. from requiring any member/customer to acquire both its radio audience measurement service and television audience measurement service as a condition of supplying either one of the said products,
2. from offering to supply or supplying its radio audience measurement service and its television audience measurement service to any member/customer unless it does so by setting or charging a separate fee for each of the said products,
3. from offering to supply or supplying both its radio audience measurement service and its television audience measurement service to any member/customer at a fee lower than the sum of the separate fees for each of the said products,
4. from offering to supply or supplying its radio audience measurement service to a member/customer on more favourable terms or conditions if that person agrees to acquire the Respondent's television audience measurement service or both its radio audience measurement service and its television audience measurement service,
5. from offering to supply or supplying its television audience measurement service to a member/customer on more favourable terms or conditions if that person agrees to

acquire the Respondent's radio audience measurement service or both its television audience measurement service and its radio audience measurement service,

6. from setting or charging a fee for supplying its radio audience measurement service to any member/customer that is based in whole or in part, upon that person's billings for the purchase or sale of television broadcast time or of both television and radio broadcast time,

7. from setting or charging a fee for supplying its television audience measurement service to any member/customer that is based, in whole or in part, upon that person's billings for the purchase or sale of radio broadcast time or of both radio and television broadcast time,

8. from setting or charging a flat fee (such as a membership fee) which must be paid by any member/customer in order that the said person be able to obtain either the Respondent's radio audience measurement service or its television audience measurement service, unless the Respondent does so by setting or charging a separate flat fee in respect of each of the said products,

9. from setting or charging a flat fee (such as a membership fee) which must be paid by any member/customer in order that the said person be able to obtain both the Respondent's radio audience measurement service and its television audience measurement service that is lower than the sum of the separate flat fees for each of the said products,

10. from engaging in a policy of setting or charging fees, including flat fees (such as membership fees), for the Respondent's radio audience measurement service which are not directed towards recovering the full current costs of the said product determined in accordance with generally accepted accounting principles, including all direct costs, and indirect costs and corporate overhead pro-rated on the basis of direct costs,

11. from engaging in a policy of setting or charging fees, including flat fees (such as membership fees), for the Respondent's television audience measurement service which are not directed towards recovering the full current costs of the said product determined in accordance with generally accepted accounting principles, including all direct costs, and indirect costs and corporate overhead pro-rated on the basis of direct costs.

AND THIS COMMISSION DOETH FURTHER ORDER that this Order shall take effect ninety (90) days after its issuance by this Commission.

DATED AT OTTAWA this 3rd day of December, 1981.

(signed)

O.G. Stoner
Chairman,

L.-A. Couture, Q.C.
Vice-Chairman,

R.S. MacLellan, Q.C.
Commissioner."

On December 31, 1981, BBM made application to the Federal Court of Appeal to have the Order reviewed and set aside.

On January 18, 1982, BBM sought a stay of the Order from the Commission. It was denied on January 28, 1982. Subsequently, BBM brought a motion before the Trial Division of the Federal Court to stay the execution of the Order on March 17, 1982. On April 1, 1982, the presiding judge of the Trial Division ruled that he did not have jurisdiction to stay the Commission's Order.

No date has been set for the hearing of BBM's application to have the Order reviewed and set aside.

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

SECTION 31.2

(1) Tobacco — Southern Ontario

This inquiry arose from an application pursuant to section 7 of the Act made in July 1978 by six Canadian residents for an inquiry into the refusal by a major tobacco manufacturer to continue supplying tobacco products to one of its existing wholesalers.

Preliminary inquiry revealed that the wholesaler apparently did meet the manufacturer's terms of trade. However, the manufacturer explained that the wholesaler did not meet an annual minimum volume requirement established for wholesale customers.

During the course of the inquiry, senior executives of the tobacco manufacturer met with officials of the Bureau to discuss their sales and distribution policy. The manufacturer's representatives indicated that they were ready to supply any business that could meet their terms of trade. The terms of trade are that the prospective customer is a *bona fide* wholesaler who has appropriate handling and storage facilities for tobacco products and has acceptable credit worthiness. On this basis, the wholesaler was reinstated by the manufacturer and is now receiving tobacco products directly from the manufacturer.

On the basis of the foregoing, the Director decided to discontinue the inquiry. This decision was reported to the Minister on November 6, 1981, and, as required, the applicants were informed of the decision.

SECTIONS 31.2, 32, 33 AND 38

(2) Boy's Specialty Clothing

In May 1981 the Director received a formal application, under section 7 of the Act, for an inquiry into the conduct of a non-profit social organization for boys that, among other things, distributed boys specialty clothing. The complainants alleged that this organization refused to continue supplying clothing to the complainants' company and thereby committed an offence contrary to section 32 of the Act and may have committed an offence under section 38.

Information was gathered informally from several of the complainants and from the organization against which the allegations were made.

No information was obtained that suggested there had been a violation of section 32 or 38 of the Act.

The matter was also examined under the provisions of sections 31.2 and 33 of the Act. With respect to section 31.2, it was established that the amount of business lost through the refusal to supply was not significant enough to meet the substantially affected requirement of paragraph 31.2(1)(a). Similarly, with respect to the monopoly provisions of section 33 of the Act, there was no evidence that the organization involved had operated its business to the detriment of the public in the cancellation of its franchise with the complainant's company.

Since no evidence of a violation of the Act was produced nor was there sufficient evidence to warrant an order to supply from the Restrictive Trade Practices Commission, the Director discontinued the inquiry. This decision was reported to the Minister on July 9, 1981, and, as required, the applicants were informed of the decision.

(3) *Computer Animation — Toronto, Ontario*

This inquiry was commenced in January 1980 following receipt of a formal application under section 7 of the Act, for an inquiry into the computer-generated electronic animation industry in Canada. The applicants alleged that an interim injunction issued by a California court in an action taken by an American subsidiary of a Canadian corporation prevented the complainant company from doing business with an American firm located in Denver, Colorado. The American subsidiary was acquired from the Denver firm in 1975. At the time of the sale, the Denver firm agreed that it would not carry on or become engaged in a certain species of business relating to computer-generated electronic animation production. This covenant had a six-year term expiring in 1981 and covered the State of California and Canada.

There are no computer animation production facilities of this type in Canada. Firms in the market carry out the necessary design work and then arrange for the actual production in the United States. Some Canadian customers deal directly with the U.S. producers.

When the complainant company was incorporated in November 1979, it reached an understanding with the Denver firm whereby the latter would make production time available to produce the animation at their facility in Denver. In addition, the Denver firm agreed that it would sell a more advanced computer facility to the complainant company at such time as the equipment was developed and ready for marketing.

Shortly thereafter, the subsidiary company commenced an action in California alleging, among other things, that the complainant company was acting as an agent for the Denver firm in violation of the non-competition covenant. A temporary injunction restraining those firms from dealing was lifted against the Denver firm on application by that firm but the complainant company did not defend itself since it did not recognize the jurisdiction of the California courts. Although the non-competition agreement between the Denver firm and its former subsidiary expired in 1981, the Denver firm is reluctant to sell a production facility to the complainant company because the interim injunction against the complainant company is still outstanding.

During the course of the inquiry, it was argued by counsel for the complainant company that actions taken either by the Canadian firm and its U.S. subsidiary or the Denver firm, to implement the injunction of the California courts, had impeded the entry and expansion of the complainant company in the Canadian market. After full consideration of all the facts, it was concluded that section 31.5 could not provide an appropriate remedy. Whether or not the injunction issued by the California courts constitutes a judgment, decree, order or other process to which section 31.5 would apply, there is no information that it can be implemented in whole or in part by a person in Canada or by measures taken in Canada.

Because it was argued that the actions taken by the Canadian firm and its subsidiary had the effect of excluding the entry or expansion of the complainant company in the Canadian market, the situation was also examined under the provisions of section 33 of the Act.

On the basis of information provided by officers of the complainant company, it was established that the Canadian firm and its U.S. subsidiary did not substantially control the computer animation business in Canada, and it did not appear that they had operated or were likely to operate their business to the detriment or against the interests of the public.

The Director concluded that there was insufficient evidence to justify further inquiry. The inquiry was therefore discontinued and reported to the Minister on February 10, 1982.

SECTION 32

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

In February 1980, an application under section 7 of the Act was received alleging that members of the College of Dental Surgeons had conspired to unduly lessen competition by publishing a fee guide for the use of dental practitioners. (This matter was referred to on page 59 of last year's Annual Report.) The allegation and supporting documentation as well as additional material were examined in detail with respect to the provisions of section 32 (conspiracy) and paragraph 38(1)(a) (upward influence of the price at which another person supplies or offers to supply or advertises a product). Upon considering the involvement of the provincial government in negotiating precedent-setting rates for dental services provided to certain publicly assisted groups, and having regard to the authority delegated to the College to establish fee guidelines under the Dentistry Act of British Columbia, the Director concluded that this matter did not warrant further inquiry. Accordingly, this inquiry was discontinued and reported to the Minister on April 22, 1981.

(5) *Transportation of Valuables — Québec*

In October 1980, the Director received a formal application for an inquiry pursuant to section 7 of the Act concerning the transportation of valuables in the Province of Québec.

The applicants alleged that the directors of two local affiliates of a trade union, one of which represented the employees of a competing firm, had conspired together to eliminate the applicants' company from the market, and to protect the dominant position of the competing firm in such transportation in Québec in violation of sections 32 and 33 of the Act. It was alleged that, to achieve its goals, the competing firm, either on its own account or in concert with the accredited union representing its employees, had exceeded the powers authorized by the provincial statutes on collective agreements and transportation.

Information obtained in the inquiry indicated that the union activities which were the subject of the complaint were within the type of activities exempted under subsection 4(1) of the Act. In addition, examination of the relevant provincial statutes revealed that the activities of the parties in question were legitimate according to the powers provided in those statutes. The Director therefore determined that the matter did not warrant further inquiry. The inquiry was therefore discontinued and reported to the Minister and the complainants on June 3, 1981.

SECTION 34

(6) *Newspapers — British Columbia*

This inquiry was commenced in June 1979 following receipt of a complaint from a newspaper publisher in British Columbia alleging that a chain of competing newspapers was engaging in a policy of selling advertising space in its newspapers at unreasonably low prices with the effect, tendency or design of substantially lessening competition or eliminating a competitor.

The evidence gathered in the inquiry did not support the allegations that a violation of the Act had occurred. The Director therefore discontinued the inquiry and this was reported to the Minister on June 30, 1981.

(7) *Food Products — Québec*

This inquiry was initiated in January 1981, following a formal application to the Director for an inquiry under section 7 of the Act by six Canadian residents, who alleged that a major retailer of food products was engaging in the policy of selling products in an area of Québec at prices lower than those it was charging elsewhere in Canada, having the effect or tendency of substantially lessening competition or eliminating a competitor in that part of Canada.

On the basis of the oral and documentary evidence gathered during this inquiry, it was not possible to establish that the policies of the retailer in question had had the alleged effect.

Enquiries made of some competitors in the region in question revealed that the merchandising policies of the retailer named in the complaint had not significantly affected their sales. For example, the weekly sales volume of one of the competitors during the period in question was approximately 95 per cent of the estimates appearing in a marketing study carried out for this competitor. Furthermore, the special prices which were the subject of the complaint only involved approximately 10 products — whereas supermarkets similar in size to the retailer complained against normally carry 10,000 different items.

On the basis of this information, the Director decided that the inquiry did not warrant further investigation. The matter was therefore discontinued and reported to the Minister on December 8, 1981.

5. Other Matters

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

The background of this inquiry has been reported in the 1978-1981 Annual Reports. In 1978 the Director commenced an inquiry as a result of actions taken by the Law Society of British Columbia to enforce its rulings prohibiting fee advertising. The Law Society commenced an action in the B.C. Supreme Court to prevent the Director from conducting the inquiry and, in a related action, North Vancouver lawyer Donald Jabour commenced a civil action under section 31.1 of the Act against the Society.

On August 20, 1980, the Court of Appeal of British Columbia reversed the trial decisions and found that the Society's virtual prohibition on advertising was authorized by provincial law and that the Combines Investigation Act did not apply to the Society. Earlier, the Court of Appeal had upheld a decision of the trial court dismissing an application by the Attorney General of Canada to dismiss the Law Society's action on the grounds that only the Federal Court of Canada had jurisdiction to hear it by virtue of sections 17 and 18 of the Federal Court Act.

In May 1981, the Supreme Court of Canada heard an appeal from the decisions of the Court of Appeal in the Law Society and Jabour cases with respect to the issues of the jurisdiction of the Court, whether or not the Combines Investigation Act applies to the Society, and if so whether or not it is *ultra vires*, and, in the Jabour action, whether or not the Society's action against Jabour violates his right to freedom of speech. At the end of the fiscal year, judgment had not been rendered.

(2) *Inquiry in progress — Notarial Services — Québec*

The existence of this inquiry into the supply of notarial services in the Province of Québec was brought to public attention following an application by the *Chambre des Notaires du Québec* under section 18 of the Federal Court Act for the cancellation of a certificate issued by the Restrictive Trade Practices Commission authorizing the exercise of the Director's powers under section 10 of the Act. This application was heard in the Federal Court — Trial Division on April 5, 1982, at Montréal.

The inquiry was commenced in April 1981, following the receipt of information to the effect that certain notaries had concluded an agreement for a schedule of fees for transactions involving real estate. The information obtained indicated that the *Chambre des Notaires du Québec* was involved in the preparation and distribution on a province-wide basis of a fee schedule for real estate transactions. The Director therefore used his formal powers under section 10 of the Act to search the premises in January 1981.

The inquiry was still in progress at the end of the fiscal year.

(3) *Wallpaper Manufacturers and Distributors*

During the period under review, information came to the Director's attention concerning the pricing practices of major wallpaper manufacturers and distributors in Canada. Preliminary investigation did not disclose any evidence of deliberate attempts on the part of such manufacturers and distributors to influence upward the price at which wallpaper retailers offered the product for sale, contrary to paragraph 38(1)(a) of the Act.

The investigation did reveal however that it had become common practice in the industry to print a suggested retail price for the products in published sample wallpaper books without including a disclaimer pursuant to subsection 38(3) of the Act. As a result the Director brought the provision to the attention of 17 major wallpaper manufacturers and distributors seeking their voluntary compliance with it.

At the end of the fiscal year, all of the firms had voluntarily corrected the omission by issuing or undertaking to issue very shortly an amended price list containing an acceptable disclaimer.

(4) *Waste Disposal — Toronto*

In July 1981, the Director received an application under section 7 of the Act from two Toronto locals of the Canadian Union of Public Employees concerning the present and future operation of solid waste landfill sites in the greater Toronto region. This application was made known to the press by the persons concerned. At the end of the fiscal year, the inquiry was continuing.

(5) *Merger Register*

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

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

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

Since the Foreign Investment Review Act came into force in April 1974, the information respecting "foreign" acquisitions in the merger register now includes acquisitions which have been allowed under the Foreign Investment Review Act. Information respecting applications for acquisition of Canadian business enterprises by foreign persons ("non-eligible persons" in terms of FIRA) is brought to the attention of the Director for the purpose of obtaining advice with respect to the competition policy implications of proposed acquisitions. However, as is the case with respect to the Compliance Program, such information would not of itself be used to initiate an inquiry or in any subsequent proceedings under the Combines Investigation Act.

Although the register does reflect a fairly comprehensive coverage of published sources of information, attempts to verify its accuracy have shown that there is need of more adequate

continuing sources of information about mergers. At this time, therefore, the merger register should not be regarded as more than an initial review of public information.

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

Year	Foreign*	Domestic**	Total
1960	93	110	203
1961	86	152	238
1962	79	106	185
1963	41	88	129
1964	80	124	204
1965	78	157	235
1966	80	123	203
1967	85	143	228
1968	163	239	402
1969	168	336	504
1970	162	265	427
1971	143	245	388
1972	127	302	429
1973	100	252	352
1974	78	218	296
1975	109	155	264
1976	124	189	313
1977	192	203	395
1978	271	178	449
1979	307	204	511
1980	234	180	414
1981***	200	291	491

* Acquisitions involving a foreign-owned or foreign- controlled acquiring company (the nationality of the controlling interest in the acquired company prior to the merger could have been foreign or Canadian).

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

*** Preliminary.

CHAPTER VI

REGULATED SECTOR BRANCH

1. Activities

The Regulated Sector Branch is mainly concerned with the behaviour and performance of regulated industries in the telecommunications, broadcasting and transport areas. It also has prepared studies on the effects of tariffs and quotas on competition in Canada.

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

Section 27.1 reads as follows:

"27.1(1) The Director, at the request of any federal board, commission or other tribunal or upon his own initiative, may, and upon direction from the Minister shall, make representations to and call evidence before any such board, commission or other tribunal in respect of the maintenance of competition, whenever such representations or evidence are or is relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other tribunal is entitled to take into consideration in determining such matter.

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

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

These interventions have dealt with such varied items as the CNCP Telecommunications application for access to the Bell Canada system for telecommunications traffic, Telesat's proposed agreement with the Trans Canada Telephone System, a number of cases dealing with both mobile telephone and radio paging services, the proposed acquisition of Nordair by Air Canada, the matter of unfixing brokerage fees in the securities industry, the licensing of producers in the pay television industry and the implications of proposed changes to domestic air transport policy.

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

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

SECTION 32

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

As noted in the Annual Reports for 1980 and 1981, the evidence gathered in this inquiry was referred to the Attorney General of Canada and on November 5, 1979, an Information was laid under section 32 of the Act against 20 trucking companies and 11 individuals for allegedly conspiring to lessen competition in the western trucking market for less-than-truck-load services.

An item in Chapter II of last year's Annual Report describes the constitutional issue which challenges the competence of the Attorney General of Canada to authorize proceedings pursuant to subsection 15(2) of the Combines Investigation Act and paragraph 2(a) of the Criminal Code. Essentially this issue originally took the form of a motion, presented by counsels for Canadian Pacific Transport Company Limited and Canadian National Transportation Limited, to prohibit the Alberta courts from hearing the evidence in this case because proceedings were not being carried out by the Attorney General of Alberta.

The motion was heard by both the Alberta Provincial Court and the Alberta Court of Queen's Bench and on both occasions the issue was resolved in favour of the Attorney General of Canada. An appeal was lodged and argued before the Alberta Court of Appeal in the Fall of 1981. On February 17, 1982, in a unanimous decision the Court of Appeal reversed the decisions of the lower courts, allowed the appeal and granted an order for prohibition as sought.

Subsequently, the Attorney General of Canada applied for and was granted leave to appeal the issue to the Supreme Court of Canada. It is expected that the matter will finally be resolved in September 1982.

(2) *Transportation of Used Household Goods*

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

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

Allied Van Lines Limited
United Van Lines (Canada) Ltd.
North American Van Lines Canada Ltd.
Aero Mayflower Transit Co. Ltd.
Atlas Van Lines (Canada) Ltd.
Canadian Warehousing Association
Canadian Household Goods Carriers' Tariff Bureau Association.

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

The preliminary hearing in this matter commenced on December 7, 1981, and concluded on January 29, 1982, at which time the accused were ordered to stand trial.

It is anticipated that a trial date will be set for either late 1982 or early 1983.

3. Director's Representations to Regulatory Boards

(1) *Bell Rate Application, 1978*

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

The Director is still monitoring two components of this Application: (i) direct sale and lease or purchase of equipment and (ii) new tariff filings for other line charges.

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

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

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

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

- (a) whether the settlement procedures employed by the TCTS member companies are fair and reasonable and in the best interests of subscribers and the public;
- (b) whether the rates charged on a cross-Canada basis for each of the TCTS services, including those of Telesat Canada, are just and reasonable;
- (c) whether the terms or restrictions upon which services or facilities are offered by the TCTS members, including Telesat Canada, are reasonable and do not confer an unjust advantage on any person or company;
- (d) whether the relative treatment by TCTS of competitive and non-competitive services is just and reasonable;
- (e) whether the TCTS construction program is reasonable and whether the information generated and employed in the planning of TCTS facilities and services is appropriate and sufficient;
- (f) whether TCTS, including Telesat Canada, is sufficiently responsive to the demand for the transmission of programming and other information services at a reasonable cost; and
- (g) what the information requirements of the regulatory agency should be in regard to future TCTS rate cases.

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

On January 11, 1980, the Director filed with the CRTC a letter indicating his intention to intervene in these proceedings pursuant to section 27.1 of the Combines Investigation Act. In his letter of intervention the Director referred to the seven issues cited by the CRTC in their public notice and indicated that his intervention would be directed towards assisting the

CRTC in assessing the competitive implications relating to TCTS rates to be dealt with at the public hearings.

The hearings commenced on April 8, 1980 and concluded on May 9, 1980. The Director's concern in this matter related to Telesat Canada's proposed tariff which contained certain restrictions on service that the Director viewed as contrary to section 321 of the Railway Act. The Director's final argument was submitted on June 20, 1980, and dealt with the refusal by Telesat Canada to lease less than a whole satellite channel, the refusal to provide service directly to end users, the refusal to permit resale of its services, and the refusal to permit earth station ownership by subscribers. In addition, the Director expressed concerns with the reasonableness of Telesat's proposed bulk rate discounts and the reasonableness of including, as a regulatory expense, income taxes which were not in fact paid.

The CRTC issued its decision in this matter in Telecom Decision 81-13, which was released on July 7, 1981. With respect to the TCTS revenue settlements for long distance communications, the Commission ordered B.C. Tel and Bell Canada to seek renegotiation of the revenue settlement procedures (RSP) with other members of TCTS so as to eliminate the inequity caused by the inclusion of revenues from intra company and adjacent member traffic in the RSP. Bell and B.C. Tel were to report back to the CRTC within six months.

With regard to the service offerings of Telesat Canada, the CRTC ruled that Telesat Canada could not offer bulk rate discounts for full period satellite channels because to do so would be unduly discriminatory. In addition, the CRTC made two specific rulings respecting the limitations derived from the TCTS/Telesat Connecting Agreement. In particular, the Commission ruled that an earlier Cabinet approval of the Connecting Agreement was not sufficient justification to allow the limitation on Telesat's customer base to recognized Telecommunications Carriers and to allow the limitations of Telesat's space service to exclusively full channel leasing. The CRTC ruled that these limitations conferred undue advantages upon large carriers in general and upon TCTS members in particular, contrary to section 321 of the Railway Act. Telesat Canada was consequently ordered to remove the restrictions on its customer base and to refile tariffs specifying a partial channel leasing service.

On July 23, 1981, members of TCTS petitioned the Governor in Council to vary or rescind Telecom Decision 81-13. In particular, the members of TCTS requested that the Governor in Council vary or rescind the requirement that Telesat refile its general tariff so as to provide for direct sale of its services to end users and the requirement that Bell and B.C. Tel renegotiate the RSP with other TCTS members.

Since Telesat had been ordered to refile tariffs by August 6, 1981, the petition, as an interim measure, requested that the Decision be varied by extending the time for the implementation of the filing of tariffs.

On July 29, 1981, the Governor in Council, by Order in Council 1981-2151, varied Decision 81-13 by extending the date by which Telesat Canada was required to file these new tariffs to November 30, 1981. The order was amended on November 26, 1981, to allow Telesat Canada to file its tariffs by December 31, 1981.

On December 8, 1981, the Governor in Council decided to further vary Telecom Decision 81-13 in the following manner:

- (a) restricting Telesat Canada's base to approved common carriers and broadcasting undertakings including broadcasting networks. The CRTC had directed Telesat's customer base to be without limitations. Previously only the approved common carriers were part of the customer base;
- (b) requiring Telesat Canada to file tariffs for the lease of partial satellite channels to approved common carriers only. The CRTC had directed Telesat to file a similar tariff for all users;

- (c) requiring Bell Canada and B.C. Tel by February 15, 1982, to file standard items in their General Tariffs for private line services provided by partial satellite channels and rate schedules which were insensitive to distance and the number of locations served. This would have been unnecessary under Decision 81-13 as customers would have obtained the partial channels directly from Telesat; and
- (d) directing Telesat Canada to file with the CRTC by January 15, 1982, a revised tariff allowing whole satellite channels to be leased by broadcasting undertakings and partial channels to be leased by the approved common carriers.

The Director intends to make submissions on the revised tariffs that will be filed with the Commission and sent to interested parties for comments.

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

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

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

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

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

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

On February 15, 1980, the Director submitted his comments concerning the issues and procedures relating to the main hearing. The Director noted that there were a number of issues relating to the technical protection of the network, the extent to which Bell Canada should be entitled to sell the equipment, the effect of terminal connection on subscribers and

the question of whether the hearings should involve other telecommunication carriers in Canada. The Director also submitted that, rather than attempt to forecast the economic effect of the application, the parties should consider developing procedures that would enable any actual economic harm to be demonstrated and would allow for the development of mechanisms for relief. The Director also submitted that the effect of terminal interconnection on Canadian manufacturers is presently under consideration by the Restrictive Trade Practices Commission and that the CRTC might therefore wish to delay considering this issue until the Restrictive Trade Practices Commission Report was available.

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

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

Bell Canada, supported by the governments of the Provinces of Ontario and Québec, appealed this decision to the Cabinet, which declined to vary the decision.

The Commission issued Public Notice CRTC 1981-8 on March 10, 1981, outlining the procedures and issues involved in the full hearing into the terminal attachment question. In addition, the CRTC added CNCP Telecommunications, NorthwTel Inc., Terra Nova Telecommunications Inc. and the Ontario Hospital Association et al as applicants. The Director indicated his desire to participate fully in the public hearing to the CRTC on April 15, 1981.

The applicants' evidence in this matter was filed on June 5, 1981. The Director addressed interrogatories to all applicants except the Ontario Hospital Association et al (OHA et al) on July 17, 1981.

