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Director of Investigation
Report
Director of
Investigation Act

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Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1983



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

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Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1983
to the Hon. Judy Erola, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
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January 17, 1984

The Honourable Judy Erola, P.C., M.P.,
Minister of Consumer and Corporate Affairs,
Ottawa

DEAR MADAM:

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, 1983.

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, unless made known to the tendering authority, 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, the price must be so expressed as to make it clear to any person to whose attention the advertisement comes 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 approximately 50 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.

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

(4) Special Remedies

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

(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 an 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 trademark, 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, 12 formal compliance opinions were provided (not including Marketing Practices) and approximately 75 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

Protectionism and Competition

One of the most effective ways of stimulating competition in the Canadian economy is to ensure that channels of trade with other nations are open. When free trade prevails, domestic firms must take the degree of import competition into account in their business conduct. To the extent that tariff and non-tariff barriers exist, firms may be insulated from the competitive pressure of imports. This can result in higher prices and a reduced range of consumer choice for products. While there has been a long-term global trend towards trade liberalization among nations, organizations such as the GATT and OECD have noted the recent re-emergence of protectionist policies in many countries. This "new protectionism" is undoubtedly related to the recessionary economic climate and most often takes the form of non-tariff barriers.

In the past year, the Director has stressed the danger of protectionist policies to a competitive economy and the consumer interest, particularly in his submissions to the House of Commons' Sub-Committee on Import Policy¹. However, several examples show that Canada is no exception to the growing trend towards protectionism. In the period covered by the report, Canada restricted imports of clothing² and leather footwear³. Developments in other sectors show that these are not isolated examples of protectionism.

It is necessary to remember that protectionist policies, while perhaps providing a short-term solution to economic problems, run counter to the public interest in free competition and to the long-term goal of efficient use of scarce resources. Employment gains from protectionist policies tend to be transitory, and must be compared to the long-run costs imposed on the economy. It is with these considerations in mind that the OECD Council has recommended that member countries "...work towards mutually reinforcing action, within the framework of existing international agreements, to establish more predictable and transparent trade regimes, to reduce trade barriers and to pursue more market-conforming domestic structural policies⁴."

Regulation

Reviewing the state of the competition policy/regulatory interface in several major modes of transportation in Canada at the University of New Brunswick in February 1983, the Director of Investigation and Research observed that the increased need for Canadian exporters to price competitively on world markets serves to refocus attention on the costs of transportation, which accounts for as much as 15 per cent of total costs in some industries. The heightened competition on world markets provides a further reason why efficiency in transportation is so important. As a reflection of this awareness, the Bureau of Competition Policy, in its ongoing representations before federal regulatory boards and commissions, as well as in its research activities, is particularly concerned with drawing attention to those inefficiencies in transport that arise out of unnecessary economic regulation.

It is in this connection that, during the period under review, the Bureau of Competition Policy has made a number of formal representations and the Director of Investigation and Research, in business and academic fora, has advocated significant change in the rules affecting entry and price in airlines, ocean shipping, inter-city trucking and rail freight.

Notwithstanding the disparate nature of problems in the various modes of transportation, the common threads on which efficiency gains can be achieved and performance improved are a clear acknowledgment of the derived nature of the demand for transportation services and

the advantages to shippers and consumers from providing carriers more freedom in the exercise of their operating decisions.

Concentration

During the period under review, Statistics Canada released figures relating to 1980 levels of the four-firm concentration ratio (CR_4) and the Herfindahl-Hirschman (H-H) index in Canadian manufacturing, mining and logging industries. The CR_4 measures the percentage of total industry shipments accounted for by the four largest firms and takes on the maximum value of 100 per cent. The H-H index is the sum of the square of market shares of individual firms squared and takes on the maximum value of 1, as would be the case of monopoly.

The data indicates that there has been a slight tendency towards lower industry concentration levels. The simple average CR_4 level declined from 50.6 per cent in 1970 to 49.8 per cent in 1980. The H-H index declined from 0.1082 to 0.1050 over the same period. The decrease in average concentration levels is too small to suggest that either competition is on the increase or that concerns about high concentration levels are unjustified. In Canada, 45 per cent of total manufacturing shipments is accounted for by industries with CR_4 levels of greater than 50 per cent. This degree of industry concentration is higher than that prevailing in most western industrialized nations.

Concentration levels in many Canadian industries can be expected to be high. The size of the domestic Canadian market in relation to efficient scale of operation tends to be small, suggesting that there is room for only a few efficient-sized firms. The Director is fully cognizant of this fact and hence in Canada, competition is not promoted for competition's sake. Rather, competition is the vehicle for the efficient allocation of resources for the maximum benefit of all Canadians.

In Canada, a structural approach towards the administration of competition policy, whereby the Bureau would automatically investigate firms or industries when a predetermined level of concentration was attained, is neither feasible nor advisable. The Bureau administers the Combines Investigation Act on a case-by-case basis. This is because concentration is but one of the several determinants of competition. High concentration levels do not necessarily imply a low degree of competition. For example, imports, the influence of which has not been taken into account in the concentration data published by Statistics Canada, may be an important stimulus to competition. However, the Bureau has to remain vigilant against high or increasing levels of concentration as it may increase the scope for firms to behave anticompetitively when there are other structural rigidities in the marketplace as well.

Buying Groups

Over the past year, there has been a growing concern expressed in several quarters over recent developments in the nature, scope and size of buying groups. While this concern has primarily focused on the food industry with the creation of Volume 1 by Dominion Stores Ltd. and Steinberg Inc. and the decision by Canada Safeway Inc. to become a member of the IGA Canada organization, the issues that are raised are relevant to creations of buying power in all sections of the economy. The Director is therefore studying the situation in the light of the various provisions of the Act and intends to speak on the matter at an appropriate time.

Buying groups have existed in Canada for many years, primarily representing small independent retailers. In this form they have been a positive force for competition by giving their members the opportunity to compete with the large chains by pooling their purchases. Many of these groups also provided their members with a variety of services in support of their operations. It is the growth, in the last two years of very large buying groups, most notably in the food industry, but also in other sectors, that has caused the Director to examine the issues raised very carefully. These large pools of buying power have the possibility of adversely affecting competition not only at the retail level but especially at the buying stage. Suppliers may find that a buying group now represents the only or the primary way in which to reach

consumers. Buyers who previously competed in the purchase of the supplier's goods now present a market front, a single option. Depending upon the particular situation such a development might raise questions under the conspiracy, merger or monopoly provisions.

A further concern is that these buying groups meet the requirements of paragraph 34(1)(a). This provision requires that competing purchasers be treated equally where goods of like quantity and quality are involved. It is therefore vital for suppliers to be assured that the buying group with which they are dealing is the legal purchaser and not the individual member. The Director will be examining any such situations which are brought to his attention to ensure that the buying group or groups are not shams or fronts for the members but are clearly operating as the buyer with all the attendant responsibilities.

Government of Canada — 6 and 5 Program

During the period under review, the Government of Canada introduced the voluntary program of 6 and 5 per cent wage-price ceilings in order to combat inflation. In this connection, officials from the private sector raised a number of concerns and questions with the Director regarding the application of the Combines Investigation Act to firms conforming to this program. These questions, in part, may have stemmed from the past history of the relationship between the Act and government-induced pricing agreements.

Shortly after the Second World War, the Commissioner under the Combines Investigation Act uncovered a conspiracy to control prices in the flour milling industry that dated back to 1936 and before. During the period when the War Prices and Trade Board set ceiling prices in many industries, the major millers, through the Canadian National Milling Association, made every effort to turn their price ceiling into a floor, in large part successfully. During the Korean War, Mr. C.D. Howe, the then Minister of Industry, deemed it necessary to use the Emergency Powers Act to effectively exempt price agreements that limited price increases from the Combines Investigation Act. In 1959, the National Oil Policy led to calls for exemption from the Act by the oil and gas industry. Again, in 1973, following the oil embargo, the oil companies requested exemption from the Act as they agreed to allocate supplies. In 1971, during the tenure of the Prices and Incomes Commission, there were similar requests for exemption.

The Director does not have the power to exempt anyone from the Act. Except in the case of defence production during the Korean War, the Director has always argued that such exemptions are unnecessary, but any agreements which prevent or lessen competition unduly will attract the full force of the law, including the investigative powers of the Director.

In order to consider this matter further, it is important to understand the nature of the Government's present program. The intent of the policy is generally, across the entire economy, to restrain wage and price increases for the next two years to 6 and 5 per cent respectively. The program is not designed to fix or set specific prices across the economy or within any particular industry sector.

Furthermore, the Government does not intend that the 6 and 5 targets become minimum price and wage increases. In fact, the object is to make the targets maximum increases, which implies that price increases lower than the targets would be even better from the Government's policy perspective.

Firms do not have to agree among themselves in order to comply with the Government's program. Firms should independently arrive at their respective pricing decisions within the 6 and 5 per cent guidelines.

Legislation

The consultation process initiated in April 1981 by the Honourable André Ouellet, regarding revisions to Canadian competition policy legislation, was continued during the year.

This process generated constructive comments valuable in the drafting of the legislation. It is Mr. Ouellet's intention to introduce the bill at the beginning of 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 of substance or inquiry in the nature of such a complaint, a file is opened, and the number of such files is the figure that appears in the table as Item 1. Some complaints give rise to very little inquiry, 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.

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, 1983, 55 cases under the Act (excluding misleading advertising and deceptive marketing practices cases) were considered by the courts. These con-

Table I

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

	1973- 74	1974- 75	1975- 76	1976- 77	1977- 78	1978- 79	1979- 80	1980- 81	1981- 82	1982- 83
1. Number of files opened.....	165	84	158	143	173	205	262	238	249	256
2. Formal applications for inquiries.....	6	5	4	7	5	7	7	8	9	8
3. Formal inquiries in progress at the end of the year.....	77	81	71	73	76	73	78	69	69*	71
4. Inquiries disposed of by reports of discontinuance to the Minister.....	8	13	14	8	14	16	21	26	20	19
5. Inquiries referred direct to the Attorney General of Canada under section 15.....	14	11	18	26	23*	14	24	21	33*	24
6. Inquiries closed on the recommendation of the Attorney General of Canada.....	7	2	2	4	6	6	3	5	6	5
7. Prosecutions or other proceedings commenced.....	8	7	12	16	24	11	21	6	24	21
8. Applications under Part IV.1....					1	1	2	0	0	1
9. Formal interventions under section 27.1.....				3	4	0	3	4	6	4
10. Other representations to bodies dealing with regulatory change.....				1	1	2	1	0	9	7
11. Research projects completed.....	0	1	0	2	3	8	11	8	6	2
12. Research projects in progress....	3	3	3	8	8	12	5	7	8	8

*Revised

sisted of 20 proceedings commenced during the year, and 35 proceedings before the courts from previous years. Twelve cases related to conspiracy under section 32, including two which also involved a charge under section 33; four related to bid-rigging under section 32.2; one related to predatory pricing under section 34; one related to promotional allowances under section 35; 36 related to price maintenance under section 38 and there was one case under section 41. Sixteen proceedings were concluded during the year and a total of \$1,272,000 in fines was imposed. Five of the concluded proceedings related to section 32, one to section 32.2, one to section 35, and nine 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, 1983, 339 misleading advertising and deceptive marketing practices cases were considered by the courts. These consisted of 179 proceedings commenced during the year and 160 proceedings before the courts from previous years. This includes 15 cases which had received court consideration in previous fiscal years, but were under appeal at the start of the year. There were 169 proceedings concluded during the year, 121 of which resulted in convictions and 48 in acquittals, charges withdrawn and other completions of court proceedings that were not convictions. Fines totalling \$610,775 were imposed during the year and an additional \$75,100 in fines was under appeal at the end of the year.

3. Decisions, Reports and Other Matters of Special Interest

(1) *Charter of Rights and Freedoms*

The Canadian Charter of Rights and Freedoms has been in force since April 1982. To date, there have been a number of challenges to the Combines Investigation Act. In *Southam Inc. v. Hunter et al.*, the Alberta Court of Appeal struck down section 10 of the Act on the basis that it contravened the right to be secure against unreasonable search and seizure. The Attorney General of Canada has applied for leave to appeal to the Supreme Court of Canada. In the *P.P.G. Industries* case, the B.C. Court of Appeal held that subsection 44(3) of the Act, which provides that a corporation charged with an offence under the Act shall be tried without a jury, does not contravene paragraph 11(f) of the Charter. In *R.L. Crain Inc. et al. v. Couture*, the issue of whether section 17 of the Act, which provides for the taking of evidence during a Combines inquiry, is contrary to section 7 of the Charter was argued before the Saskatchewan Court of Queen's Bench in September 1982. No decision has yet been rendered.

It is likely that the most significant short term effects of the Charter on the work of the Bureau will be, firstly, the uncertainty it will engender, and secondly, the potential for delay in investigation and enforcement while challenged provisions of the Act are being tested before the courts.

(2) *Subpoenas*

On September 30, 1982, the Director applied to the Restrictive Trade Practices Commission for subpoenas requiring senior officers of a number of petroleum companies to give evidence during the international sector of the section 47 petroleum inquiry hearings. The Director was concerned that certain oil companies were not prepared to bring forward witnesses who were familiar with the seized documents and the issues raised during the course of the inquiry. By a letter dated October 4, 1982, the Commission refused to grant these subpoenas.

The Director immediately applied to the Federal Court of Canada — Trial Division for an order of mandamus directing the Commission to issue the subpoenas in question. On October 21, 1982, the Federal Court — Trial Division allowed the Director's application and ordered the Commission to issue subpoenas for the Presidents of Gulf Canada Limited, B.P. Canada Inc., Petro-Canada, Shell Canada Limited and Ultramar Canada Inc. In making this

ruling the Federal Court — Trial Division held that under the Combines Investigation Act the Director was responsible for the on-going conduct of a section 47 inquiry and, therefore, was entitled by statute to obtain subpoenas. The Trial Division held that the issuance of subpoenas by the Commission was an administrative act.

The Restrictive Trade Practices Commission appealed the order of the Trial Division to the Federal Court of Appeal. On March 7, 1983, the Federal Court of Appeal allowed the Commission's appeal. In a unanimous decision the Federal Court of Appeal held that under subsection 47(2) of the Combines Investigation Act the Commission is responsible for the conduct of an inquiry before it and that the granting of subpoenas is not an administrative act.

Subsequent to the initiation of these proceedings the Director reached satisfactory understandings with a number of the oil companies that they would produce witnesses who were in a position to respond to the Director's cross-examination. In addition, at a special hearing held on February 21, 1983, the Commission indicated that it was prepared to assist the Director in making appropriate witnesses available. In light of these developments, the Director did not appeal the decision of the Federal Court of Appeal.

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

This procedural issue remains under appeal to the Supreme Court of Canada. Further information on the background to this matter is contained in Chapter II of the 1982 Annual Report at page 12. Briefly, for some years the judiciary has been concerned with whether the authority to prefer indictments and conduct prosecutions pursuant to the Combines Investigation Act is solely within the competence of the provincial attorneys general.

The issue before the Supreme Court first arose 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.*⁵ Based in part on the decision in *Regina v. Hauser*⁶ in which a similar issue had been raised, Medhurst J. of the Court of Queen's Bench of Alberta concluded that "the power of the Attorney General of Canada to prosecute for a violation of the Act is valid". This decision was reversed by the Alberta Court of Appeal which recognized the exclusive authority of provincial attorneys general. In September 1982, the Supreme Court of Canada was asked to determine the matter. It should be noted that as a result of the uncertainty concerning the issue, many cases have been delayed.

(4) *Extraterritorial Application of Foreign Laws in Canada*

Chapter III contains an account of an inquiry conducted by the Director during the fiscal year under section 31.6 of the Act. Section 31.6 provides a corrective mechanism for dealing with the extraterritorial application of foreign laws in Canada, in circumstances where decisions taken by Canadian firms to give effect to a foreign law may adversely affect competition in Canada, the efficiency of Canadian industry, or the foreign trade of Canada.

It is interesting to contrast the Canadian law with those of other major industrial nations. The most notable difference between Canada and other nations is that Canadian law treats the matter as essentially an economic issue, while those other industrialized countries which have sought to deal with the problem have tended to view it as a strict sovereignty question. For example, Great Britain, France, Italy and Australia all employ relatively recent legislation which simply prohibits their nationals from giving effect to foreign laws. Provisions exist in these countries for the prosecution of nationals who are determined to have acted in accordance with a foreign law, and they may be subjected to heavy financial penalties and in some cases risk direct government control being assumed over their business.

In contrast, Canadian law provides a remedial process only in circumstances where decisions taken to give effect to foreign laws may be conclusively proven to be decisions harmful or likely harmful in some manner to Canadian market competition or to Canada's foreign trade. The rationale for this position is that there may be situations in which the application of foreign laws to firms in Canada has beneficial effects for Canadians as a whole.

For example, while section 32.1 of the Combines Investigation Act is applicable to actions of a company doing business in Canada giving effect to an agreement to restrict competition that would be illegal if entered into in Canada, it may not always be possible to bring conclusive evidence of such an agreement before a Canadian court. In such a situation proceedings under the law of a country in which the evidence is available and application of the resultant remedy to Canadian affiliates of the firms proceeded against would achieve benefits for Canada that would not otherwise be available. It should also be noted that concentration in some Canadian industries has been reduced through indirect application of U.S. antitrust law to Canadian subsidiaries of U.S. companies. Given the ever increasing importance of multinational enterprises in the conduct of world trade, and the relatively high proportion of Canada's major businesses accounted for by subsidiaries of foreign-based enterprises, it is especially important that Canadian law should recognize, as it does, that some beneficial results can flow to Canadians generally from the interplay between Canadian and foreign laws. It is also evident that this kind of positive effect would be lost were Canada to adopt more stringent laws concerning the extraterritorial application of foreign laws in Canada.

(5) *The Attorney General of Canada et al. v. The Law Society of British Columbia et al.*

This case arose as a result of an action taken by the Law Society of British Columbia in response to the commencement of an inquiry by the Director into the Society's enforcement of its regulations restricting advertising against Vancouver lawyer D.E. Jabour. (The background to the case has been reported in the 1978-1982 Annual Reports.) A companion case taken by Jabour against the Society under section 31.1 of the Act included the same issue of the application of section 32 to the Society. In a unanimous decision rendered on August 9, 1982, the Supreme Court of Canada⁷ decided that section 32 of the Combines Investigation Act does not apply to the actions of the Benchers of the B.C. Law Society in restricting price advertising and in disciplining members who contravene such restrictions.

Mr. Justice Estey, writing for the Court, found firstly, that the Benchers of the Law Society were authorized under their constitutive statute to make rules with respect to informational or price advertising. Estey, J. construed the authority given by the B.C. Legislature to the Benchers in very broad terms:

"The statute does not limit the Benchers in the regulation of advertising nor does it confine them to matters of standards of 'competence and integrity' in the words of s. 32(6) of the *CIA*. The statute authorizes disciplinary action for 'conduct unbecoming a member of the Society' and the mandate was broadly styled by the Legislature when it saw fit to define 'conduct unbecoming' as including 'any matter, conduct or thing that is deemed in the judgment of the Benchers to be contrary to the best interest of the public or of the legal profession'."

Furthermore, Mr. Justice Estey determined that if a provincial legislature has the jurisdiction to regulate a particular matter, then it is also within the jurisdiction of the legislature to decide on the form of that regulation:

"It is up to the Legislature to determine the administrative technique to be employed in the execution of the policy of its statutes. I see nothing in law pathological about the selection by the provincial Legislature here of an administrative agency drawn from the sector of the community to be regulated. ...It is for the Legislature to weigh and determine all these matters and I see no constitutional consequences necessarily flowing from the regulatory mode adopted by the province in legislation validly enacted within its sovereign sphere as is the case here."

Furthermore, Mr. Justice Estey stated that he thought there were many compelling reasons for the province to choose "self regulation" as the proper mode of "regulating" the activities of lawyers. However, he reiterated that whether the province chose self regulation or strict governmental supervision of the regulated conduct, that it was for the province to decide.

After determining that the action taken by the Benchers was authorized by the provincial statute, Estey, J. found that subsection 32(1), as worded, did not apply to the action taken by

the Law Society acting within their legislative authority under a valid provincial statute. Mr. Justice Estey came to this conclusion for two reasons. Firstly, section 32 is directed to conduct *unduly* lessening competition. Compliance with a provincial measure validly enacted in the public interest cannot be said to be "undue":

"In *Canadian Breweries, supra*, (p. 605) the Court proceeded on the basis that the word 'unduly' in s. 32 connotes substantially the same meaning as the more general words in the same statute 'operated or is likely to operate to the detriment or against the interest of the public'. Even the 1975 amendments to s. 32 (*supra*), by the addition of subs. (1.1), did not remove 'unduly' from the operative provision, subs. (1) of s. 32. So long as the *CIA*, or at least Part V, is styled as a criminal prohibition, proceedings in its implementation and enforcement will require a demonstration of some conduct contrary to the public interest. It is this element of the federal legislation that these cases all conclude can be negated by the authority extended by a valid provincial regulatory statute."

Secondly, section 32 contemplates, *voluntary* agreements or combinations. In Estey's view, the Benchers, in discharging assigned duties under the provincial statute, could not be said to be voluntarily agreeing:

"The words adopted by Parliament in s. 32 and restated above are not ordinarily found in language directed to the actions of persons holding office under a provincially authorized regulatory body and discharging their responsibilities to the community pursuant to their constituted statute. This is particularly so where the group said to be acting 'conspiratorially' was in fact proceeding at the time in question as a deliberative body whose existence was mandated by a provincial statute."

Given that the Court construed section 32 of the Combines Investigation Act as not applying to the activities of the Law Society in the circumstances of the appeal, it was not required to answer the further question put before it, namely, if the Combines Investigation Act does apply to the Law Society, is it in that respect, *intra vires* Parliament?

The Court also decided two other matters in this case. Firstly, it found that the rulings of the Benchers did not violate Jabour's right to freedom of speech in Canada. Secondly, it ruled that the Federal Court — Trial Division does not have exclusive jurisdiction to grant declaratory or injunctive relief against the Attorney General of Canada, the RTPC, its Chairman and the Director of Investigation and Research in connection with the interpretation or constitutional applicability of the Combines Investigation Act to the Law Society. Therefore, the Court found that the British Columbia courts had properly assumed jurisdiction to hear this matter.

(6) *Québec City Concrete*

One of the objectives of the Act is to maintain a business environment in which entrepreneurs remain free to exploit opportunities for the use of superior processes and the introduction of innovative products.

The *Québec Concrete* case, which is reported in Chapter III, arose out of a situation in which the major established concrete producers in Québec City had attempted to impede the introduction of a technological process which offered a 25 per cent saving in the cost of concrete for large construction sites. The innovator, Rocois Construction, was the first builder in the area to use portable batching plants, a system for automated on-site mixing rather than ready-mix trucks for these major projects. Rocois was at the time dependent on the conventional suppliers for concrete used on smaller applications where the portable plants were not a practical alternative.

On February 18, 1983, Béton Québec Inc., Verrault Frontenac Inc., Béton Canfarge Inc. and Les Constructions Pilote et Frères Limitée pleaded guilty in Québec Superior Court to conspiring to prevent the growth or expansion of Rocois in the Québec ready-mix concrete market. They admitted taking numerous co-ordinated steps to stop Rocois using its portable batching plants and to deter proliferation of the new technology in the area. The measures

included refusing to supply Rocois with concrete on smaller construction sites, refusal to supply clients of Rocois with concrete and pressuring other smaller concrete suppliers into refusing to supply Rocois clients. The conviction is the first under the "residual" provision of the conspiracy section that prohibits firms from conspiring to "otherwise" restrain or injure competition unduly.

In addition to imposing fines totalling \$465,000, the court issued an order which specifically prohibited the companies from doing anything toward the continuation or repetition of the offence or from conspiring, combining, agreeing or arranging to impede the production of ready-mix concrete or its ingredients or hindering or impeding the entry or growth of any business enterprise in the manufacture, production or sale of ready-mix concrete.

(7) *First Prosecution under Subsection 38(6)*

Subsection 38(6) of the Act recognizes the fact that the initiative in price maintenance may come not only from a supplier, but from a large customer, typically a retailer, who puts pressure on the supplier to control the pricing policy of a competing retailer. The subsection, which became law in 1976, makes it an offence for any person to threaten to refuse to handle a supplier's product unless the supplier withholds the product from another person because of the latter's low pricing policy.

In November 1981, S & E Furnishings Limited of Sudbury was charged under the provision after investigation revealed that it had used the threat of withdrawing its business in an attempt to persuade a number of suppliers to ensure that their products would not be available to a competing retailer. The firm was fined \$2,000 on each of six counts under the subsection. Details of the prosecution appear in Chapter III.

(8) *Section 36.3: Pyramid Selling Provision*

Since its inclusion in the 1976 amendments to the Combines Investigation Act, section 36.3 has been the subject of limited enforcement action. This is due in part to the lack of clarity in its language, thereby providing little guidance to enforcement personnel, members of the multilevel marketing industry and the general public. Moreover, the definition of a scheme of pyramid selling set out in paragraph 36.3(1)(b) is capable of being interpreted in such a way as to capture most multilevel firms currently operating in Canada regardless of whether their marketing plans display the more abusive practices of pyramid selling such as substantial investments, head-hunting fees, inventory loading or exaggeration of earnings potential.

The only jurisprudence under the section to date, *R. v. Shaklee Canada Inc.*⁸ although instituted as a test case, did not provide the much needed clarification of the section. The Federal Court held that the scheme being operated by Shaklee did not fall within the definition of a scheme of pyramid selling. While the judgment has been appealed, constitutional matters in other combines cases (the Western Trucking case in particular) have delayed the hearing of the appeal for the past two years.

In the meantime, the number of multilevel marketing firms in Canada has increased dramatically, due in part to the fact that many firms are patterning their plans after Shaklee and in part to the fact that the United States is experiencing a similar increase in multilevel marketing firms entering the field. Inevitably, many of these American companies are expanding into Canada.

Hence, the uncertainty caused by the *Shaklee* case, the delay in the hearing of its appeal, the recent influx of multilevel marketing firms and the lack of clarity in the section have contributed to the relative lack of enforcement activity. The Bureau is currently exploring various means to alleviate the situation.

FOOTNOTES

1. Report of the Special Import Measures Act, by the Sub-Committee on Import Policy of the Standing Committee on Finance, Trade and Economic Affairs, June 1982, p. 27.
2. News Release 146, October 1, 1982, Government of Canada.
3. Communique 105, July 9, 1982, Department of External Affairs.
4. O.E.C.D. Council Communique — Accepted by the Council at the 586th Meeting — 10th May, 1983.
5. (1981), 119 D.L.R. (3d) 547.
6. [1979] 1 S.C.R. 948.
7. [1982] 5 W.W.R. 289.
8. (1981), 55 C.P.R. (2d) 243.

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 there is reason to believe that 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 that 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 trademarks, 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 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.

On May 5, 1982, in the Supreme Court of British Columbia, in Prince George, the three corporate accused pleaded guilty and were convicted and fined as follows:

Goodwill Bottling North Ltd.	\$50,000
Nechako Contracting Ltd.	\$25,000
Sietec Management Ltd.	\$25,000

In addition, prohibition orders under subsection 30(1) of the Act were issued by the Court against the three companies. The charges against the individuals were withdrawn.

(2) *Québec City Concrete*

This inquiry commenced on March 15, 1979, as a result of information obtained by the Director. During the inquiry, the records of eight ready-mix concrete companies in the Québec City area were examined pursuant to section 10 of the Act. On April 23, 1979, hearings were held in Québec City pursuant to section 17 of the Act. Proceedings before the Federal Court took place on May 21, 1980, concerning the admissibility and utilization of certain evidence by the Director. Further hearings pursuant to section 17 were then held and subsequently the Director obtained information in writing from various suppliers of the product in question pursuant to subsection 9(1) of the Act.