On October 6 and 7, 1981, the CRTC held a pre-hearing conference to review procedures for the main hearing and to settle issues of confidentiality and inadequacy of replies to interrogatories. On November 2, 1981, the Commission issued Telecom Decision 81-21 requiring Bell Canada and B.C. Tel to furnish some of the information for which they had claimed confidentiality and to provide further replies to some of the other interrogatories that the intervenors felt had not been properly answered.

The main hearing on the terminal attachment issue began on November 17, 1981, and was completed on December 11, 1981. The Director cross-examined witnesses for all applicants except OHA et al and most of the witnesses called by other intervenors. In addition, the Director called as expert witnesses two noted U.S. authorities on this issue — Charles A. Zielinski, a former Chairman of the New York State Public Service Commission and Edwin B. Spievack an attorney with extensive experience in telephone regulation matters in the U.S.

The Director submitted Final Argument on January 18, 1982, and Reply Argument on February 1, 1982. The Director's arguments supported the concept of terminal attachment and suggested its scope be extended to cover the primary telephone instrument and inside wiring. The Director also submitted that carriers be required to carry on competitive equipment

sales through arm's length separate subsidiaries to ensure that they do not subsidize competitive services with monopoly revenues to the detriment of subscribers and competitors alike.

As of March 31, 1982, the CRTC had not issued its decision in this matter.

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

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

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

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

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

The CRTC held public hearings in Vancouver from June 12 to June 15, 1979. The Director and several other intervenors, including the Consumers' Association of Canada (British Columbia Advocacy) (CAC), participated in the hearings. The Director called evidence in support of his view that the acquisitions could result in foreclosure of the B.C. Tel equipment market to competitive suppliers, which could, in turn, lead to higher than necessary equipment costs for B.C. Tel. The Director argued that the application should be denied or, if approved, B.C. Tel should be required to institute competitive bidding procedures.

In its decision of September 18, 1979, (Telecom Decision CRTC 79-17), the CRTC concluded that the evidence relating to whether the application was in the public interest was equally balanced. The CRTC approved the applications, but established certain safeguards. The CRTC stated that it was not persuaded by the evidence that B.C. Tel's purchasing practices had been or would be harmful to B.C. Tel subscribers or competitive suppliers, but that, at the same time, it considered that B.C. Tel should give effect to the purchasing principles stated in B.C. Tel's final argument. The CRTC ordered B.C. Tel to file within two months of the decision, with a copy to intervenors, the specific procedures it intended to introduce.

Following the decision, the CAC applied to the Federal Court of Appeal for a review of the decision pursuant to section 28 of the Federal Court Act and for leave to appeal the decision pursuant to subsection 64(2) of the National Transportation Act. The Director filed notices of intent to participate in the two applications. In January 1980 the Federal Court of Appeal granted leave to appeal and directed the CAC to seek an order joining the appeal and the section-28 application. On December 23, 1980, the Federal Court of Appeal dismissed the appeal. The CAC subsequently appealed this decision to the Supreme Court of Canada. However, the latter Court dismissed the appeal in June 1981 on the grounds that it could not see any issue of public interest in the change of ownership.

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

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

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

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

The hearing process in this matter resumed on March 11, 1980. Written final arguments were submitted on July 24, 1980.

During the course of the proceedings, Air Page Communications filed on May 7, 1980, an Application requesting the Board to regulate its activities as a public utility and to approve rates for that purpose. The Director did not intervene in this matter and a separate hearing with all previous evidence forming a part of the record was heard on June 11, 1980.

On May 11, 1981, the Board rendered a Decision specifically on the Air Page Communications' Application. In its Decision the Board considered in detail both the evidence of the Director and the specific concern of the Director, namely, whether Maritime Tel should be required to supply outpulsing services to licensed Radio Common Carriers. In its Decision, the Board ordered Maritime Tel to provide outpulsing services to Air Page Communications by September 30, 1981.

On May 21, 1981, Maritime Tel applied to the Supreme Court of Nova Scotia, Appeal Division, for leave to appeal the May 11 Decision of the Board. Due to the above mentioned circumstances, the Director was not on the court record as a party to the Air Page Communications Application. Consequently, the Director was required to apply for leave to intervene in the appeal. On May 26, 1981, the Court granted leave to appeal to Maritime Tel and heard argument on the Director's application. On June 18, 1981, the Court dismissed the Director's application.

On February 15, 1982, the appeal was heard without the Director's participation. A judgment is expected sometime in early spring.

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

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

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

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

Subsequently, the Board ordered that hearings in the matter would resume on November 8, 1979. Additional written argument was filed on behalf of the Director on November 15, 1979. New Brunswick Telephone Company filed argument on November 23, 1979, and reply argument was submitted by November 27, 1979. Unfortunately, during the Board's deliberations on this matter, the Chairman of the Board died and a decision in this matter was consequently delayed. The Board subsequently informed the Director on June 18, 1980, that because of circumstances beyond its control it was unable to render a judgment on the complaint of unjust discrimination.

On November 19, 1981, Instant Communications Limited, an intervenor, requested in a letter to the Board that it rehear the matter in light of the Board's difficulty in rendering a decision in the first hearing. The Board did not act upon this request and subsequently, Instant Communications on November 30, 1981, applied to the Court of Queen's Bench of New Brunswick for an Order of Mandamus to direct the Public Utilities Board to rehear this matter. The application was heard on December 20, 1981, with the Director participating in support of the application by way of affidavit.

The Court released its judgment on January 5, 1982 directing that an Order of Mandamus be issued requiring the Board of Commissioners of Public Utilities to hear and determine the matter of a complaint of discrimination against the New Brunswick Telephone Company in respect of the Company's refusal to provide outpulsing services to Instant Communications and other radio common carriers. The Court ordered that the hearings on this matter be concluded by February 28, 1981. Subsequently, an extension was granted until May 31, 1982.

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

On June 12, 1979, Garden of the Gulf Motel of Summerside, Prince Edward Island, brought an application before the Public Utilities Commission of Prince Edward Island seeking the connection of the applicant's crossbar PABX, manufactured by OKI Electronics of

America Inc., to the Island Telephone Company Limited's facilities. On August 3, 1979, the Director sought intervenor status to appear before the Commission in this matter.

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

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

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

On August 11, 1980, the proprietor of the Garden of the Gulf Motel filed an appeal in this matter before the Prince Edward Island Supreme Court. This appeal was heard by the Court on February 16, 1981, and a judgment was released on June 17, 1981. In its judgment, the Court allowed the appeal and modified the decision of the Public Utilities Commission so that the application of Garden of the Gulf Motel to connect its privately-owned terminal equipment would be stayed pending the preparation by Island Telephone, and approval by the Commission, of suitable regulations governing the connection of customer-provided or owned terminal equipment. Prior to approving such regulations, the Commission was required to hold a public hearing so that all interested parties could express their views on such regulations. This hearing was required to commence not later than January 31, 1982.

On December 31, 1981, Island Telephone Company Limited filed an application with the Commission proposing amendments to the Company's General Tariff to provide for connection of customer-provided terminal equipment to the telephone network. The Commission, in the midst of internal changes, requested and received approval of the court to change the commencement date of the public hearing to April 30, 1982.

(8) *Domestic Advance Booking Charters, 1981*

The Director has continued to monitor a number of follow-up matters originating from the Air Transport Committee Decision #5369 on Domestic Advance Booking Charters and the Order in Council varying this decision. The Air Transport Committee Decision permitted Air Canada and C.P. Air each to offer a maximum of 25 inter-regional return flight Domestic Advance Booking Charters between points on their respective licences and Regional Carriers were permitted to operate Domestic Advance Booking Charters within their respective operating territories. The Order in Council removed the ceiling of 25 inter-regional Domestic Advance Booking Charter return flights and permitted Regional Carriers to fly Domestic Advance Booking Charters anywhere in Canada for a trial period of three years, after which time the matter is to be reviewed.

In one matter, relating to air travel offered under Domestic Advance Booking Charter Regulations, the Director filed his submission following the Air Transport Committee's invitation to comment on a discussion paper dealing with this matter. The proposed simplified rules (Class 10) were to replace existing regulations on domestic charter services. To promote administrative convenience and to enhance competition, several existing regulations were to be eliminated. However, proposed new entrants in the domestic charter market would be required to prove public convenience and necessity. In addition, the current Domestic Advance Booking Charter requirements for a passenger to purchase round-trip transportation and to observe a minimum stay at the destination until after the first Sunday from departure would be retained. The Director stressed competitive parity and noted that further innovations in the

low-priced air fare market are most likely to be achieved through the operation of a market system in which entry is free and governed to the maximum possible extent by competitive forces. As of March 31, 1982, the matter has not been concluded.

(9) Bell Canada, 1980 General Increase in Rates

Initially, the Director had not registered as an intervenor in the central hearing on Bell Canada's 1980 rate application. However, on May 8, 1980, the CRTC issued a public notice indicating that it would hear submissions from Bell Canada on the appropriateness of price comparison principles it had enunciated in Telecom Decision 78-7 of August 10, 1978, during the 1978 general rate hearing. Consequently, the Director served notice of his intention to participate in the rate hearing primarily with respect to the discussion on price comparison tests (for a more detailed review of the Director's involvement with the price comparison tests, see item (10) — Bell Canada, Northern Telecom Price Comparison).

The CRTC issued its decision on the general rate application in Telecom Decision 80-14 dated August 12, 1980. Its recommendation with respect to price comparison tests was that a thorough investigation of the tests by itself and interested parties was required.

Subsequent to Telecom Decision 80-14, the CRTC implemented follow-up procedures pertaining to several issues on which the Commission required further submissions. In respect of these procedures the Director identified a number of items of interest that he wished to monitor. These issues related to: (a) regulatory treatment of future ventures of the nature of the Saudi Arabian Telephone Project; (b) review of rates for residence PBX trunks; (c) tariffs for 800 series PBX; (d) two-tier vintage pricing proposal; (e) report on procedures and costs associated with determining remaining book value investment; (f) report on Tier "A" vintaged rates; (g) report on off peak long distance rate structure; (h) interexchange voice grade channels and Telepak channels — unbundling of local access component; (i) Ontario Hospital Association proposal regarding a rate structure for hospital PBX trunks; and (j) Public Notice on Northern Telecom price comparison.

(10) Bell Canada, Northern Telecom Price Comparison

The price comparison tests are designed to ensure that Northern Telecom is fulfilling its part of the supply contract with Bell Canada whereby Northern undertakes to sell to Bell at prices no higher than it sells to other Canadian customers. Bell Canada has been regularly filing the price comparisons for many years with the CRTC and previously with the Canadian Transport Commission.

In recent years, price comparisons, or the Touche Ross Audit as they are sometimes described, have received a good deal of attention from the CRTC. On March 18, 1977, during the course of the 1977 Bell Rate application, the Commission put the following statement on the public record:

"The Commission wishes to canvass a more central question, namely to what kind of a test and what kinds of information should it require Bell to collect in the future in order to evaluate the reasonableness of Northern's prices to Bell."

In light of this concern expressed by the CRTC, the Director requested the opportunity to make an appearance before the Commission to present his views on the subject of the price comparison tests.

The CRTC consented to an appearance by the Director and the Director's statement was read into the CRTC record on April 6, 1977. The Director's statement referred to his involvement in the Restrictive Trade Practices Commission inquiry regarding telecommunications equipment markets and the relationship between Bell Canada and Northern Telecom. With respect to the Touche Ross Audit, the Director emphasized that even if Northern Telecom's prices to Bell were lower than or equal to the prices charged to other telephone companies, as

required by the Bell supply contract, it was still possible that both prices might be high relative to competitive prices. The Director also submitted that the Touche Ross Audit was limited to prices charged in Canada and did not take into account prices charged by Northern to non-Canadian purchasers or prices charged by Northern's U.S. subsidiary in the U.S. market.

The Director further submitted that independent telephone companies in Canada purchase a smaller portion of their equipment requirements from Northern than does Bell, and that accordingly, it must be assumed that non-Northern equipment was available on attractive terms and that the independent telephone companies chose to take advantage of this, whereas Bell was precluded from doing so by reason of the vertical integration between Bell and Northern.

The Director then outlined four serious deficiencies in the traditional type of price comparison tests and concluded by stating that the best test of the reasonableness of prices paid by Bell for its equipment would be a market test. This would involve the best price which Bell could obtain from a number of competitive suppliers actively bidding for Bell's requirements.

In the Commission's Decision in the 1977 Rate Application, Telecom Decision CRTC 77-7, June 1, 1977, the Commission stated that it was prepared to accept the price comparison figures submitted by Bell Canada "for the purpose of the present case."

The issue of the adequacy of the price comparison test arose again in the 1978 Bell Canada Rate Application. In that proceeding, the Director presented the evidence of Dr. Robert E. Babe, Associate Professor of Communications at Simon Fraser University in British Columbia.

Bell Canada called as witnesses with respect to the price comparison audits, Mr. Henthorn of Bell Canada and Mr. Wight of Touche Ross. Cross-examination of these witnesses revealed that Northern Telecom sales to U.S. customers are not covered by the Bell-Northern supply contract and thus were not within the purview of the Touche Ross Audit.

The Director stated in his final argument that price comparisons were invalid and urged the Commission to implement adequate mechanisms to ensure that in future Bell Canada would pay the lowest possible price for telecommunications equipment.

The Commission's Decision in the 1978 Rate Case, Telecom Decision CRTC 78-7 of August 10, 1978, addressed the submissions of the various parties with respect to the price comparison tests. The Commission concluded at pages 71 and 72 of its Decision:

"The evidence adduced on this matter does not persuade the Commission that the terms of reference of the Touche Ross & Co. audit are sufficient to ensure that Bell Canada's subscribers interests are fully protected....

At the same time, the Commission can see no reason why the corporate integration within Bell Canada should not benefit its telephone subscribers to the extent of respecting the principles that,

- (i) the prices paid by Bell Canada for any and all NTL-manufactured equipment should, in all cases be as low as or lower than the prices paid by any other customer (including NTI) for like equipment; and
- (ii) the prices paid by Bell Canada in Canada for any and all NTI-manufactured equipment should be, in all cases, as low as or lower than the prices paid by any other customer in Canada (including NTL) for like equipment.

What is therefore required, in the Commission's view, is a realistic comparison for regulatory purposes of the prices paid by Bell Canada with those paid by other customers for like equipment manufactured by NTL and NTI. The Commission will accordingly retain

an independent accounting firm to develop such a price comparison and to report on whether the above-mentioned principles are being satisfied for 1978. The report will include, where appropriate, full details of the method used to compare the equipment involved."

The Commission also stated at page 74 of the Decision that:

"... the Commission will require in future rate cases that the Company furnish adequate price and other information, in respect to the major equipment purchases from NTL, as to comparable equipment available from alternative Canadian suppliers."

Accordingly, the Commission recognized in Telecom Decision 78-7 two of the fundamental weaknesses of the price comparison tests. Firstly, the Commission recognized that adequate price comparison tests should consider the price of equipment available from suppliers competing with Northern. Secondly, the Commission recognized that adequate price comparison tests should consider the price of Northern Telecom equipment to U.S. purchasers.

As indicated, the Commission's Decision in the 1978 Rate Case stated that it would retain an independent accounting firm to develop an appropriate price comparison methodology. However, the Commission did not retain an independent consultant and on October 16, 1979, in Telecom Decision 79-19, the Commission varied Telecom Decision 78-7 by directing Bell Canada to file a proposed methodology for price comparison tests embodying the principles set out in Decision 78-7. Bell Canada eventually submitted the proposed methodology, under protest, on March 31, 1980.

Bell Canada's submission of March 31, 1980, and several of its earlier letters and submissions to the CRTC expressed dissatisfaction with the principles enunciated in Telecom Decision 78-7. Accordingly, the Commission issued CRTC Telecom Public Notice 1980-23 on May 8, 1980, to the effect that it deemed Bell's submissions to be an application for a review of Telecom Decision 78-7 pursuant to section 63 of the National Transportation Act. The Director intervened in the rate hearing on this issue. During the hearings on the 1980 Bell Rate Application the Commission heard evidence by interested parties as to whether it should review the principles set out in Telecom Decision 78-7. The Commission's Decision in the 1980 Rate Case, Telecom Decision CRTC 80-14, August 12, 1980, held that the Commission should review the principles enunciated by the Commission in its earlier Decision regarding price comparison tests, Telecom Decision 78-7.

The Commission issued Telecom Public Notice 81-18 on May 6, 1981, in which it indicated that it intended to proceed with the review contemplated in Telecom Decision 80-14 and invited submissions from interested parties to be filed with the Commission by September 1, 1981.

The Director filed a detailed and comprehensive submission in response to Public Notice 81-18 on September 1, 1981. The Director indicated that his position has consistently been that the price comparison tests, as advanced by Bell Canada, are meaningless. The Director pointed out that the present price comparison tests compare the price paid by Bell Canada to Northern in relation to the prices paid by other Canadian customers to Northern but do not include the following:

1. An evaluation of the prices that Bell could obtain for similar products in the marketplace from Canadian suppliers.
2. An evaluation of the prices that could be obtained for similar products purchased from foreign suppliers.
3. An evaluation of whether prices charged by Northern Telecom Ltd. to customers elsewhere, especially in the United States, are lower than those charged to Bell Canada.
4. An evaluation of whether the prices charged by Northern Telecom in the United States to its customers are lower than those charged to Bell Canada.

The Director submitted that the price comparison studies do not reflect the true marketplace and are a poor alternative for procurement of goods and services on a competitive bidding basis. In conclusion, the Director suggested that in some respects, the existing price comparison tests are worse than no tests at all as they present the Commission with a false sense of confidence.

The Director urged the CRTC to order Bell Canada to engage in competitive bidding to procure equipment on a basis similar to that adopted by the British Columbia Telephone Company as a result of Telecom Decision 78-17 of December 18, 1979. The Director attached to his Submission his proposed procurement procedures for two major classes of equipment-standard products and complex or new products.

The CRTC's decision on this matter is awaited.

(11) *Bell Canada, General Rate Increase, 1981*

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

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

The central hearing on this matter commenced on May 26, 1981, and concluded on July 7, 1981. The Director in his oral argument concentrated on the issues of the effect of liberalized terminal attachment on Bell's revenues and rate requirements and the relative increases sought by Bell for monopoly and competitive services. The Director argued that Bell had not produced conclusive evidence that the introduction of terminal attachment as a result of the CRTC's interim decision 80-13 had adversely affected Bell's revenues as claimed by Bell in support of its rate increase. The Director also argued that Bell's rates were anticompetitive in that little or no increases were sought for competitive offerings.

In Telecom Decision 81-15 of September 28, 1981, the CRTC granted Bell some of its requested rate increases and also directed Bell to increase its rates for competitive offerings so that monopoly subscribers would not bear the brunt of the rate hikes. The CRTC declined to comment in any detail on Bell's submission that terminal attachment had eroded its revenues, except to say that the evidence was not conclusive in any direction.

Once again, the CRTC established follow-up procedures resulting from Telecom Decision 81-15. The Director identified two specific areas of interest: (a) report on whether revenue from Bell's sale of in place equipment exceeds the cost of that equipment; and (b) development of reporting requirements associated with regulatory treatment of investment in subsidiaries and associated companies.

(12) *Pay Television*

The Canadian Radio-television and Telecommunications Commission, in Public Notice CRTC 1981-35 dated April 21, 1981, requested applications for licences to carry on broadcasting undertakings to provide pay television services in Canada. The Commission received over 50 applications and following a preliminary screening reduced the list to 28 applications which included 11 national, 16 regional, and one local application. Additional information was requested of applicants in Public Notice CRTC 1981-62 dated September 8, 1981.

Hearings were conducted by the Commission from September 28, 1981, to October 14, 1981.

The Director intervened in the proceedings pursuant to section 27.1 of the Act providing a written submission and subsequently appearing before the Commission.

The Director's submission addressed three areas of concern: (a) the establishment of a competitive environment for pay television in Canada; (b) vertical integration in program production and distribution, and exhibition and distribution; and (c) cross media ownership.

Concerning the first issue, the Director argued that competition in program content or in the region served should increase the percentage of Canadian programming or investment in Canadian program production as the granting of licences was predicated on the development of new Canadian programs. The Director submitted that entry should be as open as possible and encouraged the Commission not to attempt to prejudge the acceptance of particular programming by subscribers, by limiting the number of distributors, unless the distributors seemed unlikely to meet the requirement to develop new Canadian program productions and other related considerations set out in the Public Notice. The Director supported the position taken by the Commission in Public Notice 1981-35 that "monopoly control of a Canadian pay television system is not desirable."

Respecting vertical integration in programming production and distribution, the Director expressed the concern that independently produced programming could be foreclosed from the Canadian pay television market. The Director worried over the monitoring ability of the Commission respecting the arm's length relationships proposed in a number of the applications. The Director submitted that the Commission consider requiring divestiture of pay television systems from ownership associated with program production.

Regarding cross-media ownership, the Director submitted that firms with vested interests in other media might not pursue as aggressively the development of pay television that would be in competition with their newspaper and broadcast concerns. It was recommended that the Commission licence so as to avoid such potential restraints.

On March 18, 1981, the Commission awarded six pay television licences in Decision CRTC 82-240. The licencees included one national general interest licence, one national special interest licence, three regional licences serving Alberta, Ontario and the Maritimes, and one regional multilingual licence serving the Province of British Columbia.

The Decision indicated that the services would be delivered by satellite and ordered that each licencee must be operating in at least one market by April 1983.

The pay television decision was accompanied by Public Notice 82-22 requesting applications for regional distributor licences to provide a French language pay service in Québec and Atlantic Canada and for an English language licence to serve British Columbia and the Yukon. As a result of the jurisdictional dispute between the provinces and the federal government concerning control of cable delivered pay television, it is possible that the Commission will not receive any applications pursuant to this request. However, in the event that the Commission does receive applications and conducts hearings, it is anticipated that the Director will be a party to the proceedings.

The next task facing the Commission respecting pay television concerns the licensing of exhibitors. The Commission had not issued a public notice at the end of the fiscal year but it is anticipated prior to the end of the summer and the Director will be a party to such proceedings.

(13) *Alberta Government Telephones — Terminal Attachment*

Alberta Government Telephones (AGT) filed an application with the Public Utilities Board of Alberta (the Board) on February 16, 1981, which would have the effect of permitting customers to own and maintain terminal telephone equipment such as primary and extension telephones, PBX's, Key systems and inside wiring. This application was subsequently revised on July 24, 1981, during the course of the hearing but the revision did not materially affect the contents of the application.

The Board convened a prehearing conference on May 11, 1981, at which time one of the intervenors, the Canadian Petroleum Association (CPA), submitted by way of an interlocutory motion, an application to the Board for *interim* approval of AGT's Application.

At a public hearing on June 4, 1981, respecting this motion, the Board heard legal and jurisdictional arguments on whether it should or could hear the merits of the Interim Application. In Decision No. E 81118 dated July 7, 1981, the Board decided to hear the Interim Application and did so on July 21, 1981. Following argument, the Board reserved its decision and, on August 25, 1981, it denied the Interim Application in Decision No. E 81164.

Concerning AGT's Application, evidence was filed by AGT on May 25, 1981. The Director submitted detailed interrogatories to AGT on June 12, 1981. Cross-examination of AGT's witnesses took place from July 13 to July 24, 1981.

Intervenors submitted evidence for the second phase of the hearings on August 13, 1981. The Director submitted evidence prepared by Charles A. Zielinski, former Chairman of the New York State Public Service Commission, that provided the Board with the experience of the New York Commission relating to terminal attachment.

Cross-examination of intervenor's witnesses commenced on October 13, 1981, and continued until October 16, 1981. The Director submitted written argument on October 26, 1981, and reply argument on November 3, 1981. These arguments supported the main thrust of AGT's application but proposed the following changes to the Application that the Director felt were necessary to allay concerns relating to competition issues and discrimination against present subscribers:

- (a) that AGT be required to sell in-place single line equipment and to apply the proceeds from such sales to reduce the embedded investment currently remaining undepreciated in the company's rate base;
- (b) that AGT be required to sell such equipment at a price equal to at least the net book value of the equipment in question, unless the company can satisfy the Board that the fair market value of such equipment is below value;
- (c) that AGT be required to develop, for approval by the Board following full public comment, a contribution test that would clearly and precisely identify and separate costs and revenues for each major non-basic service offering;
- (d) that AGT be required to file reports on a regular basis with the Board showing whether or not AGT's revenues from the sale of in-place multi-line business equipment exceed the costs;
- (e) that AGT be required to comply with five conditions for fair competition set forth in the Director's argument;
- (f) that AGT be required to adopt TAPAC standards for the attachment of terminal equipment and that the Board perform the function of final arbiter in any disputes over compliance with such standards; and
- (g) that AGT be required to provide for the certification of terminal equipment (data) for attachment to the AGT network.

The Board issued Decision No. 81235 on December 22, 1981, in which it denied the Application. The major reason was that single line residential subscribers would no longer have the option of *renting* telephone sets from AGT. The Board would have been willing to approve the application with respect to business multi-line customers, but it did not do so because of AGT's insistence that it did not want partial approval.

In a dissenting opinion, one of the members would have approved the Application but with an additional qualifying option for individual line customer who could continue to rent "if they remained at the same location and status as a customer of AGT."

On March 26, 1982, AGT submitted to the Board an Application for Review and Variance of Decision E 81235.