The evidence in this matter was referred to the Attorney General of Canada on January 23, 1981. An Information containing one count under each of paragraphs 32(1)(a), 32(1)(c), and 32(1)(d) as well as one count under section 33 was laid at Québec City on December 9, 1982, against Béton Québec Inc., Verreault-Frontenac Inc., Béton Canfarge Inc. and Les Constructions Pilote et Frères Inc. On February 18, 1983, the companies pleaded guilty to the counts under paragraphs 32(1)(a) and 32(1)(d) of the Act. The Crown withdrew the counts under section 33 and paragraph 32(1)(c). Béton Québec Inc., Verreault-Frontenac Inc., and Béton Canfarge Inc. were each fined \$75,000 on each count and Les Constructions Pilote et Frères Inc. was fined \$7,500 on each count for a total fine of \$465,000. The court also granted an Order of Prohibition against each of the accused.

(3) *Heavy Construction Equipment*

This inquiry commenced in February 1977 following the receipt of complaints from heavy equipment dealers to the effect that they were unable to obtain supplies of a brand of heavy equipment from the manufacturer, or any other primary distributor as a result of a conspiracy among some of the distributors and the manufacturer. In addition to section 32 of the Act, a preliminary investigation indicated that the alleged restriction of supply may have raised questions regarding other sections of the Act.

A formal inquiry was commenced and in March and September 1977 documentary evidence was obtained from the premises of a number of companies in the industry. In November 1979 the evidence gathered in this matter was referred to the Attorney General of Canada. Subsequently in October 1980 oral evidence was brought before the Restrictive Trade Practices Commission and in November 1980 additional information was sought by way of returns of information. Following a review of the evidence, the Department of Justice concluded in April 1982 that a prosecution was not warranted with respect to section 32 of the Act. The inquiry into matters raised under other sections of the Act continues.

SECTION 32.2

(4) *Glass and Glazing — Vancouver*

This inquiry commenced in October 1979 following the receipt of information by the Director alleging that a number of Vancouver area glass and glazing contractors were involved in bid-rigging. During the inquiry, the records of seven firms were examined pursuant to section 10 of the Act, and in March and July 1980 hearings were held in Vancouver pursuant to section 17 of the Act.

On May 15, 1981, the evidence obtained in the inquiry was referred to the Attorney General of Canada. An Information containing four counts under section 32.2 was laid at Vancouver on May 19, 1982, against the following firms:

Coastal Glass & Aluminum Ltd.
Central Glass Products Ltd.
Bogardus, Wilson, Limited
Zimmcor Company-La Compagnie Zimmcor
PPG Industries Canada Ltd.-Industries PPG
Canada Ltee.

In the course of proceedings for the scheduling of the preliminary hearings, set for November 28, 1983, in the Provincial Court of B.C., PPG Industries Canada Ltd. sought to obtain an election for trial by jury as a right under the Canadian Charter of Rights and Freedoms. Subsection 44(3) of the Combines Investigation Act states that corporations shall be tried without jury. The Court refused the application and held that paragraph 11(f) of the Charter had no application. PPG appealed to the Supreme Court of British Columbia for a declaration that subsection 44(3) of the Combines Investigation Act is inconsistent with paragraph 11(f) of the Charter.

This appeal was dismissed on October 14, 1982. PPG then appealed to the B.C. Court of Appeal where on February 4, 1983, the majority ruled that the Charter did not apply. On March 21, 1983, the Supreme Court of Canada agreed to hear PPG's appeal.

On August 9, 1982, Zimmcor Company filed a statement of claim in the Federal Court — Trial Division against the Director, the Restrictive Trade Practices Commission and Mr. H. Griffin who was appointed by the Commission to hear oral evidence pursuant to section 17 of the Act. At the end of the fiscal year, no date had been set for hearing this matter.

(5) *Heating Equipment — Edmonton*

This inquiry commenced in January 1978 as a result of information obtained by the Director alleging that a number of Edmonton area heating and air conditioning equipment suppliers were involved in bid-rigging. During the inquiry, the records of three firms were examined pursuant to section 10 of the Act and in April 1979 hearings were held in Edmonton pursuant to section 17 of the Act.

On January 19, 1981, the evidence obtained in the inquiry was referred to the Attorney General of Canada. An Information containing seven counts under section 32.2 was laid at Edmonton on February 7, 1983, against R.L. Thorpe Sales Ltd., Trane Company of Canada Limited, Dunham Sales Ltd, Dunham-Bush of Canada Limited and Mark Hot Inc.

At the end of the fiscal year, the preliminary hearing had not been scheduled.

(6) *Geo. W. Crothers (1965) Limited and Kramer Tractor Ltd. — Caterpillar Diesel Generating Units*

This case arose out of an inquiry by the Director into the production, manufacture, importation, distribution, sale, wholesale, rental, transportation and supply of construction equipment, machinery, engines, attachments, parts and related products in Canada. During the course of this inquiry, the companies' records were examined pursuant to section 10 of the Act. In addition hearings were held in this matter in October 1980 pursuant to section 17 of the Act, at which time oral evidence was obtained from four witnesses.

The evidence obtained in this inquiry was referred to the Attorney General of Canada in January 1982. On March 22, 1983, an Information containing one count under section 32.2 was laid at Toronto against Geo. W. Crothers (1965) Limited and Kramer Tractor Ltd.

At the end of the fiscal year, the preliminary hearing had not been scheduled.

SECTION 38

(7) *Ravel Enterprises Limited — Stereo Components*

This inquiry was initiated in October 1974 following the receipt of a complaint from a Toronto stereo retailer that the exclusive Canadian distributor of the Pioneer brand of stereo

components, Ravel Enterprises Limited (carrying on business under the name and style S.H. Parker Company) was engaging in a policy of resale price maintenance.

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 subsequently appealed to the Ontario Court of Appeal. Since the appeal in this matter involved 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, which was later handed down by the Ontario Court of Appeal on October 6, 1981, (1982, 33 O.R. (2d) 694.) Subsequent to the Ontario Court of Appeal's decision in the Hoffmann-LaRoche case, the Alberta Court of Appeal, after hearing arguments similar to those raised in that case, handed down a decision in the Alltrans Express case (see chapter VI — For Hire Trucking) that is at variance with the decision reached by the Ontario Court of Appeal (see page 10 of the 1982 Annual Report). The Attorney General of Canada has appealed the Alltrans decision to the Supreme Court of Canada. In June 1982, the Court decided to postpone hearing the appeal in the Ravel case until after the Supreme Court of Canada had ruled on the issues raised by the Alltrans decision.

(8) *Sklar Furniture Limited — "Peppler" Furniture (Case #1)*

This inquiry 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. On June 23 and 24, 1982, the trial on the remaining two counts was held in County Court in Whitby, Ontario. Following the completion of testimony and argument on June 24, 1982, the accused was acquitted on both counts.

(9) *Noresco Inc. — Stereo Equipment*

This inquiry 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 pursuant to section 10 of the Act.

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 charge was 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. Oral submissions with respect to sentencing were heard on April 5, 1982, and a fine of \$4,500 was imposed on each count.

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

This inquiry 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 three counts under paragraph 38(1)(a) and one count under paragraph 38(1)(b) 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 commenced on April 5, 1982. On May 6, 1982, the accused was acquitted on two of the counts under paragraph 38(1)(a). The accused was convicted on the other count under paragraph 38(1)(a) and the count under paragraph 38(1)(b). Oral submissions on sentencing were heard on June 3, 1982, and a fine of \$10,000 was imposed on each count.

Cluett, Peabody Canada Inc. filed a notice of appeal in the Supreme Court of Ontario on June 30, 1982, against the convictions and applied for leave to appeal against sentence. The appeal is scheduled to be heard on April 29, 1983.

(11) *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 was held in March and April 1982 and the company was ordered to stand trial on both counts. Subsequently, the Crown preferred an indictment adding a count pursuant to paragraph 38(1)(a) to the two counts under paragraph 38(1)(b). The trial commenced on February 7, 1983, and consisted of five court days. The judgment was delivered on March 24, 1983, at which time the company was acquitted on all three counts.

(12) *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 resale price maintenance activity. 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.

During the preliminary hearing, which was held from May 3 to May 5, 1982, the Crown withdrew one count. On July 9, 1982, the accused was discharged on the remaining 12 counts.

Application by the Attorney General of Canada for the written consent of a judge in the preferring of an indictment, under section 507 of the Criminal Code, was made but was dismissed on February 2, 1983.

(13) *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 one count under paragraph 38(1)(a) and one under paragraph 38(1)(b) of the Act was laid at Lacombe on November 27, 1981, against Canadian Union College, carrying on business as Parkland Furniture Mfg., and H. Jacobson, General Manager of the College.

At the preliminary hearing on November 2, 1982, the Crown withdrew the count under paragraph 38(1)(a) and the accused were ordered to stand trial on the count under paragraph 38(1)(b). The trial is scheduled to commence on May 11, 1983, in Red Deer, Alberta.

For the purpose of this prosecution, the Attorney General of Canada was appointed as agent for the Attorney General of Alberta. This action was necessitated by the Alberta Supreme Court's decision in the Alltrans Express case (see Chapter VI — For Hire Trucking) which held that the Attorney General of Canada does not have jurisdiction to prosecute cases under the Act. (The Crown's appeal of this decision was heard by the Supreme Court of Canada in September 1982 but at the end of the fiscal year no decision had been rendered.)

(14) *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 six counts under subsection 38(6) and one count under paragraph 38(1)(a) of the Act was laid at Sudbury on November 30, 1981, against S. & E. Furnishings Limited.

On May 18, 1982, S. & E. Furnishings Limited pleaded guilty on all counts and was convicted and fined \$2,000 on each count for a total fine of \$14,000.

This is the first conviction under subsection 38(6), which became law in 1976, and which makes it an offence for any person to threaten not to do business with a supplier unless he refuses supply to a particular person or class of persons because of the latter's pricing policy.

(15) *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. At the preliminary hearing which took place on May 21, 1982, the accused was ordered to stand trial only on the count under paragraph 38(1)(b). The trial is scheduled to commence on April 5, 1983.

(16) *The Williams Piano House Ltd. — Pianos*

This inquiry 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, The Williams Piano House Ltd., 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 Williams Piano House Ltd. 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 Williams Piano House Ltd. and its president and owner, Mr. R.P. Williams.

On March 24, 1982, the Crown entered a stay of proceedings as a result of the death of the accused president and owner and, on March 24, 1983, the stay of proceedings was allowed to expire.

(17) 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 suggested retail price of the various models of mattresses and box springs that comprise the "Posturepedic" brand of bedding, which is manufactured in Eastern Canada by Sealy Eastern Limited under an exclusive licence granted by Sealy Canada Ltd. of Toronto, Ontario.

During the course of this inquiry, the corporate records of Sealy Canada Ltd., its exclusive eastern Canada licensee, Sealy Eastern Limited, and its exclusive western Canada licensee, Sealy (Western) Limited were examined pursuant to section 10 of the Act. Further evidence was obtained by way of interviews of numerous furniture and bedding retailers across Canada.

On July 20, 1981, the evidence 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 and Sealy Canada Limited.

On January 13, 1983, a stay of proceedings was entered.

(18) BSR (Canada) Ltée/Ltd. — Stereo Components

This inquiry 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 took place on September 7, 1982, at which time the accused was ordered to stand trial. Trial date was set for February 21, 1983, but defence counsel subsequently requested a postponement. The trial has been rescheduled for April 18, 1983.

(19) 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 André Brouillette.

Both the accused pleaded guilty on October 1, 1982, and, on December 3, 1982, Acme Signalisation was fined \$30,000 and Mr. Brouillette was fined \$10,000.

(20) *Sklar Furniture Limited — "Peppler" Furniture (Case #2)*

This inquiry was begun in September 1980, following receipt of a complaint from a Vancouver furniture retailer that his local Sklar-Peppler sales representative was refusing to fill any more orders for the Peppler line of furniture, which is manufactured by Sklar Furniture Limited in Whitby, Ontario, because that sales representative was displeased with the low retail pricing that the complainant had previously charged on items from the Peppler line.

Evidence was obtained during a search of the premises of Sklar Furniture Limited during November 1980. Further information was gathered during interviews of other furniture retailers across Canada. On October 9, 1981, the evidence in this inquiry was referred to the Attorney General of Canada.

On April 2, 1982, an Information containing one count under paragraph 38(1)(b) was laid at Ottawa, Ontario, against Sklar Furniture Limited.

Following a preliminary hearing held in Ajax, Ontario, on November 3, 1982, Sklar Furniture Limited was discharged on the count under paragraph 38(1)(a) but was ordered to stand trial on the count under paragraph 38(1)(b). The trial has been set for June 27, 1983.

(21) *Euroclean Canada Inc — Husqvarna Sewing Machines*

This inquiry commenced in November 1979 following the receipt of a complaint alleging a policy of resale price maintenance by Dometic Canada Inc. (now Euroclean Canada Inc.). During the course of the inquiry, the records of the company were examined pursuant to section 10 of the Act.

On October 27, 1981, the evidence in this inquiry was referred to the Attorney General of Canada. On April 20, 1982, an Information containing four counts under subsection 38(1) of the Act was laid at Kitchener against Euroclean Canada Inc. The preliminary hearing took place on October 12, 1982, and the accused company was ordered to stand trial on three counts.

The trial has been set for May 2 - 6, 1983.

(22) *R.C.A. Inc. — Televisions and Video Cassette Recorders*

This inquiry commenced in October 1978 following receipt of a complaint from an Edmonton retailer alleging that RCA had refused to renew his authorized dealership contract and hence had refused further supply of RCA televisions and video cassette recorders because of his low pricing policy. During the course of the inquiry, the records of the company were examined pursuant to section 10 of the Act, and interviews with other dealers were conducted.

On September 17, 1981, the evidence in the inquiry was referred to the Attorney General of Canada. On June 21, 1982, an Information containing four counts under paragraph 38(1)(a) and two counts under paragraph 38(1)(b) of the Act was laid at Edmonton, Alberta, against R.C.A. Inc.

The preliminary hearing commenced on December 6, 1982, at which time two of the counts under paragraph 38(1)(a) and one of the counts under paragraph 38(1)(b) were withdrawn. On December 7, 1982, R.C.A. Inc. was ordered to stand trial on the remaining three counts.

The trial has been scheduled for June 20-24, 1983, in Edmonton, Alberta.

(23) *Bigelow Canada Limited — Carpets*

This inquiry commenced in March 1981 following receipt of a complaint from a retailer alleging that the representative of Bigelow Canada Limited had discriminated against him because of his low pricing policy. In April 1981, the records of the company were examined

pursuant to section 10 of the Act and, in October 1981, hearings for the taking of oral evidence were held in Québec City.

The evidence obtained in the inquiry was referred to the Attorney General of Canada on March 30, 1982. An Information containing one count under paragraph 38(1)(b) of the Act was laid at Québec on August 12, 1982, against Bigelow Canada Limited.

The preliminary hearing in this matter commenced on March 31, 1983, and the accused was ordered to stand trial. The trial has been scheduled for July 12, 1983.

(24) Crossley Karastan Carpets Limited — Carpets

This inquiry commenced in June 1981 following the receipt of complaints from carpet retailers in Edmonton and Halifax. The complainants alleged that Crossley Karastan Carpets Limited, the distributor of carpets manufactured by Crossley Karastan Carpet Mills Ltd., had cut off supplies of carpeting to these retailers due to their low pricing policy. On July 20, 1981, the records of Crossley Karastan Carpets Limited and Crossley Karastan Carpet Mills Ltd. were examined pursuant to section 10 of the Act.

On May 20, 1982, the evidence in this matter was referred to the Attorney General of Canada. An Information containing six counts under paragraph 38(1)(a) of the Act was laid at Ottawa on September 2, 1982, against Crossley Karastan Carpets Limited. On February 4, 1983, in Toronto, Crossley Karastan Carpets Limited pleaded guilty to one amended count under paragraph 38(1)(a) and was convicted and fined \$40,000. The remaining counts were withdrawn.

(25) Sealy (Western) Ltd; Seebee Investments (1966) Ltd. — Mattresses and Box Springs

This inquiry commenced in December 1977 following the receipt of several complaints from consumers regarding their inability to negotiate for a discount from the suggested retail price of the various models of mattresses and box springs that comprise the "Posturepedic" brand of bedding. During the time period in question, these products were manufactured exclusively in western Canada under an exclusive licence granted by Sealy Canada Ltd. of Toronto, by either Sealy (Western) Ltd. or its predecessor company, Seebee Investments (1966) Ltd., both of Edmonton, Alberta. During the course of the inquiry, the companies' records were examined pursuant to section 10 of the Act.

On July 20, 1981, the evidence in this matter was referred to the Attorney General of Canada. At Edmonton, Alberta, on November 9, 1982, an Information containing one count under the former subsection 38(2) and one count under paragraph 38(1)(a) of the Act was laid against Sealy (Western) Ltd; and an Information containing one count under the former subsection 38(3) of the Act was laid against Seebee Investments (1966) Ltd. Each charge names Sealy Canada Ltd. of Toronto, Ontario, as party or privy to the offence.

The preliminary hearing has been set for May 25 and 26, 1983, in Edmonton.

(26) Mission Electronics North American Corporation — Stereo Equipment

This inquiry commenced in July 1981 following the receipt of a complaint from a Toronto stereo retailer alleging that Mission Electronics had attempted to influence upward the price at which he was selling Mission speakers and that Mission Electronics thereafter refused him supply because of his practice of discounting the price of the product. During the course of the inquiry, the records of the company were examined pursuant to section 10 of the Act. In May, 1982, a second complaint was received from another Toronto stereo retailer alleging that Mission Electronics refused to supply him because of his low pricing policy.

On June 28, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. On December 9, 1982, an Information containing three counts under subsection 38(1) of the Act was laid at Toronto against Mission Electronics North American Corporation.

The preliminary hearing in this matter is scheduled for April 20, 1983.

(27) *Waterbeds*

This inquiry commenced in December 1981 following receipt of a complaint from a Winnipeg retailer of building supplies and lumber who had expanded his operation to include waterbeds and related components. The complainant alleged that Andico Manufacturing Limited, trading under the firm name and style of Halcyon Waterbed Company had attempted to influence upward the price at which he was selling Halcyon products and thereafter refused him supply because of his low pricing policy.

The complainant further alleged that International Waterbed Distributors Ltd. had refused to continue to supply him with Classic waterbed components because of his low pricing policy.

During the course of the inquiry, the records of Andico Manufacturing Limited and International Waterbed Distributors Ltd. were examined pursuant to section 10 of the Act.

On October 22, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. On January 18, 1983, an Information containing one count under each of paragraphs 38(1)(a) and 38(1)(b) was laid at Winnipeg against Andico Manufacturing Limited. As well, an Information containing one count under paragraph 38(1)(b) was laid against International Waterbed Distributors Ltd.

At the end of the fiscal year, no date had been set for a preliminary hearing.

(28) *The Camrost Group Limited — Condominiums*

This inquiry commenced in March 1982 following receipt of a complaint alleging that The Camrost Group Limited was engaged in resale price maintenance with respect to condominiums being offered for resale in One Parklane, a Toronto condominium development. The corporate records of the developer were examined in March 1982 pursuant to section 10 of the Act.

On November 25, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. An Information containing seven counts under paragraph 38(1)(a) of the Act was laid at Toronto on January 19, 1983, against The Camrost Group Limited. The preliminary hearing is scheduled to commence on September 14, 1983.

(29) *MEM Company (Canada) Limited — Perfumes, Cosmetics, Toiletries*

This inquiry commenced in May 1981 following the receipt of a complaint alleging resale price maintenance on the part of MEM Company (Canada) Limited. The records of MEM Company (Canada) Limited were examined in September 1981 and in June 1982 pursuant to section 10 of the Act.

The evidence in the inquiry was referred to the Attorney General of Canada on October 4, 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 London on January 21, 1983.

Although a preliminary hearing was scheduled for March 3, 1983, the matter was set over on that date to April 7, 1983, at which time a date is to be set.

(30) *H.A. Imports of Canada Ltd. — Sports Wear*

This inquiry was initiated in June 1982 following receipt of a complaint from a Toronto retailer alleging that Omar Imports of Canada, a division of H.A. Imports of Canada Ltd., had refused to supply the retailer with "Lacoste" brand sports wear because of the retailer's low pricing policy. On August 4, 1982, the records of the manufacturer were examined pursuant to section 10 of the Act.

On September 8, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. An Information containing two counts under paragraph 38(1)(a) and one count under paragraph 38(1)(b) was laid at Toronto on February 10, 1983. The preliminary hearing is set for June 22, 1983.

(31) *Salomon Sports Canada Ltd./Ltée — Skis and Ski Equipment*

This inquiry was commenced on August 5, 1981, following the receipt of complaints alleging that Salomon Sports Canada Ltd./Ltée had refused to supply certain retailers because of the retailers' low pricing policies and that Salomon had also attempted to influence upward the price at which certain retailers sold Salomon's products. During the course of the inquiry, the corporate records were examined pursuant to section 10 of the Act. In April 1982 hearings under section 17 of the Act were conducted in Vancouver during which five witnesses testified under oath.

On August 9, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. On February 16, 1983, an Information was laid at Montréal against Salomon Sports Canada Ltd./Ltée containing five counts under paragraph 38(1)(a) of the Act and four counts under paragraph 38(1)(b) of the Act.

The preliminary hearing has been scheduled for May 10, 1983.

(32) *Durable Equipment Limited — Food-Service Equipment*

This inquiry commenced in June 1981 following receipt of a complaint from a kitchen equipment dealer in Moncton, New Brunswick, alleging that he had been refused supply of food-service equipment products by Durable Equipment Limited of Toronto because of his low pricing policy. The complainant also alleged that a competing dealer, Cody-Food Equipment Ltd. of Saint John, New Brunswick, had induced Durable Equipment Limited into refusing to supply the products to the complainant. During the course of the inquiry, the records of the two companies were examined pursuant to section 10 of the Act.

On November 2, 1982, the evidence obtained in this inquiry was referred to the Attorney General of Canada. On March 2, 1983, an Information was laid at Toronto containing one count under paragraph 38(1)(b) of the Act against both Durable Equipment Limited and Cody-Food Equipment Ltd., and one count under subsection 38(6) against Cody-Food Equipment Ltd.

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

(33) *Esteban Designs Inc. — Jeans*

This inquiry was initiated in November 1982 following a complaint from a retailer in Prescott, Ontario alleging that Esteban Designs Inc. and a Mr. L. Clements, an independent sales agent for that company, were attempting to influence upward the retailer's selling price on Esteban Jeans. On November 17, 1982, the premises of Esteban Designs Inc., and those of Mr. L. Clements, carrying on business as Larry Clements Enterprises Ltd., were searched pursuant to section 10 of the Act.

On November 30, 1982, the evidence obtained during the course of the inquiry was referred to the Attorney General of Canada. On March 25, 1983, an Information containing one count under paragraph 38(1)(a) was laid at Ottawa against Esteban Designs Inc. and Mr. Clements.

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

(34) *Savroche Enterprises Inc. — Jordache Jeans*

This inquiry commenced in December 1980 following the receipt of information indicating that Savroche Enterprises Inc., the Canadian distributor for Jordache Jeans, had attempted to discourage the reduction of a retailer's prices and had subsequently refused further supplies to the retailer because of the latter's low pricing policy. In January 1981, the corporate records were examined pursuant to section 10 of the Act.

On March 29, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. On March 29, 1983, an Information containing three counts under paragraph 38(1)(a) of the Act and eight counts under paragraph 38(1)(b) of the Act was laid at Mont-

réal against Savroche Enterprises Inc. An Information containing one count under paragraph 38(1)(b) of the Act was also laid against Mr. David Tenenbaum (a.k.a. Tanner), Secretary-Treasurer, Savroche Enterprises Inc.

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

(35) Stereo Components

This inquiry commenced in January 1979 following the receipt of complaints alleging that E.S. Gould Marketing Co. Ltd., Harmon-Kardon of Canada Ltd., and James B. Lansing Sound Canada Limited were engaged in resale price maintenance. During the course of the inquiry, company records were examined pursuant to section 10 of the Act and a number of stereo retailers were interviewed.

On April 14, 1982, the evidence in this inquiry was referred to the Attorney General of Canada. On March 31, 1983, an Information containing two counts under paragraph 38(1)(a) and two counts under paragraph 38(1)(b) was laid at Toronto. Harmon-Kardon of Canada Ltd. and James B. Lansing Sound Canada Limited were each named in two charges together with E.S. Gould Marketing Co. Ltd.

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

(36) Automotive Stereo Components

This inquiry commenced in August 1979 following the receipt of a complaint from a Toronto stereo retailer alleging that he had been refused further supply of a product by the wholesaler subsequent to the retailer's publication of an advertisement in a Toronto newspaper offering the product at a discount from the supplier's suggested price list. During the inquiry, the records of the company were examined pursuant to section 10 of the Act.

The evidence in the inquiry was referred to the Attorney General of Canada on September 14, 1981. On August 2, 1982, 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) Photographic Prints

This inquiry commenced in February 1981 following receipt of a complaint from a Halifax retailer alleging that he was being refused supply of a popular line of photographic prints because of his low pricing policy. During the course of this inquiry, the records of the supplier were examined pursuant to section 10 of the Act.

The evidence obtained in this inquiry was examined with respect to the provisions of sections 31.2, 36 and 38 of the Act. However, it was determined that the evidence was insufficient to support a prosecution under section 36 or 38. Furthermore, after learning that the supplier had agreed to recommence supplying its products to the complainant, the Director determined that grounds did not exist for seeking an order under section 31.2 of the Act.

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 May 13, 1982.

SECTION 31.4

(2) *Pharmaceuticals*

This inquiry commenced in July 1982 following receipt of a complaint from the manufacturer of a patented product under licence alleging that the company holding the patent was engaging in the practices of tied selling and exclusive dealing with respect to the sale of one of the patented products. The complainant further alleged that these actions were substantially reducing orders for its product such that its effective participation in the relevant market was in question. The complainant's information gave the Director reason to believe that grounds may have existed for seeking an order under section 31.4.

On July 22, 1982, pursuant to section 10 of the Act, the records of the company against which the complaint had been made were examined. The documentary evidence failed to support any of the allegations. In particular, the evidence demonstrated that sales of the complainant's product increased substantially in spite of the tying activities engaged in whereas sales of the patented product declined.

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 8, 1983.

SECTION 31.6

(3) *Oil and Gas Pipeline Equipment*

The U.S. Export Administration Act regulates the export of designated products to various stipulated foreign countries. Its general purpose is to exercise control over the outflow of products which incorporate sensitive or strategic technology. In December 1981 amendments were made to Regulations promulgated under the Act which, in effect, precluded persons and firms resident in the United States from exporting to the U.S.S.R products destined for use in the construction of oil and gas pipeline facilities. In June 1982 these Regulations were further amended to extend the application of the Export Administration Act to foreign-based subsidiaries of U.S. firms, and to foreign-based firms using licensed U.S. technology.

In August 1982 the Secretary of State for External Affairs and the Minister of Consumer and Corporate Affairs issued a joint press release expressing concern about the extraterritorial application of these controls. It was also announced that the question of whether or not the Regulations might be influencing commercial decisions of Canadian companies so as to adversely affect Canada's foreign trade had been referred to the Director. The Director then began a preliminary investigation to determine whether the Regulations' consequences in Canada merited his initiating a formal inquiry and seeking a remedial order from the Restrictive Trade Practices Commission (RTPC) pursuant to section 31.6 of the Combines Investigation Act. Under this provision the RTPC may, on application by the Director, order that no measures be taken by a company in Canada to implement a foreign law or comply with a directive made pursuant to it if the Commission finds that compliance with the law would adversely affect the foreign trade of Canada.

During the course of the preliminary inquiry, it was determined by the Director that there was at least one situation in which a Canadian firm, which is a subsidiary of a large U.S.-based supplier of oil and gas pipeline equipment, was withholding supply of such equipment from a U.S.S.R trading company because of the provisions of the U.S. Export Administration Act. This information provided the Director with reason to believe that grounds existed for the making of an Order by the RTPC pursuant to section 31.6. Accordingly, a formal inquiry was begun.