(14) *House of Commons Sub-Committee on Import Policy*

This Sub-Committee was established by the Standing Committee of Finance, Trade and Economic Affairs to consider public representations regarding *Proposals on Import Policy — A Discussion Paper Proposing Changes to Canadian Import Legislation* transmitted by the Department of Finance under date of July 1980. This Discussion Paper comprehended proposals for change grouped under the headings of (I) Anti-dumping and Countervailing Duties Legislation, (II) Safeguard Actions Against Injurious Imports, and (III) Responses to Foreign Government Acts, Policies or Practices. Additional issues of a substantive nature arose during the course of the Sub-Committee's deliberations, the most prominent of which included the need for (a) increased transparency of anti-dumping and countervail actions, (b) improved monitoring and prompter reactions in the case of products imported for capital goods projects, and (c) greater accommodation of competition policy and consumer interests by the official body or bodies designated to administer the revised import legislation.

On April 7, 1981, the Director made a representation to the Sub-Committee which drew attention to the potential for increased "protectionism" in some of the proposals for change. On October 21, 1981, the Director made a second submission that endorsed and expanded upon the comments regarding the potential for protectionism in the earlier representation by considering additional issues and presenting empirical evidence on Canada's need to maintain as open an economy as practical in order to obtain the full benefits of competition. The cornerstone of this second submission was the recommendation that the terms of reference of the official body or bodies designated to administer the revised import legislation be expanded to permit taking account of domestic competition implications in decisions.

On November 9, 1981, the Director appeared at a hearing of the Sub-Committee to discuss the issues raised in the two written submissions. At a second appearance on February 11, 1982, at the Sub-Committee's request, the Director's representatives focused on the importance of taking competition implications more fully into account in reaching decisions on import policy issues. The Sub-Committee was in the process of formulating its recommendations as of March 31, 1982.

(15) *Tariff Board Reference 157 — Tariff Items Covering Goods Made/Not Made in Canada, Phase I*

Under this Reference the Tariff Board was instructed by the Minister of State (Finance) to examine the possibilities of replacing "made/not made in Canada" tariff designations by a form or forms of tariff classification that are more precise. This Reference involves 112 tariff classifications split up into roughly equivalent groups to constitute Phases I and II of this exercise. The significance of the imports involved can be discerned from a comment by the Board's staff to the effect that "in the years of 1978-80, goods with an average value of rather more than \$2.52 billion per annum entered under the 'not made in Canada' tariff provisions."

An appraisal issued by the Board's staff prior to finalization of the decision on the Phase I group of products suggested undue concern over the revenue lost as a result of such provisions and a proclivity to regard tariffs as the norm while disregarding competition policy and consumer interest implications. On February 10, 1982, the Director made a representation to the Board in which he expressed his reservations about the protectionist attitude conveyed by the Board's staff and, on February 15, 1981, the Director's representative discussed these concerns at a public hearing held by the Board.

(16) *Ontario Securities Commission Hearings on Competitive Rates*

On October 5, 1981, the Ontario Securities Commission commenced hearings "In the matter of the Securities Act, 1978, S.O. 1978, c. 47, as amended" and "In the matter of Part XV of the by-laws of the Toronto Stock Exchange."

On September 11, 1981, the Director filed a formal written submission with his comments on this matter. The Director was represented by counsel and a professional witness at the formal hearings held in November 1981. In both the written and oral submissions, the Director attempted to look at the comparative merits of fixed and flexible brokerage rate systems. He noted that his analysis led him to believe that a switch to a system of negotiated or flexible brokerage rates would increase efficiency in the brokerage industry and also in capital markets. In addition, he noted that individuals and institutions would be treated equitably in a flexible brokerage rate system. Further, he stated that an analysis of the effects of the change of the rate structure in the United States would lead one to conclude that a new system is working very well in that country and, given that one cannot directly match U.S. experience in the Canadian context, he was confident that there was enough similarity in the market milieu in the two countries to allow him to predict that similar results could be expected in Canada.

The Director made his final written submission in this matter on March 12, 1982. In the submission, he assessed the submissions of other interested parties and reiterated the position stated above.

A final decision in this matter is expected in the summer of 1982.

(17) *Draft General Rules of the Canadian Transport Commission*

On June 1, 1981, the Canadian Transport Commission indicated its intention to hold a public meeting in July 1981 to hear interested parties who wished to make representations concerning a proposed revision of the General Rules of the Canadian Transport Commission.

The Director reviewed the proposals and filed his comments with the Secretary of the Commission suggesting that Rule 105 of the Draft General Rules of the C.T.C. be amended so as to permit the Director to comment to the Commission on proposed acquisitions such as those contemplated by section 27 of the National Transportation Act. An amendment of this kind would provide a practical means for the Director to effectively exercise his mandate to promote competition with respect to such acquisitions.

Representatives for the Director participated at the public hearing and stressed the above arguments. At the end of the fiscal year the matter had not been concluded.

(18) *Domestic Air Carrier Policy, 1981*

On August 14, 1981, Transport Canada released a document entitled "Proposed Domestic Air Carrier Policy (Unit Toll Services), August 1981" defining the future roles of Canada's national, regional and local air carriers.

The House of Commons Standing Committee on Transport held public hearings in this matter in Ottawa between January and March 1982 and heard several witnesses. The Director

appeared before the Committee on February 2, 1982. In his testimony he expressed the view that the stated objective and specific policy proposals of Transport Canada are far too restrictive of competition. He stated that reliance on the marketplace could best serve the public interest in this industry, and a market-oriented approach with free entry as a cornerstone would afford carriers entrepreneurial freedom in responding to the needs of the travelling public while also improving the performance and efficiency of the industry.

The Director filed a further written argument in March 1982, expanding and clarifying his arguments.

(19) *Ontario Telephone Service Commission (O.T.S.C.)*

The Ontario Telephone Service Commission, the regulatory body responsible for independent telephone systems in the Province of Ontario, issued a Public Notice on November 18, 1981, requesting submissions from all interested parties respecting the issues related to customer provided terminal attachment to telephone systems in Ontario.

The Director responded with a submission dated December 29, 1981. Submissions were received from seven interested parties.

The Commission, in a letter dated February 11, 1982, provided all parties of record with the list of issues to be examined at a public hearing commencing June 23, 1982, and invited parties of record and others to submit further material by April 30, 1982.

The Director intends to submit the evidence of an expert witness, Charles A. Zielinski, the former Chairman of the New York State Public Service Commission, who will subsequently appear before the O.T.S.C.

(20) *CRTC Telecom Cost Inquiry — Phase III — Costing of Existing Services*

On December 15, 1981, the CRTC issued Telecom Public Notice 1981-41 announcing its intention to hold a public hearing as part of the third phase of the Telecommunications Cost Inquiry (Cost Inquiry).

The Cost Inquiry was initiated by the Canadian Transport Commission in January 1972 and continued by the CRTC in April 1976 when it assumed jurisdiction over federally-regulated telecommunications carriers.

In Telecom Decision 78-1 issued January 13, 1978, the CRTC outlined a proposed six-phase proceeding into the carriers' costing and accounting procedures. Phase I, which culminated in Decision 78-1, dealt with the principles and approaches relating to depreciation and accounting changes, accounting procedures, treatment of deferred taxes and rate base calculation to be followed for regulatory purposes by the carriers under the Commission's jurisdiction.

Phase II, which resulted in Telecom Decision 79-16 of August 28, 1979, considered the type of information the CRTC would require from carriers under its jurisdiction at the time of tariff filings for new services.

The Director did not participate in either of the first two phases of the Cost Inquiry.

Phase III of the Cost Inquiry is concerned with the development of methods of determining costs for the different categories of existing carrier services. Bell Canada, British Columbia Telephone Company, CNCP Telecommunications, NorthwTel Inc., Terra Nova Telecommunications Inc. and Telesat Canada are the federally-regulated telecommunications carriers involved in this proceeding.

Initially the CRTC had proposed that both carriers and intervenors file direct evidence by February 26, 1982, and that the hearings with respect to all evidence would commence on May 18, 1982. However, a number of intervenors, including the Director, wrote to the CRTC expressing the concern that the proposed timetable did not allow adequate time for intervenors

to review the large amount of complex documentation and to retain expert witnesses who could place before the Commission meaningful alternative costing methodologies.

In Telecom Public Notice 1982-4 dated January 22, 1982, the CRTC amended its procedures for Phase III in order to provide more preparation time for all parties. The result of the amendments was to put into effect a two-staged hearing with carriers filing evidence on March 19, 1982, and interested parties or intervenors filing evidence on July 16, 1982. Hearings with respect to carriers' evidence will commence on June 1, 1982, while hearings with respect to intervenors' evidence will commence on September 14, 1982.

On January 5, 1982, the Director filed with the Commission his notice of intent to participate in the Phase III Costing Inquiry hearings. The Director's principal concern is to ensure that the costing methodologies and other regulatory tools adopted by the Commission will prevent telecommunication carriers from cross-subsidizing competitive services with revenues from their monopoly operations to the detriment of monopoly subscribers and competitors alike. The Director intends to participate fully in this important hearing through interrogatories and cross-examination and to present expert evidence to assist the Commission in reaching a conclusion which will have a profound effect on numerous aspects of regulation and competition in the Canadian telecommunications industry.

(21) *Régie des services publics du Québec (Régie)*

In early 1981 the Minister of Communications of the Province of Québec requested the Régie des services publics du Québec to undertake a study respecting the economic and technical consequences of interconnection in the Québec telecommunications market. The Régie was directed to conclude its study in September 1981 by presenting its conclusions and recommendations to the Minister. The Régie is the regulatory agency responsible for telephone companies operating in the Province of Québec, other than Bell Canada which comes under the authority of the Canadian Radio-television and Telecommunications Commission.

In response to a public notice issued by the Régie which described the nature of its study to include both system interconnection and terminal attachment, the Director filed a written submission dated April 9, 1981. In his submission the Director reviewed the United States' and Canadian experience, discussed some of the typical arguments opposing interconnection, and recommended a scheme of liberalized interconnection. On May 14, 1981, the Director appeared before the Régie during the public hearings phase of its proceedings and answered questions from the panel on his submission.

On September 30, 1981, the Régie presented its report to the Québec Minister of Communications who, in mid-October 1981, released the report to the public. In brief, the Régie accepted the Director's and other intervenors' submissions for liberalized terminal attachment, however, with the primary instrument remaining the responsibility of the telephone company. Interconnection between competing networks (system interconnection) was not recommended, although interconnection to the public telephone network by mobile radio telephones and radio-paging devices was supported.

As of March 31, 1982, the Government of Québec had not acted on the Régie's report.

(22) *Newfoundland Telephone Company Limited — Mobile Radio and Paging Services*

In February 1981, TAS Communications Systems Limited (TAS) of St. John's, Newfoundland, initiated an action in the Supreme Court of Newfoundland seeking an injunction with damages and a declaration against Newfoundland Telephone Company Limited (Nfld Tel) that Nfld Tel was offering as part of a special facilities tariff, item 370.7, certain competitive services (radio paging and two-way mobile radio) without the approval of the Newfoundland and Labrador Board of Commissioners of Public Utilities as required by section 67 of the Public Utilities Act. TAS claimed in its application to the Court that Nfld Tel's actions were detrimental to its business. It was further claimed by TAS that the Board itself had refused to require Nfld Tel to file their rates for these services. On May 5, 1981, the Supreme

Court of Newfoundland, Trial Division, issued a judgment denying a Nfld Tel Motion for dismissal of the TAS application.

Subsequent to this ruling, the Director became aware of the issue and brought an application before the Supreme Court of Newfoundland to have the Director included as a party in the TAS action. On July 2, 1981, the Court rendered a judgment stating that this was not an action in which the court could accept the Director as an *amicus curiae* nor one in which the Director could be added as a plaintiff or party.

In June 1981, TAS was granted an interlocutory injunction which prevented Nfld Tel from soliciting new customers for radio mobile services until a judgment had been rendered on the declaratory motion. On November 24, 1981, the Court of Appeal of the Supreme Court of Newfoundland overturned this injunction on application by Nfld Tel and provided the following reason:

"I agree with the learned Chamber's Judge's statement that the status quo should be maintained, but for the reasons outlined above, I am of the opinion that the status quo cannot be that of permitting the appellant to continue the services already contracted while prohibiting it from soliciting new business. The status quo can only be that which existed at the time of issuance of the writ."

In October 1981, Nfld Tel filed a general rate increase application before the Board which the Director believed would be the proper forum to raise the issue of the competitive concerns regarding the adequacy of tariff item 370.7, the same contentious issue in the TAS court action. At a pre-hearing conference on October 28, 1981, the Director appeared and requested intervenor status. This motion was challenged by Nfld Tel but the Board granted intervenor status and ruled that all of the issues to be addressed by the Director were relevant to the proceedings. TAS also appeared as an intervenor.

The main hearing commenced on December 9, 1981, and the Board, referring to the Court of Appeal Decision cited above, made a ruling that they would not hear evidence or argument on the adequacy of tariff item 370.7 and would await the decision of the courts on this issue. Although this ruling restricted the Director's prepared case, he participated in cross-examination and delivered an oral argument. The two major issues raised in the Director's intervention were that:

- (i) the evidence disclosed that there was cross-subsidization of a very real and substantial nature from the telephone company's regulated assets into the 370.7 services, and
- (ii) the Board's present testing methods for cross-subsidization and compensatory rates were inadequate to ensure fair competition in a changing telecommunications market structure.

On January 22, 1982, the Board released its decision in this matter. In addressing the issues raised by the Director, the Board concluded that their present accounting tests and the telephone company costing methodologies were appropriate. However, they did suggest that further examination of the issues would be contemplated pending conclusion of the proposed CRTC Cost Inquiry.

On February 8, 1982, TAS filed a petition of appeal in the Supreme Court of Newfoundland, Court of Appeal. Specifically, the grounds to the petition were:

- (a) That the Board of Commissioners of Public Utilities had erred in law in refusing to hold a hearing to investigate, consider and determine whether the investment by Newfoundland Telephone Company Limited of part of its capital or part of its earnings in that portion of its operations referred to by the Board of Commissioners of Public Utilities in Order No. P.U./ (1982) as the "NewTel Systems Division" had impaired or could impair the ability of Newfoundland Telephone Company Limited to render reasonably safe and adequate public utility services as required by law;

- (b) That the Board of Commissioners of Public Utilities erred in law in refusing to hold a hearing to investigate, consider and determine properly and fully whether a portion of the earnings or the return on equity generated by the regulated or monopoly operations of Newfoundland Telephone Company Limited were or are being used to support or to subsidize the operations of the NewTel Systems Division of Newfoundland Telephone Company Limited, contrary to law;
- (c) That the Board of Commissioners of Public Utilities has declined jurisdiction and erred in law by refusing to require Newfoundland Telephone Company Limited to file individual rates for services supplied under Tariff Item 370.7; and
- (d) That Order No. P.U./ (1982) is contrary to law.

On February 17, 1982, counsel for the Director entered an appearance before the Appeal Court as party to the appeal petition. On March 31, 1982, argument on leave to appeal was heard with the Director supporting the petition to appeal. The Appeal Court granted leave to appeal subject to arrangements being made by TAS to postpone the lower court trial scheduled for May 12, 1982. TAS is now attempting to make these arrangements and an appeal trial date is not expected until the fall.

4. Other Matters

(1) *Telecommunication Equipment Inquiry — Section 47 Inquiry*

This inquiry was referred to at page 52 of the Annual Report of the Director for the year ended March 31, 1973, and is covered in greater detail in Chapter II of this report.

This section 47 general inquiry arose out of a previous inquiry under section 33 of the Act which did not reveal a contravention of any section under Part V of the Act. The earlier inquiry did, however, disclose the existence of conditions or practices relating to a monopolistic situation such as to warrant inquiry under section 47 of the Act.

On December 20, 1976, a statement of material was submitted by the Director to the Restrictive Trade Practices Commission (RTPC) pursuant to section 47 of the Combines Investigation Act. The statement of material or "Green Book" is entitled *The Effects of Vertical Integration on the Telecommunications Equipment Industry in Canada*. The Director concluded in the statement of material that the existing vertical integration between Bell and Northern Electric appeared to be contrary to the public interest and indeed ultimately against the interest of both Bell Canada and Northern Electric (now Northern Telecom).

The RTPC's hearings on this matter convened in Ottawa on June 15, 1977, and continued on an intermittent basis until May 8, 1981. Over that period of time the RTPC held 228 days of hearings in major cities across Canada involving 218 witnesses and just over 2,000 exhibits. The first part of the hearings involved witnesses appearing on behalf of the Director — manufacturers, distributors, small telephone companies, users, and industry experts from Canada and the United States. In addition, many firms and individuals appeared before the RTPC to present evidence on their own behalf. On January 15, 1980, the RTPC began hearing evidence from witnesses called on behalf of Bell Canada and Northern Telecom. The major parties involved in the hearings aside from the Director, Bell and Northern were the British Columbia Telephone Company, the Provinces of Ontario and Québec and Canada Wire and Cable Limited.

The RTPC decided to divide its report into two parts in order to be as timely as possible. The first part of the report dealt with the matter of interconnection — the connection of terminals to telecommunications networks and the interconnection of telecommunications networks. The second part will cover central office and transmission equipment and the issue of

vertical integration — the relationship between Bell Canada, Northern Telecom Limited and Bell-Northern Research Ltd. as well as the relationship between British Columbia Telephone Company (B.C. Tel), GTE Automatic Electric (Canada) Ltd., GTE Lenkurt Electric (Canada) Ltd. and AEL Microtel Limited.

In the matter of interconnection, the Director filed his final argument before the RTPC on September 22, 1980. Bell Canada, Northern Telecom and B.C. Tel submitted their final arguments on September 25, 1980, September 26, 1980, and October 1980 respectively. Reply arguments dated October 16, 1980, November 3, 1980, and November 21, 1980, were submitted to the RTPC by the Director, Bell Canada and Northern Telecom respectively. In response to the Bell and Northern reply arguments and B.C. Tel's final argument, the Director filed three further reply arguments all on January 12, 1981.

On September 10, 1981, the RTPC issued its report on interconnection entitled *Telecommunications in Canada - Phase I, Interconnection*. The RTPC's report thoroughly reviewed the current state of the Canadian telecommunications industry and networks and the various issues pertinent to the question of relaxed interconnection. The report concluded that terminal attachment was in the public interest and made a number of recommendations designed to ensure that the advantages occurring to subscribers and manufacturers alike from terminal attachment would be fostered. (Further information on the report's recommendations can be found in Chapter II.)

Witnesses on the issue of vertical integration continued to appear until May 8, 1981. On July 17, 1981, the Director, Bell Canada, Northern Telecom, Canada Wire and Cable Limited and the Government of Ontario submitted final arguments on the issue of the effects of vertical integration on the telecommunications equipment industry in Canada. Arguments were later received from B.C. Tel and the Government of Québec.

Oral reply argument took place during the period November 2, 1981, to November 10, 1981, and all of the above parties, excluding B.C. Tel, were heard. The parties now await the RTPC's report on this complex and far-reaching issue.

(2) *Program of Compliance*

The Director of Investigation and Research provided written advisory opinion to an Association that had requested review of its activities under the Director's Program of Compliance. The Director had informal discussions with executives of the Association. The compliance opinion related to the Association's rate making activities.

CHAPTER VII

MARKETING PRACTICES BRANCH

1. Activities

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

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

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

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

2. Proceedings

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

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

The following table shows operations under the present misleading advertising and deceptive marketing practices provisions and begins with 1977-78. Operations before that time are to be found in previous reports.

OPERATIONS UNDER MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS

Part I - Inquiries and Investigations

	1977-78	1978-79	1979-80	1980-81	1981-82
(i) Total complaints received	9022	9227	10251	9382	9782
(ii) Number of files opened	8078	8091	9431	8373	8557
(iii) Number of complete investigations	2113	2135	2234	2147	2319
(iv) Referrals to Attorney General under section 15:					
—section 36(1)(a)	100	113	8293	71	
(1)(b)	3	6	4	18	10
(1)(c)	1	—	2	—	1
(1)(d)	14	16	11	11	26
36.1	—	2	—	—	1
36.2	2	2	1	4	—
36.3	1	—	1	—	—
36.4	—	2	—	—	—
37	3	6	1	12	1
37.1	11	23	26	28	30
37.2	4	4	1	1	2
(v) Formal application for inquiries	3	—	—	—	—
(vi) Cases formally discontinued	15	9	3	6	2
(vii) Cases referred to Attorney General and closed on his recommendation:					
—section 36(1)(a)	1	10	12	2	10
(1)(b)	—	1	—	—	1
(1)(c)	—	—	—	—	—
(1)(d)	1	—	—	—	—
37.1	—	—	—	—	2

Part II - Prosecutions

	1977-78	1978-79	1979-80	1980-81	1981-82
(i) Number of cases before the courts at beginning of year (not including appeals):					
—section 36(1)(a)	33	51	50	59	49
(1)(b)	2	3	7	5	11
(1)(c)	—	1	—	1	1
(1)(d)	3	7	8	4	6
36.1	—	—	2	1	—
36.2	1	—	1	—	2
36.3	—	—	—	—	—
36.4	1	—	—	—	—
37	1	1	4	1	2
37.1	3	6	11	10	14
37.2	—	3	—	1	—
(ii) Cases under appeal at beginning of year:					
—section 36(1)(a)	2	6**	8**	12**	9
(1)(b)	—	—	—	2	—
(1)(c)	—	—	—	—	—
(1)(d)	—	2	1	1	2
36.1	—	—	—	—	—
36.2	—	—	—	1	1
36.3	—	—	—	—	1
36.4	—	—	—	1	—
37	—	—	1	—	1
37.1	—	—	1	—	2
37.2	—	—	—	—	1
(iii) Proceedings commenced during year:					
—section 36(1)(a)	86	94	89	78+	95
(1)(b)	2	5	4	13+	14
(1)(c)	1	—	1	1	—
(1)(d)	14	17	8	11+	25

	1977-78	1978-79	1979-80	1980-81	1981-82
36.1	—	2	—	—	—
36.2	2	2	—	—	—
36.3	—	1	1	3	—
36.4	—	1	—	1	—
37	3	5	1	—	—
37.1	11	18	29	3	8
37.2	4	4	3	24	31
(iv) Completed cases convictions:				2	3
—section 36(1)(a)	52	74	54	72+	52
(1)(b)	—	1	2	7	13
(1)(c)	—	1	—	—	—
(1)(d)	6	13	8	6	18
36.1	—	—	—	1	—
36.2	3	1	1	1	1
36.3	—	1	—	—	—
36.4	1	—	—	—	—
37	2	—	3	—	—
37.1	5	11	30	15	4
37.2	1	7	2	1	3
non-convictions*					
—section 36(1)(a)	12**	19	22	19+	19
(1)(b)	1	—	2	2	2
(1)(c)	—	—	—	1	—
(1)(d)	2	4	4	2	3
36.1	—	—	1	—	—
36.2	—	—	—	1	—
36.3	—	—	—	—	—
36.4	—	1	—	1	—
37	1	1	2	1	—
37.1	3	1	1	3	1
37.2	—	—	—	1	2
(v) Cases under appeal at end of year:					
section 36(1)(a)	6**	8**	12**	9	10
(1)(b)	—	—	2	—	—
(1)(c)	—	—	—	—	—
(1)(d)	2	1	1	2	1
36.1	—	—	—	—	—
36.2	—	—	1	1	—
36.3	—	—	—	1	1
36.4	—	—	1	—	—
37	—	1	—	1	1
37.1	—	1	—	2	1
37.2	—	—	—	1	1
(vi) Cases before the courts at end of year (not including appeals):					
—section 36(1)(a)	51	50	59	49+	72
(1)(b)	3	7	5	11+	10
(1)(c)	1	—	1	1	1
(1)(d)	7	8	4	6+	11
36.1	—	2	1	—	—
36.2	—	1	—	2	2
36.3	—	—	—	—	—
36.4	—	—	—	—	—
37	1	4	1	2	5
37.1	6	11	10	14	40
37.2	3	—	1	—	—

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

** Revised-completed case 1977-78 was incorrectly listed as under appeal.

+ Preliminary figures for 1980-81 revised.

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

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

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

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

The case was heard before Mahoney, J. of the Federal Court on January 27 and 28, 1981. On February 11, 1981, the Information was dismissed. The Crown has filed a Notice of Appeal. At the end of the fiscal year the appeal had not been heard. (For statistical purposes this case is recorded under section 36.3.)

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

SECTIONS 36 TO 37.2

(1) *Quonset Buildings*

Two complaints were received following the newspaper advertising by a manufacturer of quonset buildings during the period of October 1979 to August 1980. One complaint related to an advertisement offering a \$1,000 cash rebate with the purchase of a building. The complainant alleged that the price of the buildings had been increased to offset the cost of the rebate program. The second complaint related to an advertisement offering free concrete, a \$1,000 discount coupon and a 10 per cent discount on the installation of a building. The complainant in this instance alleged that in order to receive the advertised extras a purchaser was required to pay a higher price than was advertised. A search undertaken in February 1981 pursuant to section 10 of the Act disclosed evidence that an offence may have been committed with respect to the first advertisement, but failed to disclose evidence that would support a prosecution with respect to the second advertisement. Furthermore, information was received to the effect that the company under inquiry was in the process of being sold to another company whose officers were not sufficiently responsible for the advertisements to warrant continuing the inquiry. In view of the foregoing, the inquiry was discontinued and reported to the Minister on July 2, 1981.

(2) *Apartment Rentals*

A complaint was received in March 1981, relating to the advertising by a property management firm of apartments for rent, which advertisements contained the representation: "Lowest rates in town." The complainant, a competitor, alleged that the rental rates offered by the property management firm were not the lowest as represented. Following an initial market area survey by the Branch, a search pursuant to section 10 of the Act was undertaken in August 1981. The search did not disclose sufficient evidence to support a prosecution under the Act. The inquiry was therefore discontinued and reported to the Minister on March 30, 1982.