The premises of the Canadian firm were searched pursuant to section 10 of the Act, and documentary evidence was obtained which persuaded the Director that an Application to the RTPC would be warranted. However, within a few days of obtaining this evidence, the President of the United States announced in mid-November 1982 that the trade sanctions embodied in the Export Administration Act were being removed immediately. The regulations in question were subsequently amended and the Canadian firm that was the subject of the Director's inquiry proceeded with its shipments to the U.S.S.R in compliance with its contractual obligations.

Given that the situation under inquiry had been remedied by the removal of the trade sanctions and the restoration of trade between the Canadian firm and the Soviet customer, the Director discontinued the inquiry, and reported the discontinuance to the Minister on February 7, 1983.

SECTION 38

(4) *Stereo Equipment*

This inquiry was initiated in October 1981 following receipt of a complaint from a Toronto retailer alleging resale price maintenance on the part of a distributor of stereo equipment. During the course of the inquiry, the distributor's records were examined pursuant to section 10 of the Act and further information was obtained from the complainant.

Neither the information acquired from the complainant nor the documents obtained pursuant to section 10 provided sufficient evidence to support the complainant's allegation. 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 19, 1982.

(5) *Roller Skates*

This inquiry commenced in December 1981 following receipt of a complaint from an Ontario retailer that a manufacturer of roller skates had attempted to influence upward the price at which he sold roller skates, and subsequently refused to supply him because of his low pricing policy.

During the course of the inquiry the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence obtained did not support the allegations made by the complainant, nor did it suggest that evidence of an offence could be obtained by pursuing the matter further. Accordingly, the inquiry was discontinued and reported to the Minister on August 20, 1982.

(6) *Men's Ski Jackets*

This inquiry commenced in March 1982 following receipt of a complaint from an Ontario retailer that a clothing manufacturer had attempted to influence upward the price at which he sold ski jackets, and subsequently refused to supply him because of his low pricing policy.

During the course of the inquiry, the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence obtained did not support the allegations made by the complainant, nor did it suggest that evidence of an offence could be obtained by further inquiry. Accordingly, the inquiry was discontinued and reported to the Minister on September 15, 1982.

(7) *Recreational Equipment*

This inquiry commenced in August 1981 following receipt of a complaint from a purchasing association stating that a manufacturer and distributor of recreational equipment in British Columbia had refused to supply the association because of its low pricing policy.

Hearings pursuant to section 17 of the Act were held in June 1982, in the course of which the complainant and three representatives of the supplier testified under oath. The evidence so obtained indicated that the supplier's basic concern was that it would be exposing its customers to competition from an organization which was not a true retailer and would avoid a retailer's costs by transferring the retail function directly back to the suppliers. The refusal was consistent therefore with the company's policy of refusing to supply persons who were neither industrial users nor retailers of sporting equipment.

After reviewing the evidence in this matter, the Director was not of the opinion that the supplier had violated paragraph 38(1)(a) of the Act. Accordingly, the inquiry was discontinued and reported to the Minister on September 28, 1982.

(8) *Woodstoves*

This inquiry commenced in March 1982 following receipt of a complaint by a consumer that two retailers of woodstoves had informed him that they could not reduce the retail price of woodstoves because the manufacturer prohibited such a practice. Information gathered from other retailers throughout Québec appeared to confirm the existence of this practice by the manufacturer.

During the course of the inquiry, the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence so obtained did not support the allegation that the manufacturer was attempting to influence upward the price at which he sold woodstoves. Accordingly, the inquiry was discontinued and reported to the Minister on October 4, 1982.

(9) *Television Converters*

This inquiry commenced in December 1981 following a complaint from a retailer alleging that he had been refused further supplies of television converters by a Canadian manufacturer due to the complainant's low pricing policy.

During the course of the inquiry, the records of the manufacturer were examined pursuant to section 10 of the Act. The evidence so obtained did not support the original allegation but appeared to suggest that sales representatives of the manufacturer might have been engaging in price maintenance activity in several Canadian cities. Further information acquired through interviews cast severe doubt on the value of this documentary evidence, and left no corroboration of the original 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 9, 1983.

(10) *Chainsaws*

This inquiry was commenced in December 1978 following receipt of complaints from consumers who claimed that retail prices of a particular brand of chainsaw were identical in all Edmonton retail outlets and that price increases were said by the retailers to be dictated by the supplier.

During the course of the inquiry, documentary evidence was obtained from the premises of the supplier pursuant to section 10 of the Act. Following careful examination of this material, numerous interviews were carried out with persons who were potential sources of additional information. While many of the retailers interviewed said they followed the supplier's suggested retail prices, their evidence indicated that these pricing decisions were made independently of, and in the absence of any pressure from, the supplier.

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 28, 1983.

5. Other Matters

(1) *Business Forms*

It has come to the public's attention that there exists an inquiry into the sale and supply of business forms in the prairies region. This inquiry became public as a result of proceedings before the Saskatchewan Court of Queen's Bench concerning the application of the Charter of Rights and Freedoms to oral examinations before the Restrictive Trade Practices Commission pursuant to section 17 of the Act. On July 7, 1982, the Court issued an interim injunction to prevent any further oral examinations in Regina relating to this particular inquiry, until such time as the Court could consider the Charter matter. At the end of the fiscal year, the Court had not rendered a decision in this matter.

(2) *Flat Rolled Steel and related products*

It has come to the public's attention that there exists an inquiry into the production, manufacture, purchase, sale and supply of flat rolled steel, plate steel bar and structural steel and related products under section 32 of the Act. This inquiry became public as a result of proceedings before the Federal Court with respect to an application by 24 companies and individuals under section 18 of the Federal Court Act for prohibition, certiorari and mandamus against the Restrictive Trade Practices Commission, the Director and the hearing officer. This action sought to overturn certain decisions or rulings that occurred in conjunction with examinations upon oath pursuant to subsection 17(1) of the Act. The rulings of the Federal Court were appealed by both the Applicants and the Respondents to the Federal Court of Appeal. On March 15, 1982, the Supreme Court of Canada granted leave to appeal the decision of the Federal Court of Appeal. These proceedings are more fully reported in the 1982 Annual Report at page 19 (Harold Irvine et al. v. The Restrictive Trade Practices Commission et al. (1981), 56 C.P.R. (2d)83.)

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 there is reason to believe that a violation of Part V of the Act has occurred or that grounds exist for the making of an order by the Commission 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. On April 23, 1982, decision was rendered in favour of the companies. On June 11, 1982, the Court of Appeal for Ontario upheld the decision. Following the granting of leave to appeal on September 22, 1982, the matter was argued on January 27, 1983, before the Supreme Court of Canada. The decision of the Court is pending.

(2) Hogs — Alberta

This inquiry 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.

The evidence obtained during the inquiry indicated 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 was filed requesting that the dissolution of Gainers Limited be made void. The matter was settled by a consent order filed with the court on June 4, 1982. A revised Information adding Gainers Limited, changing the name of another accused and deleting a third, was laid on June 24, 1982, against the following companies:

- Burns Food Limited
- Burns Meats Ltd.
- Canada Packers Inc.
(formerly Canada Packers Ltd.)
- Eschem Canada Inc.
(formerly Swift Canadian Co. Ltd.)
- Gainers Limited
- Intercontinental Packers Limited

The preliminary hearing commenced on January 31, 1983, and is expected to be completed in November 1983. On March 14, 1983, submissions were made concerning the retroactive application of the Canadian Charter of Rights and Freedoms following a decision of the Alberta Court of Appeal declaring section 10 of the Act unconstitutional.

(3) Fishing Industry — British Columbia

This inquiry commenced in the fall of 1975 following an application from six Canadian residents under section 7 of the Combines Investigation Act alleging that the United Fishermen and Allied Workers' Union (UFAWU) had conspired to lessen competition unduly in the production, transportation, storage and sale of B.C. salmon and herring. The existence of the inquiry was made public by the Union who advised the news media their affairs were being investigated.

Hearings to obtain oral evidence were scheduled for December 1976 but were adjourned after they were disrupted. Following this, the Director laid charges under section 41 relating to the impeding or obstruction of an inquiry. On August 31, 1978, the Provincial Court of Vancouver convicted two and acquitted five persons under this section. Appeals by both the defence and the Crown were dismissed. Hearings recommenced in January 1979.

As revealed in proceedings before the B.C. courts and B.C. labour board hearings, the Union in pursuit of its goals employed a "vessel clearance" program. This program, required that the Union approve or "clear" fishing vessels before their catch would be accepted by union tendermen on the fishing grounds or by union shoreworkers at fish processing plants. Clearance was given only if the vessel was manned by union members, and if it had not fished during a previous union tie-up. It thereby tended to limit competition from non-unionized vessels.

If a packer boat (fish transporter) accepted fish from an uncleared vessel, union fishermen were instructed not to deliver to the packer. The competitive position of uncleared vessels was adversely affected because they were unable to make or were hampered in making deliveries; the number of their purchasers were reduced and the amount of time available for their fishing reduced. The Union members were also instructed by their executive officers to picket non-union vessels, and thus prevent the owners of these vessels from fishing unless the latter agreed to "unionize" their boats. Processors and suppliers were persuaded to refrain from supplying ice, fuel and other supplies to uncleared vessels, by threats of strike. Unwilling processors encountered union picket lines or picket boats to persuade tendermen, shoreworkers, and persons from other unions not to unload or handle fish from the picketed plant.

"Hot declarations," bulletins identifying vessels and fishermen who were not cleared and informing tendermen and shoreworkers of the vessels to avoid, were used in conjunction with the clearance program and with picketing that on numerous occasions the British Columbia courts have found to be illegal. Once a vessel was branded unfair or "hot," tendermen and shoreworkers refused to handle the fish or service the vessel.

At the hearings the union took the position that section 4 exempted its activities and a number of court proceedings were instigated.

On October 5, 1979, the Supreme Court of British Columbia refused an application from the Vice-Chairman of the Restrictive Trade Practices Commission to certify under subsection 17(3) of the Act the exercise of powers to penalize witnesses who refuse to answer questions. The court also stated, *obiter dicta*, that fishermen are workmen under the exemption contained in paragraph 4(1)(a) of the Act. This section states, without reference to fishermen, that combination or activities of workmen for their own reasonable protection are exempt from inquiry. The British Columbia Court of Appeal upheld the lower court's ruling, and agreed that paragraph 4(1)(a) applied.

On February 6, 1979, the Federal Court dismissed an application for a Writ of Prohibition by three UFAWU executives to prohibit the Restrictive Trade Practices Commission from compelling them to give evidence under oath on the grounds that subsection 4(1) of the Act excused the applicants from being compellable as witnesses. Although dismissing the application, the Court stated that neither questions could be asked nor inquiry held into matters exempted by subsection 4(1) regardless of who was testifying.

In December 1980, the evidence obtained in the inquiry was referred to the Attorney General. The information obtained led the Director to believe that one of the members of the industry, the United Fishermen and Allied Workers' Union and/or some of its executives, while pursuing the lawful goal to gain representation of most British Columbia fishermen, had unduly lessened competition between union and non-union fishermen in the production, transportation, supply, storage and sale of fish and/or otherwise restrained or injured competition.

In December 1982, following the ruling of the British Columbia Court of Appeal counsel suggested that a legal action in this matter, under the Combines Investigation Act, may be in jurisdictional conflict with applicable labour law.

Given the above considerations, on March 4, 1983, the Attorney General advised the Director that he would not proceed with a prosecution. Accordingly the Director closed his file on this matter.

(4) *Fuel Oil — Prince George, B.C.*

This inquiry commenced in July 1979 following receipt of a complaint from a resident of Prince George alleging an agreement by members of the Prince George Fuel Oil Dealers' Association to limit competition. During the course of the inquiry, documentary evidence was obtained pursuant to section 10 of the Act. In November 1979 hearings were held under section 17 of the Act.

Evidence gathered during the searches and presented at the hearings suggested that members of the Association entered into an agreement in August 1978 to establish a uniform set of delivery charges to be imposed by dealer-members of the Association. Evidence also suggested that dealers who were Association members agreed in late 1978 to discontinue supply of fuel oil to customers with tanks of a storage capacity under 220 gallons, the effect of which would be (if the agreement were carried out) to eliminate competition for that class of customers and for that market. The evidence obtained in the inquiry was referred to the Attorney General of Canada on August 25, 1981.

Since the testimony during the hearings was in conflict with the evidence in the seized documents, the Department of Justice concluded that a prosecution under section 32 of the Act was not warranted.

SECTION 38

(5) *Imperial Oil Limited — Gasoline*

This inquiry 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 records of Imperial Oil Limited were examined pursuant to section 10 of the Act.

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. The preliminary hearing was held at Toronto on August 19 and 20, 1982, and the company was subsequently ordered to stand trial on the count under paragraph 38(1)(b). At the end of the fiscal year, the trial date had not been set.

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

SECTIONS 32, 34 AND 38

(1) *Gasoline — Sydney, Nova Scotia*

This inquiry commenced in September 1976 following complaints alleging price fixing among retail gasoline dealers. Hearings were held in Sydney in November 1976. The evidence

relevant to part of 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 into the activities of other persons continued. 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 to enter premises and examine 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, which had been withheld pending the outcome of the Court's ruling, were made available by the company.

After a thorough review, it was concluded that the evidence would not support a prosecution under section 32, 34 or 38. It was also concluded that no further inquiry was warranted. Accordingly, the inquiry was discontinued, and reported to the Minister on November 22, 1982.

The appeal to the Supreme Court of Canada was withdrawn.

SECTION 38

(2) *Propane Gas — Western Canada*

This inquiry commenced in January 1982 following receipt of a complaint that a supplier of propane gas had issued threats to one of its distributors in an attempt to influence upward the price at which the gas was to be sold.

During the course of the inquiry, the records of the supplier were examined pursuant to section 10 of the Act. The information obtained neither confirmed nor refuted the allegations. The Director concluded that further investigation was not warranted.

Accordingly, the inquiry was discontinued and reported to the Minister on August 18, 1982.

5. Director's Representations to Regulatory Boards

(1) *Régie des marchés agricoles du Québec — Controls on the Wholesale and Retail Prices of Milk*

In January 1983, the Régie des marchés agricoles du Québec held public hearings on the merits of maintaining or eliminating controls on the price of milk at the wholesale and retail levels. The Director presented a submission to the Régie and was represented at the hearings.

In his submission the Director showed that, in the last few years, the dairy industry in Canada had experienced major structural changes. These changes occurred in provinces where there are no controls at the wholesale and retail levels, as well as in provinces where such controls are exercised.

The submission reviewed the spread between the price paid to the producer for milk and the retail price in major Canadian urban centres. It was stated that while retail prices varied from city to city reflecting differences in producer prices, over time the retail-farm price spread in the various locations varied little. The Director submitted that there was no evidence that price controls were necessary to prevent unwarranted distributive margins. In fact, existing market pressures had required participants in the dairy industry to compete more aggres-

sively. These pressures emanated both from merchandising changes at the retail level (where chain stores account for most milk products sold) and from the existence of alternative substitute foods for milk.

The Director concluded that while it could not be clearly shown that the regulation of milk prices in Québec had achieved desirable objectives, it was nevertheless true that, should the Régie wish to police the regulation effectively, a considerable administrative expenditure would be incurred. On March 9, 1983, the Régie announced its decision to abandon the control of wholesale prices of milk. It would continue, however, to control the minimum and maximum retail prices. Subsequently, the Québec cabinet reversed the decision of the Régie to decontrol wholesale prices for fluid milk.

(2) *Régie des marchés agricoles du Québec — Submission on the establishment of a marketing board for maple syrup*

In September 1982, the Director submitted his views to the Régie des marchés agricole du Québec on applications by Les producteurs de sucre d'érable du Québec and La Fédération du producteurs de sucre et sirop d'érable du Québec for approval of a joint marketing plan for Québec maple syrup and maple sugar producers.

The applicants sought the creation of a producer's board with the powers provided in section 68 of the Québec Farm Products Marketing Act to expand markets for maple syrup and to improve their operational and pricing efficiency. In addition, they requested that the proposed board be given the authority under section 67 to exercise supply management techniques to fix prices, quotas and conditions of sale for maple syrup marketed in domestic and export markets. The first category of activities are exempted from the application of the Combines Investigation Act by subsection 32(2) of that Act, but the supply management techniques are generally prohibited under the Combines Investigation Act unless carried out pursuant to valid federal or provincial legislation.

The Director informed the Régie that he found merit in the establishment of a Québec maple syrup marketing scheme whose purpose would be market development and improvement of the operational and pricing efficiency of the marketing system. This determination was based on the apparent existing disparity in bargaining power between producers of maple syrup and the buyers and processors, only four of which account for more than eighty per cent of the purchases of maple syrup from producers.

The Director further advised the Régie that he did not favour the establishment of a marketing scheme with supply management and price fixing powers. The Director based this recommendation on his finding that a maple syrup producers' board with supply management powers would not be able to determine the "optimum" level of output any better than the individual producer. It would not deal with the influence of weather and other natural events on the level of output. Furthermore, the costs of the newer larger size operations are not yet known, and there is a lack of knowledge of the average cost of production of a maple syrup grove that is presently representative of the industry. For these reasons, the Director concluded that a supply management marketing scheme with powers to fix prices would have net negative implications for efficiency, performance, prices and equity.

At the end of the fiscal year, the Régie called a vote of the Québec producers on the desirability of the proposed joint plan for the Québec maple syrup and sugar producers.

(3) *Fact Finding Inquiry into Egg Production Costs*

In June 1982, the Director made representation at a public hearing of the National Farm Products Marketing Council (NFPMC) to review the cost of production formula (COP) used by the Canadian Egg Marketing Agency (CEMA) as the basis for setting producer prices for eggs. The thrust of the Director's submission was that the existing high egg quota values are an indication that egg prices are too high and that the current egg pricing arrangements do not promote an efficient and competitive production and marketing industry for eggs required by

the National Farm Producers Marketing Agencies Act. The Director suggested three areas for improvement in the structure, methodology and implementation of the COP formula for eggs, these being the treatment of freight and handling, the range in the size of flocks used in the COP survey and the manner in which the formula is updated and administered.

The Director's recommendations were as follows:

- (1) Provincial prices should be set equal to provincial costs of production plus a producer return. This implies eliminating from the formula the use of a national weighted average of costs of production at the farm gate as well as freight and handling charges.
- (2) Cost of production studies should be made available to show whether efficiency gains are available from adjustments in the scale of production, in which case the cost of production formula should include these more efficient flock sizes. Concurrently, quotas should permit much larger size production units.
- (3) (i) Production coefficients should be updated more frequently.
(ii) Quota values should be included in the formula in such a way that they should be used as the indicator of the adequacy of product prices relative to costs. Furthermore, price increases should be disallowed when quota values reach levels that indicate the presence of excessive rents.
(iii) The responsibility for the calculation of the COP estimates should be undertaken by statutory regulatory agencies and not by producer organizations themselves.

The Panel of Inquiry supported the Director's first recommendation. The Panel, in a report submitted to the NFPMC in September 1982, recommended that the present system of national weighted averaging of prices be changed to one based on provincial cash costs and Grade 'A' conversion factors, along with national productivity, overhead, depreciation and production return factors. In addition, the Panel also made recommendations regarding changes in accounting procedures, labour and interest charges, financial and insurance costs, grade price differentials and premiums, depreciation, quota trading, production patterns and legislation.

The implementation of the Panel's recommendations is being monitored by the Director's staff.

6. Activities Related to Agricultural Policy

During the year representatives of the Director took an active part in interdepartmental discussions on alternative marketing policies for domestic feed grains with the view of enhancing competition and efficiency. In addition members of the Director's staff were involved in interdepartmental deliberations to assess the competitive implications of alternative marketing and stabilization programs for the red meat sector in Canada.

7. Other Matters

(1) *Petroleum Industry* ----- Section 8

This inquiry was referred to at page 37 of the 1982 Annual Report.

During the fiscal year, Petrofina Canada Ltd. (now Petro-Canada Enterprises Inc.) withdrew its appeal to the Supreme Court of Canada from a decision by the Federal Court of Appeal concerning the powers of the Restrictive Trade Practices Commission and the Director of Investigation and Research. The disposition of this inquiry is in abeyance until the Restrictive Trade Practices Commission makes its report in the section 47 inquiry referred to below.

(2) *Petroleum Industry — Section 47*

This inquiry was referred to at pages 37 and 38 of the 1982 Annual Report.

During the fiscal year the Restrictive Trade Practices Commission conducted hearings into the international and marketing sectors of the industry. Since the hearings commenced in December 1981, close to one hundred witnesses have appeared before the Commission. On February 21, 1983, the Commission held a special hearing involving the Director, the oil companies and other interested parties in the inquiry, following which the Commission laid down a schedule for the completion of the inquiry. It was anticipated that the hearings would conclude with final argument in the Fall.

During the course of the fiscal year the Federal Court heard two challenges to rulings made by the Commission during the course of the hearings.

(3) *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.

(4) *Inquiry in Progress — Wood Industry*

On August 23, 1977, the Director commenced an inquiry into the lumber, plywood and related wood products industry in Canada. The inquiry was subsequently made public when some of the companies involved informed the news media that they were being investigated under the Combines Investigation Act. The evidence obtained in the inquiry was referred to the Attorney General of Canada pursuant to subsection 15(1) of the Act on March 24, 1983.

(5) *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. 6 was issued on September 20, 1982, (SOR 82/858).

(6) *Propane Gas — Complaints*

The Director received complaints from consumers in a number of regions in Canada about the practices of propane retailers. The complaints alleged substantial increases in rental fees charged by retailers for propane storage tanks, identical rental charges for storage tanks, similar prices charged by retailers for propane itself, increase in prices for propane, and a

retailer's refusal to supply propane to a consumer whose storage tank was leased from another retailer. A review of these complaints has not disclosed evidence warranting further action but the persistence of the complaints has prompted the Director to continue monitoring the industry's conduct.

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.

All six accused companies were ordered to stand trial before the Superior Court of the Province of Québec. The trial took place from May to July 1979. The accused 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
Porrirts & Spencer (Canada) Limited	\$115,000

The court also granted an Order of Prohibition against each of the accused. The decision was appealed to the Québec Court of Appeal, which rejected all 12 grounds for appeal on December 2, 1982. Leave to appeal the conviction to the Supreme Court of Canada was sought that month. This latter application was denied in February 1983 and costs of the application were awarded to the Crown.

(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).

As reported last year, this matter was awaiting the setting of a trial date. However, after reviewing the evidence, the Department of Justice concluded that further prosecution was not warranted.

(3) *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 in the 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. On June 17, 1982, the accused were discharged.

SECTIONS 32 AND 33

(4) *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.

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 appeal was heard on May 27, 1982, at which time it was dismissed. On June 21, 1982, the accused sought leave to appeal to the Supreme Court of Canada but on August 9, 1982, leave to appeal was refused.

The preliminary hearing resumed on January 31, 1983, and continued until February 11, 1983. The Crown's argument was heard on February 21 to 22, 1983, and the accused's argument is scheduled to be heard on May 10 to 12, 1983.

(5) *Daily Newspapers*

A formal inquiry was commenced following the closing on August 27, 1980, of the *Ottawa Journal* and *Winnipeg Tribune* and the sale by Thomson Newspapers Limited of its daily newspaper properties in Montréal and Vancouver to Southam Inc.

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 (described in detail in the 1982 Annual Report) was laid at Toronto. On May 5, 1982, Thomson Newspapers Limited, F.P. Publications Limited, Southam Inc. and certain subsidiary corporations were ordered to stand trial.

On June 17, 1982, the Attorney General of Canada signed an indictment setting out eight counts arising from the above matters.

Mr. John A. Tory, Mr. George N.M. Currie and Mr. Gordon N. Fisher, being principal executives of Thomson, F.P. and Southam respectively, are named in the above charges as unindicted co-conspirators or parties. Trial is scheduled to commence on September 19, 1983, in Toronto before the Supreme Court of Ontario.

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

SECTIONS 32 AND 38

(6) *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 with members of the Executive of the Association and others 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).

At the conclusion of the preliminary hearing on June 25, 1982, the Association was ordered to stand trial. The trial is scheduled to commence in Toronto on May 2, 1983, in the Supreme Court of Ontario.

(7) *Books — Montréal*

In December 1979, the Director received a formal application, under section 7 of the Act, for an inquiry into the supply of academic books in the Montréal region. The applicants alleged that officials from a university bookstore and certain distributors of french-language academic books had contravened sections 32 and 38 of the Act by refusing to supply books to a student association on usual trade terms.

Information in this matter was obtained under the authority of sections 10 and 17 of the Act and the evidence was referred to the Attorney General of Canada on March 31, 1981.

Following a review of the evidence, the Attorney General concluded that a prosecution or other proceeding was not warranted.

SECTION 32.2

(8) *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 individual:

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 were heard on April 29 and May 25, 1982, in Toronto and were dismissed on the latter date.

In their unanimous decision, the Appeal Court judges held that in their "view, in the circumstances of this case, the tenders in question must be taken to have been made at least by the time the sealed tender documents were opened." They furthermore did not accept arguments "that an agreement or arrangement is 'made known' within the meaning of section 32.2 to a person requesting tenders because it was or may be inferred from the fact that identical

tenders were submitted that such tenders represented the product of an agreement or arrangement between the tenderers." They confirmed that "express notification of the agreement or arrangement is required. A person submitting a bid or tender which contravenes s. 32.2(1)(a) or (b) must give actual notice of the agreement or arrangement to the person calling for or requesting the bids or tenders at or before the time when the bid or tender is made in order to take advantage of the provision in s.32.2(1)."

SECTION 34

(9) *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. In June 1982 the prosecution of this case was transferred to Toronto. The Information was relaid on October 5, 1982, and subsequently the preliminary hearing was scheduled to commence on May 24, 1983, in Toronto.

SECTION 35

(10) *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 trial commenced on April 15, 1982, and the accused was convicted and fined \$2,500. The Court also granted an Order of Prohibition.

SECTION 38

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

This inquiry 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. On May 31, 1982, a stay of proceedings was entered.

(12) *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, 1982, all of the accused were acquitted. Notice of appeal was filed by the Crown on March 5, 1982, and argument was heard before the Court of Appeal of New Brunswick on September 17, 1982. At the end of the fiscal year, no decision had been rendered by that Court.

(13) *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 June 6, 1983.

(14) *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. At the preliminary hearing on June 16, 1982, the accused was ordered to stand trial. The trial commenced on November 22, 1982, and continued to November 24, 1982, at which point there was no more available court time. At the end of the fiscal year, the trial had not recommenced.

(15) *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. 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. On February 23, 1982, the accused was ordered to stand trial on both counts.

On March 8, 1983, the accused pleaded guilty to the count under paragraph 38(1)(b) and was convicted and fined \$500. No evidence was called by the Crown on the count under paragraph 38(1)(a), which was therefore dismissed.

(16) *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 supply of auto glass to installers because of their low pricing policy, and attempted to exert upward influence on their retail prices. The evidence obtained in the inquiry was referred to the Attorney General of Canada on March 31, 1981. An Information was laid at Vancouver 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 1980.

On December 9, 1981, all the accused were ordered to stand trial. On September 13, 1982, the corporation pleaded guilty to the second count and was convicted and fined \$4,000. A prohibition order was issued against the corporation. All remaining charges were withdrawn.

(17) *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. In November 1982, the Information was relaid and subsequently at the preliminary hearing the accused was ordered to stand trial. The trial is scheduled to commence on May 3, 1983.

(18) *Audio-Visual Trade Shows and Products*

This inquiry commenced in July 1981 as a result of information received that a stereo equipment distributor was refused participation in the Canadian Audio-Video Trade Show organized by Hunter Nichols Publishing and Sound Spectacular Inc. by reason of the distributor's low pricing policy.

Evidence obtained in the inquiry was referred to the Attorney General of Canada on September 10, 1982. An Information was laid at Toronto on December 29, 1982, against Hunter Nichols Publishing Limited and Sound Spectacular Inc. both of Toronto, alleging contravention of paragraph 38(1)(a) during the period March 1, 1981, to July 31, 1981. The preliminary hearing is scheduled in Toronto for June 1, 1983.

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 an order prohibiting BBM from continuing to engage in its tied selling practices. The Order is set out in the 1982 Annual Report.

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, which 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.

(2) Motion Pictures

In February 1976, the Director received a formal application, under section 7 of the Act, for an investigation into the distribution and exhibition of motion pictures in Canada. The application was signed by nine citizens, all of whom were active in some manner in the Canadian film industry. Shortly after receipt of the section 7 application, the complainants issued a press release explaining the nature of the complaint. They stated that the named companies conspired to lessen competition in the rental and supply of motion pictures, thereby preventing Canadian films from having reasonable access to the Canadian exhibition market. They also released the names of the nine complainants.

In the course of the Director's inquiry, four price maintenance cases under paragraph 38(1)(a) were conducted. The details of these prosecutions appeared in the 1979 and 1980 Annual Reports.

On December 22, 1982, the Director applied to the Restrictive Trade Practices Commission for an order under section 31.2 against seven major motion picture distributors in Canada. The Application asked the Commission to order the distributors to supply commercially valuable motion pictures to Cineplex Corporation, an exhibition chain which operates 17 multi-screen theatres in 11 communities across Canada.

In his Application, the Director alleged that Cineplex had been unable to obtain adequate supplies of motion pictures; that this had resulted in a substantial detrimental financial effect

on the company; that Cineplex had repeatedly made requests for motion pictures from the distributors on a first- or second- run basis, but that these requests were usually denied; and that the major distributors had "maintained long-standing arrangements whereby they supply motion pictures to the two largest exhibition chains to the exclusion of Cineplex and others."

The film distributors named as respondents in the Director's Application are: Astral Films Limited; Columbia Picture Industries, Inc.; Paramount Productions Inc.; Universal Films (Canada); Warner Bros. Distributing (Canada) Limited; United Artists Corporation; and Twentieth Century-Fox Film Corporation.

In the period following the filing of the application, the Director supplied the respondents with particulars of the allegations. At the end of the fiscal year, the Commission had scheduled the pre-hearing conference for May 4, 1983, with the hearing to commence on May 30, 1983.

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

SECTION 31.2

(1) Dental Supplies

This inquiry commenced in March 1979 following the receipt of complaints from several dental products distributors alleging that they were substantially affected in their business due to the refusal to supply patented dental filling products by a dental products manufacturer.

During the course of the inquiry, a search of the manufacturer's premises was undertaken pursuant to section 10 of the Act. The documentary evidence established that the products in question held dominant market shares and were exclusively distributed in Canada by the manufacturer. However, while the documentary evidence substantiated the information on which the inquiry was initiated, the circumstances had changed during the interim period. New state of the art dental filling products became available to some of the distributors from other manufacturers and it was no longer possible to show that the distributors involved were substantially affected in their business as a result of their inability to obtain supplies of the products which had been the subject of the inquiry.

Since grounds did not exist for making an application to the Restrictive Trade Practices Commission under section 31.2 of the Act, the inquiry was discontinued and reported to the Minister on January 12, 1983.

SECTION 31.4

(2) Exhibition Products

This inquiry commenced in March 1980 as a result of complaints indicating that a major exhibition organizer engaged in certain exclusive dealing and tied selling practices reviewable under section 31.4 of the Act. It was alleged that the rental of retail space to independent businessmen was contingent upon purchases of essential supplies from a designated manufacturer. It was further alleged that certain of the manufacturer's products were reserved for the exclusive use of the organizer's own outlets. These practices were represented to have the effect of limiting the market available to competing manufacturers and constrained the independents from effectively competing with the organizer's outlets.

The evidence obtained through interviews and under section 10 of the Act substantiated the information on which the inquiry was initiated. However, before an application under section 31.4 could be filed with the Restrictive Trade Practices Commission, the organizer revised its policies and terminated the practices. The Director accordingly discontinued the inquiry and so advised the Minister on February 24, 1983.

SECTION 32

(3) *Association of Performing Artists*

This inquiry commenced following the receipt of a formal application under section 7 of the Act for an inquiry following the establishment by an association of performing artists (the Association), through amendments to its constitution, of maximum commission fees payable by its members for the services provided by talent agencies, and the imposition by it of a franchise agreement upon all such talent agencies and agents in a major metropolitan area. Subsequent to the filing of the section 7 application, two non-franchised agencies commenced a civil action and subsequently obtained a interlocutory injunction restraining the Association from enforcing the franchise agreement against them.

After carefully examining all of the evidence and information assembled during the course of this inquiry including the fact that the Association had ceased enforcing the provisions of the franchise agreement following the granting of the above-mentioned interlocutory injunction, the Director found the following facts to be of particular significance:

- (a) although the Association had enforced the provisions of the franchise agreement for several months, the evidence obtained was insufficient to establish, beyond a reasonable doubt, that the arrangement had the effect of lessening unduly competition in the purchase of talent agency services;
- (b) the increase in the number of agencies during the last several years appeared to indicate that the franchise did not impose a barrier to entry;
- (c) the Association members appeared to be free to engage any agency be it franchised or non-franchised, without fear of reprisal or discipline;
- (d) the non-franchised agencies interviewed during the course of the inquiry largely maintained their roster of Association members;
- (e) no franchised or non-franchised agency expressed a desire to charge a rate higher than that in the franchise agreement and thus such rate appeared to have no demonstrable effect on the behaviour of the agents/agencies; and
- (f) there was no reason to believe that the Association intended or was likely to enforce the provisions in question again.

On the basis of the foregoing, the Director concluded that the assembled evidence was not such as to support an allegation of misconduct, nor was there reason to believe that, if the inquiry were to be pursued, such evidence would be obtained. Accordingly the inquiry was discontinued and reported to the Minister on May 31, 1982.

In informing the Minister of the decision to discontinue the inquiry, the Director stated that if subsequently he were to obtain information indicating that the Association had taken or was about to take steps to enforce the restrictive provisions of the franchise, its constitution or by-laws, he would be required to re-examine the situation to determine whether it provided grounds for an inquiry under the Act. In addition, the Director informed the Minister that he intended to write to both the Association and the talent agencies' Association so that they would be fully aware of his position in this matter.

SECTION 33

(4) *Racquet Clubs*

This inquiry commenced in August 1979 following the receipt of an application pursuant to section 7 of the Act alleging that the acquisition of two competitive racquet clubs by the owners of another racquet club contravened the merger provisions of sections 33 and 2 of the Act.

During the course of the inquiry, public hearings pursuant to section 17 of the Act were held before the Restrictive Trade Practices Commission and documentation was obtained that

confirmed the details of the transaction. Subsequently, further investigation of the matter was conducted.

A legal opinion was sought from counsel who had been retained to assist in the investigation of this matter. After reviewing the evidence, counsel gave the opinion that there was insufficient evidence of detriment to warrant proceeding with charges under the merger provisions of the Act. A subsequent review of the evidence also concluded that there was insufficient evidence to support a charge or charges of monopoly.

During this time, it was learned that negotiations for the sale of one of the facilities had taken place and a decision was taken to continue the inquiry. Subsequently, each of the facilities acquired was sold to separate interests without restriction.

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 May 18, 1982.

(5) *Barreau du Québec*

This inquiry commenced in April 1982 following receipt of a formal application under section 7 of the Act for an inquiry in which it was alleged that the Barreau du Québec had violated section 33 of the Act by adopting regulations restricting the form and content of advertising to be used by its members.

The matter was studied in relation to the Québec Professional Code, R.S.Q.1977, c.C-26 and the regulations approved by the Lieutenant Governor in Council of Québec. The specific power to adopt regulations relating to advertising is delegated to professional corporations constituted under the Code by paragraph 12(k) of the Code.

The inquiry revealed that the regulations to which the application related had in fact been adopted in accordance with paragraph 12(k) of the Code, approved by the Lieutenant Governor in Council and published in the Gazette Officielle du Québec as required. The regulations were therefore valid and the Director determined that there were no grounds for further inquiry. The inquiry was, therefore, discontinued and reported to the Minister on January 12, 1983.

SECTION 38

(6) *Calgary Stereo Equipment*

This inquiry commenced in June 1980 following the receipt of a complaint from a Calgary stereo retailer alleging that a stereo distributor was refusing to supply him with a product because of his low selling prices. The information obtained during the course of the inquiry revealed that the allegations were unfounded and that there were legitimate reasons for the disruptions in supply that had occurred.

The Director concluded that there was insufficient evidence to justify further inquiry. The inquiry was, therefore, discontinued and reported to the Minister on May 13, 1982.

(7) *Automobile Audio Equipment, Ontario*

This inquiry commenced in March 1981, following receipt of a complaint from a Toronto retailer alleging that a major distributor of automobile audio equipment had refused to supply him with the product because of his low pricing policy.

During the inquiry, the records of the distributor were examined pursuant to section 10 of the Act. The evidence gathered did not support the allegation of a violation of section 38 of the Act. Accordingly, the inquiry was discontinued and reported to the Minister on July 6, 1982.

5. Other Matters

(1) *Law Society of British Columbia*

The background of this inquiry has been reported in the 1978-1982 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. In a unanimous decision handed down on August 9, 1982, the Supreme Court of Canada upheld the decision of the Court of Appeal (see Chapter II.)

(2) *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 and dismissed on April 23, 1982.

The inquiry was commenced in November 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 1982.

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

(3) *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.

(4) *Newspapers — Edmonton, Alberta*

An inquiry was commenced in April 1982, under section 33 and paragraph 34(1)(c) of the Act, relating to the production, distribution and supply of newspapers and related products in Edmonton. On April 20, 1982, representatives of the Director commenced a search of the Premises of the Edmonton Journal under the authority of subsection 10(1) of the Act but were subsequently served with a statement of claim and notice of motion making application to the Court of Queen's Bench of Alberta for an interim injunction against further searching.

The matter was argued in the Alberta Court of Queen's Bench on April 21, 1982, and subsequently written arguments were submitted by the plaintiff, Southam Inc. and the defendants, named as the Director of Investigation and Research and his authorized representatives conducting the search.

On May 20, 1982, the Honourable Mr. Justice J.C. Cavanagh rendered his decision in the matter refusing to grant the plaintiff's application for an interlocutory interim injunction against further examination of documents on the premises of the Edmonton Journal. The Court directed that the search be continued but that any documents selected on the premises be sealed and deposited with the Clerk of the Court. The Director's representatives subsequently completed the search of the premises and deposited the selected documents with the Court Clerk.

Southam Inc. appealed the decision and in a memorandum of judgment delivered by the Alberta Court of Appeal on May 26, 1982, the Honourable Chief Justice McGillivray upheld the decision made by the trial judge refusing the plaintiff's application for an interim injunction. Chief Justice McGillivray ordered, however, that the documents remain with the court clerk until further arguments could be prepared by all parties concerned with respect to the validity of section 10 of the Act in light of section 52 of the Constitution Act 1981 and with respect to the authority of an Alberta Court to address the matter.

The matter was further argued in the Alberta Court of Appeal in November 1982. In a decision rendered on January 31, 1983, the Court declared that

"...S.10(3) and, by implication, S.10(1) of the Combines Act are inconsistent with the provisions of S.8 of the Charter and are therefore of no force or effect."

Subsequently, application was made to the Supreme Court of Canada to appeal the decision and the Supreme Court has granted leave in this regard. The matter is expected to be heard in the fall of 1983. The selected documents will remain with the Court until the Supreme Court has rendered a decision in the matter.

(5) Buying Groups

In June 1982 the Director received an application under section 7 of the Act concerning the establishment of a buying group by two major food retailers. The concerns of the applicants were extensively reported in the press. At the end of the fiscal year, this inquiry was continuing.

(6) 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, 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
1982***	371	205	576

* 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, at the present time, is primarily 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. The Director has, from time to time, also 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, among them, 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 flexible 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 the order for prohibition as sought. (1982, 35 A.R. 132)

Subsequently, the Attorney General of Canada applied for and was granted leave to appeal the issue to the Supreme Court of Canada. The appeal was heard in September 1982. The Supreme Court reserved judgment and as of March 31, 1983, had not rendered a decision on this matter.

(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 undicted 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.

The trial date has been set for November 1983. The delay in setting this date was a result of uncertainty caused by the constitutional issue raised in the Western Trucking case referred to in item (1).

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.

All matters stemming from this rate application have now been concluded.

(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 January 11, 1980, the Director filed with the Canadian Radio-television and Telecommunications Commission (CRTC) a letter indicating his intention to intervene in this matter which dealt with a review of various TCTS rates, practices and procedures and the issue of whether Telesat Canada's rates for its satellite communications services were just and reasonable. The background details concerning this intervention may be found at pages 62-64 of the 1982 Annual Report.

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 Telecom Decision 81-13 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 with specific reference to 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. It was also requested that the Decision be varied by extending the time for the implementation of the filing of tariffs, which was subsequently allowed. The filing date was later extended to 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 filed his comments respecting the revised tariffs on March 15, 1982. Specific reference was made to the description and magnitude of rates for Partial RF Channel Services. In addition, the Director drew particular attention to Tariff Item 3.1 respecting limitations on resale and sharing of satellite services. The Director maintained that this Tariff Item did not accurately reflect the comments of the Commission as contained in Telecom Decision CRTC 81-13. The Director submitted that the Commission should direct Telesat to refile Tariff Item 3.1 with the additional sentence, "such approval shall not be unreasonably withheld." On September 24, 1982, the Commission released Telecom Decision CRTC 82-7 which specifically directed Telesat to add the words "which approval shall not be unreasonably withheld" to Tariff Item 3.1. A number of other tariff items were either modified or disallowed. Revised tariff pages necessary to comply with this Decision were required by October 29, 1982. These revisions were subsequently filed on November 12, 1982.

Regarding the renegotiation of the revenue settlement procedures (RSP) with other members of TCTS, Bell Canada and B.C. Tel have advised the CRTC that talks remain stalled since unanimous consent is required before such negotiations can begin and some TCTS members have refused to consider the issue.

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

On November 13, 1979, Bell Canada applied to the 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. The details of this application, as well as Bell's proposals for interim requirements governing the attachment of customer-owned equipment and the Director's comments respecting the proposals, appear in the 1982 Annual Report at page 64.

The CRTC issued its interim decision on this matter (Telecom Decision 80-13) on August 5, 1980. In its 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 the 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. On April 15, 1981, the Director indicated his desire to participate fully in the public hearing to the CRTC.

On October 22, 1981, the CRTC released Telecom Decision 81-19. This Decision applied Bell Interim Terminal Attachment Requirements of Telecom Decision 80-13 to B.C. Tel on an interim basis pending the conclusion of the final terminal attachment proceeding.

The main hearing on the terminal attachment issue began on November 17, 1981, and was completed on December 11, 1981. 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.

On November 23, 1982, the CRTC issued Telecom Decision CRTC 82-14. With regard to telephone sets, the Commission concluded that subscriber-ownership of single line main telephones will no longer be prohibited and that, contrary to the carrier's preferred position, subscribers should still be able to lease terminal equipment.

The telephone companies were directed to unbundle their business and residential individual line primary exchange service rates by developing separate rates for network access (including inside wiring) and terminal equipment rental and to file these rates by March 1, 1983. The Commission considered it necessary, at this time, to continue the prohibition of subscriber-ownership of single line inside wiring. However, multiline subscribers would continue to be required to purchase inside wiring associated with the purchase of new terminal equipment or, if they leased, have the associated inside wiring provided by the carrier.

The Commission accepted the Director's argument on inter-positioning and allowed inter-positioning when necessary standards are developed.

The Commission concluded that the liberalization of Terminal Attachment should allow TWX and telex subscribers to attach their own terminal equipment to the carrier's network.

The Director had argued that the carriers should be required to conduct their terminal equipment activities through fully separate subsidiary companies. The Commission, however, was of the view that this would not be appropriate, although it stated that it would review this matter following completion of Phase III of the Cost Inquiry.

The Commission also concluded that it would not be appropriate to deregulate carriers' terminal equipment business which is conducted on an in-house basis. The Commission considered that its continued oversight was required to ensure compliance with the requirements of sections 320 and 321 of the Railway Act. For in-place equipment, the sale price and the estimated book value of the equipment sold would have to be recorded in a special account for gains and losses. For new equipment, a "floor price" for each model type of new terminal equipment will have to be filed in confidence with the Commission and demonstrated to be not less than "associated costs." In each instance, the Commission required semiannual reports.

On December 20, 1982, CNCP Telecommunications filed Notice of Application for Leave to Appeal to the Federal Court of Appeal in this matter. CNCP stated that the CRTC erred in holding that it had authority to regulate the price at which CNCP Telecommunications sells telecommunications terminal equipment. As an intervenor in the Terminal Attachment proceedings, the Director is a respondent in this matter.

The CRTC received an application from CNCP Telecommunications dated February 10, 1983, requesting that it review its Terminal Attachment decision pursuant to section 63 of the National Transportation Act. CNCP requested that the Commission issue orders rescinding or varying its decision pertaining to the regulation of prices at which CNCP may sell new terminal equipment. This is the same issue that CNCP has brought before the Federal Court of Appeal. The Commission also received an application from Bell Canada, dated February 14, 1983, requesting that the Commission rescind or vary part of its Terminal Attachment decision dealing with the terms and conditions to govern the distribution of telephone directories by itself, under the liberalized terminal attachment regime.

On March 23, 1983, the CRTC issued Telecom Notice 1983-27 requesting comments from interested parties by April 25, 1983, on CNCP's application for review of Telecom Decision 82-14. On the same day, the Commission issued Telecom Public Notice 1983-28, regarding the issue raised by Bell Canada concerning telephone directories which was also raised by B.C. Tel in an application dated March 1, 1983.

A subsequent CRTC Telecom Public Notice, 1983-29, was issued dealing with tariff revisions submitted by Bell Canada covering the unbundling of rates for business and residence individual line and party line primary exchange service, among other items. CRTC Telecom Public Notice 1983-30 deals with the same matter, only with respect to B.C. Tel. Comments on these Public Notices are also due by April 25, 1983.

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

On November 23, 1978, Maritime Telegraph and Telephone Company Limited (Maritime Tel) 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 seeking to make a representation, was granted intervenor status.

The Director stated that his primary interest in this matter was to support the concept of Maritime Tel supplying outpulsing services to licensed radio common carriers at reasonable rates and to suggest that the proposed tariffs 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.

Subsequently, 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 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 (RCC). 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 and a judgment was rendered April 16, 1982. In its judgment, the Supreme Court of Nova Scotia rejected Maritime Tel's appeal in its entirety and gave full support to the Board's written decision.

In May 1982, it was learned that Air Page Communications Limited had sold all of its assets to Maritime Tel. This acquisition was considered by the Nova Scotia Board of Commissioners of Public Utilities in a public hearing on December 21, 1982, and although the Director did not participate as an intervenor, he did submit comments on the anticompetitive effects of the acquisition. On February 9, 1983, the Board in its Decision granted Maritime Tel approval to acquire the assets of Air Page.

The matter of establishing outpulsing rates for direct dial paging is still outstanding and, in this respect, the Director, in a letter dated January 15, 1983, requested the Board to initiate hearings on this matter. In addition, TAS Communications, operating as a radio common carrier in St. John's, Newfoundland, has applied for an RCC operator's licence for Halifax, Nova Scotia and has also pressed the Board for a hearing on the same issue.

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

On December 22, 1978, the New Brunswick Telephone Company, Limited (N.B. Tel) 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's concerns in this matter are set out in the 1982 Annual Report at page 68.

Public hearings were held in this matter on February 12, 1979, and March 27 and 28, 1979. 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.

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. N.B. Tel 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 N.B. Tel 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, 1982. Subsequently, an extension was granted until May 31, 1982.

On April 16, 1982, it was learned that Instant Communications Ltd. had sold all its radio paging and telephone answering assets in New Brunswick to N.B. Tel. Since Instant was the applicant for the Order of Mandamus, this Order was no longer in effect.

In a related matter, the Board convened a public hearing for March 2, 1983, to consider a tariff application by N.B. Tel to eliminate hook-up charges for the former customers of radio common carriers acquired by the telephone company (see item 24). In February 1983, the Director in a letter to the Board requested that the matter of outpulsing be considered as part of the March 2, 1983, hearing or in the alternative that a separate hearing be set.

At the hearing of March 2, 1983, Capital Communications & Multi Services Ltd. of Fredericton, New Brunswick, submitted a complaint to the Board requesting the setting of tariffs for telephone answering radio paging and mobile radio services interconnected to the network of N.B. Tel. The Board has undertaken to review the complaint and make an announcement on how it plans to proceed.

(6) *Garden of the Gulf Motel Application for Connection of Customer Owned 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, to the Island Telephone Company Limited's (Island Tel) facilities. On August 3, 1979, the Director sought intervenor status to appear before the Commission in this matter.

However, prior to the commencement of the hearing, the Director was informed that it would 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 Tel, 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 Tel 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. The Director did not participate in these hearings.

The Commission has now approved regulations governing the connection of customer-owned equipment and Garden of the Gulf Motel has been able to complete the interconnection it sought in its original application. This matter is now considered closed.

(7) *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 to each offer a maximum of 25 inter-regional return flight Domestic Advance Booking Charters between points on their respective licences. 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 period of three years, after which time the matter is to be reviewed.

In one follow-up matter, the Director filed a submission following the Air Transport Committee's invitation to comment on a discussion paper dealing with proposed simplified rules (Class 10) to replace existing regulations on domestic charter services. To promote administrative convenience and to enhance competition, several existing regulations were to be eliminated. In addition, proposed new entrants in the domestic charter market would be required to prove public convenience and necessity. However, the current Domestic Advance Booking Charter requirements for all passengers 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, in his submission, 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, 1983, the Air Transport Committee has not issued a report or decision on the proposed simplified rules.

(8) Bell Canada, 1980 General Increase in Rates

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. 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 (9) — 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.

All outstanding matters arising from Telecom Decision 80-14 have been completed or folded in with subsequent rate hearings so that this matter is now considered completed.

(9) Bell Canada, Northern Telecom Price Comparison

Additional background details concerning this intervention can be found at pages 70-73 of the 1982 Annual Report.

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 price comparisons for many years with the CRTC and previously with the Canadian Transport Commission.

Since the 1977 Bell Rate Application, the price comparison tests, or the Touche Ross Audit as they are sometimes described, have received a good deal of attention from the

CRTC. In addition to the 1977 Bell Rate Case, the Commission dealt with the price comparison tests in its decisions relating to the 1978 and 1980 Bell Rate Case.

As a result of Telecom Decision 80-14, dated August 12, 1980, the CRTC issued Telecom Public Notice 81-18 on March 6, 1981. In that Notice, the Commission indicated that it intended to review the price comparison principles enunciated by itself in its decision Telecom 78-7. The Commission 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 has yet to render a decision on this matter.

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

On February 12, 1981, Bell Canada filed with the 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.

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.

The Director has received several reports relevant to these follow-up matters. The reports relating to (a) are no longer required as a result of CRTC Telecom Decision 82-14 mentioned in item (3) above. Concerning (b), the CRTC will be examining this issue in the context of other hearings. Consequently, the Director considers this matter to be completed.

(11) 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. The Director's concerns are set out at page 74 of the 1982 Annual Report.

On March 18, 1982, the Commission awarded six pay television licences in Decision CRTC 82-240. The licences 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 licensee must be operating in at least one market by April 1983.

In a letter dated September 13, 1982, the Director submitted written comments to the CRTC in response to Public Notice 1982-58, concerning the exhibition of pay television service. Two points are made in this submission: (a) that all applicants of satisfactory financial and technical capacity should be licensed and (b) that the licences should incorporate non-inclusivity arrangements with pay television distributors.

The Director filed similar comments pursuant to Public Notice 1982-68 concerning the exhibition of pay television services in the Red Lake area of Ontario. In addition, the Director asked that the Commission take note that one of the applicants was having difficulty in negotiating an affiliation agreement with one of the pay television distributors which could impede his ability to compete with a cable systems supplier.

(12) 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 changes to the Application that the Director felt were necessary to allay concerns relating to competition issues and discrimination against present subscribers. The changes are summarized in the 1982 Annual Report at page 75.

The Board issued Decision No. E 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 multiline 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 customers 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.

The Board subsequently informed AGT that as a result of an earlier decision concerning Method of Regulation, AGT need only file for acknowledgement any services it wished to offer on a non-basic basis. Consequently, on June 18, 1982, AGT filed for acknowledgment a tariff containing non-basic services to be offered under a liberalized regime of terminal attachment. On June 25, 1982, AGT submitted another filing with the Board seeking the approval to delete basic terminal (voice) services, as these services would duplicate the non-basic services as per the June 18 filing. On July 11, 1982, terminal attachment became a reality in the Province of Alberta. The June 25 filing, as it sought to delete basic services, had to be considered at a public hearing. The Alberta Public Utilities Board must approve any such deletions. A pre-hearing conference on this matter was convened on September 8, 1982, in Calgary. At that point, the Director indicated a number of issues that he planned to address during the public hearings. On October 8, 1982, the evidence of Dr. Nina Cornell was submitted on behalf of the Director.

On October 22, 1982, AGT filed with the Board an application requesting that the Board rule that certain matters addressed in the evidence of a number of intervenors be struck out as irrelevant. AGT also requested that the Board rule that the Director had no legal capacity to appear as a party or an intervenor in the proceedings. This application was heard by the Board on November 25, 1982. On January 26, 1983, the Board issued Decision E 83017 ruling that a number of issues addressed by the Director were irrelevant. However, the Board made a very clear ruling in favour of the Director's status to appear before the Board.

With regard to the main hearing, AGT filed its evidence on December 3, 1982. The Board held public hearings in Calgary between February 7-9, 1983. AGT submitted its final argument in this matter on March 7, 1983, while the Director submitted his on March 28, 1983. The Director's submission argued that AGT's application be approved subject to the following modifications and conditions:

1. that AGT be required to offer terminal equipment services and products through a separate corporate entity that does not share facilities with the parent corporation offering monopoly services;
2. that, in the alternative, the Board convene a special issue hearing to consider the matters of appropriate costing and accounting methodologies and to address the necessity of supplementing this regulatory tool with a separate subsidiary requirement;
3. that the Board require AGT to make available to the public a list of non-household subscribers who rent multiline equipment from AGT pursuant to two tier or long term contracts;
4. that the Board direct AGT to permit the interpositioning of terminal equipment once the necessary standards are developed; and
5. that AGT be prohibited from using its buying power to obtain exclusive selling rights to certain types of terminal equipment.

As of March 31, 1983, no decision had been rendered.

(13) *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.

As reported in the 1982 Annual Report, the Director made written and oral representations to the Sub-Committee that were primarily concerned with establishing a basis for considering competition policy and other public interest implications during anti-dumping and countervail inquiries. The recommendations made in the Sub-Committee's Report included one which would allow appeals of Anti-dumping Tribunal decisions to the Tariff Board on the basis of public or consumer interest considerations. The interdepartmental committee, which was subsequently established to deal with these recommendations on behalf of the Minister of State (Finance), reached the opinion that this last recommendation would subject complainants to two trials. It therefore considered it preferable to recommend to Cabinet that the Anti-dumping Tribunal be allowed to receive and consider evidence with regard to public interest considerations and to recommend to the Minister of Finance that the full amount of the dumping or countervailing duty not be imposed if contrary to the public interest.

At the end of the fiscal year, the matter was still under consideration.

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

On October 5, 1981, the Ontario Securities Commission (OSC) 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 (TSE)."

On September 11, 1981, the Director filed a written submission on this matter. The Director was represented by counsel and a 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 conclude 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 that, while 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.

On June 25, 1982, the OSC handed down its decision which repealed Part XV of the TSE by-laws effective April 1, 1983, thereby abolishing fixed brokerage rates and establishing the potential for rate competition in the Ontario brokerage industry.

In coming to its decision the OSC relied to a large extent on the submission made to it by the Director in which it was argued that price competition in the brokerage industry would not only benefit investors but would also strengthen the industry. The OSC concluded its decision by stating "... that we can no longer continue to sanction a practice ... which is contrary to the aspect of the public interest identified in section 32 of the Combines Investigation Act...."

The Director is monitoring the Ontario brokerage industry to ascertain how this new system is being implemented and to ensure that investors are reaping the anticipated benefits from this change in the industry.