4. Other Matters

(1) *Program of Compliance*

The staff of the Branch provided 205 written advisory opinions to firms that had requested review of proposed promotional material under the Director's Program of Compliance. A majority of compliance opinions relate to proposed promotional contests. In addition, a large number of informal discussions (approximately 650) were held with individual businessmen who wished clarification of the possible application of the misleading advertising and deceptive marketing practices provisions of the Act.

(2) *Misleading Advertising Bulletin*

During the year the Branch's quarterly publication, the *Misleading Advertising Bulletin*, contained summaries of concluded prosecutions that resulted in convictions under the misleading advertising and deceptive marketing practices provisions of the Act; and statements of the Director's position in relation to various issues. The issues covered in the Bulletins published during the fiscal year related to the application and scope of paragraph 36(1)(b), the adequate and proper test provision; image advertising; the use of the Director's formal powers in Marketing Practices cases; and the Director's Program of Compliance. Copies of recent issues of the *Misleading Advertising Bulletin* are available from the Communications Service of the Department.

(3) *Enquiries, Other Complaints and Media Contacts*

In addition to the services provided under the Program of Compliance, the Branch undertakes other non-enforcement activities that are designed to achieve a wide dissemination of Branch policies and general information on the misleading advertising and deceptive marketing practices provisions. During the year, the Branch responded to 11,592 enquiries for information from the public and from the business community; individual staff members responded to 211 requests for interviews and information from the media including television, radio, newspapers and magazines; and 177 educational seminars were given before various business-interest and academic groups. As well, the Branch received 1,225 non-related complaints that were subsequently referred to the proper authorities.

CHAPTER VIII

RESEARCH AND INTERNATIONAL RELATIONS BRANCH

A. *Research*

1. **Legislation and Objectives**

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

This section reads as follows:

“47.(1) The Director

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

and for the purposes of this Act, any such inquiry shall be deemed to be an inquiry under section 8.

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

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

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

2. **Studies Distributed**

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

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

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

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

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

(3) *Performance Under Regulation: The Canadian Intercity Bus Industry*

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

3. Studies Completed

Studies completed and approved for distribution but not available as of March 31, 1982, are listed below. Four of these studies incorporate the Bureau's contributions to the inter-departmental research program undertaken to examine the interface between regulation and competition in the air and trucking modes of commercial transport.

(1) *The Role of Marketing in the Concentration and Multinational Control of Manufacturing Industries*

This study examines the relative contribution of factors such as marketing, R & D, tariffs and economies of scale in explaining multinational control of various sectors of Canadian industry. The study's results have implications for industrial, commercial, and research and development policies in this country. The study was prepared under external contract and funded jointly by the Departments of Consumer and Corporate Affairs, Industry, Trade and Commerce and Supply and Services. This study is expected to be released early in the spring of 1982.

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

This study compares the operations and performance of Canadian airlines for the 1975-1978 period (prior to U.S. deregulation) with those of major U.S. intrastate carriers (in California, Florida and Texas) and selected U.S. interstate airlines. Evidence presented in the study indicates that performance differences between federally regulated airlines in Canada and in the U.S. on the one hand, and U.S. intrastate carriers on the other, were attributable to differences in regulatory environments. The study is expected to become available to the public in 1982.

(3) *Trucking Industry: Analysis of Performance*

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

The study finds that there are significant differences in the performance of regulated and unregulated carriers in Canada and concludes that substantial room exists for improvement in the overall performance of the motor carrier industry. The study is expected to be released in 1982.

(4) *Rate and Costs Analysis of For-Hire Trucking: Provincial Comparisons*

This study compares the revenues and costs of unregulated general freight motor carrier operations in Alberta to regulated operations in the provinces of Ontario and Québec. The study shows that there are significant economies of scale in motor carrier operations and that substantial cost and rate differences exist among carriers in the three provinces, with Alberta carriers exhibiting consistently superior rate and cost characteristics. The Alberta carriers' superior performance remains after adjustment for important characteristics such as capacity utilization and traffic mix. Consideration of relevant factors affecting costs and rates suggests that differences among carriers in the several provinces are likely attributable to effects of regulation. The study is expected to be released in 1982.

(5) *Private Trucking: Analysis and Implications*

This study examines the size and rate of growth of private trucking activity in Canada and compares the level of private trucking activity in regulated and unregulated provinces. Recent research on the topic indicates that private trucking is the dominant transport mode in Canada and that private trucking activity appears to have increased sharply since 1970. Both quantitative and qualitative evidence suggests that the growth in private trucking is, at least in part, a function of the gap between for-hire rates and private costs, the gap itself being attributable to the effects of for-hire regulation. The study is expected to be released in 1982.

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

This paper examines the competition policy implications of the broad industrial strategy directions which recently have occupied part of the policy stage in Canada. It argues that there is both a need and an opportunity to co-ordinate various industrial strategy recommendations with competition policy, to ensure consistency and harmony in these two policy areas.

4. Studies in Progress

At the end of the period under review, there were eight studies under way. A new departmental research publication will describe the progress of these studies.

5. Submission to Public Hearings

During the period under review, submissions prepared in the Branch were presented by the Director of Investigation and Research to the Standing Committee on Transport containing assessments of existing and proposed domestic air policies from a competition policy perspective, as well as an independent proposal for the selective deregulation of domestic air carriers.

In connection with the upcoming expiry of the Shipping Conferences Exemption Act and related public hearings conducted by the Water Transport Committee of the Canadian Transport Commission, two research studies have been undertaken. The first involves a sample survey of shippers designed to indicate the extent to which the operating problems they encounter relate to the exemption of liner conferences from Canadian competition policy. The second study analyzes selected aspects of conference activity and the implications of prospective changes in the legislation of other countries and international conduct codes.

B. *International Relations*

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

Co-operation with the competition policy enforcement agencies of other countries, i.e. notifications, exchanges of information and consultations continued during the year, within the context of bilateral and multilateral arrangements.

Participation in the work of the OECD Committee of Experts on Restrictive Business Practices of the OECD continued during the year.

The Intergovernmental Group of Experts on Restrictive Business Practices, established by the UNCTAD Trade and Development Board in March 1981 to perform the functions designated in a Set of Rules for the Control of Restrictive Business Practices, held its first session in Geneva from November 2 to 11, 1981. (The report is published as UNCTAD document TD/B/884-TD/B/RBP/8). D.H. Tucker of the Bureau was elected spokesman for the "Group B" member countries.

The resolution expressed concern at the persistent resort to the use of restrictive business practices by enterprises, including transnational corporations, in international trade transactions, called upon countries to control such practices, and refrain from legislation and administrative measures that do not take into account the objectives of the Set of Principles and Rules, and further called upon countries, particularly developed countries, to consider in their control of restrictive business practices, the development, financial and trade needs of developing countries.

In its resolution, the Group of Experts also requested the Secretary-General of UNCTAD to prepare the following studies in the field of restrictive business practices:

- (a) collusive tendering;
- (b) tied-purchasing practices; and
- (c) the effects on international trade transactions of restrictive business practices in the services sector by consulting firms and other enterprises in relation to the design and manufacture of plant and equipment.

The Resolution also requested the Secretary-General of UNCTAD to prepare and submit to the Group's second session a revised draft of a model law or laws, in accordance with the provisions of the Set of Principles and Rules.

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

APPENDIX I

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

Report	Nature of Inquiry	Date of Report	Recommendations	Names of Persons or Companies to which Recommendations Applied**	Actions Taken on Recommendations and Results***
Report Concerning the Use of Bid Depositories in the Construction Industry	General Inquiry under section 47 of Combines Investigation Act	October 14/76	The Commission expressed the opinion that bid depositories have tended over the years to extend their original function by rules and procedures having the effect of increasing the control of trade associations over the bidding practices of their members. The Commission therefore suggested that, in order to eliminate the most serious restrictions on market freedom in existence in bid depositories, a bid depository should have a set of rules that would not contain any authority for a bid depository management to enforce comparability of tenders or to set and enforce standards of tendering conduct.		The Director has undertaken a program of information and consultation to bring the Commission's recommendations to the attention of various participants in the construction industry. In addition, the Director has been engaged in discussions with federal government bodies active in the construction field in an attempt to obtain agreement upon a new set of standard rules for use on federal government projects. A new set of standard federal rules for use on federal government projects has been promulgated and will be followed by all federal government bodies active in the construction field.
Telecommunications in Canada—Phase I, Interconnection	General Inquiry under section 47 of Combines Investigation Act	September 10, 1981	The recommendations and conclusions of the RTPC are as follows: 1. Customer ownership of terminals and an increased number of suppliers would be a growing source of increased efficiency and must be accommodated. 2. Unregulated sale and rental markets should be permitted to develop in terminal equipment.	Bell Canada, British Columbia Telephone Company, CNCP Telecommunications and other telecommunications carriers.	To date the Director has filed the RTPC Report with the CRTC and the Alberta Public Utilities Board, which bodies have held public hearings into the matter of terminal attachment. The Director urged that these regulatory bodies accommodate as part of their decisions on this issue, the principal recommendations of the RTPC. The Director plans to follow a similar course during hearings held by the Ontario Telephone Services Commission on this same matter.

3. Although interconnection would result in increased sales of foreign-made equipment in Canada, the Canadian industry has reached a level of strength and maturity sufficiently high that it is not premature to expect fair competition in the Canadian market. Steps must be taken, however, to ensure that markets closed to imports through non-tariff barriers are made accessible to Canadian manufacturers in accordance with the spirit and the letter of GATT.

4. To the extent that net revenue from terminal equipment rental has served to keep local service rates down, and should it be considered desirable for this cross-subsidy to continue it would be very easy to apply or increase extension and network access charges for extension telephones, PBX trunks and lines for key-telephone systems to make up for any such losses in revenue.

5. Standards should be established through the Terminal Attachment Program for all terminal equipment and a deadline should be set by the government for the completion of this task. CRTC should have the authority to review standards should parties to the certification program establish to its satisfaction that the standards were unnecessarily restrictive and would eliminate certain equipment from the market.

6. The telecommunication companies must be assured that a planned and orderly transition of the networks can occur. To ensure that this will entail little risk or cost to owners of terminals, the maximum possible notice of changes in the network should be given to the public.

APPENDIX I — (Continued)

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

Report	Nature of Inquiry	Date of Report	Recommendations	Names of Persons or Companies to which Recommendations Applied**	Actions Taken on Recommendations and Results***
			<p>7. To assure an orderly transition and fair and unfettered competition in the terminal market, it is recommended that the year 1990 be the time set for the deregulation of all terminal equipment. This would provide a sufficient period of adjustment for the telcos (telephone companies), CNCP and their subscribers.</p> <p>8. CRTC's requirement in its interim decision on interconnection that subscribers obtain their basic telephone service from the telco should be continued until further experience with interconnection is obtained.</p> <p>9. Regulated telecommunication carriers (telcos and CNCP) should be permitted to sell or rent equipment, except single-line telephones, without filing tariffs with their regulators. These offerings should be made through arm's length subsidiaries so that cost and net revenue separation from regulated activities can be achieved.</p> <p>10. All suppliers of terminal equipment should have equal access to lists of non-household subscribers who rent key systems and PBXs from the telcos, arranged in some meaningful way such as by area, equipment category or line size.</p>		

		<p>11. Telecommunication carriers should not acquire interconnect sellers competing against them. As well as probably being anticompetitive, such acquisitions would raise doubts about the reason for allowing the regulated carriers to participate in unregulated markets, i.e., the important contribution they can make as the result of their previous experience as suppliers of terminal equipment.</p>	
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		<p>12. Bell and B.C. Tel should not directly or indirectly acquire terminal equipment manufacturing companies in Canada that are in competition with those telephone companies' affiliates.</p>	
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		<p>13. Telecommunication carriers should also be prevented from utilizing their buying power to obtain exclusive selling rights to terminal equipment on their own behalf or on that of their subsidiaries.</p>	
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- * An Appendix in this form was first included in the Report of the Director of Investigation and Research for the year ended March 31, 1961, and contained all reports received from the Restrictive Trade Practices Commission since July 1, 1957.
 - ** In many cases the reports do not specifically name persons or companies to which the recommendations apply. Unless, therefore, the recommendations in the report are stated specifically to apply to named persons or companies, nothing is shown under this heading.
 - *** The reports of the Restrictive Trade Practices Commission do not contain recommendations in respect of prosecution proceedings, apart from tariff action. Any action under the Act arising out of alleged contraventions of the anticommones legislation can be taken only through the courts. The comments under this heading, therefore, set out not only the consultative activities taken by the Director but also, where applicable, any court proceedings contemplated or commenced and the outcome of such proceedings.

APPENDIX II

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

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

Nature of Inquiry	Names of persons or Companies Proceeded Against	Action Taken and Results
Predatory pricing (Disposable cup lids)	Consumers Glass Company Limited and Portion Packaging Limited	One charge was laid under paragraph 34(1)(c) at Toronto, Ontario, on June 6, 1979. On November 2, 1980, the accused pleaded not guilty and, on June 17, 1981, they were acquitted.
Price maintenance (Coins and stamps)	300335 Ontario Limited carrying on business as Unitrade Associates	Three charges were laid under paragraph 38(1)(a), two charges were laid under subsection 38(3) and one charge was laid under subsection 38(6) at Toronto, Ontario, on August 11, 1980. On June 30, 1981, the accused pleaded guilty to one of the charges under paragraph 38(1)(a) and was convicted and fined \$2,000. The remaining charges were withdrawn.
Price Maintenance (Stereo equipment and televisions)	Magnasonic Canada Inc.	Five charges were laid under paragraph 38(1)(a) and two charges were laid under paragraph 38(1)(b) at Toronto, Ontario, on November 14, 1980. On September 8, 1981, the accused pleaded guilty to two of the charges under paragraph 38(1)(a) and was convicted and fined \$15,000 on each of the two charges. The remaining charges were withdrawn.
Price Maintenance (Fertilizer chemicals)	Agricultural Chemicals Limited	One charge was laid under paragraph 38(1)(b) at Toronto, Ontario, on July 5, 1979. On October 1, 1981, the accused was acquitted.
Predatory pricing (Tranquilizers)	Hoffmann-LaRoche Limited	One charge was laid under section 33 and one charge was laid under paragraph 34(1)(c) at Toronto, Ontario, on February 4, 1975. The preliminary hearing took place in January 1976 and, on May 21, 1976, the accused was discharged. On September 19, 1977, an Indictment was preferred containing one charge under paragraph 34(1)(c). On February 5, 1980, the accused was convicted and, on June 18, 1980, was fined \$50,000. Both the Crown and the accused appealed but on October 6, 1981, the Ontario Court of Appeal dismissed the appeals.
Price Maintenance (T.V. converters)	Philips Electronics Ltd.	Two charges were laid under subsection 38(1) at Ottawa, Ontario, on October 25, 1978. the accused was acquitted in February 21, 1980. the Crown appealed the decision to the Ontario Court of Appeal but on September 23, 1980, the appeal was dismissed. The Crown appealed to the Supreme Court of Canada but on November 24, 1981, the Crown's appeal was dismissed.

APPENDIX II — (Continued)