(15) Draft General Rules of the Canadian Transport Commission

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

The Director reviewed the proposal and filed his comments with the Secretary of the Commission suggesting that Rule 105 of the Draft General Rules of the CTC 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.

(16) 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. The Standing Committee on Transport issued its Report in late March 1982. The Report acknowledged the Director's point of view by stating that free entry, the end of regulated competition, would stimulate higher load factors, greater plane utilization and increased seating densities, thus improving efficiency and reducing costs.

(17) *Ontario Telephone Service Commission (OTSC)*

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 interested parties respecting 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 submitted the evidence of Charles A. Zielinski, the former Chairman of the New York State Public Service Commission, on April 30, 1982.

A hearing was conducted by the Commission in Toronto from June 23 to June 25, 1982. The Director filed written final and reply arguments on July 22 and August 13, respectively.

By Order No. 4188 issued on November 18, 1982, the Commission:

1. ordered terminal attachment on an interim basis,
2. authorized the attachment of customer provided extension sets and equipment to residential, single lines but required that the first phone or main station must be owned by the telephone company,
3. required that residential inside wiring must be owned by the telephone company,
4. allowed business single line extension sets to be customer provided but required that the main station must be owned by the telephone company,
5. required in the case of a PBX, that the inside wiring up to the PBX must be owned by the telephone company but that the subscriber must provide wiring to customer provided extension phones from the switch,
6. denied terminal attachment to party line subscribers,
7. denied terminal attachment to business subscribers in systems with fewer than 1500 main stations,
8. required that customer premises equipment must be certified by the federal government's sponsored Terminal Attachment Program (TAP) or meet FCC Rules Part 68. The Commission did not require that complementary equipment (recording devices, visual ear) be certified if accompanied by either an acoustical or induction connection device or a connection device which is compatible with the company provided connecting device,
9. called for submissions on the unbundling of rates due January 31, 1983.

Because the rate unbundling issue did not appear to have important competition policy issues, the Director decided not to file comments with the Commission. Therefore, this matter was closed at the end of the fiscal year.

(18) *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 that were 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.

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 indicated that his principal concern was to ensure that the costing methodologies and other regulatory tools adopted by the Commission would prevent telecommunication carriers from cross-subsidizing competitive services with revenues from their monopoly operations to the detriment of subscribers to monopoly services and competitors alike.

Hearings with respect to carriers' evidence commenced on June 1, 1982, and continued to June 17, 1982. Hearings concerning the evidence of intervenors lasted from September 14, 1982, to September 30, 1982. The Director presented two witnesses. Dr. Nina Cornell, a noted Washington, D.C. communications consultant and a former FCC staff member, outlined the need for carriers to operate competitive business through separate subsidiaries and the need for regulatory authorities to allow for the provision of enhanced services by more than just carriers. The Director's second witness, John Wilson, also a Washington consultant, presented the CRTC with his suggested costing methodology, which was based on fully distributed costing principles.

The Director filed lengthy written formal and reply arguments on November 15, 1982, and December 6, 1982, respectively. As of March 31, 1983, the CRTC had not received the report of its Inquiry Officer who chaired the public hearings.

(19) *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 techni-

cal 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.

On April 21, 1982, the Régie issued a public notice calling for a hearing to commence on September 14, 1982, dealing with the exact nature of terminal attachment in the Province of Québec.

On August 25, 1982, the Director filed a written submission with the Régie covering matters he expected to deal with at the public hearings.

The Director called as his witness, Mr. Charles Dalfen, a former vice-chairman of the CRTC. The Régie's hearings were held from October 5 to 15, 1982. On November 5, 1982, the Director filed his written argument with the Régie.

A decision was rendered by the Régie on January 31, 1983, generally accepting the Director's arguments and promoting the liberalization of terminal attachment. Follow-up items will be monitored by the Director's staff, notably that concerning the appropriate costing methodology for carriers under the Régie's jurisdiction.

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

In October 1981, Newfoundland Telephone Company Limited (Nfld Tel) filed a general rate increase application before the Newfoundland and Labrador Board of Commissioners of Public Utilities. The Director believed that this would be the proper forum to raise the issue of the competitive concerns regarding the adequacy of a special facilities tariff, item 370.7. This same contentious issue had been raised in a court action by TAS Communications Systems (TAS) and forms part of the background details of this matter as reported in the 1982 Annual Report at page 79. 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 in the TAS court action, 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 and concluded that the present accounting tests and the telephone company costing methodologies were appropriate. However, the Board 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, the details of which are set out at page 80 of the 1982 Annual Report.

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 the postponement by TAS of the lower court trial scheduled for May 12, 1982. TAS was successful in obtaining the postponement and a trial date was set for February 17, 1983, but was later postponed until April 14, 1983.

On April 27, 1982, Nfld Tel filed an application with the Board for approval of a new service to be called Dial Access to Radio Paging Service. The Board subsequently issued a public notice setting a hearing date of May 20, 1982. This hearing was later reconvened on June 3, 1982, at which time Nfld Tel objected to the intervention of the Director on the grounds that the Director did not have the statutory power to appear and that his appearance was not relevant to the hearing. The Board subsequently dismissed the objection and in a written order dated June 11, 1982, permitted the Director to appear and be heard on the application.

The main hearing took place from June 3, 1982, until June 7, 1982, at which time the Director presented the expert evidence of Mr. Charles M. Dalfen, former Vice-Chairman of the CRTC, concerning his experience with the provision of competitive telecommunications services such as those embodying radio paging and mobile radio communications. TAS and the Canadian Radio Common Carriers Association also appeared at these hearings.

On June 30, 1982, the Board released its decision in this matter which accepted a "value of service" concept in establishing rates for outpulsing access as opposed to the cost-based methodology used by the CRTC in the Colins Decision and put forward in the present matter by the Director and his witness. The Board did agree to set a compromise date for in-service start-up and agreed that the standards that should apply would be those listed in the Department of Communications CS-04 Issue 1. The Board also expressed an interest in examining in a separate proceeding the issues of wide area paging and two-way mobiles.

On June 10, 1982, the Director was served notice of the intention of Nfld Tel to petition the Supreme Court of Newfoundland, Court of Appeal, for leave to appeal the ruling of the Board that granted standing to the Director. The grounds of appeal were that the Board erred in law in ruling that the Director was empowered to appear before a Provincial Board or Tribunal notwithstanding the absence of any empowering words in the Combines Investigation Act. Subsequently, leave to appeal was granted on June 24, 1982. Nfld Tel filed their factum in this matter on December 3, 1982, and the Director correspondingly filed his factum on January 26, 1983.

The Board and TAS have also provided factums in support of the Director's position. A trial date of June 3, 1983, has been set to hear this matter.

(21) *CTC Public Hearing into "Deep Discount" Domestic Air Fare Rules*

On June 17, 1982, the Air Transport Committee (ATC) of the Canadian Transport Commission (CTC) issued a notice of public hearing concerning the air fare discounting practices

of domestic scheduled air carriers. Specifically, the public hearings would consider a number of Show Cause Orders concerning the discount fares of the national and regional carriers, and a proposal of the ATC to adopt a general rule that, unless subject to "adequate justification," all future scheduled air carrier fares discounted in excess of 25 per cent below comparable economy class tickets (termed as "Deep Discount" fares by the ATC), must adhere to a number of regulatory conditions, including a mandatory return trip requirement, advance booking and minimum stay requirements, and prohibitions against ticket refunds and itinerary changes.

The related Show Cause Orders required the affected carriers to show at the hearings why all currently offered Deep Discount fares should not be disallowed unless the fares were made subject to the ATC's proposed restrictions.

This matter arose because, during the first half of 1982, all domestic air carriers had experienced rapidly declining levels of capacity utilization, and substantial operating losses, as a result of declining economic activity. In addition to the substantial discounts traditionally offered on selected domestic and transborder routes during the January-April through period, domestic carriers, led by Air Canada, decided to combat forecasted excess capacity in the peak summer travel season with a generalized price promotion. These "new" air fare types were offered by the major carriers on almost all their domestic routes, and, unlike previous discount fares, generally contained few if any of the travel restrictions such as advance booking and return trip requirements. As well, the discounts offered were well in excess of those available on most trough period discount fares.

In the Show Cause Orders, the ATC made several observations which suggested a desire to maintain demand for the higher cost economy class fares and a concern that the recent pricing initiatives of the domestic air carriers might be evidence of "destructive competition" which could result in decreases in financial stability and service quality, particularly flight frequency. In particular, the ATC stated that:

- (1) Deep Discount fares offered in the summer of 1982 would shift discretionary (i.e., price sensitive) air travel demand from the fall and winter of 1982/83 to the summer of 1982,
- (2) the effect of the discount fares would be to increase "diversion" of passengers from higher to lower priced fares to "intolerable" levels in low demand periods,
- (3) such diversion would "invalidate" the justification of deep discount fares "since the said justification implicitly assumed that the distribution of traffic between fare types will be similar to that experienced in recent years," and
- (4) losses resulting from this series of fare cuts "may jeopardize the stability of the domestic scheduled airline system."

The Director intervened by way of submission to the ATC dated July 12, 1982. This submission expressed concerns with the ATC proposal and outlined the Director's position with respect to some of the assumptions upon which the proposal was founded.

(a) The Concept of "Destructive Competition"

"Destructive Competition" is characterized by chronic losses and excess capacity in an industry. For it to exist, fixed or sunk costs must be a high percentage of total costs and capital assets must not be readily marketable. As the Economic Council of Canada and American airline deregulators have observed, neither requisite condition obtains in the airline industry. However, once regulated, firms frequently put forward this spectre to elicit paternalistic regulatory controls aimed at reducing competition in periods of uncertainty or rapidly changing economic conditions as a substitute for joint cartel action. At the time, there had been some suggestion from CP Air that this carrier would accept some further ATC restrictions on Skybus as long as the same restrictions and fare justification requirements applied to similar offerings of other carriers.

(b) The Concept that the Economy Class Fare is the Principal and Natural Air Travel Product

In this regard it must be emphasized that no composite of services is *a priori* the best product for the market, or for that matter a product whose popularity will continue indefinitely. Rather the market's preferences should be given a chance to express themselves through evolving competition in air fare prices and service designs, and fewer regulatory efforts to artificially segment the air travel market.

(c) The Assumption that the Demand for Air Travel is Price Inelastic

Regulatory measures to shift consumers from Deep Discount fares to economy class fares would help reduce current carrier operating losses (by increasing total revenue) only if air travel demand is price inelastic. This assumption would appear to run contrary to U.S. experience since deregulation. Further, no empirical proof of this assumption had been advanced in recent years by the ATC or scheduled domestic carriers.

In support of his position, the Director filed lengthy written memoranda of evidence from two aviation industry experts: Dr. William Jordan, a professor of economics at the Faculty of Administrative Studies, York University, who has conducted extensive research on the industry, and Dr. Brian Campbell, an airline consultant and former executive of Midway Airlines, an American regional carrier centred in Chicago. Their evidence observed that:

- (1) In periods of excess capacity, it is economically rational for air carriers to price below average cost.
- (2) Demand for air travel, on average, is price elastic.
- (3) Numerous business people would not fly if they were effectively prevented from using "discount" fares.
- (4) There is no evidence that the necessary conditions for "destructive competition" exist in air transportation, and
- (5) The best policy would be to give airline managements wide pricing and service design freedoms without regulatory interference.

The public hearing commenced on July 19, 1982, and lasted four days. At the hearing, the only opposition to the proposal to disallow Deep Discount fares came from the Director and the Consumers' Association of Canada although the Canadian Manufacturers' Association, in a written intervention, also indicated its opposition. All participating air carriers strongly supported the proposal, although each sought modifications which would improve its competitive position in relation to its principal competitive rivals. In fact, prior to the commencement of the hearing, a number of carriers, including Air Canada and CP Air, stated an intention to file fares to be effective in September 1982, which conformed to the proposed rules and as well were discounted by no more than 25 per cent.

The Committee's decision was released on August 19, 1982, and adopted a policy very similar to that proposed prior to the public hearing. Where the policy differs from the proposal, the policy is more restrictive (a) in the mandatory conditions for air fares priced more than 25 per cent below economy fares, and (b) in requiring "justification" for all air fares priced below economy class, not just "Deep Discounts." Two possible exemptions from the policy were noted: services operated with propeller-driven aircraft and city pairs served only by one air carrier. The evidence of the parties opposing the proposal was rejected by the Committee on the ground that it was based on the American experience and "no effort was made to establish that these experiences are relevant to Canadian markets." The Director's written memoranda of evidence would appear to demonstrate that neither observation is entirely accurate.

(22) Bell Canada Corporate Reorganization

On April 20, 1982, Bell Canada, which was incorporated under an Act of Parliament, filed articles of continuance with the Department of Consumer and Corporate Affairs pursuant to a motion of the company's Board of Directors. On April 2, 1982, the company was issued a certificate of continuance which had the effect of making Bell Canada subject to the provisions of the Canada Business Corporations Act (CBCA).

On June 23, 1982, Bell Canada announced a plan to reorganize the Bell Canada group of companies. An essential element of the reorganization would be a court-authorized "arrangement" as provided for by the CBCA, whereby all Bell Canada's outstanding share capital would be transformed into share capital of Bell Canada Enterprises Inc. (BCE), a former subsidiary of Bell Canada. Through an exchange of shares, all Bell Canada's equity investments, except those in Tele-Direct (Publications) Inc., Bell-Northern Research, and Telesat Canada, would then be transferred to BCE. These transferred investments consist primarily of Bell Canada's controlling interest in Northern Telecom, a number of provincial telephone companies, Bell Canada International Management Research and Consulting Ltd. (BCI), Bell Communications Systems Inc. (BCS, a supplier of customer premises telecommunication equipment), and a number of printing and publishing companies. Thus, BCE would become the new holding company for the Bell group, and Bell Canada would become a wholly-owned subsidiary of BCE. BCE would also become the focus for "strategic planning" within the Bell group.

In its Information Circular to shareholders the company stated that the reorganization was intended to respond to recent developments concerning the increasing diversification of the Bell group, the CRTC's treatment of Bell Canada's equity investments for ratemaking purposes, and the emergence of telecommunication competition, particularly in the customer premises equipment market. It also stated that the reorganization was not subject to the prior approval of the CRTC.

On August 18, 1982, special shareholders meetings were held by Bell Canada at which time shareholder approval of the CBCA arrangement was obtained. Such approval had been required by the Québec Superior Court in an interim order relating to the company's arrangement application. Shortly thereafter Bell Canada applied to the Court for final approval of the arrangement.

Prior to the hearing of this final application, the Restrictive Trade Practices Commission's (RTPC) Part II Report in its Telecommunications Inquiry was published by the Minister of Consumer and Corporate Affairs (see item (1) of section 4 below). This report identified two significant public policy issues arising out of Bell Canada's plan. First, it noted that the terms of the exchange of Bell Canada's equity investment in Northern Telecom for BCE preferred shares "would result in a serious inequity in favour of Bell's shareholders, at the expense of its subscribers." Second, it observed that, as a result of the transfer of Bell's interest in Northern Telecom, a "dichotomy would be created between the interests of Bell shareholders and its subscribers which does not now exist." On this second matter, the Commission concluded:

"Inappropriate equipment purchases would harm subscribers and benefit Bell shareholders. Regardless of management's competence and interest in operating efficiently, it should not be placed in a position where the interests of subscribers and shareholders are so divergent."

Accordingly, the RTPC concluded that "the public interest requires that a reorganization should not take place unless there has been full public consideration of the probable effects of the proposal, with respect to both subscribers and the telecommunication industry."

As well, on August 12, 1982, the CRTC issued a Telecom Public Notice 1982-31 inviting comments from Bell Canada and interested parties on a number of issues relating to Bell Canada's articles of continuance and proposed reorganization. The Commission had become concerned over the effect of the continuance and reorganization on the public policy restric-

tions placed on the company under its Special Act and the Railway Act and the Commission's ability to effectively exercise its regulatory responsibilities with respect to Bell Canada.

In his comments in response to this Public Notice, submitted on September 13, 1982, the Director supported the RTPC's call for public hearings into the reorganization and presented three central concerns:

- (1) the establishment of BCE subsidiaries whose operation costs are cross subsidized by Bell;
- (2) the possibility that the utility may bear an undue share of the overall financial costs of the corporate family; and
- (3) an increase in the dichotomy between the interests of utility subscribers and corporate management with respect to Bell's equipment purchasing practices.

The Director submitted that these competition concerns were sufficiently important to require CRTC consideration prior to any steps being taken by Bell Canada to finalize the reorganization and noted that:

"It should also be kept in mind that the Bell corporate group will remain the dominant player in the Canadian telecommunications service and equipment manufacturing markets for some time to come. Even after the reorganization, BCE will remain in a position to call upon its monopoly utility resources to threaten the development of a dynamic and competitive telecommunications industry in Canada."

The Director also presented detailed legal arguments in support of his position that the CRTC has jurisdiction, under the Bell Special Act, over the proposed arrangement.

The Attorney General of Canada intervened at the court hearing of the company's application for final approval of the arrangement on the ground that the order being sought by the company amounted to a disposition of Bell Canada stock, and that, as a result, the company under its Special Act, lacked the power to do so until the arrangement had been approved by the CRTC. The Québec Superior Court rejected the Attorney General's position and approved the arrangement on September 24, 1982. The Court's decision was appealed by the Attorney General to the Québec Court of Appeal, which upheld the lower court's decision in a judgment dated March 25, 1983.

On October 22, 1982, at the same time as the Government stated its intention to appeal the ruling of the Québec Superior Court, the federal Cabinet issued Order in Council P.C. 1982-3253, pursuant to section 50 of the National Transportation Act, which referred to the CRTC four questions relating to the proposed reorganization and required a report to be made by March 31, 1983. These questions were:

1. Will the proposed reorganization result in increased rates for Bell Canada subscribers, and if so, for what reasons and to what extent?
2. Will the proposed reorganization impair the ability of the Canadian Radio-television and Telecommunications Commission to exercise its mandate pursuant to the Railway Act, the National Transportation Act and the Bell Canada Special Act? If so, specify how and to what extent.
3. If any impairment is identified in response to question 2, what modifications would be required to the proposed reorganization to eliminate or mitigate such impairment?
4. If the proposed reorganization is implemented, should there be limitations, such as those set out in section 5 of the Bell Canada Special Act (S.C. 1948, c.81, s.5; S.C. 1967-68, c.48, s.6), on the scope of the activities which may be conducted by the Bell group of companies? If so, specify these limitations.

Subsequently, the CRTC in Telecom Public Notice 1982-41, dated November 2, 1982, indicated that it had decided to hold a public hearing in connection with its examination of the questions set out in the Order in Council and set out a schedule for the proceeding. The Commission observed in this Public Notice that it considered a number of issues, previously raised in its August 12, 1982, Public Notice, to be relevant to the questions in the Order in Council, and went on to state that it wished to explore the extent to which conditions and safeguards associated with a structural separation approach might replace its application of the principle of integrality, whereby an activity of the corporate group is treated as part of the regulated enterprise for rate-setting purposes.

The focus of the Director's intervention was on policies that would prevent BCE from obtaining cross subsidies from Bell Canada for use by all other BCE firms, not simply Northern Telecom. It was concluded that the opportunity for such cross subsidization could be minimized: if Bell Canada adopted the fair market value standard for resource transfers between it and other firms in the Bell group, and if clearly competitive telecommunication activities, particularly the provision of customer premises equipment and enhanced services, were provided by other BCE firms which had minimum contact with Bell Canada. A publicly held minority equity interest in Bell Canada post-reorganization was determined to be an adequate safeguard to ensure that the Bell Canada Board of Directors adopted the fair market value standard for transfers between Bell Canada and other BCE firms, while statutory restrictions in Bell Canada's Special Act, which would prevent it from providing customer premises equipment and enhanced services, were recommended to fulfill the second objective. A public minority interest in Bell Canada would also possess the advantage of being a self-policing mechanism which may reduce the necessary degree of regulatory supervision of Bell Canada's intra-group business relations post-reorganization.

The company's continuance under the CBCA created considerable uncertainty over whether the public policy restrictions on Bell Canada in its Special Act and in the Railway Act remained in effect, or whether Bell Canada could unilaterally terminate its application in the future if these restrictions did remain at the moment in force. It therefore appeared necessary that the minority interest requirement and the proposed business restrictions should be embodied in a new Bell Canada Act which would apply notwithstanding the company's CBCA continuance.

The Director filed three separate memoranda of evidence with the CRTC which were defended under cross-examination by Dr. William Melody, Purdy Crawford, Q.C. and Price Waterhouse and Associates. Dr. William Melody, an expert in telecommunication economics and policy, presented an analysis of the elements of the proposed reorganization. Dr. Melody concluded that the reorganization plan offered "no realignment of subsidiaries to separate competitive and monopoly functions so as to foster the emergence of competition and ease the burden of the regulator" and that it "merely changes the financial flows within the company."

Mr. Purdy Crawford, Q.C., a Toronto corporate lawyer, presented evidence, based on his experience on many Boards and in corporate practice, that a publicly traded minority interest in Bell Canada would have the effect of requiring Bell Canada's Board to adopt the fair market value resource transfer standard. Price Waterhouse and Associates, chartered accountants, presented a number of possible methods for creating a minority public interest in Bell Canada after the reorganization.

The threefold remedy of a revitalized Bell Canada Special Act, a public minority interest in Bell Canada and the provision of terminal equipment and enhanced services by BCE firms other than Bell Canada was again advanced in the Director's Final Argument which was filed on February 21, 1983.

At the end of the fiscal year, a decision was still pending.

(23) *Radio Common Carrier Interconnection with Federally Regulated Telephone Companies*

On January 28, 1983, the CRTC issued Telecom Public Notice 1983-14 which invited comments from the federally regulated telephone companies and all other interested parties on the subject of radio common carrier interconnection. The Director has closely followed this issue for a number of years and has addressed the matter previously before the Commission in two separate proceedings.

On September 4, 1980, Northern Interior Transceivers Ltd. (NITL) applied to the Commission for an order to permit the interconnection with the switched network of the British Columbia Telephone Company of mobile radio equipment provided by NITL to its customers. In response to CRTC Telecom Public Notice 81-9, the Director in a letter dated April 9, 1981 suggested that the Commission should hold a separate public hearing on the issue of radio common carrier interconnection or in the alternative consider the general policy issue as part of the NITL application. In Telecom Public Notice 1983-14 the Commission announced that the NITL application had been withdrawn.

This matter was also addressed by the Director and other intervenors during the CRTC proceedings regarding attachment of subscriber-provided terminal equipment. In Telecom Decision CRTC 82-14 (November 24, 1982) the Commission ruled that this issue was beyond the scope of the terminal attachment proceeding and raised issues more appropriate to a consideration of system interconnection which would be the subject of a forthcoming public notice.

A technological development which has also pressed this issue before the CRTC has been the emergence of cellular radio. This new method of mobile radio communications which provides maximum usage of spectrum allocation has been closely followed by the Director for a number of years. The Director provided comments to the Department of Communications in response to a notice dated September 18, 1981, concerning DOC intentions to establish a radio licensing policy for cellular mobile radio systems in the 806-890 MHz frequency band. Subsequently, DOC issued a notice on October 23, 1982, calling for applications for radio licenses to operate cellular mobile radio systems serving 23 metropolitan areas in Canada. DOC has specified it will only consider those applications to provide a public mobile telephone service with some form of interconnection with the public switched telephone network. Hence the importance of resolving before the CRTC the issue of radio common carrier interconnection.

In response to CRTC Telecom Public Notice 1983-14, the Director notified the Commission on February 18, 1983, of his intention to participate in this proceeding and will be filing his comments on April 5, 1983.

(24) *New Brunswick Telephone Company Limited Application for an Interpretation of Certain Provisions of its General Tariff*

On November 3, 1982, the New Brunswick Telephone Company, Limited made an application to the Board of Commissioners of Public Utilities of the Province of New Brunswick for an interpretation of Items 1230.2 and 1600.3 of its General Tariff respecting Network Extension Telephone Service (i.e., radio paging) and Call Completion Services (i.e., telephone answering service). In its application, New Brunswick Telephone Company requested an interpretation that would permit the company to eliminate hook-up charges for those customers transferring to Network Extension Telephone Service or Call Completion Service from the services offered by radio common carriers whose assets the company had acquired. This matter was originally to be heard on December 21, 1982 but was postponed until March 2, 1983. The Director notified the Board of his intention to appear in a telex dated February 25, 1983.

At the public hearing of March 2, 1983, the Director appeared through counsel before the Board and requested status as an intervenor. The Director cited his concern for the competitive effect of the proposed interpretation of items 1230.2 and 1600.3 of the General Tariff which would unfairly inhibit competing small independent radio common carriers from acquiring a larger customer base. In addition, there was some concern on the part of the Director that the acquisition policy of New Brunswick Telephone Company, Limited might serve to create a monopoly for radio paging and telephone answering service in the province of New Brunswick.

New Brunswick Telephone Company, Limited commenced the hearing by presenting a motion objecting to the proposed intervention by the Director on the grounds that the public interest was already well represented by a public intervenor and that the Director had no capacity to appear as found by a Supreme Court of Nova Scotia judgment rendered on June 18, 1981, in relation to the Maritime Tel application set out in item (4). After hearing respective arguments, the Chairman of the Board ruled that the Nova Scotia judgment was persuasive and concluded that the Director did not have capacity as a person to intervene before the Board. The hearing was therefore completed without the participation of the Director and a decision is pending.

The Director is now examining the possibility of a court appeal on the Board's ruling that the Director did not have capacity to appear as an intervenor.

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 the 1982 Annual 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 covered 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.

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.

As a result of Bell Canada's announced plans to reorganize the Bell group of companies (see item (22) of section 3 above) the RTPC issued an additional report to provide input into the study of the anticipated consequences of the proposed reorganization. The Commission concluded that an examination of the reorganization fell within its terms of reference because of its possible effects on the relationships between Bell Canada, BNR and Northern Telecom and because of its implications for the distribution of benefits Northern Telecom derived from its vertical relationship with Bell. The Commission was of the view that taking a reasonable and broad view of the term "public interest" as used in section 47 of the Act required it to make recommendations with respect to the public interest consequences of the proposed reorganization.

The RTPC transmitted its report entitled *Part II — The Proposed Reorganization of Bell Canada* to the Minister, on July 26, 1982, who made it public on August 16, 1982. The Report identified two serious problems relating to the proposed reorganization. First, the capital gain resulting from Bell's reorganization was to be received by shareholders whereas the RTPC concluded that a strong case could be made that the gains should accrue to Bell's subscribers who were the real, if unknowing, risk takers. Second, the vertical relationship between Bell and Northern in the newly organized Bell group, would create a dichotomy between shareholders and subscribers, relating basically to decisions regarding equipment purchases from Northern, which would not exist without the reorganization.

As a consequence, the RTPC concluded that the public interest required the reorganization "not take place unless there has been full public consideration of the probable effects of the proposal, with respect to both subscribers and the telecommunication industry."

The final report pertaining to this section 47 inquiry on telecommunications in Canada was transmitted to the Minister on January 7, 1983, and released publicly on January 20, 1983. This report is entitled *Part III — The Impact of Vertical Integration on the Equipment Industry*.

The Part III Report reviewed the various telecommunication products available in Canada and the manufacturers and suppliers providing these products whose representatives testified before the Commission. The Report then described the vertical integration of Bell, Northern and BNR and B.C. Tel and AEL Microtel, the history of these structures, the purchasing practices of the respective telephone companies and the alleged benefits to these two groups of vertical integration. The Report then summarized the purchasing practices of Canadian telecommunications carriers without affiliated suppliers followed by a description of the provision of telecommunication services in Western Europe, Japan and the U.S.

The Report concluded with the following five recommendations:

- (1) Northern should be required to continue to sell to Bell at prices no higher than those offered to other Canadian customers in order to protect competing Canadian suppliers from possible predatory pricing and to protect Bell subscribers, somewhat, against higher prices than paid for by other Canadian telephone companies.
- (2) The CRTC should require Bell and B.C. Tel to provide reports on prices of selected equipment that these companies pay to their affiliated suppliers and those that are available from other suppliers in Canada and the U.S. The exact information required should be determined by the CRTC in order that it can assure itself that the ownership links with equipment suppliers do not disadvantage subscribers;
- (3) B.C. Tel should continue its procurement through the competitive bidding process and Bell should show itself more receptive to innovations developed in Canada by non-affiliated companies;
- (4) To better understand the causes of different telephone company tariffs and to deal with concerns of monopoly services of telephone companies cross-subsidizing competitive services, provincial regulatory bodies and the CRTC should develop a uniform system of cost accounting; and
- (5) Should the CRTC conclude that, as a result of vertical integration, excessive equipment costs are being borne by subscribers, the Government should issue guidelines covering any national goals which nevertheless might best be achieved by vertical integration.

With the release of the final report pertaining to this matter, the inquiry is now considered concluded.

CHAPTER VII

MARKETING PRACTICES BRANCH

1. Activities

The main function of this Branch is to deal with complaints and other information 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 1978-79. 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

	1978-79	1979-80	1980-81	1981-82	1982-83
(i) Total complaints received	9227	10251	9382	9782	11357
(ii) Number of files opened	8091	9431	8373	8557	9875
(iii) Number of complete investigations	2135	2234	2147	2319	2336
(iv) Referrals to Attorney General under section 15:					
—section 36(1)(a)	113	82	93	71	102
(1)(b)	6	4	18	10	25
(1)(c)	—	2	—	1	—
(1)(d)	16	11	11	26	28
36.1	2	—	—	1	—
36.2	2	1	4	—	—
36.3	—	1	—	—	1
36.4	2	—	—	—	—
37	6	1	12	1	4
37.1	23	26	28	30	34
37.2	4	1	1	2	5
(v) Formal applications for inquiries	—	—	—	—	1
(vi) Cases formally discontinued	9	3	6	2	3
(vii) Cases referred to Attorney General and closed on his recommendation:					
—section 36(1)(a)	10	12	2	10	5
(1)(b)	1	—	—	1	—
(1)(c)	—	—	—	—	—
(1)(d)	—	—	—	—	1
37.1	—	—	—	2	—

Part II - Prosecutions

	1978-79	1979-80	1980-81	1981-82	1982-83
(i) Number of cases before the courts at beginning of year (not including appeals):					
—section 36(1)(a)	51	50	59	49	75
(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	—	—
(ii) Cases under appeal at beginning of year:					
—section 36(1)(a)	6	8	12	9	11†
(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
(iii) Proceedings commenced during year:					
—section 36(1)(a)	94	89	78	98†	94

Part II - Prosecutions — (Continued)

	1978-79	1979-80	1980-81	1981-82	1982-83
(1)(b)	5	4	13	14	22
(1)(c)	—	1	1	—	1
(1)(d)	17	8	11	25	25
36.1	2	—	—	—	2
36.2	2	1	3	—	—
36.3	1	—	1	—	—
36.4	1	1	—	—	—
37	5	1	3	8	1
37.1	18	29	24	31	33
37.2	4	3	2	3	1
(iv) Completed cases convictions:					
—section 36(1)(a)	74	54	72	51†	76
(1)(b)	1	2	7	13	8
(1)(c)	1	—	—	—	—
(1)(d)	13	8	6	18	10
36.1	—	—	1	—	—
36.2	1	1	1	1	—
36.3	1	—	—	—	—
36.4	—	—	—	—	—
37	—	3	—	—	—
37.1	11	30	15	4	1
37.2	7	2	1	4	24
non-convictions*				3	2
—section 36(1)(a)	19	22	19	19	26
(1)(b)	—	2	2	2	4
(1)(c)	—	—	1	—	1
(1)(d)	4	4	2	3	9
36.1	—	1	—	—	1
36.2	—	—	1	—	—
36.3	—	—	—	—	—
36.4	1	—	1	—	—
37	1	2	1	—	—
37.1	1	1	3	1	2
37.2	—	—	1	2	5
(v) Cases under appeal at end of year:					
—section 36(1)(a)	8	12	9	10	10
(1)(b)	—	2	—	—	3
(1)(c)	—	—	—	—	—
(1)(d)	1	1	2	1	1
36.1	—	—	—	—	—
36.2	—	1	1	—	—
36.3	—	—	1	1	1
36.4	—	1	—	—	—
37	1	—	1	1	—
37.1	1	—	2	1	1
37.2	—	—	1	1	2
(vi) Cases before the courts at end of year (not including appeals):					
—section 36(1)(a)	50	59	49	75†	68
(1)(b)	7	5	11	11†	17
(1)(c)	—	1	1	1	1
(1)(d)	8	4	6	11	17
36.1	2	1	—	—	1
36.2	1	—	2	2	2
36.3	—	—	—	—	—
36.4	—	—	—	—	—
37	4	1	2	5	3
37.1	11	10	14	40	43
37.2	—	—	—	—	—

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

† 1981-82 preliminary figures 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) *Trucks*

The inquiry in this matter was commenced as a result of monitoring of newspaper advertising by a staff member of the Branch. An advertisement by an automobile dealer offered a selection of trucks on sale with savings claims ranging from \$1,001 to \$1,670. Knowledge of the market area led the staff member to believe that the regular prices quoted in the advertisement may have been the manufacturer's suggested list prices for the trucks. An initial interview with the president of the company confirmed that the trucks rarely sold for the advertised suggested list prices. A search of the company's premises pursuant to section 10 of the Act disclosed evidence that the majority of trucks had sold for less than the manufacturer's suggested list prices. However, it was ascertained that the average sale price of the trucks involved was only 1.3 per cent below the average suggested price. It was determined that the difference between the average regular price and the average suggested price was too small to be material, and the inquiry was therefore discontinued and reported to the Minister on October 8, 1982.

(2) *Automobiles*

On June 18, 1982, an application was received for an inquiry pursuant to section 7 of the Act into the advertising and promotion of cash rebates on automobiles being marketed by an automobile manufacturer. The applicants alleged that the rebates did not apply to a particular make of automobile and that such information was not disclosed in the manufacturer's advertisements.

Interviews were undertaken with the applicants and with officers of the automobile manufacturer. It was ascertained that two rebate programs were initiated during the time period specified in the application. While the advertising during the first program did not specifically disclose the information that one make of automobile was ineligible for the rebate, the advertising did represent that details were available at participating dealers. The advertising for the second rebate program specifically stated that one make of automobile was excluded from the program. In view of the foregoing, it was determined that the matter did not warrant further inquiry. The inquiry was, therefore, discontinued and reported to the Minister on October 22, 1982.

(3) *Automobiles*

Complaints were received from automobile dealers concerning an advertisement by an automobile dealer which represented "save over \$1200" on the purchase of a new 1982 automobile. The complainants alleged that the suggested regular prices listed in the advertisement were higher than those charged by most other dealers of the same automobile. Following an initial market area survey by the Branch, a search pursuant to section 10 of the Act was undertaken in October 1982. The search disclosed that the regular prices shown in the advertisements were the regular prices charged by the dealer. The inquiry was, therefore, discontinued and reported to the Minister on March 29, 1983.

4. Other Matters

(1) *Program of Compliance*

The staff of the Branch provided 299 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 750) 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 fines and sentencing patterns and principles. Also included were a readership questionnaire and a notice of the forthcoming publication of guidelines on *How to Avoid Misleading Advertising*. Copies of recent issues of the *Misleading Advertising Bulletin* are available from the Communications Branch 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 10,715 enquiries for information from the public and from the business community; individual staff members responded to 251 requests for interviews and information from the media including television, radio, newspapers and magazines; and 202 educational seminars were given before various business-interest and academic groups. As well, the Branch received 1,152 non-related complaints that were subsequently referred to the proper authorities.

CHAPTER VIII

ECONOMIC ANALYSIS AND POLICY EVALUATION BRANCH (FORMERLY RESEARCH AND INTERNATIONAL RELATIONS BRANCH)

1. Research

The Branch provides comprehensive research support to the Director of Investigation and Research and to the Bureau. It has the central role in strategic planning and general development of competition policy. In this context, the Branch's responsibilities extend to matters pertaining to federal-provincial relations, developing enforcement strategies, legislative development, policy analysis and evaluation, sections 27.1 and 47 of the Act and international relations.

Section 47 of the Combines Investigation Act specifically 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. In this connection, Branch research studies and policy reviews 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.

Branch studies, when they are not of a confidential nature, are made available to the public. The studies that became available for distribution during the period under review are listed in Appendix VI. During this period, the Branch has also been engaged in analysis of matters relating to shipping conferences, vertical restraints among firms, buying groups, industry product standards and air transport sector.

2. 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.

At a meeting of the OECD Committee of Experts on Restrictive Business Practices held in June 1982, Mr. Lawson A.W. Hunter, Director of Investigation and Research, was elected Chairman of a working party charged with conducting a study on the interface between competition and trade policy. Part I of this study is to examine the trade distorting effects of restrictive business practices while Part II is to focus on the impact which nontariff barriers to trade, commonly described as the "new" protectionism, have on competition in both national and international contexts. Part III will then examine the competition and trade policy issues from the perspective of national sovereignty and questions related to international jurisdiction. These first three components are expected to set the foundation for Part IV of the study which is intended to deal with the possibility of establishing an institutional framework to improve communications between national competition and trade officials and the resolution of competition and trade questions between officials of the leading industrialized countries. The purpose of this study is to lay a cornerstone for the OECD Ministerial level meeting to be held in May 1984.

Further information on OECD and UN reports relating to Canada's participation and contribution in matters relating to competition policy issues 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 RTPC 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***
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 set out in the 1982 Annual Report at pages 92-95.	Bell Canada, British Columbia Telephone Company, CNCP Telecommunications and other telecommunications carriers.	To date the Director has filed the RTPC Report with the CRTC, the Alberta Public Utilities Board, and the Ontario Telephone Service Commission, 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.
Part II—The Proposed Reorganization of Bell Canada	General Inquiry under section 47 of the Combines Investigation Act	July 26, 1982	The RTPC recommended that the reorganization of the Bell Group of Companies should not proceed until there was full public consideration of the effects of the proposal on subscribers and the telecommunication industry.	Bell Canada and Northern Telecom Limited.	The Governor in Council directed the CRTC to review the proposed reorganization of Bell Canada setting forth a number of possible effects that were to be examined in detail.
Part III—The Impact of Vertical Integration on the Equipment Industry.	General Inquiry under section 47 of the Combines Investigation Act	January 7, 1983	The recommendations are as follows: (1) Northern should be required to continue to sell to Bell at prices no higher than those offered to other Canadian customers in order to protect competing Canadian suppliers from possible predatory pricing and to protect Bell subscribers, somewhat, against higher prices than paid for by other Canadian telephone companies;	Bell Canada, Northern Telecom Limited and Bell Northern Research Ltd., and British Columbia Telephone Company and AEL Microtel Limited	To date no action has been commenced.

		<p>(2) The CRTC should require Bell and B.C. Tel to provide reports on prices of selected equipment that these companies pay to their affiliated suppliers and those that are available from other suppliers in Canada and the U.S. The exact information required should be determined by the CRTC in order that it can assure itself that the ownership links with equipment suppliers do not disadvantage subscribers;</p> <p>(3) B.C. Tel should continue its procurement through the competitive bidding process and Bell should show itself more receptive to innovations developed in Canada by non-affiliated companies;</p> <p>(4) To better understand the causes of different telephone company tariffs and to deal with concerns of monopoly services of telephone companies cross-subsidizing competitive services, provincial regulatory bodies and the CRTC should develop a uniform system of cost accounting; and</p> <p>(5) Should the CRTC conclude that, as a result of vertical integration, excessive equipment costs are being borne by subscribers, the Government should issue guidelines covering any national goals which nevertheless might best be achieved by vertical integration.</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
Price maintenance (Stereo equipment)	Noresco Inc.	One charge was laid under paragraph 38(1)(a) at Toronto, Ontario, on July 18, 1978. On December 14, 1978, the charge was withdrawn. On July 17, 1980, three charges were laid under paragraph 38(1)(a) at Toronto, Ontario. On February 25, 1982, the company was convicted on two of the three charges and, on April 5, 1982, was fined \$4,500 on each of the two charges for a total fine of \$9,000.
Discriminatory promotional allowance (Stereo headphones)	Koss Limited	One charge was laid under subsection 35(2) at Vancouver, B.C., on June 15, 1981. On December 30, 1981, a revised charge was laid extending the time frame of the offence. On April 15, 1982, the accused was convicted and fined \$2,500 and a prohibition order was issued.
Combination (Soft drinks bottling)	Goodwill Bottling North Ltd., Nechako Contracting Ltd. (formerly Nechako Beverages Ltd.), Sietec Management Ltd., Warner A. Siemens, Jack P. Thompson and Reginald F. Mooney	Two charges were laid under paragraph 32(1)(c) at Vancouver, B.C., on November 27, 1980. On March 10, 1981, the charges were withdrawn and a new charge laid. On May 5, 1982, the three corporate accused pleaded guilty and were convicted and fined as follows: Goodwill Bottling North Ltd.—\$50,000; Nechako Contracting Ltd.—\$25,000; Sietec Management Ltd.—\$25,000. Prohibition orders were issued against all three companies. The charge against the individuals was withdrawn.
Price maintenance (Furniture)	S. & E. Furnishings Limited	Six charges were laid under subsection 38(6) and one charge was laid under paragraph 38(1)(a) at Sudbury, Ontario, on November 30, 1981. On May 18, 1982, the accused pleaded guilty to all the charges and was convicted and fined \$2,000 on each charge for a total fine of \$14,000.
Bid-rigging (School bus services)	Travelways School Transit Ltd., Lorne Wilson Transportation Limited, Charterways Co. Limited and Arthur Elen	One charge was laid under subsection 32.2(2) at Ottawa, Ontario, on October 24, 1978. On May 25, 1981, all the accused were convicted and, on June 1, 1981, were fined as follows: Travelways School Transit Ltd.—\$25,000; Lorne Wilson Transportation Limited—\$10,000; Charterways Transportation Limited—\$15,000; Arthur Elen—\$2,000. The first two accused appealed their convictions and fines but, on May 25, 1982, the appeals were dismissed.
Combination (Conference interpreters)	Simone Trenner, Dora Sorrell, Eva Richter-Wilde, Thérèse Romer, Denise Bourgeois and Taous Selhi	One charge was laid under paragraph 32(1)(c) at Montréal, Québec, on September 12, 1979. On June 17, 1982, the accused were discharged at the preliminary hearing.

APPENDIX II — (Continued)

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 (Furniture)	Sklar Furniture Limited	Five charges under the former section 38 and under section 38 as amended at Whitby, Ontario, on July 19, 1978. On May 31, 1979, the company was ordered to stand trial on two of the charges. An application for a preferred indictment was sought on two of the other charges but was refused. On June 24, 1982, the accused was acquitted.
Price maintenance (Auto glass)	Trans Canada Glass Ltd., Arthur Allan Skidmore and Gary Hubbell	One charge was laid under paragraph 38(1)(a) against all the accused jointly and one charge was laid under paragraph 38(1)(a) against the corporation and Gary Hubbell at Vancouver, B.C., on June 30, 1981. On September 13, 1982, the corporation pleaded guilty to one charge and was convicted and fined \$4,000. A prohibition order was issued against the corporation. All remaining charges were withdrawn.
Price maintenance (Outdoor signs)	Acme Signalisation and André Brouillette	One charge was laid under paragraph 38(1)(a) at Montréal, Québec, on March 26, 1982. On October 1, 1982, both accused pleaded guilty and were convicted. On December 3, 1982, Acme Signalisation was fined \$30,000 and the individual was fined \$10,000.
Price maintenance (Carpets)	Crossley Karastan Carpets Limited	Six charges were laid under paragraph 38(1)(a) at Ottawa, Ontario, on September 2, 1982. On February 4, 1983, in Toronto, the accused pleaded guilty to one amended charge under paragraph 38(1)(a) and was convicted and fined \$40,000. The remaining charges were withdrawn.
Price maintenance (Plastic flower pots)	Pentagon Mold and Tool Co. Limited	One charge was laid under paragraph 38(1)(b) at Toronto, Ontario, on September 19, 1981. An additional charge was laid under the same paragraph on March 19, 1982. The accused was ordered to stand trial in April 1982 on both charges. Subsequently the Crown preferred an indictment containing an additional charge under paragraph 38(1)(a). On February 7, 1983, the accused was acquitted on all charges.
Combination (Concrete)	Béton Québec Inc., Verrault-Frontenac Inc., Béton Canfarge Inc. and Les Constructions Pilote et Frères Inc.	One charge was laid under each of paragraphs 32(1)(a), 32(1)(c) and 32(1)(d) and one charge was laid under section 33 at Québec, Québec, on December 9, 1982. On February 18, 1983, all the accused pleaded guilty to the charges under paragraphs 32(1)(a) and 32(1)(d) and were convicted. The following fines were imposed on each of the two charges: Béton Québec Inc. — \$75,000; Verrault-Frontenac Inc. — \$75,000; Béton Canfarge Inc. — \$75,000. Les Constructions Pilote et Frères Inc. — \$7,500. The total fine was \$465,000. An order of prohibition was issued against each accused. The remaining charges were withdrawn.

APPENDIX II — (Continued)

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
Combination (Papermaker's felts)	Albany Felt Company of Canada Ltd., Ayers Limited-Ayers Limitée, Dominion Ayers Limited, Huyck Canada Limited, Penmans, Limited and Porritts & Spencer (Canada) Limited	One charge was laid under paragraph 32(1)(c) at Montréal, Québec, on October 28, 1976. On January 7, 1980, all the accused companies were convicted and, on February 29, 1980, were fined as follows: 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. Prohibition orders were granted against all the accused. The accused appealed to the Québec Court of Appeal but the appeal was dismissed. The accused applied for leave to appeal to the Supreme Court of Canada but the application was denied in February 1983.
Price maintenance (Books)	Hurtig Publishers Ltd.	One charge was laid under paragraph 38(1)(a) and one charge was laid under paragraph 38(1)(b) at Edmonton, Alberta, on June 25, 1981. On March 8, 1983, the accused pleaded guilty to the charge under paragraph 38(1)(b) and was convicted and fined \$500. No evidence was called on the remaining charge.
Price maintenance (Pianos)	The Williams Piano House Ltd. and Mr. R.P. Williams	Two charges were laid under subsection 38(6) at Vancouver, B.C., on December 24, 1981. On March 24, 1982, a stay of proceedings was entered and was allowed to expire on March 24, 1983.
Combination (Automobile parts)	Volkswagen Pacific Sales & Service (1975) Ltd., Wetmore Motors Ltd., Guildford Motors Ltd., Clarkdale Motors Ltd., Capilano Volkswagen Ltd., Westminster Volkswagen (1975) Ltd. and Cowell Motors Ltd.	One charge was laid under section 32 at Vancouver, B.C., on May 25, 1978. At the preliminary hearing in February 1979 the accused were ordered to stand trial. Subsequently, the Department of Justice concluded that further prosecution was not warranted.

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 (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). The accused pleaded not guilty but, on September 9, 1980, was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine increased to \$2,500. The accused appealed the decision but, on April 2, 1982, the appeal was abandoned.
Non-availability (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1981 under section 37. The accused pleaded not guilty but, on September 9, 1980, was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine increased to \$2,500. The accused appealed the decision but, on April 2, 1982, the appeal was abandoned.
Misleading price representation (Televisions)	Les Magasins P.T.H. Ltée/Seaward Capital Corporation Ltd. carrying on business as Boutique Electro-Vision (Québec, Québec)	One charge was laid on January 26, 1982 under paragraph 36(1)(d). On April 2, 1982, the accused pleaded guilty and was convicted and fined \$250.
False or misleading representation in a material respect (Rental units)	Mastercraft Development Corporation (Ottawa, Ontario)	One charge was laid on February 8, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on April 7, 1982, and fined \$1,000.
False or misleading representation in a material respect (Guaranteed investment certificates)	Glen L. Coulter Financial Services Ltd. (Ottawa, Ontario)	One charge was laid on November 25, 1981 under paragraph 36(1)(a). On April 14, 1982, the accused pleaded guilty and was convicted and fined \$2,500.
False or misleading representation in a material respect (Fur boas)	Steen and Wright Furriers Ltd. (Winnipeg, Manitoba)	One charge was laid on March 17, 1982 under paragraph 36(1)(a). On April 19, 1982, the accused pleaded guilty and was convicted and fined \$100.
Non-availability (Watches)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under section 37. On April 19, 1982, the charge was withdrawn.
Non-availability (Motor oil)	Consumers Distributing Company Limited (Hamilton, Ontario)	One charge was laid on June 29, 1981 under section 37. On April 19, 1982, the charge was withdrawn.
Misleading price representation (Toasters)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(d). On April 19, 1982, the accused was acquitted.
False or misleading representation in a material respect (Diamond rings)	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, on July 30, 1981, were each convicted on 11 charges. The remaining charges were dismissed. On September 15, 1981, Robert Simpson Company Limited was fined \$7,000 on each charge and H. Forth & Co. Limited was fined \$500 on each charge for a total fine of \$82,500. A prohibition order was issued against each accused. Both accused appealed the conviction but, on April 23, 1982, the appeals were abandoned.

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 (Car seats)	Hudson's Bay Company (Sydney, Nova Scotia)	One charge was laid on December 17, 1981 under paragraph 36(1)(a). On April 27, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Business opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982 under paragraph 36(1)(a). On May 3, 1982, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Shower massagers)	Clermont Rousseau Entrepreneur Plombier Inc. (Québec, Québec)	One charge was laid on January 26, 1982 under paragraph 36(1)(d). On May 7, 1982, the accused was acquitted.
False or misleading representation in a material respect (Beef)	Julien Desgagné and 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). On May 10, 1982, both accused pleaded guilty and were convicted and fined \$200 each for a total fine of \$400.
False or misleading representation in a material respect (Jeans)	Bill Miller carrying on business as The Price is Right (Harrow, Ontario)	One charge was laid on July 10, 1981 under paragraph 36(1)(a). On May 11, 1982, the accused pleaded not guilty but was convicted and fined \$100.
False or misleading representation in a material respect (Insulation)	Media Mail Order Inc. (Moncton, New Brunswick)	One charge was laid on February 28, 1982 under paragraph 36(1)(a). On May 12, 1982, the accused pleaded guilty and was convicted and fined \$5,000.
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). On May 12, 1982, a stay of proceedings was entered.
Misleading price representation (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Two charges were laid on December 16, 1981 under paragraph 36(1)(d). On May 12, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain & Placement des Cantons de l'est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981 under paragraph 36(1)(a). On May 12, 1982, the accused was acquitted.
False or misleading representation in a material respect (Vending machines)	Dominion Lighter Sales Inc., 338598 Ontario Limited carrying on business as Dominion Lighter Sales and Terence Francis Alte (Edmonton, Alberta)	One charge was laid on June 7, 1981 under paragraph 36(1)(a). On May 17, 1982, the charge was withdrawn.
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). On May 20, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981 under paragraph 36(1)(a). The accused pleaded not guilty but, on May 21, 1982, was convicted and fined \$500 on each charge for a total fine of \$1,000.
Sale above advertised price (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	One charge was laid on April 10, 1981 under section 37.1. On May 21, 1982, the charge was 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 (Automobile rentals)	Stan Mazur Investments Inc. (Toronto, Ontario)	Five charges were laid on April 10, 1981 under paragraph 36(1)(a). On May 21, 1982, the accused pleaded guilty to one charge and was convicted and fined \$350. The remaining charges were withdrawn.
Sale above advertised price (Automobile rentals)	Stan Mazur Investments Inc. (Toronto, Ontario)	One charge was laid on April 10, 1981 under section 37.1. On May 21, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Directory listings)	Seaboard Publishing Ltd., James Sicoli, Yellow Directory of Canada Ltd., Killoran Marketing Ltd. and James Killoran (Burnaby, British Columbia)	Sixty-two charges were laid on September 30, 1981 under paragraph 36(1)(a). On May 25, 1982, Seaboard Publishing Ltd. pleaded guilty to 29 charges and was convicted and fined \$250 on each charge; James Sicoli pleaded guilty to one charge and was convicted and fined \$5,000; Yellow Directory of Canada Ltd. and Killoran Marketing Ltd. pleaded guilty to 29 charges and were convicted and each fined \$125 on each charge; James Killoran pleaded guilty to one charge and was convicted and fined \$2,500. The total fine was \$22,000. A stay of proceedings was entered with respect to the remaining charges against all accused.
False or misleading representation in a material respect (Jewellery)	Richer et Snow Limitée and Jack Snow (Ottawa, Ontario)	One charge was laid on May 29, 1980 under paragraph 36(1)(a). On October 29, 1980, the charge was dismissed. The Crown appealed the decision but, on May 26, 1982, the appeal was dismissed.
False or misleading representation in a material respect (Automotive 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. A new charge was laid on January 29, 1982. On May 28, 1982, the accused pleaded guilty and was convicted and fined \$250.
Representation without proper test (Automotive 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 on January 29, 1982. On May 28, 1982, the accused pleaded guilty and was convicted and fined \$250.
False or misleading representation in a material respect (Flour)	Robin Hood Multifoods Limited (Toronto, Ontario)	One charge was laid on October 30, 1980 under paragraph 36(1)(a). On May 5, 1981, the accused was acquitted. The Crown appealed the acquittal but, on November 30, 1981, the appeal was dismissed. The Crown filed leave to appeal the decision to the Ontario Court of Appeal but, on May 28, 1982, leave to appeal was denied.
Misleading price representation (Furniture)	Les Meubles Barnabé Inc. (Québec, Québec)	Seven charges were laid on January 26, 1982 under paragraph 36(1)(d). On May 28, 1982, the accused pleaded guilty and was convicted and fined \$400 on one charge and \$100 on each of six charges for a total fine of \$1,000.

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 (Gasoline)	101910 Canada Ltée (Lasalle, Québec)	One charge was laid on March 15, 1982 under paragraph 36(1)(a). On June 9, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Jewellery)	Unique Jewellery Mfg. Co. Ltd. (Mont-réal, Québec)	One charge was laid on May 10, 1982 under paragraph 36(1)(a). On June 10, 1982, the accused pleaded guilty and was convicted and fined \$500.
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). On June 11, 1982, the accused pleaded guilty to two charges and was convicted and fined \$400 on each charge for a total fine of \$800. The remaining charges were withdrawn.
Sale above advertised price (Mason jars)	Les Magasins Continental Limitée (Québec, Québec)	Four charges were laid on December 2, 1981 under section 37.1. On June 11, 1982, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$2,000.
False or misleading representation in a material respect (Real estate)	Lucier Estates Limited carrying on business as Lucier Estates (Windsor, Ontario)	Five charges were laid on February 12, 1982 under paragraph 36(1)(a). On June 14, 1982, the accused pleaded guilty to one charge and was convicted and fined \$3,500. The remaining charges were withdrawn.
False or misleading representation in a material respect (Water filters)	Bon Del of Canada Limited (Calgary and Edmonton, Alberta)	One charge was laid on August 11, 1981 under paragraph 36(1)(a). On September 14, 1981, a stay of proceedings was entered and on October 7, 1981, two new charges were laid. On June 15, 1982, the accused pleaded guilty and was convicted and fined \$1,500 on one charge and \$100 on the other charge for a total fine of \$1,600. A prohibition order was issued.
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). On June 17, 1982, the charges were withdrawn.
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). On June 17, 1982, the charges were withdrawn.
Sale above advertised price (Food and sundry items)	J. Henri Boulianne Inc. carrying on business as Provibec (Escoumins, Québec)	Seven charges were laid on December 18, 1981 under section 37.1. The accused pleaded not guilty but, on June 21, 1982, was convicted and fined \$100 on each of four charges and \$50 on each of three charges for a total fine of \$550.
Sale above advertised price (Records)	Misty Blue Investments Ltd. carrying on business as A & A Records & Tapes (Prince Albert, Saskatchewan)	Two charges were laid on May 25, 1982 under section 37.1. On June 24, 1982, the accused pleaded guilty and was convicted and fined \$125 on each charge for a total fine of \$250.
False or misleading representation in a material respect (Swimming pools)	Methot Sales Limited (Moncton, New Brunswick)	One charge was laid on January 28, 1982 under paragraph 36(1)(a). On June 28, 1982, the accused pleaded guilty and was convicted and fined \$1,000.