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

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

Nature of Inquiry	Names of persons or Companies Proceeded Against	Action Taken and Results
Price Maintenance (Men's clothing)	H. D. Lee of Canada Ltd.	Four charges were laid under section 38 at Montréal, Québec, on May 14, 1974. The trial commenced on November 24, 1975, and ended November 1976. Oral written arguments were submitted in 1978 and 1979. On November 19, 1980, the accused was convicted on all four charges. Submissions on sentencing took place in January and May 1981. On December 2, 1981, the accused was fined \$25,000 on one charge, \$10,000 on another charge and \$15,000 on each of the remaining charges for a total of \$65,000. The accused appealed the conviction but abandoned the appeal in February 1982.
Price Maintenance (Pet Foods)	Rolf C. Hagen Inc.	Three charges were laid on October 29, 1981, at Toronto, Ontario, under paragraph 38(1)(a). On January 8, 1982, the accused pleaded guilty to one charge and was fined \$10,000. The remaining charges were withdrawn.
Price Discrimination (Sewing machines)	Pfaff Sewing Machine Co. of Canada	One charge was laid under paragraph 34(1)(a) and one charge was laid under subsection 35(2) at Ottawa, Ontario, on April 23, 1981. On January 21, 1982, the accused was discharged at the preliminary hearing.
Price Maintenance (Craft supplies)	Model Craft Hobbies Limited	One charge was laid under paragraph 38(1)(a) and one charge was laid under paragraph 38(1)(b) at Ottawa, Ontario, on March 31, 1980. A stay of proceedings was entered on March 19, 1981, and expired on March 19, 1982.
Combination (Insurance fees)	Fédération des Courtiers d'Assurance du Québec and the Association Professionnelle des Courtiers d'Assurance de la région de Charlevoix	One charge was laid under paragraph 32(1)(c) at La Malbaie, Québec, on September 26, 1977. On April 20, 1979, the associations were acquitted. The Crown appealed the acquittals but, on March 30, 1982, the appeal was dismissed.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Business opportunity)	Mahmood Somani (Sarnia and Toronto, Ontario)	Two charges were laid on June 3, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but, on April 1, 1981, was convicted and fined \$100 on each charge for a total fine of \$200.
False or misleading representation in a material respect (Employment opportunities)	ILS Realty and Independent Listing Service Inc., Richard Ng and Marvin Fine (Burnaby, British Columbia)	Two charges were laid on June 12, 1980, under paragraph 36(1)(a). On March 3, 1981, Richard Ng pleaded not guilty but was convicted and fined \$500 on each charge for a total fine of \$1,000. ILS Realty and Independent Listing Service Inc. pleaded not guilty but, on March 17, 1981, was convicted and fined \$2,000 on each charge for a total fine of \$4,000. The charges against Marvin Fine were withdrawn on April 2, 1981.
False or misleading representation in a material respect (Boat kit)	Hughes-Columbia Inc. and Hughes Marine Sales Inc. (Orangeville, Ontario)	Five charges were laid on October 24, 1980, under paragraph 36(1)(a). On April 3, 1981, both accused pleaded guilty to two charges and were convicted and each accused was fined \$625 on each charge for a total fine of \$2,500. The remaining charges were withdrawn.
False or misleading representation in a material respect (Chlorine)	Guy Massicotte Sports Inc. (Québec, Québec)	One charge was laid on December 4, 1979, under paragraph 36(1)(a). The accused pleaded not guilty but, on April 6, 1981, was convicted and fined \$200.
False or misleading representation in a material respect (Real estate)	The Royal Trust Company (Halifax, Nova Scotia)	One charge was laid on March 27, 1981, under paragraph 36(1)(a). The accused pleaded guilty and, on April 6, 1981, was convicted and fined \$1,000.
False or misleading representation in a material respect (Printing services)	Downs Copy Centre Ltd. (Winnipeg, Manitoba)	One charge was laid on January 27, 1981, under paragraph 36(1)(a). On April 27, 1981, the accused pleaded guilty and was convicted and fined \$400.
Misleading price representation (Appliances)	Berry's Furniture Limited (Truro, Nova Scotia)	One charge was laid on March 26, 1981, under paragraph 36(1)(a). On April 28, 1981, the information was amended to a charge under paragraph 36(1)(d). The accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Cosmetics)	Joan Montegani Limited and Joan Montegani (Toronto, Ontario)	One charge was laid on January 15, 1981, under paragraph 36(1)(a). On April 28, 1981, the corporate accused pleaded guilty and was convicted and fined \$700. The charge against the individual accused was withdrawn.
False or misleading representation in a material respect (Automotive engine additive)	Clyde Trevor Milliken carrying on business as C.T.M. Marketing Services (London, Ontario)	One charge was laid on March 22, 1979, under paragraph 36(1)(a). The accused pleaded not guilty but, on April 30, 1981, was convicted and fined \$300. An order of prohibition was issued.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Representation without proper test (Automotive engine additive)	Clyde Trevor Milliken carrying on business as C.T.M. Marketing Services (London, Ontario)	Eight charges were laid on March 22, 1979, under paragraph 36(1)(b). The accused pleaded not guilty but, on April 30, 1981, was convicted and fined \$300 on each charge for a total fine of \$2,400. An order of prohibition was issued.
Double Ticketing (Drug store items)	Jean-Paul Savard and Jean-Paul Thibault carrying on business as pharmacies Jean-Paul Savard et Thibault Enr. (Sherbrooke, Québec)	Five charges were laid on November 2, 1978, under section 36.2. On May 15, 1979, both accused pleaded guilty and, on October 23, 1979, were jointly fined \$25 on each charge for a total fine of \$125. The Crown appealed the sentence and, on May 5, 1981, the appeal was allowed and each accused was fined \$25 on each charge for a total fine of \$250.
False or misleading representation in a material respect (Mufflers)	Jack Butkus Limited carrying on business as Midas Muffler Shops (London, Ontario)	Three charges were laid on March 31, 1981, under paragraph 36(1)(a). On May 7, 1981, the accused pleaded guilty to one charge and was convicted and fined \$3,000. The remaining charges were withdrawn.
False or misleading representation in a material respect (Gasoline)	Claude Mathieu carrying on business Claude Mathieu Gas Bar (St. Antonin, Québec)	One charge was laid on June 20, 1980, under paragraph 36(1)(a). On February 9, 1981, the accused pleaded guilty and was convicted and, on May 11, 1981, was fined \$150.
False or misleading representation in a material respect (Gasoline)	Poste d'Essence Dégelis Inc. (Dégelis, Québec)	One charge was laid on June 20, 1980, under paragraph 36(1)(a). On February 9, 1981, the accused pleaded guilty and was convicted and, on May 11, 1981, was fined \$150.
False or misleading representation in a material respect (Kitchen cabinets)	Les Manufacturiers d'Armoires de Cuisine Nu-Mode Inc. (Montréal, Québec)	One charge was laid on November 4, 1980, under paragraph 36(1)(a). On May 13, 1981, the accused was acquitted.
False or misleading representation in a material respect (Clothing)	Dalfen's Discount Outfitters Ltd. (Bathurst, New Brunswick)	Three charges were laid on February 18, 1981, under paragraph 36(1)(a). On May 14, 1981, the accused pleaded guilty and was convicted and fined \$200 on each charge for a total fine of \$600.
Misleading price representation (Carpet)	Marchenski Lumber (Yorkton, Saskatchewan)	One charge was laid on March 2, 1981, under paragraph 36(1)(d). On May 14, 1981, the accused pleaded guilty and was convicted and fined \$300.
False or misleading representation in a material respect (Boxsprings and mattresses)	Carubba Furniture & Sleep Shop Ltd. and Angelo Carubba (Hamilton, Ontario)	Three charges were laid on February 25, 1981, under paragraph 36(1)(a). On May 15, 1981, the individual accused pleaded guilty and was convicted and fined \$1,000 on each charge for a total fine of \$3,000. The charges against the corporate accused were withdrawn.
Sale above advertised price (Sports equipment and other merchandise)	L.J. Trabert Limited (Halifax, Nova Scotia)	Seven charges were laid on March 26, 1981, under section 37.1. On May 19, 1981, the accused pleaded guilty and was convicted and fined \$100 on each of three charges and \$500 on each of four charges for a total fine of \$2,300.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Manual of employment opportunities)	Robert Joseph Leahy and Alfred Kwinter, carrying on business as Arctic Employment Guide (Toronto, Ontario)	One charge was laid on February 2, 1980, under paragraph 36(1) (a). On May 19, 1981, the charge was withdrawn.
False or misleading representation in a material respect (Truck)	Yukon Automobile Brokers Ltd. (Whitehorse, Yukon Territory)	One charge was laid on September 5, 1978, under paragraph 36(1)(a). On November 20, 1978, the accused was acquitted. The Crown appealed the acquittal but, on February 19, 1979, the appeal was dismissed. The Crown appealed the decision but, on May 22, 1981, the appeal was abandoned.
Sale above advertised price (Cottages)	Peterborough Lumber Limited carrying on business as P.L. Building Centres and as Peterborough Lumber Limited, Homes and Cottages Division (Peterborough, Ontario)	Two charges were laid on November 7, 1980, under section 37.1. The accused pleaded not guilty but, on May 25, 1980, was convicted and fined \$837 on the first charge and \$620 on the second charge for a total fine \$1,457. The accused gave an undertaking to make restitution in the amount of \$348.50 and \$620.00 respectively to two customers responding to the advertisement.
False or misleading representation in a material respect (Tires)	Family Auto (Ontario) Ltd. and Family Auto Ltd. (Rexdale, Ontario)	Four charges were laid on June 6, 1980, under paragraph 36(1)(a). On May 26, 1981, both accused pleaded guilty to two charges and were convicted and each accused was fined \$1,500 on each charge for a total fine of \$6,000. The remaining charges were withdrawn.
False or misleading representation in a material respect (Houses)	Royal Trust Corporation of Canada (Surrey, British Columbia)	Two charges were laid on February 6, 1981, under paragraph 36(1)(a). On May 27, 1981, the accused pleaded guilty to one charge and was convicted and fined \$1,000. A stay of proceedings was entered against the remaining charge.
False or misleading representation in a material respect (Income Tax service)	H & R Block (Canada) Ltd. (Edmonton, Alberta)	One charge was laid on February 18, 1981, under paragraph 36(1)(a). On May 28, 1981, the accused pleaded guilty and was convicted and fined \$250.
Misleading price representation (Household appliances)	Lantaigne et Frères Ltée (Caraquet, New Brunswick)	One charge was laid on June 23, 1980, under paragraph 36(1)(d). On January 21, 1981, the accused was acquitted. The Crown applied for leave to appeal but the application was denied on May 28, 1981.
False or misleading representation in a material respect (Televisions)	KJLTT Electronics Limited carrying on business as Big Daddy Electronics and Keith Horton (Toronto, Ontario)	Six charges were laid on November 12, 1980, under paragraph 36(1)(a). On June 1, 1981, the corporate accused pleaded guilty to one charge and was convicted and fined \$5,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn.
Non-availability (Televisions)	KJLTT Electronics Limited carrying on business as Big Daddy Electronics and Keith Horton (Toronto, Ontario)	Six charges were laid on November 12, 1980, under section 37. On June 1, 1981, the corporate accused pleaded guilty to one charge and was convicted and fined \$4,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Sale above advertised price (Airline tickets)	Great Lakes Airlines Limited (London, Ontario)	One charge was laid on August 14, 1980, under section 37.1. The accused pleaded not guilty but, on February 19, 1981, was convicted and, on June 1, 1981, was fined \$1,000.
False or misleading representation in a material respect (Steel buildings)	A-1 Continental Steel Company Limited (St. Lina, Alberta)	One charge was laid on October 2, 1980, under paragraph 36(1)(a). On June 3, 1981, the charge was dismissed.
Representation without proper test (Oil additive)	Champion Petrochemicals Ltd (Calgary, Alberta)	Six charges were laid on February 27, 1981, under paragraph 36(1)(b). On June 4, 1981, the accused pleaded guilty to two charges and was convicted and fined \$750 on the first charge and \$50 on the second charge for a total fine of \$800. The remaining charges were withdrawn.
False or misleading representation in a material respect (Stereo equipment)	Miller's T.V. Ltd. (Winnipeg, Manitoba)	Four charges were laid on October 9, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but, on June 8, 1981, was convicted and fined \$250 on each charge for a total fine of \$1,000.
False or misleading representation in a material respect (Fertilizer)	Alpine Plant Foods Limited (London, Ontario)	Four charges were laid on May 4, 1979, under paragraph 36(1)(a). On June 12, 1981, the accused was acquitted.
Representation without proper test (Fertilizer)	Alpine Plant Foods Limited (London, Ontario)	Three charges were laid on May 4, 1979, under paragraph 36(1)(b). The accused pleaded not guilty but, on June 12, 1981, was convicted and fined \$2,000 on each charge for a total fine of \$6,000.
False or misleading representation in a material respect (Wood stoves)	S & D Central Supplies Limited (Antigonish, Nova Scotia)	One charge was laid on May 22, 1981, under paragraph 36(1)(a). On June 15, 1981, the accused pleaded guilty and was convicted and fined \$400.
False or misleading representation in a material respect (Franchises)	Money-Matic Investments Limited and Michael Turchyn (Edmonton, Alberta)	One charge, was laid on October 2, 1980, under paragraph 36(1)(a). On January 26, 1981, the corporate accused pleaded not guilty but was convicted and fined \$5,000. On June 17, 1981, the individual accused pleaded not guilty but was convicted and fined \$3,000.
False or misleading representation in a material respect (Fur coats)	Fourrures A.J. Alexandor (Montréal) Ltée and René Akstinos (Montréal, Québec)	One charge was laid on September 14, 1979, under paragraph 36(1)(a). On October 25, 1979, the charge against the individual accused was withdrawn. The corporate accused pleaded not guilty but, on June 19, 1981, was convicted and, on June 23, 1981, was fined \$1,500. An order of prohibition was issued.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading price representation (Fur coats)	Fourrures A.J. Alexandor (Montréal) Ltée and René Akstinos (Montréal, Québec)	Three charges were laid on September 14, 1979, under paragraph 36(1)(d). On October 25, 1979, the charges against the individual accused were withdrawn. The corporate accused pleaded not guilty but, on June 19, 1981, was convicted on two charges and, on June 23, 1981, was fined \$1,500 on each charge for a total fine of \$3,000. The remaining charge was dismissed. An order of prohibition was issued.
False or misleading representation in a material respect (Gas-saving device)	F.K. Products of B.C. Ltd. (Vancouver, British Columbia)	One charge was laid on January 19, 1981, under paragraph 36(1)(a). On July 21, 1981, a stay of proceedings was entered.
Representation without proper test (Gas-saving device)	F.K. Products of B.C. Ltd. (Vancouver, British Columbia)	One charge was laid on January 19, 1981, under paragraph 36(1)(b). The accused pleaded not guilty but, on July 21, 1981, was convicted and fined \$1,000.
False or misleading representation in a material respect (Skis)	Ski-Mode Bernard Trottier Inc. (Montréal, Québec)	One charge was laid on June 6, 1981, under paragraph 36(1)(a). On July 23, 1981, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Resort hotel facilities)	Okanagan Park Hospitality Co. Ltd. carrying on business as Okanagan Park Country Club Resort Hotel (Kelowna, British Columbia)	One charge was laid on June 20, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but, on July 28, 1981, was convicted and fined \$200.
False or misleading representation in a material respect (Pre-fabricated houses and trailers)	Maisons Mobiles Thetford Inc. (Québec, Québec)	Fifty-one charges were laid on February 12, 1981, under paragraph 36(1)(a). The accused pleaded guilty to twenty-five charges on July 31, 1981, and was convicted and fined \$1,000 on each charge for a total fine of \$25,000. The remaining charges were dismissed.
False or misleading representation in a material respect (Pantyhose)	359286 Ontario Limited carrying on business as Trans Atlantic Import and Sales (St. John's, Newfoundland)	One charge was laid on December 17, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but, on June 19, 1981, was convicted and, on August 3, 1981, was fined \$500.
False or misleading representation in a material respect (Gas-saving device)	F.K. Products of B.C. Ltd. and George Piatkowski (Richmond, British Columbia)	Two charges were laid on January 19, 1981, under paragraph 36(1)(a). On August 6, 1981, a stay of proceedings was entered.
Representation without proper test (Gas-saving device)	F.K. Products of B.C. Ltd. and George Piatkowski (Richmond, British Columbia)	Two charges were laid on January 19, 1981, under paragraph 36(1)(b). On August 6, 1981, a stay of proceedings was entered.
False or misleading representation in a material respect (Coats)	Boutique Chez Ernest Inc. (Montréal, Québec)	Two charges were laid on June 5, 1981, under paragraph 36(1)(a). On August 17, 1981, the accused pleaded guilty to one charge and was convicted and fined \$700. The remaining charge was withdrawn.
False or misleading representation in a material respect (Glue)	Kirby and Wilson Brokerage Ltd. and Leonard Wayne Kirby (Mississauga, Ontario)	One charge was laid on October 27, 1980, under paragraph 36(1)(a). On August 20, 1981, the accused were acquitted.
Representation without proper test (Glue)	Kirby and Wilson Brokerage Ltd. and Leonard Wayne Kirby (Mississauga, Ontario)	One charge was laid on October 27, 1980, under paragraph 36(1)(b). On August 20, 1981, the accused were acquitted.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Gas-saving device)	440284 Ontario Limited Joseph Fuerst and Peter Kreft (Mississauga, Ontario)	Three charges were laid on September 15, 1980, under paragraph 36(1)(a). Joseph Fuerst and Peter Kreft were jointly charged with respect to all charges and 440284 Ontario Limited was jointly charged with respect to two charges. On November 27, 1980, the charges against the corporate accused were withdrawn. Both individual accused pleaded not guilty but, on August 25, 1981, Joseph Fuerst was convicted on all charges and fined \$150 on each charge and Peter Kreft was convicted on one charge and fined \$150 for a total fine of \$600. The remaining charges against Peter Kreft were dismissed. An order of prohibition against each accused was issued.
Representation without proper test (Gas-saving device)	440284 Ontario Limited, Joseph Fuerst and Peter Kreft (Mississauga, Ontario)	Three charges were laid on September 15, 1980, under paragraph 36(1)(b). Joseph Fuerst and Peter Kreft were jointly charged with respect to all charges and 440284 Ontario Limited was jointly charged with respect to two charges. On November 27, 1980, the charges against the corporate accused were withdrawn. Both individual accused pleaded not guilty but, on August 25, 1981, Joseph Fuerst was convicted on all charges and fined \$150 on each charge and Peter Kreft was convicted on one charge and fined \$150 for a total fine of \$600. The remaining charges against Peter Kreft were dismissed. An order of prohibition against each accused was issued.
False or misleading representation in a material respect (Clothing)	Manufacture d'Habits Sylvain Cloutier Inc. (St-Hyacinthe, Québec)	Two charges were laid on May 12, 1981, under paragraph 36(1)(a). On August 27, 1981, the accused pleaded guilty to one charge and was convicted and fined \$500. The remaining charge was withdrawn.
False or misleading representation in a material respect (Men's clothing)	Manufacture d'Habits Le Roi du Vêtement Inc. (Montréal, Québec)	One charge was laid on April 22, 1981, under paragraph 36(1)(a). On September 11, 1981, the accused pleaded guilty and was convicted and fined \$2,000. An order of prohibition was issued.
False or misleading representation in a material respect (Gasoline)	Leo Laforge carrying on business as Laforge Esso Service Enrg. (Dégelis, Québec)	One charge was laid on June 20, 1980, under paragraph 36(1)(a). On August 24, 1981, the accused pleaded guilty and was convicted and, on September 14, 1981, was fined \$150.
False or misleading representation in a material respect (Furniture)	United Waterbed (1980) Ltd. and Jesse Holmes (Burnaby, British Columbia)	Five charges were laid on March 5, 1981, under paragraph 36(1)(a). On September 15, 1981, the corporate accused pleaded guilty to two charges and was convicted and fined \$2,500 on each charge for a total fine of \$5,000. A stay of proceedings was entered with respect to the remaining charges against the corporate accused and all charges against the individual accused.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Motorcycle tires)	Honda Canada Inc., formerly Canadian Honda Motor Limited (Winnipeg, Manitoba)	One charge was laid on May 15, 1981, under paragraphs 36(1)(a). On September 28, 1981, a stay of proceedings was entered.
Representation without proper test (Oil additive)	Jen-Lee Distributors Ltd. (Edmonton, Alberta)	Two charges were laid on June 9, 1981, under paragraph 36(1)(b). On October 1, 1981, the accused pleaded guilty to one charge and was convicted and fined \$1,000. The remaining charge was withdrawn.
False or misleading representation in a material respect (Men's clothing)	Manufacture d'Habits St-Eustache Inc. (St-Eustache, Québec)	One charge was laid on May 4, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 2, 1981, was convicted and fined \$2,000.
False or misleading representation in a material respect (Furniture)	Meubles et Décor's Mirage Inc. (Montreal, Québec)	Sixteen charges were laid on April 22, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 8, 1981, was convicted and fined \$200 on each charge for a total fine of \$3,200.
False or misleading representation in a material respect (Melons)	Dominion Stores Limited (Toronto, Ontario)	Three charges were laid on January 17, 1980, under paragraph 36(1)(a). On January 9, 1981, the accused was acquitted. The Crown appealed the acquittal but, on October 8, 1981, the appeal was dismissed.
False or misleading representation in a material respect (Vending machines)	Nadalin Sunny Group Int. Inc. carrying on business as Ideal Venders (Edmonton, Alberta)	Two charges were laid on June 25, 1981, under paragraph 36(1)(a). On October 8, 1981, a stay of proceedings was entered.
Misleading price representation (Clothing)	The Young Manufacturer Inc. carrying on business as Stitches (Toronto, Ontario)	One charge was laid on February 9, 1981, under paragraph 36(1)(d). On October 16, 1981, the accused pleaded guilty and was convicted and fined \$2,000.
False or misleading representation in a material respect (Real estate)	A.E. Lepage (Ontario) Limited (Brampton, Ontario)	One charge was laid on January 15, 1981, under paragraph 36(1)(a). On October 19, 1981, the accused pleaded guilty and was convicted and fined \$5,000.
False or misleading representation in a material respect (Phototype setter systems)	A.M. International Inc. (Toronto, Ontario)	Two charges were laid on December 16, 1980, under paragraph 36(1)(a). On October 21, 1981, the charges were dismissed.
Non-availability (Tires)	Green and Ross Tire Co. Limited and Green and Ross Tire Co. (1979) Limited (Hamilton and Toronto, Ontario)	Two charges were laid on February 9, 1981, under section 37. The accused were jointly charged on one charge and Green and Ross Tire Co. Limited was solely charged on the remaining charge. Green and Ross Tire Co. Limited pleaded guilty to one charge on October 22, 1981, and was convicted and fined \$100. The remaining charge against both accused was withdrawn.
Misleading price representation (Automobiles)	Kanata Equipment Ltd. carrying on business as Kaydee Motor Sales (Ottawa, Ontario)	One charge was laid on July 8, 1981, under paragraph 36(1)(d). The accused pleaded not guilty but, on October 27, 1981, was convicted and fined \$2,500.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Televisions)	McKay's Television & Appliances Limited carrying on business as Krazy Kelly's and Robert J. Morrow (Peterborough, Ontario)	One charge was laid on April 4, 1981, under paragraph 36(1)(a). On October 27, 1981, the corporate accused pleaded guilty and was convicted and fined \$5,000. The charge against the individual accused was withdrawn.
Misleading price representation (Televisions)	McKay's Television & Appliances Limited carrying on business as Krazy Kelly's and Robert J. Morrow (Peterborough, Ontario)	One charge was laid on April 28, 1981, under paragraph 36(1)(d). On October 27, 1981, the individual accused pleaded guilty and was convicted and fined \$1,000. The charge against the corporate accused was withdrawn.
Promotional contest (Televisions and appliances)	McKay's Television & Appliances Limited carrying on business as Krazy Kelly's and Robert J. Morrow (Peterborough, Ontario)	Two charges were laid on April 28, 1981, under section 37.2. On October 27, 1981, the corporate accused pleaded guilty and was convicted and fined \$250 on each charge for a total fine of \$500. The charges against the individual accused were withdrawn.
Promotional contest (Televisions)	Mad Man Madigan Limited carrying on business as Krazy Kelly's T.V. and Audio Warehouse (Winnipeg, Manitoba)	Two charges were laid on June 8, 1981, under section 37.2. On October 29, 1981, the accused pleaded guilty to one charge and was convicted and fined \$1,500. A stay of proceedings was entered against the remaining charge.
Representation without proper test (Gas-saving device)	Ultraguard Distributors of Canada Limited carrying on business as Ultraguard and Joseph David Mason (Brantford and Sarnia, Ontario)	Eight charges were laid on May 8, 1981, under paragraph 36(1)(b). The corporate accused pleaded guilty to one charge on October 29, 1981, and was convicted and fined \$1,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn. An order of prohibition was issued.
False or misleading representation in a material respect (Gas-saving device)	Ultraguard Distributors of Canada Limited Carrying on business as Ultraguard and Joseph David Mason (Brantford and Sarnia, Ontario)	Three charges were laid on May 8, 1981 under paragraph 36(1)(a). On October 29, 1981, the charges were withdrawn.
Representation without proper test (Advertising weekly)	Saugeen Graphics Limited, Frederick Lipsky & Bev Strucke (North York and Owen Sound, Ontario)	One charge was laid on March 2, 1981, under paragraph 36(1)(b). On May 13, 1981, the corporate accused pleaded guilty and was convicted and fined \$1,500. The charges against the individual accused were withdrawn. The corporate accused appealed the sentence and, on October 30, 1981, the appeal was allowed and the fine was reduced to \$750.
Misleading price representation (Radio)	Earl D. Hain carrying on business as Radio Shack (Surrey, British Columbia)	Three charges were laid on August 12, 1980, under paragraph 36(1)(d). On February 16, 1981, the accused was acquitted. The Crown appealed the acquittal, and, on November 2, 1981, the appeal was allowed and the accused was convicted. The Court suspended the passing of sentence.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Non-availability (Stereo equipment)	Steintron International Electronics Ltd. carrying on business as Kelly's Audio & Video Centre (Winnipeg, Manitoba)	One charge was laid on September 21, 1981, under section 37. On November 9, 1981, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Apartments)	Lincoln Developments Ltd. (Calgary, Alberta)	Six charges were laid on September 29, 1981, under paragraph 36(1)(a). On November 10, 1981, the accused pleaded guilty to five charges and was convicted and fined \$500 on each charge for a total fine of \$2,500. The remaining charge was withdrawn.
False or misleading representation in a material respect (Used automobile)	Dryden Motors Limited and Diek Purdy (Port Elgin, New Brunswick)	One charge was laid on October 28, 1981, under paragraph 36(1)(a). On November 23, 1981, the charge was withdrawn.
False or misleading representation in a material respect (Ski equipment)	André Lalonde Sports Inc. (Montréal, Québec)	One charge was laid on April 22, 1981, under paragraph 36(1)(a). On November 23, 1981, the accused pleaded guilty and was convicted and fined \$400.
Non-availability (Sports equipment)	André Lalonde Sports Inc. (Montréal, Québec)	One charge was laid on April 22, 1981, under section 37. On November 23, 1981, the accused pleaded guilty and was convicted and fined \$400.
False or misleading representation in a material respect (Automobiles)	Tara Mercury Sales Limited (Winnipeg, Manitoba)	One charge was laid on April 2, 1981, under paragraph 36(1)(a). On December 7, 1981, the accused pleaded guilty and was convicted and fined \$250.
Representation without proper test (Electric speed control)	Perfection Automotive Products (Windsor) Limited (Scarborough, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b). On December 10, 1981, the accused pleaded guilty and was convicted and fined \$5,000. An order of prohibition was issued.
Misleading price representation (Stereo equipment)	Exxolite Inc. (Québec, Québec)	One charge was laid on October 15, 1981, under paragraph 36(1)(d). On December 11, 1981, the accused was tried <i>in absentia</i> and was convicted and fined \$500.
False or misleading representation in a material respect (Televisions)	427738 Ontario Limited carrying on business as T.V. Discount and Gerald Diamond (Toronto, Ontario)	Six charges were laid on October 7, 1981, under paragraph 36(1)(a). On December 18, 1981, the corporate accused pleaded guilty to one charge and was convicted and fined \$1,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn.
False or misleading representation in a material respect (Wallpaper)	St. Clair Paint & Wallpaper Co. Ltd. carrying on business as St. Clair The Paint & Paper People and as St. Clair (Toronto, Ontario)	Three charges were laid on May 21, 1981, under paragraph 36(1)(a). On December 21, 1981, the accused pleaded guilty to one charge and was convicted and fined \$7,500.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Sale above advertised price (Food and sundry items)	Kelly, Douglas and Company Limited, Commercial Supermarket (1971) Ltd., Lockhart Foods Ltd., and McLellan's Supermarket Ltd., all carrying on business as Super Value (Vancouver, British Columbia)	Eighteen charges were laid on August 1, 1980, under section 37.1. Kelly, Douglas and Company Limited was jointly charged with Commercial Supermarket (1971) Ltd. on three charges, with Lockhart Foods Ltd. on four charges and with McLellan's Supermarket Ltd. on eleven charges. On January 13, 1981, a stay of proceedings was entered on all charges against Kelly, Douglas and Company Limited. On January 13, 1981, Commercial Supermarket (1971) Limited was acquitted. On January 20, 1981, Lockhart Foods Ltd. was acquitted. The Crown appealed the acquittal of Lockhart Foods Ltd. but, on October 7, 1981, the appeal was dismissed. On December 23, 1981, McLellan's Supermarket Ltd. was acquitted.
Representation without proper test (Chlorine)	Ottawa Pool & Patio Ltd. (Ottawa, Ontario)	One charge was laid on June 10, 1981, under paragraph 36(1)(b). On January 6, 1982, the accused pleaded guilty and was convicted and fined \$200.
False or misleading representation in a material respect (Clothing)	Aren Levy Enterprises Limited carrying on business as Levy's (Toronto, Ontario)	Two charges were laid on May 8, 1981, under paragraph 36(1)(a). On January 11, 1982, the accused was acquitted.
False or misleading representation in a material respect (Automobiles)	Nova Motors Limited (Dartmouth, Nova Scotia)	Two charges were laid on October 7, 1980, under paragraph 36(1)(a). On March 23, 1981, both charges were dismissed. An appeal was filed by the Crown, but on January 19, 1982, the appeal was dismissed.
Misleading price representation (Sewing machine)	Ned Mohtar and Gabriel Chaloub carrying on business as Sewing Machine Hospital (Ottawa, Ontario)	One charge was laid on July 31, 1981, under paragraph 36(1)(d). On January 20, 1982, Gabriel Chaloub pleaded guilty and was convicted and fined \$500. The charge against Ned Mohtar was dismissed.
False or misleading representation in a material respect (Dining club memberships)	L.D.O. Dining Limited carrying on business as Let's Dine Out and Douglas Stanley Sutton (Toronto, Ontario)	Four charges were laid on September 8, 1981, under paragraph 36(1)(a). On January 26, 1982, the accused were acquitted.
False or misleading representation in a material respect (Stereo components)	Custom Stereo Systems Ltd. (Saskatoon, Saskatchewan)	One charge was laid on October 6, 1981, under paragraph 36(1)(a). On January 27, 1982, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Stereo components)	Customs Stereo Systems Ltd. (Saskatoon, Saskatchewan)	One charge was laid on October 5, 1981, under paragraph 36(1)(d). On January 27, 1982, a stay of proceedings was entered.
Misleading price representation (Car stereo)	Stéréauto M. Noel Ltée (Québec, Québec)	One charge was laid on November 19, 1981, under paragraph 36(1)(d). On January 29, 1982, the accused was tried <i>in absentia</i> and was convicted and fined \$300.
Misleading price representation (Televisions)	Bizier & Caron Limitée (Québec, Québec)	One charge was laid on October 15, 1981, under paragraph 36(1)(d). On February 5, 1982, the accused pleaded guilty and was convicted and fined \$400.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Stereo components)	Sight & Sound T.V. & Stereo Limited (Pictou, Nova Scotia)	Three charges were laid on November 17, 1981, under paragraph 36(1)(a). On February 8, 1982, the accused pleaded guilty and was convicted and fined \$250 on each charge for a total fine of \$750.
Representation without proper test (Oil additive)	Transcan Distributors Inc. (Winnipeg, Manitoba)	One charge was laid on April 2, 1981, under paragraph 36(1)(b). The accused pleaded not guilty but, on February 10, 1982, was convicted and fined \$500. An order of prohibition was issued.
Misleading price representation (Phonographic cartridges)	Empire Scientific Corp. carrying on business as Empire Scientific-Canada and Jack English (Toronto, Ontario)	Twelve charges were laid on December 8, 1981, under paragraph 36(1)(d). On February 10, 1982, the corporate accused pleaded guilty to one charge and was convicted and fined \$2,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn.
Sale above advertised price (Training suits)	Athlete's Wear Co. Ltd. (Winnipeg, Manitoba)	One charge was laid on August 4, 1981, under section 37.1. The accused pleaded not guilty but was convicted on February 12, 1982, and fined \$200.
Misleading price representation (Stereo equipment)	The Treble Clef Limited carrying on business as Sensible Sound (Ottawa, Ontario)	One charge was laid on September 21, 1981, under paragraph 36(1)(d). On February 17, 1982, the accused pleaded guilty and was convicted and fined \$3,000.
Non-availability (Car stereo)	The Treble Clef Limited (Ottawa, Ontario)	One charge was laid on September 25, 1981, under section 37. On February 17, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Potting soil)	Cloverleaf Horticultural Products Ltd. (Winnipeg, Manitoba)	One charge was laid on August 20, 1981, under paragraph 36(1)(a). On February 17, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Beef)	Boucherie A. Brodeur Inc. (St-Bruno, Québec)	One charge was laid on January 28, 1982, under paragraph 36(1)(a). On February 19, 1982, the accused pleaded guilty and was convicted and fined \$200.
False or misleading representation in a material respect (Detergent)	Metropolitan Stores of Canada Limited (Moncton, New Brunswick)	One charge was laid on January 28, 1982, under paragraph 36(1)(a). On February 22, 1982, the accused pleaded guilty and was convicted and fined \$3,000.
False or misleading representation in a material respect (Carpets, flooring and other merchandise)	The Richard Bennett Corporation (Sudbury, Ontario)	Six charges were laid on October 19, 1981, under paragraph 36(1)(a). On February 25, 1982, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$3,000.
False or misleading representation in a material respect (Encyclopedia)	Grolier Limited (Chipman, Newbrook and Lamont, Alberta)	Three charges were laid on September 14, 1981, under paragraph 36(1)(a). On February 25, 1982, the accused pleaded guilty and was convicted and fined \$175 on each charge for a total fine of \$525.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading price representation (Doors)	Vitrerie Lévis Inc. (Québec, Québec)	One charge was laid on January 26, 1982, under paragraph 36(1)(d). On February 26, 1982, the accused pleaded guilty and was convicted and fined \$400.
Promotional contest (Jewellery)	Wolfgang Schon Jewellery Limited (Sarnia, Ontario)	One charge was laid on July 17, 1981, under section 37.2. On January 14, 1982, the accused pleaded guilty and was convicted and, on March 1, 1982, was fined \$2,000.
False or misleading representation in a material respect (Franchises)	Debonair Industries Ltd., Kenitex Canada Ltd. and Louis Harry Fell (Mississauga, Ontario)	Six charges were laid on March 27, 1978, under paragraph 36(1)(a). On January 31, 1980, Kenitex was convicted and fined \$5,000 on each charge. Debonair Industries and Louis Harry Fell were acquitted. The Crown appealed the acquittal of the individual accused and, on November 18, 1981, the appeal was allowed and a new trial ordered. On March 3, 1982, the Crown made a decision not to proceed further against the individual accused.
Misleading price representation (Televisions)	Prince et Fils Limitée (Québec, Québec)	One charge was laid on October 15, 1981, under paragraph 36(1)(d). On March 5, 1982, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Automobile repairs)	Lakewood Ford Sales (1980) Limited (North Bay, Ontario)	Three charges were laid on September 14, 1981, under paragraph 36(1)(a). On January 18, 1982, the accused was acquitted. The Crown appealed the acquittal, but, on March 5, 1982, the appeal was abandoned.
Sale above advertised price (Automobile repairs)	Lakewood Ford Sales (1980) Limited (North Bay, Ontario)	One charge was laid on September 14, 1981, under section 37.1. On January 18, 1982, the accused was acquitted. The Crown appealed the acquittal, but, on March 5, 1982, the appeal was abandoned.
False or misleading representation in a material respect (Vacation packages)	Elan Holidays Inc./Les Voyages Elan Inc. formerly Great Empress Tours Limited and Robert Q's Travel Mart Inc. (London, Ontario)	One charge was laid on September 24, 1981, under paragraph 36(1)(a). On March 8, 1982, both accused pleaded guilty and were convicted and each was fined \$3,500 for a total fine of \$7,000.
False or misleading representation in a material respect (Vacuum cleaner)	Balbir Maan carrying on business as B & A Distributors (London, Ontario)	One charge was laid on June 26, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but, on March 15, 1982, was convicted and fined \$500.
Representation without proper test (Oil additive)	Corbett Motors Ltd. carrying on business as R.G. Corbett Sales (Winnipeg, Manitoba)	One charge was laid on August 4, 1981, under paragraph 36(1)(b). On March 17, 1982, the accused pleaded guilty and was convicted and fined \$500. An order of prohibition was issued.
Misleading price representation (Stereo components)	Sonart, L'Artiste du Son Inc. (Québec, Québec)	Five charges were laid on October 15, 1981, under paragraph 36(1)(d). On March 19, 1982, the accused pleaded guilty and was convicted and fined \$250 on each charge for a total fine of \$1,250.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading price representation (Stereo components and television sets)	Selectronic M. Noel Ltée (Québec, Québec)	Five charges were laid on October 15, 1981, under paragraph 36(1)(d). On March 19, 1982, the accused pleaded guilty and was convicted and fined \$200 on each charge for a total fine of \$1,000.
False or misleading representation in a material respect (Fur coats)	Opera Garment Inc. carrying on business as Coat Factory and Jack Wasserman (Winnipeg, Manitoba)	One charge was laid on January 21, 1982, under paragraph 36(1)(a). On March 22, 1982, the corporate accused pleaded guilty and was convicted and fined \$750. A stay of proceedings was entered with respect to the charge against the individual accused.
Misleading price representation (Fur coats)	Opera Garment Inc. carrying on business as Coat Factory and Jack Wasserman (Winnipeg, Manitoba)	Eight charges were laid on January 21, 1982, under paragraph 36(1)(d). On March 22, 1982, the corporate accused pleaded guilty to two charges and was convicted and fined \$750 on one charge and \$500 on the other charge for a total fine of \$1,250. A stay of proceedings was entered with respect to the remaining charges against the corporate accused and all charges against the individual accused.
False or misleading representation in a material respect (Fuel additive)	Webster Fuel Products Limited and Gar-net Neil Webster (Hamilton, Ontario)	Six charges were laid on August 18, 1980 under paragraph 36(1)(a). On October 26, 1981, the corporate accused pleaded guilty to one charge and was convicted and fined \$5,000. The remaining charges against the corporate accused and all charges against the individual accused were withdrawn. The corporate accused appealed the sentence but, on March 26, 1982, the appeal was abandoned.
Representation without proper test (Fuel additive)	Webster Fuel Products Limited and Gar-net Neil Webster (Hamilton, Ontario)	One charge was laid on August 18, 1980, under paragraph 36(1)(b). On October 26, 1981, the corporate accused pleaded guilty and was convicted and fined \$5,000. The charge against the individual accused was withdrawn. The corporate accused appealed the sentence, but, on March 26, 1982, the appeal was abandoned.
False or misleading representation in a material respect (Employment opportunity)	F.A.B. Holdings Ltd. and André Salama (Toronto, Hamilton and Mississauga, Ontario)	Eleven charges were laid on May 22, 1981, under paragraph 36(1)(a). On March 30, 1982, both accused pleaded guilty to three charges and were convicted. The corporate accused was fined \$1,500 on each charge and the individual accused was fined \$2,500 on each charge for a total fine of \$12,000. Two charges were statute-barred. The remaining charges against both accused were withdrawn.
Misleading price representation (Furniture)	London, New York & Paris Association of Fashion Limited (St. John's, Newfoundland)	Two charges were laid on September 11, 1981. On March 31, 1982, the charges were withdrawn.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Drug store items)	Guy St-Onge, Louis Michaud and Jean Coutu carrying on business as Pharmacie Jean Coutu (Guy St-Onge) Enrg. (Hamel, Québec)	Three charges were laid on December 17, 1976 under paragraph 36(1)(a). On October 14, 1977, the three charges were withdrawn and, on October 21, 1977, a second Information containing three charges under paragraph 36(1)(a) was laid. On August 4, 1978, the charges were dismissed. The Crown appealed the dismissal but on December 5, 1978, the appeal was dismissed.

APPENDIX II — (Continued)

Part III - Misleading and False Advertising (former provision)

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False advertising (Ovenware sets)	Jack Rubenstein, Sidney Gordon, Steven Ross Smith, Gary Rubenstein, Bernard Schwartz and Tom Bycofski (London, Ontario)	One charge was laid on July 17, 1974, under subsection 37(1) against the first four accused and one charge was laid against the remaining two accused under paragraph 423(2)(a) of the Criminal Code alleging a conspiracy with the first four accused to commit an offence under subsection 37(1) of the Act. The charge against Sidney Gordon was withdrawn on July 17, 1974, after he pleaded guilty to a charge under subsection 36(1). Warrants for arrest were issued for the other five accused and remained outstanding. The case was closed in 1980-81, and counted for that year, but was not listed in the Appendix.

APPENDIX III

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

Nature of Inquiry	Names of persons or Companies Proceeded Against	Action Taken and Results
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There were no completed proceedings under Part IV.1 during the year.

APPENDIX IV

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Glassware)	Paul Arel and Ronald Ross carrying on business as Regency Distribution Co. Ltd. (Toronto, Ontario)	Two charges were laid on February 23, 1978, under paragraph 36(1)(a).
False or misleading representation in a material respect (Automobile)	Birchdale Mercury Sales Limited (Toronto, Ontario)	One charge was laid on March 12, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Water filters)	Bon Del of Canada Inc. (Calgary, Alberta)	One charge was laid on August 4, 1981, under section 37.1. The charge was withdrawn and two charges were laid on October 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Sides of beef)	Louis Bousquet carrying on business under the name and style of Épicerie du Parc (Granby, Québec)	One charge was laid on February 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Silver dollar coins)	Claude A. Broos and 476993 Ontario Corporation carrying on business under the name and style of Upper Canada Mint (Vancouver, British Columbia)	Six charges were laid on January 25, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Newspaper)	Buy and Sell Limited, Perry Breslin and Blake Breslin (Toronto, Ontario)	Two charges were laid on February 8, 1980, under paragraph 36(1)(a). The accused pleaded not guilty, but on January 21, 1982, the corporate accused was convicted on one charge and fined \$12,000. The individual accused were each granted an absolute discharge with respect to one charge. The remaining charge against all accused was dismissed. Under appeal by accused.
False or misleading representation in a material respect (Binoculars)	C.C.C.L. Canadian Consumer Company Limited and Allan Diamond carrying on business as Value Mart (Montréal, Québec)	Two charges were laid on June 11, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Slimming program)	C.C.C.L. Canadian Consumer Company Limited and Allan Diamond carrying on business as Slim-Skins (Toronto, Ontario)	Six charges were laid on April 14, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (T.V. antenna)	C.C.C.L. Canadian Consumer Company Ltd. (Montréal, Québec)	One charge was laid on November 23, 1979, under paragraph 36(1)(a). Accused was convicted on December 11, 1980, and fined \$7,500 on January 10, 1981. On January 5, 1981, an appeal was filed re conviction.
False or misleading representation in a material respect (Bust developer)	C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)	One charge was laid on May 5, 1980, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Canada Homes Inc. (Toronto, Ontario)	Five charges were laid on February 15, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Astro trimmer)	Canadian Consumer Company Limited (Toronto, Ontario)	One charge was laid on December 13, 1979, under paragraph 36(1)(a). The charge was withdrawn on August 26, 1980. Two charges were laid on June 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Home comfort products)	Carrier Canada Limited (Vancouver, British Columbia)	One charge was laid on March 25, 1982, under paragraph 36(1)(a).

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Jewellery)	Centennial Jewellers Limited carrying on business as The Gold Centre (London, Ontario)	One charge was laid on November 30, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wallpaper)	Color Your World Inc. and J.B. Templeton Limited carrying on business as Color Your World (St. John's, Newfoundland)	Two charges were laid on December 11, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Condensator Corporation (Alberta) Ltd. (Edmonton, Alberta)	Two charges were laid on February 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Electric drill)	Consumers Distributing Company Limited (County of Lambton, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas grill)	Consumers Distributing Company Limited (Toronto, Ontario)	Two charges were laid on June 29, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Corporation Immobilière Côte St. Luc Inc. and Les Développements Buckport Inc. (St. Bruno, Québec)	Three charges were laid on March 9, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (RRSP interest rates)	Glen L. Coulter Financial Services Ltd. (Ottawa, Ontario)	One charge was laid on November 25, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Stereo equipment)	Dalmill Electronics Inc. carrying on business as Hi-Fi Express and Hi-Fi Express Inc. (London, Ontario)	One charge was laid on January 22, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Sides of beef)	Julien Desgagne & André Lebrun carrying on business as Boucherie Auclair Enregistré (Ste-Julie, Québec)	One charge was laid on March 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Franchise-vending machines)	Dominion Lighter Sales Inc. and 338598 Ontario Ltd. trading under the name and style Dominion Lighter Sales & Terrence Francis Alie (Edmonton, Alberta)	One charge was laid on June 29, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Beef)	Dominion Stores Limited (London, Ontario)	Four charges were laid on December 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Sides of beef)	Pierre Dubé carrying on business as Salaison du Boulevard Labelle Enr. (Blainville, Québec)	One charge was laid on February 11, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Driving lessons)	École de Conduite d'Argenteuil Inc. (Québec, Québec)	Three charges were laid on April 24, 1981, under paragraph 36(1)(a). On October 2, 1981, the accused pleaded guilty and was convicted and fined \$200 on the first charge and \$100 on each of the other two charges for a total of \$400. The sentence is under appeal by the Crown.
False or misleading representation in a material respect (Fireplace)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Carpets)	La Factorie de Tapis D.B. Ltée/D.B. Carpet Factory Ltd. (St. Léonard, Québec)	Six charges were laid on November 2, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Tanning process)	400239 Ontario Limited carrying on business as Wat-A-Tan Family Tanning Centres and Stanley Seckenski (Toronto, Ontario)	Five charges were laid on December 11, 1981, under paragraph 36(1)(a).

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Bankruptcy sale)	Gary's Give-Aways Incorporated, Dick Rogers and Gary Clemmensen (St. Catharines, Ontario)	Thirteen charges were laid on January 5, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Beds)	Gary's Give-Aways Incorporated and Gary Clemmensen (St. Catharines, Ontario)	Two charges were laid on February 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Furniture)	M. Goldsmith and Company Limited (Montréal, Québec)	Ten charges were laid on October 3, 1978, under paragraph 36(1)(a).
False or misleading representation in a material respect (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car rental rates)	Hertz Canada Limited (Toronto, Ontario)	One charge was laid on November 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Phonographic cartridges)	Hi-Fi Express Inc. (Toronto, Ontario)	Six charges were laid on March 25, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Cape Breton, Nova Scotia)	One charge was laid on December 17, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(a). On December 22, 1981, a stay of proceedings was entered. On January 29, 1981, a new charge was laid in New Brunswick.
False or misleading representation in a material respect (Insurance)	International Warranty Company Limited (Edmonton, Alberta)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Three charges were laid on March 6, 1980, against the first three accused and two charges were laid against D. Paton under paragraph 36(1)(a).
False or misleading representation in a material respect (Massagers)	K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Vancouver, British Columbia)	One charge was laid on April 29, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted and fined \$2,500 on July 10, 1981. Under appeal by accused.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain et Placement des Cantons de l'Est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Klean Burn Manufacturing, Inc. and Henry Norton (London, Ontario)	Two charges were laid on November 5, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Job opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under paragraph 36(1)(a). On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Three charges were laid on December 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Lucier Estates Limited carrying on business as Lucier Estates (Windsor, Ontario)	One charge was laid on February 12, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Mason-jars)	Les Magasins Continental Limitée (Québec, Québec)	Four charges were laid on December 2, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Copying machines)	Magnastatics Corporation Limited and William Shore (Mississauga, Ontario)	One charge was laid on April 10, 1979, under paragraph 36(1)(a). On June 11, 1980, the charge was dismissed. Under appeal by Crown.
False or misleading representation in a material respect (Real estate)	Ross Lloyd Martin Enterprises Limited and The Coventry Group Limited (Toronto, Ontario)	Fourteen charges were laid on June 15, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Home rental)	Mastercraft Development Corporation (Ottawa, Ontario)	One charge was laid on February 8, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car rental)	Stan Mazur Investments Inc. (Toronto, Ontario)	Six charges were laid on April 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Window sealant)	Media Mail Order Inc. (Moncton, New Brunswick)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Pools)	Methot Sales Limited (Moncton, New Brunswick)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving seminar)	Millage Illimité Inc. and Guy Sasseville (Trois-Rivières and Cap-de-la-Madeleine, Québec)	Three charges were laid on March 12, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Jeans)	Bill Miller carrying on business as The Price Is Rite (Harrow, Ontario)	One charge was laid on July 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Sundry items)	Miracle Mart Inc. (Québec, Québec)	Twenty-four charges were laid on December 14, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Window)	John Edward (Jack) Mundy and 399696 Ontario Limited carrying on business as Ener-Gard (Moncton, New Brunswick)	One charge was laid on February 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Tours)	Music Mann Tours Ltd. carrying on business as Music Mann (London, Ontario)	One charge was laid on February 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Stereo equipment)	94951 Canada Inc. carrying on business as Hi-Fi Express (Kitchener-Waterloo, Ontario)	Two charges were laid on November 30, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gasoline)	101910 Canada Ltée (Ville LaSalle, Québec)	One charge was laid on March 15, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car wax)	R.D.Y. Auto Beauty Shop Ltd. (Winnipeg, Manitoba)	Two charges were laid on October 13, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Sundry items)	Revlon International Corporation (Edmonton, Alberta)	Six charges were laid on February 17, 1982, under paragraph 36(1)(a).

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Flour)	Robin Hood Multifoods Limited (Hull, Québec)	One charge was laid on October 30, 1980, under paragraph 36(1)(a). On May 5, 1981, the charge was dismissed. The Crown appealed the decision, but on November 30, 1981, the appeal was dismissed. The Crown has appealed from this decision.
False or misleading representation in a material respect (Coin sorter)	Samson Équipement de Bureau Inc. (Edmonton, Alberta)	One charge was laid on February 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Samuel Sarick Limited, Cannard Investments Limited, Collier & Park Advertising Ltd. and Murray Warsh Realty (1978) Limited (Toronto, Ontario)	Four charges were laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving seminar)	Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981, under paragraph 36(1)(a). On November 6, 1981, the charge was withdrawn and replaced by another charge under paragraph 36(1)(a).
False or misleading representation in a material respect (Advertising opportunity)	Seaboard Publishing Ltd., James Sicoli, Yellow Directory of Canada Ltd., Killoren Marketing Ltd. and James Killoren (Burnaby, British Columbia)	Sixty-two charges were laid on September 30, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Twenty-six charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Anthony Simon carrying on business as Simons Importers and Wholesalers (Grand Falls, Newfoundland)	One charge was laid on December 2, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Travel tours)	Skylark Holidays Limited (Stephenville, Newfoundland)	One charge was laid on November 6, 1979, under paragraph 36(1)(a). On April 17, 1980, the charge was dismissed. Under appeal by Crown.
False or misleading representation in a material respect (Jewellery)	Jack Snow and Richer et Snow Limitée carrying on business as Richer and Snow Jewellers (Ottawa, Ontario)	One charge was laid on May 29, 1980, under paragraph 36(1)(a). The charge was dismissed on October 29, 1980. Under appeal by Crown.
False or misleading representation in a material respect (Jewellery)	The Robert Simpson Company Limited and H. Forth & Co. Limited carrying on business as Gem Lab (Toronto, Ontario)	Thirteen charges were laid on September 29, 1978, under paragraph 36(1)(a). The accused pleaded not guilty but were convicted on July 30, 1981, on eleven of the charges. The remaining charges against both accused were dismissed. On September 15, 1981, the Robert Simpson Company Limited was fined \$7,000 on each charge for a total fine of \$77,000; and H. Forth & Co. was fined \$500 on each charge for a total fine of \$5,500. An order of prohibition was issued against both accused. Under appeal by both accused.
False or misleading representation in a material respect (Jewellery)	Simpsons-Sears Limited and H. Forth & Co. Limited carrying on business as Gem Lab (Toronto, Ontario)	Eleven charges were laid on September 15, 1980, under paragraph 36(1)(a) (and two charges were laid under the former section 37).

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Fur coats)	Steen & Wright Furriers Ltd. (Winnipeg, Manitoba)	One charge was laid on March 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real Estate)	Geoffrey Bushby Stephenson and Grayfriars Realty Ltd. (Surrey, British Columbia)	Six charges were laid on January 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wallpaper)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	One charge was laid on March 31, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Automobile rental)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(a).
False or misleading representation in a material respect (Fur coats)	Wendelyn Textiles & Products Ltd. carrying on business as Alan Cherry (Toronto, Ontario)	Nine charges were laid on October 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Eye glasses)	F.W. Woolworth Co. Ltd. carrying on business under the name and style of Woolco Department Stores (Brandon, Manitoba)	One charge was laid on March 10, 1982, under paragraph 36(1)(a).
Representation without proper test (Bust developer)	C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)	One charge was laid on May 5, 1980, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Fireplace)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982, under paragraph 36(1)(b).
Representation without proper test (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(b). On December 22, 1981, a stay of proceedings was entered. A new charge was laid in New Brunswick on January 29, 1982.
Representation without proper test (Gas-saving device)	Klean Burn Manufacturing, Inc. and Charles Henry Norton (London, Ontario)	Nine charges were laid on November 5, 1981, under paragraph 36(1)(b).
Representation without proper test (Asbestos)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b).
Representation without proper test (Engine treatment)	Petro-Lon Canada (Edmonton, Alberta)	One charge was laid on December 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(b).
Misleading warranty or guarantee (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Two charges were laid on March 6, 1980 under paragraph 36(1)(c).

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Misleading price representation (Shower head)	Clermont Rousseau Entrepreneur Plombier Inc. (Québec, Québec)	One charge was laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representation (Toaster)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(d).
Misleading price representation (Jeans)	Creative Sportswear Company Limited carrying on business as Creative Pantino (London, Ontario)	One charge was laid on November 30, 1981, under paragraph 36(1)(d).
Misleading price representation (Dining room set)	Great Universal Stores of Canada Limited carrying on business as Legare Meubles (Québec, Québec)	Two charges were laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representation (Furniture)	K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Calgary, Alberta)	One charge was laid on February 6, 1981, under paragraph 36(1)(d). On July 10, 1981, the charge was dismissed. Under appeal by Crown.
Misleading price representation (Roller skates)	L.E. Skates Sensation Ltd. (Winnipeg, Manitoba)	Two charges were laid on December 1, 1981, under paragraph 36(1)(d).
Misleading price representation (Television)	Les Magasins P.T.H. Ltée/Seaward Capital Corporation Ltd. carrying on business under the name and style of Boutique Electro-Vision (Québec, Québec)	One charge was laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representation (Furniture)	Les Meubles Barnabé Inc. (Québec, Québec)	Seven charges were laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representation (Floor lamps)	1849-9848 Québec Inc. carrying on business as Au Royaume de la Lumière (Québec, Québec)	Two charges were laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representaton (Wall-paper)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	Four charges were laid on March 31, 1981, under paragraph 36(1)(d).
Misleading price representation (Fibre glass insulation)	Baptiste Touchatou Inc. (Québec, Québec)	Two charges were laid on January 26, 1982, under paragraph 36(1)(d).
Misleading price representation (Fur coats)	Wendelyn Textiles & Products Ltd. carrying on business as Alan Cherry (Toronto, Ontario)	One charge was laid on October 7, 1981, under paragraph 36(1)(d).
Double ticketing (Food items)	Steinberg Inc. (Ville LaSalle, Québec)	Thirty-two charges were laid on January 30, 1981, under section 36.2.
Double ticketing (Food items)	Les Supermarchés Dominion Ltée (Montréal, Verdun and St. Léonard, Québec)	Eleven charges were laid on January 20, 1981, under section 36.2.
Pyramid selling (Food supplements cleaning and personal care products)	Shaklee Canada Inc. (Edmonton, Alberta)	Proceedings were instituted on November 14, 1980, in Edmonton, Alberta under subsection 30(2) for an Order of Prohibition. On February 11, 1981, the order was refused by the Federal Court. Under appeal by the Crown.
Non-availability (Toy)	Consumers Distributing Company Limited (Ottawa, Ontario)	One charge was laid on June 29, 1981, under section 37.
Non-availability (Motor oil)	Consumers Distributing Company Limited (Hamilton, Ontario)	One charge was laid on June 29, 1981, under section 37.

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Non-availability (Watch)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37.
Non-availability (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under section 37. On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.
Non-availability (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Six charges were laid on April 22, 1981, under section 37.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981, under section 37.1.
Sale above advertised price (Grocery items)	J. Bouliannes Inc. carrying on business as Provibec (Escoumins, Québec)	Seven charges were laid on December 28, 1981, under section 37.1.
Sale above advertised price (Sundry items)	René Brault, Laurent Trudeau and Distributions Brault & Trudeau Inc. carrying on business under the name and style of Pharmacie Jean Coutu (R. Brault & L. Trudeau) Enr. (St. Agathe and St. Jovite, Québec)	Twelve charges were laid on December 8, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean-Claude Brouillette carrying on business as Pharmaprix (Dorval, Québec)	Twelve charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Pierre Brunet carrying on business as Pharmaprix (Longueuil, Québec)	Five charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)	Twelve charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Food items)	Centre D'Escompte Racine Inc. carrying on business as Uniprix (Beauport, Québec)	Fifteen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacies Escompte Jean Coutu Enr. & Pharmacies Jean Coutu Enrg. (Rémigny, Québec)	Twenty-two charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean Coutu carrying on business as Pharmacies Jean Coutu Enr. (Longueuil, Québec)	Thirty charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacie Jean Coutu Enr. (Granby, Québec)	Twelve charges were laid on March 19, 1982, under section 37.1.

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Sale above advertised price (Sundry items)	Jean Coutu and Louis Michaud carrying on business under the name and style of Pharmacie Jean Coutu (St. Jérôme) Enr. (St. Jérôme, Québec)	Nineteen charges were laid on December 8, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Cumberland Drugs (Merivale) Ltd. and Morrie Neiss (Dorval, Québec)	Sixteen charges were laid on July 8, 1981, under section 37.1.
Sale above advertised price (Stereo equipment)	Dalmill Electronics Inc. carrying on business as Hi-Fi Express (London, Ontario)	One charge was laid on January 22, 1982, under section 37.1.
Sale above advertised price (Food items)	Dominion Stores Limited/Les Supermarchés Dominion Limitée (Hamilton, Burlington, Stoney Creek, Toronto, Mississauga, Oakville, St. Catharines, London and Windsor, Ontario)	Forty-seven charges were laid on March 17, 1982, under section 37.1.
Sale above advertised price (Food items)	Dominion Stores Limited/Les Supermarchés Dominion Ltée (Ste-Foy, Québec)	Seventeen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean-Paul Duquet carrying on business as Pharmacie Jean Coutu (J.P. Duquet) Enrg. & Pharmont Ltée (Montréal, Québec)	Twenty-two charges were laid on November 27, 1981, under section 37.1.
Sale above advertised (Beauty products)	Les Entreprises Pierre Deschenes Inc. carrying on business as Pharm-escomptes Jean Co. (Jonquière, Québec)	Twenty-two charges were laid on March 23, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jacques Filion carrying on business as Pharmaprix (Longueuil, Québec)	Six charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Florent Létourneau carrying on business as Pharmacie de la Couronne Enr. and as Uniprix (Québec, Québec)	Eight charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Mason-jars)	Les Magasins Continental Limitée (Québec, Québec)	Four charges were laid on December 3, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Magasins Heriot Inc. carrying on business as Pharm-escomptes Jean Coutu (Drummondville, Québec)	Nineteen charges were laid on May 6, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Justin Maltais and Luc Maltais carrying on business as Justin Maltais, Luc Maltais Pharmaciens and as Uniprix (Chicoutimi, Québec)	Ten charges were laid on March 23, 1981, under section 37.1.
Sale above advertised price (Household products)	Raymond Martel carrying on business as Pharmacie Martel Enr. and as Uniprix (Loretteville, Québec)	Thirteen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Car rental)	Stan Mazur Investments Inc. (Toronto, Ontario)	One charge was laid on April 10, 1981, under section 37.1.
Sale above advertised price (Household products)	Miracle Mart Inc. (Brossard, Longueuil and Montréal, Québec)	Sixty-three charges were laid on December 7, 1979, under section 37.1. On January 30, 1981, accused was acquitted. Under appeal by Crown. On February 16, 1982, the appeal was allowed and a new trial ordered. The accused has applied for leave to appeal.