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)	Klean Burn Manufacturing, Inc. and Charles Henry Noton (London, Ontario)	One charge was laid on November 5, 1981 under paragraph 36(1)(a). On June 28, 1982, the corporate accused pleaded guilty and was convicted and fined \$1,000. A prohibition order was issued. The charge against the individual accused was withdrawn.
Representation without proper test (Gas-saving device)	Klean Burn Manufacturing, Inc. and Charles Henry Noton (London, Ontario)	Ten charges were laid on November 5, 1981 under paragraph 36(1)(b). On June 28, 1982, the corporate accused pleaded guilty to nine charges and was convicted and fined \$1,000 on each charge for a total fine of \$9,000. A prohibition order was issued. The remaining charge against the corporate accused and all charges against the individual accused were withdrawn.
Misleading price representation (Stereo equipment)	Joseph Malackiet & Fils Inc. carrying on business as Malackiet Homemakers (Ottawa, Ontario)	One charge was laid on June 3, 1982 under paragraph 36(1)(d). On June 29, 1982, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Driving lessons)	Ecole 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 one charge and \$100 on each of two charges for a total fine of \$400. The Crown appealed the sentence but, on June 30, 1982, the appeal was dismissed.
False or misleading representation in a material respect (Stereo equipment)	Hi-Fi Express Inc. (Toronto, Ontario)	Six charges were laid on March 25, 1982 under paragraph 36(1)(a). On July 14, 1982, the accused pleaded guilty to two charges and was convicted and fined \$20,000 on each charge for a total fine of \$40,000. The remaining charges were withdrawn.
False or misleading representation in a material respect (Automobiles)	Birchdale Mercury Sales Limited (Toronto, Ontario)	One charge was laid on March 12, 1982 under paragraph 36(1)(a). On July 14, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Stereo equipment)	Hi-Fi Express Inc. and Dalmill Electronics Inc. carrying on business as Hi-Fi Express (London, Ontario)	Two charges were laid on January 22, 1982 under paragraph 36(1)(a). The accused were charged solely with respect to each charge. On July 14, 1982, Hi-Fi Express Inc. pleaded guilty and was convicted and fined \$5,000. A prohibition order was issued. The charge against Dalmill Electronics Inc. was withdrawn.
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. On July 14, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Stereo equipment)	Hi-Fi Express Inc. and 94951 Canada Inc. carrying on business as Hi-Fi Express (Kitchener, Ontario)	Two charges were laid on November 30, 1981 under paragraph 36(1)(a). The accused were charged solely with respect to each charge. On July 14, 1982, Hi-Fi Express Inc. pleaded guilty and was convicted and fined \$5,000. A prohibition order was issued. The charge against 94951 Canada Inc. was 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 (Stereo equipment)	94951 Canada Inc. carrying on business as Hi-Fi Express (Kitchener, Ontario)	One charge was laid on November 30, 1981 under section 37.1. On July 14, 1982 the charge was withdrawn.
Misleading price representation (Clothing)	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). The accused pleaded not guilty but, on July 19, 1982, was convicted and fined \$3,000.
False or misleading representation in a material respect (Miscellaneous merchandise)	L & M Variety Limited (Gander, Newfoundland)	One charge was laid on April 20, 1982 under paragraph 36(1)(a). The accused pleaded guilty on July 6, 1982 and was convicted and, on July 20, 1982, was fined \$250.
False or misleading representation in a material respect (Chairs)	Seaman Furniture Limited (Smiths Falls, Ontario)	Two charges were laid on June 22, 1982 under paragraph 36(1)(a). On July 26, 1982, the accused pleaded guilty and was convicted and fined \$300 on each charge for a total fine of \$600.
Misleading price representation (Chairs)	Seaman Furniture Limited (Smiths Falls, Ontario)	One charge was laid on June 22, 1982 under paragraph 36(1)(d). On July 26, 1982, the charge was withdrawn.
Representation without proper test (Medical device)	David John Institute and David John Graham (Toronto, Ontario)	Two charges were laid on August 7, 1981 under paragraph 36(1)(b). On July 26, 1982, both accused pleaded guilty and were convicted. The corporate accused was fined \$25,000 on each charge and the individual accused was fined \$10,000 on one charge and the passing of sentence was suspended with respect to the remaining charge. The total fine was \$60,000. An order of prohibition was issued.
False or misleading representation in a material respect (Medical device)	David John Institute and David John Graham (Toronto, Ontario)	Two charges were laid on August 7, 1981 under paragraph 36(1)(a). On July 26, 1982, the charges were withdrawn.
False or misleading representation in a material respect (Windows)	399696 Ontario Limited carrying on business as Ener-Gard and John Edward (Jack) Mundy (Saint John, New Brunswick)	One charge was laid on February 18, 1982 under paragraph 36(1)(a). On July 28, 1982, the corporate accused pleaded guilty and was convicted and fined \$300. The charge against the individual accused was withdrawn.
False or misleading representation in a material respect (Fireplaces)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982 under paragraph 36(1)(a). On July 30, 1982, the accused pleaded guilty and was convicted and fined \$200.
Representation without proper test (Fireplaces)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982 under paragraph 36(1)(b). On July 30, 1982, the charge was withdrawn.
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 August 2, 1982, the accused pleaded guilty and was convicted and fined \$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 (Body wrapping service)	Leonard Morrison Management Enterprises Ltd. (Winnipeg, Manitoba and Calgary, Alberta)	Eight charges were laid on July 15, 1982 under paragraph 36(1)(a). On August 9, 1982, the accused pleaded guilty to four charges and was convicted and fined \$500 on each charge for a total fine of \$2,000. The remaining charges were withdrawn.
Misleading price representation (Jewellery)	La Bijouterie Séduction Inc. (Montréal, Québec)	One charge was laid on July 21, 1982 under paragraph 36(1)(d). On August 10, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Cosmetics)	Revlon International Corporation (Edmonton, Alberta)	Six charges were laid on February 17, 1982 under paragraph 36(1)(a). On August 10, 1982, the charges were withdrawn.
False or misleading representation in a material respect (Beef)	Louis Bousquet carrying on business as Epicerie du Parc (Granby, Québec)	One charge was laid on February 17, 1982 under paragraph 36(1)(a). On August 16, 1982, the accused pleaded guilty and was convicted and fined \$150.
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). On August 17, 1982, the charges were withdrawn.
False or misleading representation in a material respect (Fishing trips)	Cochrane Air Services Limited (Toronto, Ontario)	One charge was laid on December 2, 1981 under paragraph 36(1)(a). On August 19, 1982, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Ladies' slacks)	The May Company Limited (Winnipeg, Manitoba)	One charge was laid on August 3, 1982 under paragraph 36(1)(a). On August 23, 1982, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Home comfort products)	Carrier Canada Limited (Victoria, British Columbia)	One charge was laid on March 25, 1982 under paragraph 36(1)(a). On August 24, 1982, the accused pleaded guilty and was convicted and fined \$2,500.
False or misleading representation in a material respect (Wallpaper and wall coverings)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	One charge was laid on March 31, 1981 under paragraph 36(1)(a). On August 24, 1982, the Information was amended to change the name of the accused from Tonecraft Limited to Color Your World. The accused pleaded not guilty but was convicted on that date and fined \$1,000.
Misleading price representation (Wallpaper and wall coverings)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	Four charges were laid on March 31, 1981 under paragraph 36(1)(d). On August 24, 1982, the Information was amended to change the name of the accused from Tonecraft Limited to Color Your World. The accused was acquitted on that date.
False or misleading representation in a material respect (Car rentals)	Hertz Canada Limited (Toronto, Ontario)	One charge was laid on November 16, 1981 under paragraph 36(1)(a). On August 25, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Real estate)	Kincade Associates Ltd. and Steve Kincade (Saint John, New Brunswick)	Two charges were laid on August 16, 1982 under paragraph 36(1)(a). The accused were solely charged on each charge. On August 26, 1982, the corporate accused pleaded guilty and was convicted and fined \$250. The charge against the individual accused was 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
Misleading price representation (Fibreglass insulation)	Baptiste Touchatou Inc. (Québec, Québec)	Two charges were laid on January 26, 1982 under paragraph 36(1)(d). The accused pleaded not guilty but, on August 27, 1982, was convicted and fined \$500 on each charge for a total fine of \$1,000.
False or misleading representation in a material respect (Meat)	Dominion Stores Limited (Canada-wide)	Four charges were laid on December 22, 1981 under paragraph 36(1)(a). On September 3, 1982, the accused pleaded guilty to one charge and was convicted and fined \$75,000. The remaining charges were withdrawn.
Representation without proper test (Smoke masks)	Purex Canada Limited carrying on business as Wilson & Cousins Co. Limited (Hamilton, Ontario)	Three charges were laid on May 18, 1982 under paragraph 36(1)(b). On September 17, 1982, the charges were withdrawn.
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. The Crown appealed the acquittal but, on September 20, 1982, the appeal was dismissed.
False or misleading representation in a material respect (Real estate)	Assured Investments Limited and Goldfan Holdings Limited both carrying on business as Murhal Developments, Abraham Joseph Green, Abraham J. Green Limited carrying on business as Greenwin Management and Murhal Developments Limited (Toronto, Ontario)	Six charges were laid on May 13, 1982 under paragraph 36(1)(a). On September 22, 1982, the accused were acquitted.
False or misleading representation in a material respect (Coffee vending machine distributorships)	Java Coffee & Nut Shops Limited, Michael Quinlan and James Wiehoff all carrying on business as E-Z Host Systems and Douglas Paton (Etobicoke, Ontario)	Five charges were laid on March 6, 1980 under paragraph 36(1)(a) against Java Coffee & Nut Shops Limited, Michael Quinlan and James Wiehoff. Four charges were laid against Douglas Paton. On April 14, 1980, all charges were withdrawn and new informations were laid. Java Coffee & Nut Shops Limited, Michael Quinlan and James Wiehoff were jointly charged on three charges and Douglas Paton was solely charged on two charges. On September 22, 1982, all charges were withdrawn.
Misleading guarantee (Coffee vending machine distributorships)	Java Coffee & Nut Shops Limited, Michael Quinlan and James Wiehoff all carrying on business as E-Z Host Systems and Douglas Paton (Etobicoke, Ontario)	Two charges were laid on April 14, 1980 under paragraph 36(1)(c) against Java Coffee & Nut Shops Limited, Michael Quinlan and James Wiehoff. Two charges were laid against Douglas Paton. On September 22, 1982, the charges were withdrawn.
False or misleading representation in a material respect (Glassware)	Paul Arel and Ronald Ross carrying on business as Etoile (Star) Crystal and as Regency Distribution Co. Ltd. (Toronto, Ontario)	Two charges were laid on February 23, 1978 under paragraph 36(1)(a). On September 22, 1982, the charges were withdrawn.
False or misleading representation in a material respect (Real estate)	Walsh Real Estate Ltd. (Fort McMurray, Alberta)	One charge was laid on May 31, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on September 23, 1982, was convicted and fined \$200.

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 (Beef)	Pierre Dubé carrying on business as Salaïson du Boulevard Labelle Enr. (Blainville, Québec)	One charge was laid on February 11, 1982 under paragraph 36(1)(a). On September 24, 1982, the accused pleaded guilty and was convicted and fined \$200.
False or misleading representation in a material respect (Smoke masks)	Purex Canada Limited carrying on business as Wilson & Cousins Co. Limited (Toronto, Ontario)	Two charges were laid on May 18, 1982 under paragraph 36(1)(a). On September 28, 1982, the charges were withdrawn.
Representation without proper test (Smoke masks)	Purex Canada Limited carrying on business as Wilson & Cousins Co. Limited (Toronto, Ontario)	Two charges were laid on May 18, 1982 under paragraph 36(1)(b). On September 28, 1982, the accused pleaded guilty and was convicted and fined \$5,000 on each charge for a total fine of \$10,000. A prohibition order was issued.
False or misleading representation in a material respect (Extended vehicle warranty)	International Warranty Company Limited (Edmonton, Alberta)	One charge was laid on January 28, 1982 under paragraph 36(1)(a). On September 29, 1982, the accused pleaded guilty and was convicted and fined \$350.
Sale above advertised price (Houses)	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. The accused pleaded not guilty but, on September 30, 1982, was convicted on two charges and fined \$1,000 on each charge for a total fine of \$2,000. The remaining charge was dismissed.
False or misleading representation in a material respect (Electronic mosquito repellers)	Canaco Vending Systems Ltd. carrying on business as Canaco Marketing Systems and Ronald McKenzie (Toronto, Ontario)	Seven charges were laid on April 8, 1982 under paragraph 36(1)(a). On October 6, 1982, both accused pleaded guilty to five charges and were convicted and each fined \$1,000 on each count for a total fine of \$10,000. The remaining charges were withdrawn. A prohibition order was issued against both accused.
Representation without proper test (Electronic mosquito repellers)	Canaco Vending Systems Ltd. carrying on business as Canaco Marketing Systems and Ronald McKenzie (Toronto, Ontario)	Seven charges were laid on April 8, 1982 under paragraph 36(1)(b). On October 6, 1982, both accused pleaded guilty to two charges and were convicted and each fined \$1,000 on each count for a total fine of \$4,000. The remaining charges were withdrawn. A prohibition order was issued against both accused.
Representation without proper test (Carburetors)	Walter Andrews carrying on business as Home Services (Winnipeg, Manitoba)	One charge was laid on July 5, 1982 under paragraph 36(1)(b). On October 8, 1982, the accused pleaded guilty and was convicted and fined \$2,500.
False or misleading representation in a material respect (Tanning treatments)	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). On October 12, 1982, each accused pleaded guilty to one charge and was convicted. The corporate accused was fined \$7,500 and the individual accused was fined \$1,500 for a total fine of \$9,000. All remaining charges were withdrawn. A prohibition order was issued against each 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 (Motel accommodation)	Theresa Brown carrying on business as Gananoque 9 Motel and as Holiday Motor Inn and Gordon Brown carrying on business as Gananoque 9 Motel (Gananoque, Ontario)	Three charges were laid on July 15, 1982 under paragraph 36(1)(a). Both accused were jointly charged on one charge and Theresa Brown was solely charged on two charges. On October 14, 1982, the charges were dismissed.
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). On October 14, 1982, the accused pleaded guilty to three charges and was convicted and fined \$4,000 on each charge for a total fine of \$12,000. A motion for non-suit was granted with respect to one charge and the remaining six charges were withdrawn.
False or misleading representation in a material respect (Fur coats)	Wendelyn Textiles & Properties Limited (Toronto, Ontario)	Nine charges were laid on October 7, 1981 under paragraph 36(1)(a). On October 18, 1982, the accused pleaded guilty to one charge and was convicted and fined \$7,500. The remaining charges were withdrawn. A prohibition order was issued.
Misleading price representation (Fur coats)	Wendelyn Textiles & Properties Limited (Toronto, Ontario)	One charge was laid on October 7, 1981 under paragraph 36(1)(d). On October 18, 1982, the accused pleaded guilty and was convicted and fined \$7,500. A prohibition order was issued.
False or misleading representation in a material respect (Tampons)	Johnson & Johnson Inc. (Vancouver, British Columbia)	One charge was laid on June 7, 1982 under paragraph 36(1)(a). On October 21, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Photocopiers)	Magnastatic Corporation Limited and William Shore (Mississauga, Ontario)	One charge was laid on April 10, 1979 under paragraph 36(1)(a). On June 11, 1980, both accused were acquitted. The Crown appealed the acquittals and, on February 12, 1982, the appeal was allowed and a new trial ordered. On November 2, 1982, the accused pleaded guilty and were convicted. The corporate accused was fined \$5,000 and the individual accused was given a suspended sentence and a one-year probation term.
Promotional Contest (Photocopiers)	Magnastatic Corporation Limited and William Shore (Mississauga, Ontario)	One charge was laid on April 10, 1979 under section 37.2. On June 11, 1980, both accused were acquitted. The Crown appealed the acquittals and, on February 12, 1982, the appeal was allowed and a new trial ordered. On November 2, 1982, the accused pleaded guilty and were convicted. The corporate accused was fined \$5,000 and the individual accused was given a suspended sentence and a one-year probation term.
False or misleading representation in a material respect (Trophies)	North Star Trophies (Saskatoon) Ltd. (Saskatoon, Saskatchewan)	Two charges were laid on July 23, 1982 under paragraph 36(1)(a). On November 4, 1982, the accused pleaded guilty to one charge and was convicted and fined \$300. A stay of proceedings was entered with respect to the remaining charge.

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 (Pharmacy items)	Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)	Twelve charges were laid on March 17, 1982 under section 37.1. On November 5, 1982, the accused pleaded guilty and was convicted and fined \$25 on each charge for a total fine of \$300.
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 May 6, 1981, was convicted and, on June 8, 1981, was fined \$250 on each charge for a total fine of \$1,000. The accused appealed the conviction but, on November 5, 1982, the appeal was dismissed.
False or misleading representation in a material respect (Reading glasses)	F.W. Woolworth Co. Limited carrying on business as Woolco Department Stores (Brandon, Manitoba)	One charge was laid on March 15, 1982 under paragraph 36(1)(a). On November 15, 1982, the charge was dismissed.
False or misleading representation in a material respect (Gold jewellery)	David Israel and Jack Levy carrying on business as Les Importations C.I.L. (Montréal, Québec)	One charge was laid on October 7, 1982 under paragraph 36(1)(a). On November 15, 1982, David Israel pleaded guilty and was convicted and fined \$500. The charge against Jack Levy was withdrawn.
False or misleading representation in a material respect (Mattresses)	Gary's Give-Aways Incorporated and Gary Clemmensen (St. Catharines, Ontario)	Two charges were laid on February 16, 1982 under paragraph 36(1)(a). Both accused pleaded not guilty but, on October 20, 1982, the individual accused was convicted and, on November 15, 1982, was fined \$250 on each charge for a total fine of \$500. The charges against the corporate accused were dismissed.
False or misleading representation in a material respect (Furniture)	Gary's Give-Aways Incorporated, Gary Clemmensen and Dick Rogers (Niagara Falls, Welland, Fort Erie and St. Catharines, Ontario)	Thirteen charges were laid on January 5, 1982 under paragraph 36(1)(a). On November 8, 1982, Gary Clemmensen pleaded guilty to seven charges and was convicted and, on November 15, 1982, was fined \$300 on each charge for a total fine of \$2,100. The remaining charges against Gary Clemmensen and all charges against the other accused were withdrawn.
False or misleading representation in a material respect (Real estate)	Banff-Canmore Realty Ltd. (Banff, Alberta)	One charge was laid on June 17, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on November 16, 1982, was convicted and fined \$250.
False or misleading representation in a material respect (Stamps)	The Excelsior Collectors Guild Ltd. (Ottawa, Ontario)	One charge was laid on April 20, 1982 under paragraph 36(1)(a). On November 17, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Travel packages)	Air Canada (Toronto, Ontario)	Five charges were laid on May 10, 1982 under paragraph 36(1)(a). The accused pleaded not guilty to four charges and guilty to one charge and was convicted on November 16, 1982 on all charges and fined \$2,000 on each of four charges and \$4,500 on one charge for a total fine of \$12,500.

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 (Records)	CBS Records Canada Ltd. - CBS Disques Canada Ltée carrying on business as Columbia House of Canada (Toronto, Ontario)	One charge was laid on June 16, 1982 under paragraph 36(1)(a). On November 19, 1982, the accused pleaded guilty and was convicted and fined \$2,000.
Misleading price representation (Records)	CBS Records Canada Ltd. - CBS Disques Canada Ltée carrying on business as Columbia House of Canada (Toronto, Ontario)	One charge was laid on June 16, 1982 under paragraph 36(1)(d). On November 19, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Automobile paint and chrome sealant)	R.D.Y. Auto Beauty Shop Ltd. (Winnipeg, Manitoba)	Two charges were laid on October 13, 1981 under paragraph 36(1)(a). On November 19, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Trucks)	Himac Motors Ltd. and Trason Motors Ltd. (Edmonton, Alberta)	Three charges were laid on June 29, 1982 under paragraph 36(1)(a). On November 25, 1982, the charges were dismissed.
Misleading price representation (Venetian blinds)	Robert Tremblay and Lucien Brousseau carrying on business as Fen-Por-A Enr. (Québec, Québec)	One charge was laid on May 21, 1982 under paragraph 36(1)(d). On July 9, 1982, Lucien Brousseau was acquitted and Robert Tremblay pleaded guilty and was convicted and, on November 29, 1982, was fined \$300.
False or misleading representation in a material respect (Firewood)	Guy L. Harding (Ottawa, Ontario)	Three charges were laid on June 29, 1982 under paragraph 36(1)(a). On December 1, 1982, the accused pleaded guilty to one charge and was convicted and fined \$500. The remaining charges were withdrawn. A prohibition order was issued.
Sale above advertised price (Hardware items)	Jean-Guy St-Onge carrying on business as Quincaillerie Jean-Guy Enr. (Ville Lemoyne, Québec)	Six charges were laid on October 28, 1982 under section 37.1. On December 1, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$600.
Sale above advertised price (Hardware items)	La Firme Demers (1976) Ltée (Longueuil, Québec)	Eight charges were laid on October 28, 1982 under section 37.1. On December 1, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$800.
Sale above advertised price (Hardware items)	Fernand Desjardins carrying on business as Quincaillerie Rousseau Enr. (St-Lambert, Québec)	Five charges were laid on October 28, 1982 under section 37.1. On December 1, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$500.
False or misleading representation in a material respect (Houses)	Ross Lloyd Martin Enterprises Limited and The Coventry Group Limited (Toronto, Newmarket, Whitby, Milton and Burlington, Ontario)	Fourteen charges were laid on June 15, 1981 under paragraph 36(1)(a). On December 6, 1982, The Coventry Group Limited was tried in absentia and was convicted on five charges and fined \$3,000 on each charge for a total fine of \$15,000. The remaining charges against The Coventry Group Limited and all charges against the co-accused were 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
Sale above advertised price (Hardware items)	Quincaillerie Daneau Inc. (Longueuil, Québec)	Four charges were laid on October 28, 1982 under section 37.1. On December 6, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$400.
False or misleading representation in a material respect (Security systems)	Alarme de la Capitale Inc. (Québec, Québec)	One charge was laid on September 9, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on December 12, 1982, was convicted and fined \$400.
Sale above advertised price (Hardware items)	Roger Lavigne carrying on business as Quincaillerie Bienvenu (1981) Enr. (Montréal, Québec)	Nine charges were laid on October 25, 1982 under section 37.1. On December 10, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$900.
Sale above advertised price (Hardware items)	Paquette et Guy Ltée (Laval, Québec)	Four charges were laid on October 25, 1982 under section 37.1. On December 10, 1982, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$400.
Sale above advertised price (Hardware items)	André Cloutier carrying on business as Quincaillerie Boulevard Enr. (Montréal, Québec)	Seven charges were laid on October 25, 1982 under section 37.1. On December 10, 1982, the accused pleaded guilty and was convicted and fined \$50 on each charge for a total fine of \$350.
Misleading price representation (Video cassette recorders)	J.M. Saucier Electronique Ltée (Montréal, Québec)	One charge was laid on November 19, 1982 under paragraph 36(1)(d). On December 20, 1982, the accused pleaded guilty and was convicted and fined \$400.
False or misleading representation in a material respect (Furniture)	A & M Furniture Rental and Sales Ltd. (Winnipeg, Manitoba)	One charge was laid on December 2, 1982 under paragraph 36(1)(a). On January 10, 1983, the accused pleaded guilty and was convicted and fined \$150.
Sale above advertised price (Hardware items)	Jacqueline Moisan carrying on business as Quincaillerie Moisan Enr. (Montréal, Québec)	Four charges were laid on December 20, 1982 under section 37.1. On January 10, 1983, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$400.
False or misleading representation in a material respect (Gas-saving device)	Rodolphe St-Amour carrying on business as R. St-Amour Enr. (Hull, Québec)	One charge was laid on April 5, 1982 under paragraph 36(1)(a). On January 10, 1983, the charge was withdrawn.
Representation without proper test (Gas-saving device)	Rodolphe St-Amour carrying on business as R. St-Amour Enr. (Hull, Québec)	One charge was laid on April 5, 1982 under paragraph 36(1)(b). On January 10, 1983, the accused pleaded guilty and was convicted and fined \$1,000.
Sale above advertised price (Hardware items)	Gilles Chevrier and Réal Chevrier carrying on business as Ferronnerie & Quincaillerie Chevrier (Ville St-Pierre, Québec)	Three charges were laid on December 15, 1982 under section 37.1. On January 10, 1983, the accused pleaded guilty and were convicted and jointly fined \$100 on each charge for a total fine of \$300.
Sale above advertised price (Hardware items)	Luc Tassé carrying on business as Quincaillerie Monkland (Montréal, Québec)	Two charges were laid on December 15, 1982 under section 37.1. On January 10, 1983, the accused pleaded guilty and was convicted and fined \$200 on each charge for a total fine of \$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 (Gasoline)	Laiterie Perrette Ltée (Chateauguy, Québec)	One charge was laid on September 3, 1982 under paragraph 36(1)(a). On January 17, 1983, the accused was acquitted.
Sale above advertised price (Pharmacy 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. On January 17, 1983, the charges were withdrawn.
Sale above advertised price (Hardware items)	F. Daudelin & Fils Inc. (L'Annonciation, Québec)	Four charges were laid on December 21, 1982 under section 37.1. On January 19, 1983, the accused pleaded guilty and was convicted and fined \$250 on each charge for a total fine of \$1,000.
False or misleading representation in a material respect (Mattresses)	114921 Canada Ltée carrying on business as Meubles Beloeil (Beloeil, Québec)	One charge was laid on January 6, 1983 under paragraph 36(1)(a). On January 21, 1983, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Televisions)	114921 Canada Ltée carrying on business as Meubles Beloeil (Beloeil, Québec)	One charge was laid on January 6, 1983 under paragraph 36(1)(d). On January 21, 1983, the accused pleaded guilty and was convicted and fined \$200.
False or misleading representation in a material respect (Food and sundry items)	Easy Save Foods Limited and The Meat Shoppe Ltd. carrying on business as Easy Save (Conception Bay, Newfoundland)	One charge was laid on December 20, 1982 under paragraph 36(1)(a) against Easy Save Foods Limited. On January 24, 1983, the charge was withdrawn and an identical charge was laid against The Meat Shoppe Ltd. The accused pleaded guilty and was convicted on January 24, 1983 and fined \$250.
False or misleading representation in a material respect (Newspaper advertising services)	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 the individual accused were each found guilty on one charge. All accused were acquitted on the remaining charge. The corporate accused was fined \$12,000 and the individual accused were granted absolute discharges. The accused appealed the sentence and the Crown appealed the acquittals. On October 26, 1982, the Crown abandoned its appeal and, on January 27, 1983, the accused's appeal against sentence was dismissed.
False or misleading representation in a material respect (Gas-saving device)	Imperial Distributing & Supply Limited (Moncton, New Brunswick)	One charge was laid on November 12, 1982 under paragraph 36(1)(a). On February 3, 1983, the accused pleaded guilty and was convicted and fined \$250.
False or misleading representation in a material respect (Carpets)	Alfred's Broadloom Limited (London, Ontario)	One charge was laid on December 13, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on February 3, 1983, and fined \$1,000.