APPENDIX IV — (Continued)

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

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Sale above advertised price (Stereo)	94951 Canada Inc. carrying on business as Hi-Fi Express (Kitchener, Ontario)	One charge was laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Les Produits de Santé Beaulieu Ltée carrying on business as Pharmaprix (Giffard, Québec)	Twelve charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Réal Proulx carrying on business as Pharmacie Escompte Jean Coutu (Réal Proulx) Enr. (Cap-de-la-Madeleine, Québec)	Eight charges were laid on December 17, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Gilles Raymond carrying on business as Pharmacie Jean Coutu (G. Raymond) Enr. and as Pharmacie Jean Coutu (Dorion) Enr. (Dorion and Valleyfield, Québec)	Seventeen charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Roger Roy carrying on business as Pharmacie Jean Coutu (R. Roy) Enr. (Val D'Or, Québec)	Nine charges were laid on June 9, 1981, under section 37.1.
Sale above advertised price (Sundry items)	André St-Onge, Paul St-Onge and Jean St-Onge carrying on business as Pharmacie Jean Coutu (St-Hubert, Québec)	Eight charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Guy St-Onge carrying on business as Pharmacie Jean Coutu (Guy St-Onge) Enr. (Québec, Québec)	Eleven charges were laid on March 31, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean St-Onge & Econofar Inc. carrying on business as Pharmacies Jean Coutu (J. St-Onge) Enrg. (Brossard, Québec)	Eighteen charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Paul St-Onge et Les Magasins Longueuil Inc. carrying on business as Pharmacie Jean Coutu (P. St-Onge) Enr. (Longueuil, Québec)	Twenty-four charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Food items)	Steinberg Inc. (Ville LaSalle, Québec)	Fifteen charges were laid on January 30, 1981, under section 37.1.
Sale above advertised price (Food items)	Les Supermarchés Dominion Ltée (Montréal, Verdun, and St. Léonard Québec)	Thirty-one charges were laid on January 30, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean Marie Tétrault and Thomas Laperrière carrying on business as Tétrault et Laperrière Associés and as Uniprix (Montréal, Québec)	Fifteen charges were laid on July 9, 1981, under section 37.1.
Sale above advertised price (Sundry items)	François Traversy carrying on business as Pharmacie Jean Coutu (F. Traversy) Enr. (Verdun, Québec)	Five charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Real estate)	Tri-Power Industries Ltd. carrying on business as Tri-Power Industries (Coquitlam, British Columbia)	Three charges were laid on July 31, 1981, under section 37.1.
Sale above advertised price (Automobile rental)	Uptown Auto Rental Ltd. (Toronto, Ontario)	One charge was laid on April 10, 1981, under section 37.1.
Promotional contest (Copying machines)	Magnastatics Corporation Limited and William Shore (Mississauga, Ontario)	One charge was laid on April 10, 1979, under section 37.2. The accused was acquitted on June 11, 1980. Under appeal by Crown.

APPENDIX V

Table of Cases

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

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

Rex v. McGuire et al. (1906) 7 O.W.R. 225.

Rex v. Master Plumbers and Steam Fitters Co-operative Association, Limited et al. (1907), 14 O.L.R. 295; 12 C.C.C. 371. (Trial and Appeal)

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

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

The King v. Gage (No. 2) (1908), 7 W.L.R. 564; 18 Man. R. 175; 13 C.C.C. 428. (Appeal)

Rex v. Clarke (1907), 14 C.C.C. 46. (Trial)

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

Rex v. Beckett et al. (1910), 20 O.L.R. 401; 15 C.C.C. 408.

Stinson-Reeb Builders Supply Company et al. v. The King, [1929] S.C.R. 276; 52 C.C.C. 66; 3 D.L.R. 331.

Rex v. Singer et al., [1931] O.R. 202. (Trial)

Rex v. Singer et al., [1931] O.R. 699; 56 C.C.C. 68; 3 D.L.R. 698. (Appeal)

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

Belyea v. The King; Weinraub v. The King, [1932] S.C.R. 279; 57 C.C.C. 318; 2 D.L.R. 88.

Rex v. Alexander Ltd. et al., [1932] 2 D.L.R. 109; 57 C.C.C. 346.

Rex v. Famous Players, [1932] O.R. 307; 58 C.C.C. 50; 3 D.L.R. 791.

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

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

Rex v. Canadian Import Co. et al. (1935), 62 C.C.C. 342; 3 D.L.R. 330. (Appeal) (Leave to appeal refused (Sub nom *British Coal Corporation v. Rex*, [1935] A.C. 500).)

Rex v. Hartt & Adair Coal Co. Ltd. et al. (Québec Court of King's Bench, Crown Side, 1935, Trial, unreported).

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

Rex v. Staples et al. (1940), 2 W.W.R. 627; 74 C.C.C. 178; 4 D.L.R. 699.

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

Rex v. Container Materials Ltd. et al. (1941), 76 C.C.C. 18; 3 D.L.R. 145. (Appeal)

Container Materials Ltd. et al. v. The King, [1942] S.C.R. 147; 77 C.C.C. 129; 1 D.L.R. 529.

- Rex v. Imperial Tobacco Co. et al.* (1942), 1 W.W.R. 625; 1 D.L.R. 540 (Appeal); (1942), 77 C.C.C. 199; 2 D.L.R. 167 (Application for stay of judgment and for re-argument of appeal). (Leave to appeal to the Supreme Court of Canada refused (1942), 77 C.C.C. 316; 3 D.L.R. 33.)
- Rex v. The Ash-Temple Company Limited et al.*, [1949] O.R. 315; 8 C.R. 66; 93 C.C.C. 267. (Appeal)
- Rex v. McGavin Bakeries Limited et al.* (No. 6), (1951), 3 W.W.R. (N.S.) 289; 13 C.R. 63; 101 C.C.C. 22.
- Rex v. Eddy Match Company Limited et al.* (1952), 13 C.R. 217; 104 C.C.C. 39; 17 C.P.R. 17. (Trial)
- Eddy Match Company Limited et al. v. The Queen* (1954), 18 C.R. 357; 109 C.C.C. 1; 20 C.P.R. 107. (Appeal) (Leave to appeal to the Supreme Court of Canada refused)
- Regina v. Goodyear Tire & Rubber Co. of Canada Ltd. et al.*, [1953] O.R. 856; O.W.N. 828; 17 C.R. 252; 107 C.C.C. 88; 19 C.P.R. 75. (Trial)
- Regina v. Goodyear Tire & Rubber Co. of Canada Ltd. et al.*, [1954] O.R. 377; O.W.N. 436; 18 C.R. 245; 108 C.C.C. 321; 4 D.L.R. 61. (Appeal)
- Goodyear Tire & Rubber Co. of Canada Ltd. et al. v. The Queen*, [1956] S.C.R. 303; 114 C.C.C. 380; 26 C.P.R. 1; 2 D.L.R. (2d) 11.
- Regina v. Firestone Tire & Rubber Company of Canada Limited et al.*, [1954] O.W.N. 68; 17 C.R. 401; 107 C.C.C. 286; 20 C.P.R. 8.
- Regina v. Dominion Rubber Co. Ltd. et al.*, [1954] 17 C.R. 409; 107 C.C.C. 256; 20 C.P.R. 16.
- Regina v. Howard Smith Paper Mills, Limited et al.*, [1954] O.R. 543; 663; 19 C.R. 1: 242; 109 C.C.C. 65; 213; 4 D.L.R. 161: 517. (Trial)
- Regina v. Howard Smith Paper Mills, Limited et al.*, [1955] O.R. 713; 22 C.R. 205; 112 C.C.C. 108; 4 D.L.R. 225; 25 C.P.R. 27. (Appeal)
- Howard Smith Paper Mills Limited et al. v. The Queen*, [1957] S.C.R. 403; 26 C.R. 1; 118 C.C.C. 321; 8 D.L.R. (2d) 449.
- Regina v. Crown Zellerbach Canada Ltd. et al.* (1956), 22 C.R. 1; (1955) 15 W.W.R. 563; 113 C.C.C. 212; 5 D.L.R. 27. (Trial)
- Regina v. Crown Zellerbach Canada Ltd. et al.* (1957), 25 C.R. 217; 20 W.W.R. 523; 118 C.C.C. 16; 7 D.L.R. (2d) 515. (Appeal)
- Regina v. Northern Electric Company, Limited et al.*, [1955] O.R. 431 (Trial); [1956] O.W.N. 633; 116 C.C.C. 98; 24 C.R. 201. (Sentence only)
- Regina v. Dominion Steel and Coal Corp. Ltd. et al.* (1957), 27 C.P.R. 57; 116 C.C.C. 117; [1956] O.W.N. 753 (Sentence only); 25 C.R. 48 (Sentence only).
- Regina v. Morrey et al.* (1956), 24 C.R. 319; 19 W.W.R. 299; 115 C.C.C. 337; 26 C.P.R. 55; 6 D.L.R. (2d) 114. (Appeal) (Leave to appeal to the Supreme Court of Canada refused)
- Regina v. Moffats Limited*, [1957] O.R. 93; 25 C.R. 201; 118 C.C.C. 4; 28 C.P.R. 57; 7 D.L.R. (2d) 405. (Appeal) (Leave to appeal to the Supreme Court of Canada refused)
- Regina v. D.E. Adams Coal Ltd. et al.* (1957), 65 Man. R. 358; 27 C.R. 47; 23 W.W.R. 419; 119 C.C.C. 350; (1958) 29 C.P.R. 163.
- Regina v. Ray et al.* (1957, Police Court, South Burnaby, B.C., unreported).
- Regina v. Howard et al.* (1958, Police Court, South Burnaby, B.C., unreported).

Regina v. Canadian Breweries Ltd., [1960] O.R. 601; 33 C.R. 1; 126 C.C.C. 133.

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

Regina v. Electrical Contractors Association of Ontario and Dent, [1960] O.W.N. 380; 33 C.R. 221; 127 C.C.C. 273. (Trial)*

Regina v. Electrical Contractors Association of Ontario and Dent, [1961] O.R. 265; 131 C.C.C. 145; (1961), 27 D.L.R. (2d) 193; 37 C.P.R. 1 (includes Trial). (Appeal) (Leave to appeal to the Supreme Court of Canada refused)

Regina v. British Columbia Sugar Refining Company Limited et al. (1960), 32 W.W.R. (N.S.) 577; 129 C.C.C. 7; (1962), 38 C.P.R. 177.

Regina v. Lyons Fuel Hardware and Supplies Limited et al., [1961] O.R. 860; 131 C.C.C. 189; 30 D.L.R. (2d) 6; 40 C.P.R. 27.

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

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

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

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

Regina v. The Producers Dairy Limited (1981), 50 C.P.R. (2d) 265. (Trial and Appeal)

Regina v. Sunbeam Corporation (Canada) Limited, [1967] 1 O.R. 23; [1967] 1 C.C.C. 110; 59 D.L.R. (2d) 321; 50 C.P.R. 5.

Regina v. Sunbeam Corporation (Canada) Limited, [1967] 1 O.R. 661; [1967] 3 C.C.C. 149; 62 D.L.R. (2d) 75; 1 C.R.N.S. 183; 53 C.P.R. 102. (Appeal)

Sunbeam Corporation (Canada) Limited v. The Queen, [1969] S.C.R. 221; [1969] 2 C.C.C. 189; 1 D.L.R. (3d) 161; 56 C.P.R. 242.

Regina v. J.J. [K.J.] Beamish Construction Co. Limited et al., [1966] 2 O.R. 867; 59 D.L.R. (2d) 6; 50 C.P.R. 97; [1967] 1 C.C.C. 301. (Trial)

Regina v. J.J. [K.J.] Beamish Construction Co. Limited et al., [1968] 1 O.R. 5; 65 D.L.R. (2d) 260; 53 C.P.R. 43; [1968] 2 C.C.C. 5 (includes note on motion to quash appeal to Supreme Court of Canada). (Appeal)

Regina v. J.J. [K.J.] Beamish Construction Co. Limited et al., [1968] 1 O.R. 31n. (Judgment on motion to quash appeal to Supreme Court of Canada)

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

Regina v. Philips Electronics Industries Ltd. and Philips Appliances Limited (1966), 52 C.P.R. 224. (Trial)

Regina v. Philips Appliances Ltd., [1969] 1 O.R. 386; [1969] 2 C.C.C. 328; 2 D.L.R. (3d) 558; 57 C.P.R. 45. (Appeal)

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

Regina v. William E. Coutts Company Limited, [1968] 2 C.C.C. 221; 54 C.P.R. 60; [1968] 1 O.R. 549; 67 D.L.R. (2d) 87 (includes Trial judgment). (Appeal)

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

Regina v. St. Lawrence Corporation Limited et al., [1969] 2 O.R. 305; [1969] 3 C.C.C. 263; 5 D.L.R. (3d) 263; 59 C.P.R. 97. (Appeal)

- Regina v. Carnation Company Limited* (Supreme Court of Alberta, December 15, 1966, unreported).
- Regina v. Carnation Company Limited* (1968), 67 D.L.R. (2d) 215; 55 C.P.R. 16; [1969] 3 C.C.C. 43 (Appeal). (Judgment on preliminary question as to admissibility of certain evidence.)
- Regina v. Carnation Company Limited* (1969), 4 D.L.R. (3d) 133; 68 W.W.R. 97; 58 C.P.R. 112; [1970] 3 C.C.C. 190. (Appeal) (Motion granted to quash appeal to Supreme Court of Canada)
- Regina v. Canadian Coat and Apron Supply Limited et al.*, [1967] 2 Ex. C.R. 53; 2 C.R.N.S. 62; 52 C.P.R. 189.
- Regina v. Deschenes Construction Ltd. et al.* (1967), 51 C.P.R. 255.
- Regina v. Burrows et al.* (1966), 54 C.P.R. 95.
- Regina v. Philips Appliances Ltd.* (1969), 57 C.P.R. 30 (Trial): 41. (Sentence)
- Regina v. J.W. Mills & Son, Limited et al.*, [1968] 2 Ex. C.R. 275; 56 C.P.R. 1.
- J.W. Mills & Son, Limited et al. v. The Queen*, [1971] S.C.R. 63; 14 D.L.R. (3d) 464; 1 C.C.C. (2d) 420; 64 C.P.R. 7. (Supreme Court of Canada)
- Regina v. Allied Towers Merchants Limited* (1969), 60 C.P.R. 140.
- Regina v. Electric Reduction Company of Canada Ltd.* (1970), 61 C.P.R. 235.
- Corning Glass Works of Canada Limited and The Queen*, (motion to prohibit County Court Judge from enforcing subpoenas by the Crown directed to members of management of accused), [1970] 3 O.R. 398; 1 C.C.C. (2d) 74; 12 C.R.N.S. 67; 63 C.P.R. 212.
- Regina v. Judge of the General Sessions of the Peace for the County of York, Ex parte Corning Glass Works of Canada Ltd.*, [1971] 2 O.R. 3; 3 C.C.C. (2d) 204; 16 D.L.R. (3d) 609; 65 C.P.R. 250. (Appeal) (Leave to appeal to the Supreme Court of Canada refused)
- Regina v. Corning Glass Works of Canada Ltd.* (1972), 9 C.P.R. (2d) 69. (Sentence)
- Regina v. B.C. Professional Pharmacists' Society et al.*, [1971] 1 W.W.R. 705; 3 C.C.C. (2d) 29; 17 D.L.R. (3d) 285; 64 C.P.R. 129.
- Regina v. Canadian Oxygen Ltd and three other Corporations* (1971), 6 C.C.C. (2d) 167; 3 C.P.R. (2d) 237.
- Regina v. Canadian Oxygen Ltd and three other Corporations* (1975), 26 C.C.C. (2d) 398; 24 C.P.R. (2d) 258; 64 D.L.R.(3d) 151.*
- Regina v. Arrow Petroleums Ltd.* (1972), 8 C.P.R. (2d) 95. (Sentence)
- Regina v. Black and Decker Manufacturing Co. Ltd.* (1972), 9 C.P.R. (2d) 129. (Motion to quash indictment against amalgamated company)
- Re Black and Decker Manufacturing Co. Ltd. and The Queen*, [1973] 2 O.R. 460; 11 C.C.C. (2d) 470; 10 C.P.R. (2d) 154; 34 D.L.R.(3d) 308. (Appeal from order dismissing motion)
- Regina v. Black and Decker Manufacturing Co. Ltd.*, [1975] 1 S.C.R. 411; (1974), 15 C.C.C. (2d) 193; 13 C.P.R. (2d) 97; 43 D.L.R. (3d) 393. (Supreme Court of Canada)
- Regina v. Canada Safeway Ltd.* (1973), 12 C.P.R. (2d) 3; [1974] 1 W.W.R. 210.*
- Regina v. Canada Cement Lafarge Ltd. et al.* (1973), 12 C.P.R. (2d) 12.
- Regina v. K.C. Irving Ltd. et al.* (1974), 16 C.C.C. (2d) 49; 13 C.P.R. (2d) 115; 7 N.B.R. (2d) 360; 45 D.L.R. (3d) 45. (Trial)

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

Regina v. K.C. Irving Ltd. and three other Corporations; Regina v. K.C. Irving Ltd. (1975), 23 C.C.C. (2d) 479; 20 C.P.R. (2d) 193; 62 D.L.R. (3d) 157; 11 N.B.R. (2d) 181 (Appeal).

Regina v. K.C. Irving Ltd. et al., [1976] 2 S.C.R. 366; 27 C.C.C. (2d) 263; 25 C.P.R. (2d) 223; 65 D.L.R.(3d) 564. (Leave to appeal to Supreme Court of Canada)

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

Regina v. Browning Arms Co. of Canada Ltd. (1974), 18 C.C.C., (2d) 298; 15 C.P.R. (2d) 97. (Appeal)

Regina v. Hemlock Park Co-Operative Limited, [1974] S.C.R. 123; 24 D.L.R. (3d) 688; 6 C.C.C. (2d) 189; 5 C.P.R. (2d) 101.

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

Regina v. Ocean Construction Supplies Ltd. and six other Corporations (1974), 22 C.C.C. (2d) 340; 18 C.P.R. (2d) 166; 61 D.L.R. (3d) 323. (Appeal on sentence)

Regina v. Anthes Business Forms Limited et al. (1974), 19 C.C.C. (2d) 394; 16 C.P.R. (2d) 216.

Regina v. Anthes Business Forms Limited and 11 other Corporations (1975), 26 C.C.C. (2d) 349; 10 O.R. (2d) 153; 20 C.P.R. (2d) 1. (Appeal)

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

Regina v. Aetna Insurance Company et al. (1975), 19 C.C.C. (2d) 449; 52 D.L.R. (3d) 30; (1974) 16 C.P.R.(2d) 116. (Trial)

Regina v. Aetna Insurance Company and 72 other Corporations (1975), 22 C.C.C. (2d) 513; 12 N.S.R. (2d) 362; 62 D.L.R. (3d) 447; 23 C.P.R. (2d) 231. (Appeal)

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

Aetna Insurance Company and 72 other Corporations v. The Queen (1977), 15 N.R. 117; 34 C.C.C. (2d) 157; 20 N.S.R. (2d) 565; 30 C.P.R. (2d) 193. (Supreme Court of Canada)

Regina v. Canadian General Electric Co. Ltd. et al. (No. 1) (1974), 17 C.C.C. (2d) 433; 16 C.P.R.(2d) 175; (No. 2) (1974), 17 C.C.C. (2d) 445; 16 C.P.R. (2d) 186.

Regina v. Canadian General Electric Co. Ltd. et al. (1976), 15 O.R. (2d) 360; 34 C.C.C. (2d) 489; 29 C.P.R. (2d) 1; 75 D.L.R. (3d) 664.

Regina v. C.G.E. Co. Ltd. et al. (1977), 35 C.P.R. (2d) 210. (Sentence)

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

Regina v. Armco Canada Ltd. et al. (1974), 6 O.R. (2d) 521; 21 C.C.C. (2d) 129; 17 C.P.R. (2d) 211. (Trial)

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

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- Regina v. Atlantic Sugar Refineries Co. Ltd. et al.* (1978), 41 C.C.C. (2d) 209; 91 D.L.R. (3d) 618. (Appeal)
- Atlantic Sugar Refineries Co. Ltd. et al. v. Attorney General of Canada*, [1980] 2 S.C.R. 644; 32 N.R. 561; 54 C.C.C. (2d) 373; 115 D.L.R. (3d) 21; 53 C.P.R. (2d) 1. (Supreme Court of Canada)
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- Regina v. Morse Jewellers (Sudbury) Ltd.*, [1963] 2 O.R. 107; 42 C.P.R. 130. (Trial)
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- Regina v. Carpet Villa Ltd.* (1972), 8 C.C.C. (2d) 327; 7 C.P.R. (2d) 262. (Trial)
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Regina v. Cunningham Drug Stores Ltd. (1974), 17 C.C.C. (2d) 279; 13 C.P.R. (2d) 244. (Appeal)

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Regina v. Colgate-Palmolive Ltd. (1972), 9 C.P.R. (2d) 62.

Regina v. Centre City Supermarkets Limited (Provincial Court, Ottawa, July 13, 1972, unreported).

Regina v. Anderson & Friends Ltd. (1973), 11 C.C.C. (2d) 398; 9 C.P.R. (2d) 222.

Regina v. G.J. Lemieux Ltée (1973), 10 C.P.R. (2d) 194.

Paramount Industries Inc. v. The Queen (1973), 10 C.P.R. (2d) 216. (Appeal)

Regina v. Consumers Distributing Co. Ltd. (1973), 12 C.P.R. (2d) 34.

Regina v. Kachuk (1973), 12 C.P.R. (2d) 45.

Regina v. T. Eaton Co. Ltd. (1973), 14 C.C.C. (2d) 124; 12 C.P.R. (2d) 276. (Trial)

Regina v. T. Eaton Co. Ltd., [1974] 4 W.W.R. 484; 17 C.C.C. (2d) 501; 47 D.L.R. (3d) 746; 15 C.P.R. (2d) 25. (Appeal)

Regina v. Dominion Stores Ltd. (1973), 20 C.C.C. (2d) 378; 15 C.P.R. (2d) 35.

Regina v. Standard Metal Products Ltd. (1973), 15 C.P.R. (2d) 39.

Regina v. Tremco Manufacturing Co. (Canada) Ltd. (1973), 15 C.P.R. (2d) 232.

Regina v. Dupli-Color Canada, Ltd. (1973), 16 C.P.R. (2d) 94. (Sentence)

Regina v. Ameublements Capri Limitée (Provincial Court, Chicoutimi, September 4, 1973, unreported).

Regina v. Alexanian & Sons Ltd. (1974), 23 C.C.C. (2d) 249; 22 C.P.R. (2d) 37.

Regina v. Alexanian & Sons Ltd. (1976), 17 N.R. 42; 33 C.P.R. (2d) 144. (Supreme Court of Canada)

Regina v. Broadway Clothiers Ltd. (1974), 20 C.C.C. (2d) 35; 16 C.P.R. (2d) 267.

Regina v. Sousa (1974), 20 C.C.C. (2d) 351; 17 C.P.R. (2d) 71. (Trial)

Regina v. Sousa (1974), 23 C.C.C. (2d) 371; 18 C.P.R. (2d) 280. (Appeal)

Regina v. Peremiczky (Zoly), [1974] 2 W.W.R. 386. (Mandamus proceedings)

Regina v. Peremiczky (1974), 19 C.C.C. (2d) 318; 18 C.P.R. (2d) 150. (Trial)

Regina v. Reader's Digest Association Ltd. (1974), 19 C.C.C. (2d) 507; 17 C.P.R. (2d) 173.

Regina v. Zehrs Markets Ltd. (1974), 20 C.C.C. (2d) 107; 17 C.P.R. (2d) 288.

Regina v. Lakaire Homes Limited (1974), 21 C.C.C. (2d) 53; 19 C.P.R. (2d) 92.

Regina v. Armand Côté Ltée (1973), 18 C.P.R. (2d) 125.

Regina v. Suntours Limited and Algonquin Travel Services Limited (1974), 21 C.C.C. (2d) 239; 20 C.P.R. (2d) 179.

Regina v. E.M.L. Distributors Ltd. (Provincial Court, Vancouver, October 24, 1974, unreported).

Regina v. City Tire Services Limited (1974), 21 C.C.C. (2d) 244; 19 C.P.R. (2d) 124.

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Regina v. Golden (1973), 19 C.P.R. (2d) 118. (Preliminary Hearing)

Regina v. O'Brien (County Court District One, Nova Scotia, December 11, 1974, unreported).

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Regina v. Viceroy Construction Co. Ltd. (1975), 11 O.R. (2d) 485; 29 C.C.C. (2d) 299; 23 C.P.R. (2d) 281. (Appeal)

Regina v. Bad Boy Appliances and Furniture Ltd. (1975), 23 C.P.R. (2d) 273. (Appeal)

Regina v. Steinberg's Limited (1975), 24 C.P.R. (2d) 101. (Trial)

Regina v. Steinberg's Limited (1976), 13 O.R. (2d) 293; 31 C.C.C. (2d) 30; 26 C.P.R. (2d) 109; 70 D.L.R. (3d) 624. (Appeal)

Regina v. Leaman Group Ltd. (1976), 13 N.B.R. (2d) 336; 28 C.P.R. (2d) 152. (Appeal)

Regina v. Family Tire Centres Limited (County Court, Toronto, May 16, 1975, unreported).

Regina v. Family Tire Centres Limited (1975), 28 C.C.C. (2d) 474; 25 C.P.R. (2d) 219.

Regina v. General Motors of Canada Ltd. (1974), 26 C.P.R. (2d) 159.

Regina v. Loblaw's Ltd. (1976), 26 C.P.R. (2d) 121.

Regina v. Simpsons-Sears Ltd. (1976), 28 C.P.R. (2d) 249.

Regina v. Bidwell Food Processors Ltd. (1976), 29 C.P.R. (2d) 266.

Regina v. Williams of Burlington Ltd. (1977), 32 C.P.R. (2d) 214.

Knickle v. Regina (1977), 31 C.P.R. (2d) 145.

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Regina v. Universal China, Lamp & Glass Co. Ltd. (1976), 35 C.P.R. (2d) 286.

Regina v. L. Bussin & Marketing International Ltd. (County Court, Toronto, May 18, 1977, unreported).

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Regina v. The T. Eaton Co. Ltd. (Sessions of the Peace Court, Montréal, Québec, October 14, 1977, unreported).

Regina v. Michael Publishing Co. Ltd. (1976), 35 C.P.R. (2d) 62.

Regina v. Colgate Palmolive Ltd. (1977), 20 O.R. (2d) 691; 41 C.C.C. (2d) 423; 37 C.P.R. (2d) 276.

Regina v. Sovereign Seat Cover Mfg. Ltd., (Provincial Court, Cornwall, Ontario, July 26, 1977, unreported). (Trial)

Regina v. Sovereign Seat Cover Manufacturing, Ltd., (Supreme Court of Ontario, Court of Appeal, January 18, 1978, unreported). (Appeal)

Regina v. R.M. Lowe Real Estate Limited and Pastoria Holdings Limited (County Court, Toronto, August 25, 1977, unreported). (Trial)

Regina v. R.M. Lowe Real Estate Ltd. et al. (1978), 40 C.C.C. (2d) 529; 39 C.P.R. (2d) 266. (Appeal)

Regina v. Frank Cotton (1981), 56 C.P.R. (2d) 261.

Regina v. Whitehall Development Corporation Limited, (1978), 43 C.P.R. (2d) 64.

Regina v. Whitehall Development Corporation Limited, (County Court, Toronto, Ontario, December 16, 1977, reasons for sentence, unreported).

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Regina v. Impala Agencies Ltd. (1976), 28 C.P.R. (2d) 42.

Regina v. Garibaldi Lifts Ltd., [1977] 3 W.W.R. 350; 35 C.C.C. (2d) 190; 33 C.P.R. (2d) 8.

Giftwares Wholesale v. Regina, [1977] 4 W.W.R. 326; 36 C.C.C. (2d) 330; 32 C.P.R. (2d) 243. (Appeal)

Regina v. Bennett Stores Ltd. (Provincial Court of British Columbia, County of Yale, Kelowna, B.C., May 31, 1977 unreported).

Regina v. Michaud (1978), 40 C.P.R. (2d) 63.

Regina v. Saros Ltd. (1978), 43 C.C.C. (2d) 310; 40 C.P.R. (2d) 208.

Regina v. N.R. Motors Ltd. (Provincial Court, Prince George, B.C. November 22, 1977, unreported). (Trial)

Regina v. N.R. Motors Ltd., [1979] 2 W.W.R. 614; 55 C.P.R. (2d) 168. (Appeal)

Regina v. New York Shoe Store Limited (1978), 43 C.P.R. (2d) 38.

Regina v. Parkside Ford Sales Ltd. (Provincial Court, Winnipeg, Manitoba, September 19, 1978, unreported). (Trial)

Regina v. Parkside Ford Sales Ltd., [1979] 3 W.W.R. 367.

Regina v. Parkland Village Heights Ltd. (1977), 37 C.P.R. (2d) 56.

Regina v. Jay Norris Corporation of Canada Ltd. & Jean-Claude Heroux (Cour des sessions de la Paix, Montréal, Québec, June 29, 1977, unreported).

Regina v. John Jaworski Boats and Motors (Provincial Court, Sudbury, Ontario, November 10, 1977, unreported).

Regina v. Irving Oil Limited (Provincial Court, Moncton, N.B., February 13, 1978, unreported).

Regina v. The T. Eaton Co. Ltd. (Court of Sessions of the Peace, Montréal, Québec, October 14, 1977, unreported).

Regina v. Whitehall Development Corporation (Provincial Court, Toronto, Ontario, February 17, 1978, unreported).

Regina v. Yukon Motel (Teslin) Limited (Magistrate's Court of the Yukon Territory, Teslin, Y.T. March 10, 1978, unreported).

Regina v. Park Realty Ltd. et al. (1978), 43 C.P.R. (2d) 29.

Regina v. WCC Publishing Ltd. (1978), 44 C.P.R. (2d) 64.

Regina v. Marcel Lepine (Summary Convictions Court, Montréal, Québec, June 8, 1978, unreported).

Regina v. Medjuck & Budovitch Ltd. (Provincial Court, Burton, N.B., July 12, 1978, unreported).

Regina v. Voyageur Colonial Limited (Provincial Court, Peterborough, Ontario, August 25, 1978, unreported).

Regina v. Stephen Jedynak C.O.B. as Dominion Sewing Machine Repair Service (Provincial Court, Sudbury, Ontario, September 22, 1978, unreported).

Regina v. Tege Investments Limited (1981), 51 C.P.R. (2d) 216.

Regina v. Giftwares Wholesale Co. Ltd. (Provincial Judges' Court, Winnipeg, Manitoba, September 27, 1978, unreported). (Trial)

Giftwares Wholesale Co. Ltd. v. The Queen (1981), 54 C.P.R. (2d) 224. (Application for trial de novo)

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Regina v. Yukon Automobile Brokers Ltd. (1980), 50 C.P.R. (2d) 85. (Trial)

Regina v. Yukon Automobile Brokers Ltd. (1980), 50 C.P.R. (2d) 81. (Appeal)

Regina v. National Upholstering Mfg. Ltd. (Provincial Judge's Court, Winnipeg, Manitoba, December 6, 1978, unreported).

Regina v. Ad-Rite Associates Limited (Provincial Court, Simcoe, Ontario, December 18, 1978, unreported).

Regina v. Rust-Oleum (Canada) Ltd. (1978), 42 C.P.R. (2d) 193.

Regina v. Charles R. Clark (1981), 52 C.P.R. (2d) 198. (Trial)

Regina v. Charles R. Clark (County Court, County of Middlesex, London, Ontario, June 18, 1979, unreported). (Appeal)

Regina v. William S. MacKay (County Court for District Number Seven, Sydney, Nova Scotia, February 19, 1979, unreported). (Appeal)

Regina v. William S. MacKay (1979), 35 N.S.R. (2d) 553. (Further Appeal)

Regina v. Exepro Inc. (Court of Sessions of the Peace, District of Montréal, Montréal, Québec, April 6, 1979, unreported).

Regina v. Jay-Norris Corporation of Canada Limited (Court of Sessions of the Peace, Montréal, Québec, April 12, 1979, unreported).

Regina v. Wardair Canada (1975) Ltd. and International Vacations Ltd. (Provincial Court, Toronto, Ontario, April 26, 1979, unreported). (Trial)

Regina v. International Vacations Ltd. c.o.b. under the name and style of Intervac (County Court, Toronto, Ontario, February 28, 1980 unreported). (Appeal)

Regina v. International Vacations Ltd. (1982), 59 C.C.C. (2d) 557; 33 O.R. (2d) 326; 56 C.P.R. (2d) 251; 124 D.L.R. (3d) 319. (Further Appeal)

Regina v. Consumers Distributing Company Limited (1981), 52 C.P.R. (2d) 209. (Trial)

Regina v. Consumers Distributing Company Limited (1981), 52 C.P.R. (2d) 214. (Appeal)

Regina v. Consumers Distributing Company Limited (1981), 57 C.C.C. (2d) 317; 54 C.P.R. (2d) 50. (Further Appeal)

Regina v. Consumers Distributing Company Limited (County Court, London, Ontario, March 3, 1981, unreported). (Sentence)

Regina v. Marlo Homes Limited (1981), 51 C.P.R. (2d) 73.

Regina v. Bristol-Myers of Canada Ltd. (1979), 48 C.C.C. (2d) 384. (Trial — s. 36(1)(b))

Regina v. Bristol-Myers Canada Limited (County Court, Toronto, Ontario, March 31, 1980, unreported). (Trial — s. 36(1)(a))

Regina v. Sherwood Dodge Chrysler Ltd. (1981), 53 C.P.R. (2d) 156.

Regina v. Les Distributeurs Cardinal Ltée (1981), 55 C.P.R. (2d) 154.

Regina v. Thermal Insulators Ltd. (Provincial Court, Fredericton, New Brunswick, November 22, 1979, unreported).

Regina v. Kenitex Canada Ltd. et al. (1981), 51 C.P.R. (2d) 103.

Regina v. Fell (1981), 59 C.P.R. (2d) 34.

Regina v. Les Supermarchés Dominion Ltée (Superior Court, Chicoutimi, Québec, February, 25, 1980, unreported).

Regina v. James Freeman Batt (1981), 53 C.P.R. (2d) 152.

Regina v. K-Mart Canada Limited, [1980] 2 W.W.R. 548; 52 C.C.C. (2d) 223; 24 A.R. 565.

Regina V. Irving Oil (1980), 47 C.P.R. (2d) 179.

Regina v. Alpine Plant Foods Limited (Provincial Court County of Middlesex, Ontario, April 10, 1980, unreported).

Regina v. Alpine Plant Foods Limited (Provincial Court, Kitchener, Ontario, October 29, 1980, unreported).

J. Bertrand Devost, representative of Director of Investigation and Research, and Minister of Consumer and Corporate Affairs of Canada, v. Jean Paul Dorion Inc. carrying on business under the name of Casino d'Aubaines, (Summary Conviction Court, Québec, Québec, May 16, 1980, unreported).

The Attorney General of Canada v. Les Editions du Reveil Ltée, carrying on business under the name of "La Librairie du Reveil", [1980] C.S. 307.

Regina v. Multi-Investments Ltd. (Provincial Court, Fredericton, New Brunswick, September 5, 1980, unreported).

Regina v. Krazy Kelly (Provincial Court, Regina, Saskatchewan, September 10, 1980, unreported).

Regina v. Canadian Fur Shop of Saitoh Limited (Provincial Court, Toronto, Ontario, August 19, 1979, unreported).

Canadian Fur Shop of Saitoh Limited v. Regina (County Court, Toronto, Ontario, April 28, 1980, unreported). (Appeal)

K-Mart Canada Ltd v. Regina, (Sessions of the Peace, Montréal, Québec, October 3, 1980, unreported).

Regina v. Scotia Chevrolet Oldsmobile Limited (Provincial Magistrate's Court, Truro, Nova Scotia, August 29, 1980, unreported). (Trial)

Regina v. Scotia Chevrolet Oldsmobile Limited (1981), 44 N.S.R. (2d) 410. (Appeal)

Regina v. Loblaws Limited (County Court, Toronto, Ontario, January 22, 1981, unreported).

Regina v. Money Matic Investments Ltd. (Provincial Court, Edmonton, Alberta, January 26, 1981, unreported).

Regina v. Wonder Steel Building (Central) Limited and Lyle Boland (1981), 59 C.C.C. (2d) 372; 56 C.P.R. (2d) 103.

Regina v. Southdown Builders Limited (1981), 57 C.P.R. (2d) 56.

Regina v. Shaklee Canada Inc. (1981), 55 C.P.R. (2d) 243.

Regina v. Great Lakes Airlines Limited (Provincial Court, London, Ontario, February 19, 1981, unreported).

Regina v. The Moss Music Group (Canada) Inc. (Provincial Court Toronto, Ontario, March 16, 1981, unreported).

Regina v. Clyde Milliken (Provincial Court, London, Ontario, April 30, 1981, unreported).

Regina v. 359286 Ontario Ltd. (1981), 61 C.C.C. (2d) 383; 58 C.P.R. (2d) 169.

Regina v. Robin Hood Multifoods Ltd. (1982), 59 C.P.R. (2d) 57. (Appeal)

Regina v. Dominion Stores Ltd. (1982), 59 C.P.R. (2d) 90.

Regina v. World Book Childcraft of Canada Ltd. (1981), 31 Nfld. and P.E.I.R. 69.

Regina v. Alpine Plant Foods Limited (Provincial Court, County of Middlesex, Ontario, June 11, 1981, unreported).

Regina v. Michael Turchyn (Provincial Court, Edmonton, Alberta, June 18, 1981, unreported).

Regina v. The Robert Simpson Co. Ltd. and The H. Forth Co. Ltd. (County Court, Toronto, Ontario, July 30, 1981, unreported).

Regina v. Leonard Wayne Kirby and Kirby Wilson Brokerage Ltd. (Provincial Court, Toronto, Ontario, August 20, 1981, unreported.)

Constitutional, Administrative and Other Related Cases

CONSTITUTIONAL CASES

In the Matter of The Board of Commerce Act and The Combines and Fair Prices Act of 1919 (1920), 60 S.C.R. 456.

In Re the Board of Commerce Act, 1919, and The Combines and Fair Prices Act, 1919, [1922] 1 A.C. 191; (1921), 60 D.L.R. 513; [1922] 1 W.W.R. 20.

Re Combines Investigation Act and S. 498 of the Criminal Code, [1929] S.C.R. 409; 52 C.C.C. 223; 2 D.L.R. 802.

Proprietary Articles Trade Association v. The Attorney-General for Canada, [1931] A.C. 310; 55 C.C.C. 241; 2 D.L.R. 1; 1 W.W.R. 552.

Reference re Section 498A of the Criminal Code, [1936] S.C.R. 363; 3 D.L.R. 593.

Attorney-General for British Columbia v. Attorney-General for Canada et al. (Reference re Section 498A of the Criminal Code), [1937] A.C. 368; 1 D.L.R. 688; 1 W.W.R. 317.

Reference re Dominion Trade and Industry Commission Act, 1935, [1936] S.C.R. 379; 3 D.L.R. 607.

Regina v. Goodyear Tire & Rubber Co. of Canada Ltd. et al., [1953] O.R. 856; O.W.N. 828; 17 C.R. 252; 107 C.C.C. 88; 19 C.P.R. 75. (Trial)

Regina v. Goodyear Tire & Rubber Co. of Canada Ltd. et al. [1954] O.R. 377; O.W.N. 436; 18 C.R. 245; 108 C.C.C. 321; 4 D.L.R. 61. (Appeal)

Goodyear Tire & Rubber Co. of Canada Ltd. et al. v. The Queen, [1956] S.C.R. 303; 114 C.C.C. 380; 26 C.P.R. 1; 2 D.L.R. (2d) 11.

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

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

Law Society of British Columbia et al. v. Attorney General of Canada et al. [1978] 6 W.W.R. 289; 92 D.L.R. (3d) 53.

Jabour v. Law Society of British Columbia and Rankin, and Law Society of British Columbia and McCallum v. Attorney-General of Canada et al., [1979] 4 W.W.R. 385.

Law Society of British Columbia and Victor McCallum v. Attorney General of Canada et al. (1981), 50 C.P.R. (2d) 34; [1980] 4 W.W.R. 6; 108 D.L.R. (3d) 753.

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Henuset Bros. Ltd. v. Syncrude Canada Ltd. et al. (1980), 114 D.L.R. (3d) 300; 52 C.P.R. (2d) 173.

Canadian Pacific Transport Company Limited et al. v. Alberta Provincial Court and Attorney General of Canada; R. v. Alltrans Express Ltd. et al. (1982), 32 A.R. 422; 119 D.L.R. (3d) 547.

Canadian National Transportation Limited et al. v. Alberta Provincial Court and Attorney General of Canada; R. v. Alltrans Express Ltd. et al. (1982), 35 A.R. 132.

Regina v. Hoffmann-LaRoche Ltd. (Nos. 1 and 2) (1982), 33 O.R. (2d) 694; 62 C.C.C. (2d) 118; 58 C.P.R. (2d) 1; 125 D.L.R. (3d) 607.

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Stevens et al. v. Restrictive Trade Practices Commission, [1979] 2 F.C. 159. (Application for writ of prohibition and consideration of sections 4 and 17 of the Act)

Couture, Restrictive Trade Practices Commission v. Stevens, Hewison et al. (1979), 50 C.C.C. (2d) 454; [1980] 2 W.W.R. 136; 17 B.C.L.R. 124; 54 C.P.R. (2d) 62.

Petrofina Canada Ltd. v. The Restrictive Trade Practices Commission et al., [1979] 2 F.C. 501, 26 N.R. 536. (Application re judicial review of orders under sections 9 and 10 of the Act)

Petrofina Canada Ltd. v. The Restrictive Trade Practices Commission et al., [1980] 2 F.C. 386; 46 C.P.R. (2d) 1; 107 D.L.R. (3d) 319. (Application to set aside certificates issued by RTPC under s. 9 and 10)

Petrofina Canada Inc. v. Attorney General of Canada et al. (1980), 47 C.P.R. (2d) 201. (Application to stay RTPC proceedings)

Bombardier Ltd. v. Restrictive Trade Practices Commission (1980), 48 C.P.R. (2d) 248; 113 D.L.R. (3d) 295.

Director of Investigation and Research v. Bombardier Ltd. (1981), 57 C.P.R. (2d) 216. (Proceedings before RTPC)

John McManus and Atomic Energy Control Board v. The Restrictive Trade Practices Commission et al., [1980] 2 F.C. 278; 49 C.P.R. (2d) 1. (Application re judicial review of order under section 17 of the Act)

Irvine et al. v. Restrictive Trade Practices Commission et al. (1981), 56 C.P.R. (2d) 83. (Review of order under section 17 of the Act)

Director of Investigation and Research v. B.B.M. Bureau of Measurement (1982), 60 C.P.R. 26. (Proceedings before RTPC)

* Prohibition order(s) only

APPENDIX VI

Recent publications of the Bureau of Competition Policy

Inquiries under the Combines Investigation Act:

The State of Competition in the Canadian Petroleum Industry, (7 volumes)

Economic Studies:

Concentration in Manufacturing Industries of Canada: Analysis of Post War Changes

Transport Costs and their Implications for Price Competitiveness in Canadian Goods-Producing Industries

Performance Under Regulation: The Canadian Intercity Bus Industry

Other Publications:

Misleading Advertising Bulletin (Published quarterly)

Annual Report of the Director of Investigation and Research, Combines Investigation Act (for previous fiscal years)

Microfiche copies available only in complete sets (prices as indicated)

Annual Reports of the Director of Investigation and Research, Combines Investigation Act, 1924 — (\$10)

Judgments under Combines Investigation Act (\$50)

Restrictive Trade Practices Commission Reports (\$30)

APPENDIX VII

Administration

1. Staff

In August 1981, Lawson A.W. Hunter was appointed to replace R.J. Bertrand as Director of Investigation and Research and Assistant Deputy Minister, Competition Policy. J. Claude Thivierge occupies the position of Deputy Director, Investigation and Research (Legal). The position of Senior Deputy Director was filled on a temporary basis by Dennis P. De Melto, and following his departure from the Bureau, the statutory powers of the position were undertaken by George D. Orr.

There are five enforcement Branches. Following staffing actions for two of the Director positions, these Branches and their Directors are:

Resources	— W. Toms
Services	— W.F. Lindsay
Manufacturing	— G.D. Orr
Regulated Sector	— D.A. Dawson
Marketing Practices	— K.G. Decker

A sixth Branch, Research and International Relations, is headed by Dr. D.F. McKinley.

Finally, the Administration Unit provides general support to the Bureau in financial, personnel and administrative matters.

The authorized Bureau strength is 241 person-years. Of these, 192 are in Headquarters.

The remaining 49 person-years comprise the field element of the Marketing Practices Branch. Under the direction of six regional managers, 43 investigators and support staff are located in Vancouver, Edmonton, Calgary, Regina, Winnipeg, London, Toronto, Hull, Montréal, Québec City, Moncton, Dartmouth and St. John's.

The Director of Investigation and Research also received assistance during inquiry stages from members of the Departmental Legal Branch, who are lawyers from the Department of Justice. The Department of Justice is responsible for prosecutions and other legal proceedings performed under the Act.

2. Finance

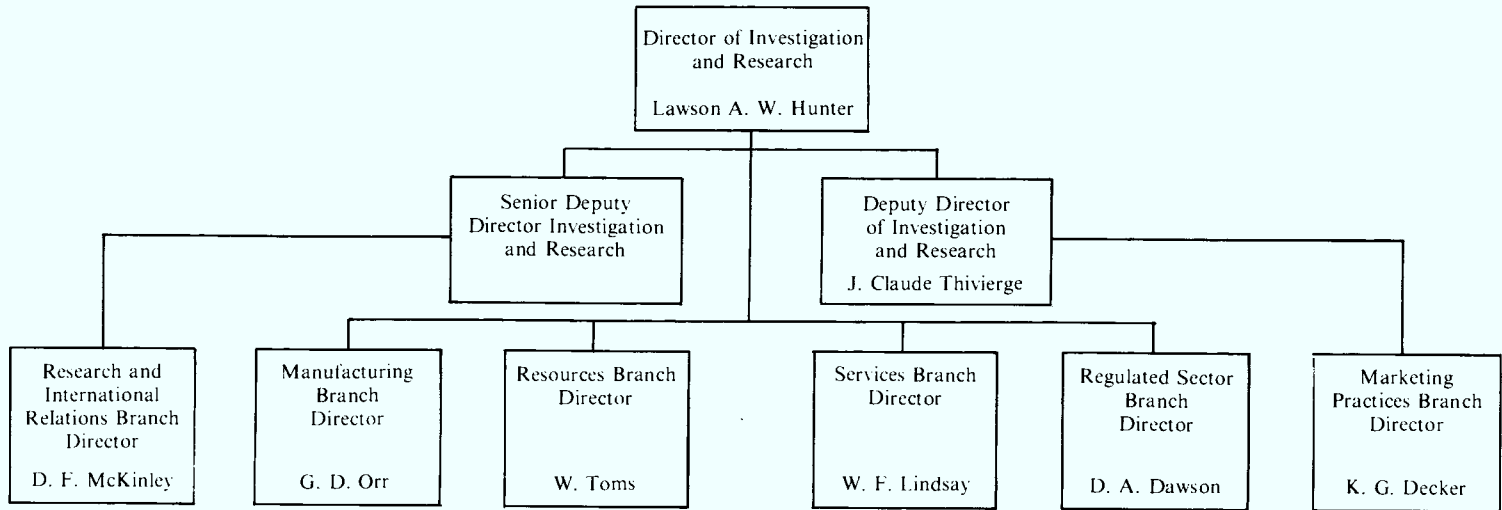
In 1981-82, the budget for the administration of the Bureau of Competition Policy was \$9,437,000. Of this amount, \$1,449,000 was apportioned to maintain the regional and district offices.

A further \$826,000 was made available to the Bureau for the ongoing work of the Petroleum Inquiry. Thus, the total operating budget was \$10,263,000.

The major expenditure during the year was \$6,899,000 for staff salaries and benefits, reflecting the fact that the Bureau is highly labour intensive. A further \$501,348 was required, above the original budget of \$750,000 to meet the legal fees and disbursements incurred in the various prosecutions and hearings.

Total expenditures for the year, including payments in process, were \$10,065,000. Thus, there was an under expenditure in relation to the total budget of \$198,000.

DETAILS OF ORGANIZATION
BUREAU OF COMPETITION POLICY



APPENDIX VIII

Any person wishing to obtain general information on the Act or an opinion under the program of compliance, or wishing to inform the Director of Investigation and Research of any matter that comes within the purview of the Act, can communicate with:

Bureau of Competition Policy
Consumer and Corporate Affairs Canada
50 Victoria Street
Hull, Québec
K1A 0C9

For any matters pertaining to marketing practices, such persons may also communicate with the regional offices listed below:

Box 10059
Pacific Centre Limited
Room 2500
700 West Georgia Street
VANCOUVER,
British Columbia
V7Y 1C9
Tel: 666-6971

2919 — 5th Avenue N.E.
Bag 60, Station "J"
CALGARY, Alberta
T2A 4X4
Tel: 231-5608

Room 201, 2nd Floor
260 St. Mary Avenue
WINNIPEG, Manitoba
R3C 0M6
Tel: 949-5567

781 Richmond Street
LONDON, Ontario
N6A 3H4
Tel: 679-4032

50 Victoria Street
HULL, Québec
K1A 0C9
Tel: 997-4282

1410 Stanley Street
11th Floor
MONTREAL, P.Q.
H3A 1P8
Tel: 283-7712

1222 Main Street
3rd Floor
MONCTON, New Brunswick
E1C 1H6
Tel: 388-6633

Oliver Building
1st Floor
10225 — 100th Avenue
EDMONTON, Alberta
T5J 0A1
Tel: 420-4289

2212 Scarth Street
REGINA, Saskatchewan
S4P 2J6
Tel: 359-5387

4900 Yonge Street
6th Floor
WILLOWDALE, Ontario
M2N 6B8
Tel: 224-4065

Galerie Syndicat Paquet
410 Charest Blvd. East
Room 400
QUÉBEC, Québec
G1K 8G3
Tel: 694-3939

Windmill Place, Suite 1
1000 Windmill Road
DARTMOUTH, Nova Scotia
B3M 1L7
Tel: 426-6080

Sir Humphrey Gilbert Building
5th Floor
165 Duckworth Street
ST. JOHN'S, Newfoundland
A1C 1G4
Tel: 737-5518

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