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 (Reducing devices)	C.C.C.L. Canadian Consumer Company Limited (Ottawa and Toronto, Ontario)	One charge was laid at Ottawa on December 13, 1979 under paragraph 36(1)(a). On August 26, 1980, the charge was withdrawn. On June 10, 1981, an Information containing two charges under paragraph 36(1)(a) was laid at Toronto. The accused pleaded not guilty but, on February 7, 1983, was convicted on one charge and fined \$10,000. The remaining charge was withdrawn.
False or misleading representation in a material respect (Reducing devices)	C.C.C.L. Canadian Consumer Company Limited carrying on business as Slim-Skins and Allan Diamond (Toronto, Ontario)	Six charges were laid on April 14, 1981 under paragraph 36(1)(a). Both accused pleaded not guilty but, on February 7, 1983, each accused was convicted on one charge and fined \$10,000 each for a total fine of \$20,000. The remaining charges were withdrawn.
False or misleading representation in a material respect (Binoculars)	C.C.C.L. Canadian Consumer Company Limited carrying on business as Value Mart and Allan Diamond (Toronto, Ontario)	Two charges were laid on June 11, 1981 under paragraph 36(1)(a). Both accused pleaded not guilty but, on February 7, 1983, the individual accused was convicted on one charge and fined \$7,500. The remaining charge against the individual accused and all charges against the corporate accused were withdrawn.
Sale above advertised price (Hardware items)	René Thomas & Fils Inc. (Varennes, Québec)	Four charges were laid on January 7, 1983 under section 37.1. On February 8, 1983, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$400.
False or misleading representation in a material respect (Video recorders)	Donald Cairns carrying on business as Video Home Entertainment Centre and Video Home Entertainment Centre Inc. (Moncton, New Brunswick)	Two charges were laid against the individual accused on December 23, 1982 under paragraph 36(1)(a). On February 10, 1983, two charges were laid against the corporate accused and the charges against the individual accused were withdrawn. The corporate accused pleaded guilty and was convicted and fined \$200 on each charge for a total fine of \$400.
Misleading price representation (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). On May 7, 1982, the accused was acquitted. The Crown appealed the acquittal but, on February 14, 1983, the appeal was dismissed.
False or misleading representation in a material respect (Motorcycles)	Motosport Plus Inc. (Montréal, Québec)	One charge was laid on September 15, 1982 under paragraph 36(1)(a). On February 21, 1983, the accused was acquitted.
False or misleading representation in a material respect (Satellite television receivers)	Stamples (Debert) Limited carrying on business as Satellite Television Services (Truro, Nova Scotia)	One charge was laid on January 10, 1983 under paragraph 36(1)(a). On February 21, 1983, the accused pleaded guilty and was convicted and fined \$500.
Representation without proper test (Satellite television receivers)	Stamples (Debert) Limited carrying on business as Satellite Television Services (Truro, Nova Scotia)	One charge was laid on January 10, 1983 under paragraph 36(1)(b). On February 21, 1983, the charge was 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 (Hardware items)	Nap Boily Inc. (Beauport, Québec)	Five charges were laid on January 26, 1983 under section 37.1. On February 25, 1983, the accused pleaded guilty and was convicted and fined \$75 on each charge for a total fine of \$375.
False or misleading representation in a material respect (Soft contact lenses)	Vanier Optical Limited (Ottawa, Ontario)	One charge was laid on January 26, 1983 under paragraph 36(1)(a). On March 1, 1983, the accused pleaded guilty and was convicted and fined \$250.
False or misleading representation in a material respect (Furniture)	Mikot Trading Inc. carrying on business as Provincial Liquidators (Kitchener, Ontario)	One charge was laid on November 10, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on March 1, 1983, was convicted and fined \$1,000.
Sale above advertised price (Hardware items)	Matco Mart Inc. (St-Basile-Le-Grand, Québec)	Seven charges were laid on January 18, 1983 under section 37.1. On March 4, 1983, the accused pleaded guilty and was convicted and fined \$100 on one charge and \$50 on each of six charges for a total fine of \$400.
Sale above advertised price (Clothing)	Metropolitan Stores of Canada Limited (Moncton, New Brunswick)	Four charges were laid on January 13, 1983 under section 37.1. On March 7, 1983, the accused pleaded guilty and was convicted and fined \$1,000 on each charge for a total fine of \$4,000.
False or misleading representation in a material respect (Central vacuum cleaning system)	All Canada Vac Limited carrying on business as Astro-Vac Central Vacuum Systems, John Charles Byrne carrying on business as Toronto East Central Vacuums and Lorne Newton (Toronto and Markham, Ontario)	Five charges were laid on October 25, 1982 under paragraph 36(1)(a). On December 13, 1982, the corporate accused pleaded guilty to two charges and was convicted and fined \$3,000 on one charge and \$1,000 on the other charge for a total fine of \$4,000. The remaining charges against the corporate accused and all charges against the other accused were withdrawn on March 8, 1983.
Misleading testimonial or test (Central vacuum cleaning system)	All Canada Vac Limited carrying on business as Astro-Vac Central Vacuum Systems, John Charles Byrne carrying on business as Toronto East Central Vacuums and Lorne Newton (Toronto and Markham, Ontario)	One charge was laid on October 25, 1982 under section 36.1. On December 13, 1982, the charge against the corporate accused was dismissed. On March 8, 1983, the charges against the other accused were withdrawn.
Promotional Contest (Used automobiles)	Chebucto Ford Sales Limited (Dartmouth, Nova Scotia)	Three charges were laid on October 13, 1982 under section 37.2. On March 14, 1983, the accused pleaded guilty to one charge and was convicted and fined \$750. The remaining charges were withdrawn.
False or misleading representation in a material respect (Dry cleaning services)	Superior Cleaners and Dyers of Ottawa Limited, 338637 Ontario Limited and Spic and Span Cleaners Ltd. all carrying on business as The Valetor Cleaners, Cash Cleaners and Spic and Span Cleaners (Ottawa, Ontario)	One charge was laid against Superior Cleaners and Dyers of Ottawa Limited on November 30, 1982 under paragraph 36(1)(a). On March 10, 1983, an identical charge was laid against Superior Cleaners and Dyers of Ottawa Limited and the other two accused. On March 15, 1983, Superior Cleaners and Dyers of Ottawa Limited pleaded guilty to the first charge and was convicted and fined \$400. The second charge against all accused was 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
Misleading price representation (Dry cleaning services)	Superior Cleaners and Dyers of Ottawa Limited, 338637 Ontario Limited and Spic and Span Cleaners Ltd. all carrying on business as The Valetor Cleaners, Cash Cleaners and Spic and Span Cleaners (Ottawa, Ontario)	One charge was laid against Superior Cleaners and Dyers of Ottawa Limited on November 30, 1982 under paragraph 36(1)(d). On March 10, 1983, an identical charge was laid against Superior Cleaners and Dyers of Ottawa Limited and the other two accused. On March 15, 1983, the charges were withdrawn.
False or misleading representation in a material respect (Insulation material)	Isocell Ltée (Moncton, New Brunswick)	One charge was laid on February 16, 1983 under paragraph 36(1)(a). On March 16, 1983, the accused pleaded guilty and was convicted and fined \$350.
Sale above advertised price (Hardware items)	Quincaillerie Martel (1980) Inc. (Charny, Québec)	Twelve charges were laid on February 18, 1983 under section 37.1. On March 18, 1983, the accused pleaded guilty and was convicted and fined \$75 on each charge for a total fine of \$900.
Sale above advertised price (Hardware items)	Ferrerrie Bernier Inc. (Sherbrooke, Québec)	Six charges were laid on February 9, 1983 under section 37.1. On March 21, 1983, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$600.
Sale above advertised price (Hardware items)	Quincaillerie McFadden Inc. (Lennoxville, Québec)	Seven charges were laid on February 9, 1983 under section 37.1. On March 21, 1983, the accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$700.
False or misleading representation in a material respect (Used automobiles)	Jim Gauthier Chevrolet Oldsmobile Cadillac Inc. (Winnipeg, Manitoba)	Eight charges were laid on October 6, 1982 under paragraph 36(1)(a). On March 28, 1983, the charges were withdrawn and a new information containing four charges under paragraph 36(1)(a) was laid. The accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$2,000.
False or misleading representation in a material respect (Gas-saving device)	Claude St-Louis and André Lynch (Grand-Mère, Québec)	One charge was laid on January 14, 1983 under paragraph 36(1)(a). On March 28, 1983, the accused pleaded guilty and were convicted and each fined \$200 for a total fine of \$400.
Representation without proper test (Gas-saving device)	Claude St-Louis and André Lynch (Grand-Mère, Québec)	One charge was laid on January 14, 1983 under paragraph 36(1)(b). On March 28, 1983, the accused pleaded guilty and were convicted and each fined \$200 for a total fine of \$400.
False or misleading representation in a material respect (Sewing machines)	Monique Labelle Parent carrying on business as La Belle Machine à Coudre Enr. (Montréal, Québec)	One charge was laid on December 20, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on March 31, 1983, was convicted and fined \$150.
Misleading price representation (Sewing machines)	Monique Labelle Parent carrying on business as La Belle Machine à Coudre Enr. (Montréal, Québec)	One charge was laid on December 20, 1982 under paragraph 36(1)(d). The accused pleaded not guilty but, on March 31, 1983, was convicted and fined \$150.

APPENDIX II — (Concluded)

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)	Dominion Stores Limited - Les Super- marchés Dominion Limitée (Hamilton, Burlington, Stoney Creek, Missis- sauga, Toronto, Oakville, St. Catha- rines, London and Windsor, Ontario)	Forty-seven charges were laid on March 17, 1982 under section 37.1. On March 31, 1983, the accused pleaded guilty to 40 charges and was convicted and fined \$2,000 on each charge for a total fine of \$80,000. The remaining charges were with- drawn.

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 (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 (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.
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. The Crown appealed and, on February 16, 1982, the appeal was allowed and a new trial ordered. The accused has applied for leave to appeal.
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).
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).
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).
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.
Double ticketing (Food items)	Steinberg Inc. (Ville LaSalle, Québec)	Thirty-two charges were laid on January 30, 1981 under section 36.2.
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.
Double ticketing (Food items)	Les Supermarchés Dominion Ltée (Montréal, Verdun and St. Léonard, Québec)	Eleven charges were laid on January 30, 1981 under section 36.2.
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.
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).
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.

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 (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 (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 (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 (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 (Beauty products)	Les Entreprises Pierre Deschênes Inc. carrying on business as Pharm-escomptes Jean Coutu (Jonquière, Québec)	Twenty-two charges were laid on March 23, 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 (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.
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).
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.
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.
Sale above advertised price (Pharmacy 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.
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).
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981 under paragraph 36(1)(b).
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). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.

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
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). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
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). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under section 37.1. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Non-availability (Toy)	Consumers Distributing Company Limited (Ottawa, Ontario)	One charge was laid on June 29, 1981 under section 37. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
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). The accused pleaded guilty and on April 19, 1982, was convicted and fined \$10,000. Under appeal by accused.
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 (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 (Sundry items)	Jean Marie Tétrault and Thomas Lapérrière carrying on business as Tétrault et Lapérrière Associés and as Uniprix (Montréal, Québec)	Fifteen charges were laid on July 9, 1981 under section 37.1.
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.
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 (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). On September 16, 1982, Cannard Investments Limited pleaded guilty to one charge and was convicted and fined \$1,500. Under appeal by Crown. The charges against the other accused were withdrawn.
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 the same paragraph.

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 (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).
Sale above advertised price (Pharmacy 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 (Pharmacy items)	Jean Coutu carrying on business as Pharmacies Escompte Jean Coutu Enr. & Pharmacies Jean Coutu Enrg. (Répentigny, Québec)	Twenty-two charges were laid on November 27, 1981 under section 37.1.
Sale above advertised price (Pharmacy 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 price (Pharmacy 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)	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 (Pharmacy 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 (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 (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 (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)	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.
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). On June 17, 1982, the accused was acquitted. Under appeal by Crown.
Representation without proper test (Engine treatment)	Petro-Lon Canada (Edmonton, Alberta)	One charge was laid on December 7, 1981 under paragraph 36(1)(b).
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.

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 as Jean Coutu (St. Jérôme) Enr. (St. Jérôme, Québec)	Nineteen charges were laid on December 8, 1981 under section 37.1.
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). Color Your World Inc. pleaded not guilty but on September 9, 1982, was convicted and fined \$300 on each charge. Under appeal by accused.
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).
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.
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 (Silver dollars)	476993 Ontario Corporation carrying on business as Upper Canada Mint and Claude A. Broos (New Westminster, Kamloops, Kelowna, Prince George and Vancouver, British Columbia)	Six charges were laid on January 25, 1982 under paragraph 36(1)(a). On January 13, 1983, the corporate accused pleaded guilty and was convicted and fined \$3,000 on each charge for a total fine of \$18,000. A stay of proceedings was entered with respect to all charges against the individual accused. The corporate accused has appealed the sentence.
Misleading price representation (Dining room set)	Great Universal Stores of Canada Limited carrying on business as Legaré Meubles (Québec, Québec)	Two charges were laid on January 26, 1982 under paragraph 36(1)(d).
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 (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 (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 (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).
Sale above advertised price (Pharmacy 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.
False or misleading representation in a material respect (Snowmobiles)	Polaris Industries Inc. (Ottawa, Ontario)	One charge was laid on April 23, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas additive)	Can Pro Marketing Ltd., Joseph Pare and Paul Pare (Winnipeg, Manitoba)	Four charges were laid on May 21, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Charter flights)	Air Bridge Corp. Inc. and Edward Carroll carrying on business as Shamrock Tours (Toronto, Ontario)	Three charges were laid on May 31, 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
Misleading warranty representation (Charter flights)	Air Bridge Corp. Inc. and Edward Carroll carrying on business as Shamrock Tours (Toronto, Ontario)	One charge was laid on May 31, 1982 under paragraph 36(1)(c).
False or misleading representation in a material respect (Jewellery)	Paul Covant Limited Carrying on business as Covant Credit Jewellers, Tanco Jewellers Limited carrying on business as Covant's of Thorncliffe, Paul Covant and Mark Covant	Thirteen charges were laid on June 11, 1982 under paragraph 36(1)(a). All the accused were jointly charged with respect to 12 of the charges and Paul Covant Limited and the two individuals were jointly charged with respect to one charge.
Misleading price representation (Jewellery)	Paul Covant Limited carrying on business as Covant Credit Jewellers, Tanco Jewellers Limited carrying on business as Covant's of Thorncliffe, Paul Covant and Mark Covant	Thirteen charges were laid on June 11, 1982 under paragraph 36(1)(d). All the accused were jointly charged with respect to 12 of the charges and Paul Covant Limited and the two individuals were jointly charged with respect to one charge.
Misleading price representation (Video recorders)	Les Entreprises J.M. Saucier Inc. (Montreal, Québec)	One charge was laid on July 14, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Gas-saving device)	Ronaldo Tremblay carrying on business as Machineries 755 Enr. (Cap-de-la-Madeleine, Québec)	One charge was laid on July 14, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Ronaldo Tremblay carrying on business as Machineries 755 Enr. (Cap-de-la-Madeleine, Québec)	One charge was laid on July 14, 1982 under paragraph 36(1)(b).
False or misleading representation in a material respect (Houses)	Atco Industries (N.A.) Ltd. (Edmonton, Alberta)	One charge was laid on July 26, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Michael Bourdeaux (Vancouver, British Columbia)	One charge was laid on July 30, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Michael Bourdeaux (Vancouver, British Columbia)	One charge was laid on July 30, 1982 under paragraph 36(1)(b).
Sale above advertised price (Sundry items)	Gilles Beaulieu (Québec, Québec)	Twelve charges were laid on August 10, 1982 under section 37.1.
False or misleading representation in a material respect (Weight reducing)	Media Mail Order Inc. (St. John's, Newfoundland)	One charge was laid on August 16, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving seminar)	Millage Illimité Inc. and Guy Sasseville (Brossard, Québec)	Three charges were laid on August 26, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Plans for constructing a carburetor)	George Wright carrying on business as Carburetor Research (Kelowna, British Columbia)	Two charges were laid on August 26, 1982 under paragraph 36(1)(a). The accused pleaded not guilty but, on March 25, 1983, was found guilty and granted absolute discharges. Under appeal by Crown.
Representation without proper test (Plans for constructing a carburetor)	George Wright carrying on business as Carburetor Research (Kelowna, British Columbia)	Two charges were laid on August 26, 1982 under paragraph 36(1)(b). The accused pleaded not guilty but, on March 25, 1983, was found guilty and granted absolute discharges. Under appeal by Crown.
False or misleading representation in a material respect (Gas-saving seminar)	Millage Illimité Inc. (Victoriaville, Québec)	Three charges were laid on September 8, 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 (Gas-saving seminar)	Guy Sasseville (Victoriaville, Québec)	Three charges were laid on September 8, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Mortar)	North American Mortar Supply Inc. (Edmonton, Alberta)	Two charges were laid on September 10, 1982 under paragraph 36(1)(a).
Misleading price representation (Cassettes)	Deals on Wheels Car Stereo Ltd. carrying on business as Deals on Wheels and Leslie T. Sims (Vancouver, British Columbia)	Three charges were laid on September 10, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Municipal castings)	Dobney Foundry Ltd. (Vancouver, British Columbia)	Two charges were laid on September 10, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Jean Auclair (Sherbrooke, Québec)	One charge was laid on September 13, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Jean Auclair (Sherbrooke, Québec)	One charge was laid on September 13, 1982 under paragraph 36(1)(b).
False or misleading representation in a material respect (Gas-saving device)	Jean Dion and Gaston Hébert (Sept-Îles, Québec)	One charge was laid on September 13, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Jean Dion and Gaston Hébert (Sept-Îles, Québec)	One charge was laid on September 13, 1982 under paragraph 36(1)(b).
Misleading testimonial or test (Gas-saving device)	Jean Dion and Gaston Hébert (Sept-Îles, Québec)	One charge was laid on September 13, 1982 under section 36.1.
False or misleading representation in a material respect (Gas-saving seminar)	Millage Illimité Inc. and Guy Sasseville (Sherbrooke, Québec)	Three charges were laid on September 13, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Pattern fitting clinic)	Bernard Oleyar and Blaise Oleyar operating under the firm name and style of Mid West Pattern Clinic Inc. (Winnipeg, Manitoba)	One charge was laid on September 15, 1982 under paragraph 36(1)(a).
Misleading price representation (Pattern fitting clinic)	Bernard Oleyar and Blaise Oleyar operating under the firm name and style of Mid West Pattern Clinic Inc. (Winnipeg, Manitoba)	Two charges were laid on September 15, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Gas-saving device)	Fuel-O-Matic Manufacturing (Eastern) Limited carrying on business as Fuel-O-Matic Manufacturing Limited and Kenneth Graydon (Tillsonburg, Ontario)	One charge was laid on September 17, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Fuel-O-Matic Manufacturing (Eastern) Limited carrying on business as Fuel-O-Matic Manufacturing Limited and Kenneth Graydon (Tillsonburg, Ontario)	One charge was laid on September 17, 1982 under paragraph 36(1)(b).
False or misleading representation in a material respect (Gas-saving device)	Donald J. Graydon carrying on business as Dee-Em Products (Tillsonburg, Ontario)	One charge was laid on September 17, 1982 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	Donald J. Graydon carrying on business as Dee-Em Products (Tillsonburg, Ontario)	One charge was laid on September 17, 1982 under paragraph 36(1)(b).

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 (Clothing)	The Young Manufacturer Inc. carrying on business as Toronto Leather Fashions and as Woolskins and Michael Goldgrub (Toronto, Ontario)	Thirty-four charges were laid on September 17, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Carpets)	Carpet-Life Maintenance Services Ltd. (Winnipeg, Manitoba)	Seven charges were laid on September 22, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Jewellery)	H.M.F. Minerals Ltd. and Ralph Zacks (Toronto, Ontario)	Three charges were laid on September 22, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Jewellery)	Thompson's Jewellery Limited (St. John's, Newfoundland)	Two charges were laid on October 6, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Insulated airpots)	K-Mart Canada Limited/K-Mart Canada Limitée carrying on business as K-Mart (Dartmouth, Nova Scotia)	Two charges were laid on October 6, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Travel tours)	Snowbird Travel Ltd. (Edmonton, Alberta)	One charge was laid on October 27, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Ski boots)	Les Marchands Ro-Na Inc. (Montréal, Québec)	Four charges were laid on October 25, 1982 under paragraph 36(1)(a).
Representation without proper test (Hearing aids)	Earl Sidney Hauser carrying on business as Ex-Cell Hearing Centre (Regina, Saskatchewan)	One charge was laid on November 8, 1982 under paragraph 36(1)(b).
False or misleading representation in a material respect (Hearing aids)	Earl Sidney Hauser carrying on business as Ex-Cell Hearing Centre (Regina, Saskatchewan)	One charge was laid on November 8, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Waterbeds)	Waterbed World Limited and Stuart Speerin Stevens (London, Ontario)	Two charges were laid on November 10, 1982 under paragraph 36(1)(a).
Misleading price representation (Waterbeds)	Waterbed World Limited and Stuart Speerin Stevens, (London, Ontario)	One charge was laid on November 10, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Bulk foods)	Loblaws Limited (Toronto, Ontario)	Four charges were laid on November 12, 1982 under paragraph 36(1)(a).
Sale above advertised price (Watches)	Metropolitan Stores (MTS) Ltd., Les Magasins Métropolitains (MTS) Ltée operating under the name and style of The Met (Sydney, Nova Scotia)	One charge was laid on November 17, 1982 under section 37.1.
Non-availability (Tents)	Zellers Limited/Zellers Ltée carrying on business as Zellers Inc. (Winnipeg, Manitoba)	Nine charges were laid on November 24, 1982 under section 37.
False or misleading representation in a material respect (Men's clothing)	Manufacture d'habits Hull Inc. (Gatineau, Québec)	One charge was laid on November 26, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (General items)	Maynard's Auctioneers Ltd. (Vancouver, British Columbia)	Two charges were laid on November 26, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Jewellery)	Cathedral Jewellers Limited (Halifax, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(a).
Misleading price representation (Jewellery)	Cathedral Jewellers Limited (Halifax, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Jewellery)	Charm Jewelry Limited (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(a).
Misleading price representation (Jewellery)	Charm Jewelry Limited (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(d).

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)	Maritime Jewellery Retail Limited carrying on business as The Gold Factory (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(a).
Misleading price representation (Jewellery)	Maritime Jewellery Retail Limited carrying on business as The Gold Factory (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Jewellery)	G.B. Murphy Limited carrying on business as G.B. Murphy Jewellers (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(a).
Misleading price representation (Jewellery)	G.B. Murphy Limited carrying on business as G.B. Murphy Jewellers (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Jewellery)	Sun Craft Treasures Limited carrying on business as The Gold Mine (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(a).
Misleading price representation (Jewellery)	Sun Craft Treasures Limited carrying on business as The Gold Mine (Dartmouth, Nova Scotia)	One charge was laid on November 29, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Water distillers)	356433 Ontario Ltd. carrying on business as Pure Water Canada, Eau Pure Canada (Windsor, Ontario)	One charge was laid on November 30, 1982 under paragraph 36(1)(a).
Representation without proper test (Water distillers)	356433 Ontario Ltd. carrying on business as Pure Water Canada, Eau Pure Canada (Windsor, Ontario)	Four charges were laid on November 30, 1982 under paragraph 36(1)(b).
False or misleading representation in a material respect (Mending kit)	The Home Shoppe Ltd. (Moncton, New Brunswick)	One charge was laid on December 2, 1982 under paragraph 36(1)(a).
Representation without proper test (Rebound exerciser)	Denis Albert Walker carrying on business as Shirdon Enterprises and Universal Trampoline Canada (Winnipeg, Manitoba)	One charge was laid on December 2, 1982 under paragraph 36(1)(b).
Misleading price representation (Colour televisions)	Importations d'électronique M.T.L. Inc. (Montréal, Québec)	Eight charges were laid on December 13, 1982 under paragraph 36(1)(d).
Sale above advertised price (Aerosol paint)	Lortie & Martin Ltée (Ste Agathe des Monts, Québec)	Five charges were laid on December 20, 1982 under section 37.1.
Misleading price representation (Stereo equipment)	2001 Sound Centre Inc. carrying on business as 2001 Sound Centre and Karl H. Sontowski (Burnaby, British Columbia)	Two charges were laid on December 20, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Stereo equipment)	Mann's T.V. & Stereo Limited (Toronto, Ontario)	Nineteen charges were laid on December 23, 1982 under paragraph 36(1)(a).
Misleading price representation (Stereo equipment)	Mann's T.V. & Stereo Limited (Toronto, Ontario)	Six charges were laid on December 23, 1982 under paragraph 36(1)(d).
False or misleading representation in a material respect (Weight loss treatment and personal care products)	The Great Shape-Up Inch Loss Centre Inc. carrying on business at The Great Shape-Up and Alexander Wayne Traikovich (London, Stratford and Waterloo, Ontario)	Three charges were laid on December 24, 1982 under paragraph 36(1)(a). On January 5, 1983, the Information was amended and the three charges were relaid.

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
Representation without proper test (Weight loss treatment and personal care products)	The Great Shape-Up Inch Loss Centre Inc. carrying on business as The Great Shape-Up and Alexander Wayne Traikovich (London and Stratford, Ontario)	Three charges were laid on December 24, 1982 under paragraph 36(1)(b). On January 5, 1983, the information was amended and two charges were re-laid.
False or misleading representation in a material respect (Dog training)	Canisphere Kennels Ltd. (Winnipeg, Manitoba)	One charge was laid on December 30, 1982 under paragraph 36(1)(a).
False or misleading representation in a material respect (Hammond organs)	Roy & Bilodeau Inc. (Montréal, Québec)	Two charges were laid on January 13, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Food)	Ferraro's Limited carrying on business as Super Valu (Trail, Rossland, Nelson and Castlegar, British Columbia)	Three charges were laid on January 24, 1983 under paragraph 36(1)(a).
Misleading price representation (Food)	Ferraro's Limited carrying on business as Super Valu (Trail, Rossland, Nelson, Castlegar and Fernie, British Columbia)	Four charges were laid on January 24, 1983 under paragraph 36(1)(d).
False or misleading representation in a material respect (Insulation)	Atlantic Airseal Ltd. (Fredericton, New Brunswick)	Two charges were laid on January 26, 1983 under paragraph 36(1)(a).
Sale above advertised price (Hardware items)	Véronique Lafond carrying on business as Quincaillerie P.H. Légaré & Fils Enr. and Matériaux P.H. Légaré Inc. (Stoneham, Québec)	Five charges were laid on January 26, 1983 under section 37.1 against Véronique Lafond. On March 11, 1983, those charges were withdrawn. On March 10, 1983, five charges were laid under section 37.1 against Matériaux P.H. Légaré Inc.
Sale above advertised price (Hardware items)	Quincaillerie Morency Inc. (Québec, Québec)	Eight charges were laid on January 26, 1983 under section 37.1.
False or misleading representation in a material respect (Gasoline additive)	WREM Marketing Inc. (Windsor, Ontario)	One charge was laid on February 7, 1983 under paragraph 36(1)(a).
Representation without proper test (Gasoline additive)	WREM Marketing Inc. (Windsor, Ontario)	Fourteen charges were laid on February 7, 1983 under paragraph 36(1)(b).
False or misleading representation in a material respect (Video recorders)	Video Home Entertainment Centre Inc. (Moncton, New Brunswick)	Two charges were laid on February 10, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Gold jewellery)	Crown Gems Limited (Dartmouth, Nova Scotia)	Two charges were laid on February 11, 1983 under paragraph 36(1)(a).
Misleading price representation (Gold jewellery)	Crown Gems Limited (Dartmouth, Nova Scotia)	Two charges were laid on February 11, 1983 under paragraph 36(1)(d).
False or misleading representation in a material respect (Real estate)	Nu-West Development Corporation (1982) Ltd. (Toronto, Ontario)	Eleven charges were laid on February 13, 1983 under paragraph 36(1)(a).
Sale above advertised price (Hardware items)	Centre de Matériaux Boivin Inc. (Baie St. Paul, Québec)	Eight charges were laid on February 16, 1983 under section 37.1.
Sale above advertised price (Hardware items)	François Dion Inc. (St. Raymond, Québec)	Seven charges were laid on February 15, 1983 under section 37.1.
Sale above advertised price (Hardware items)	Odilon Côté Inc. (Beauport, Québec)	Seven charges were laid on February 15, 1983 under section 37.1.
Sale above advertised price (Hardware items)	Quincaillerie Donnacona Ltée (Donnacona, Québec)	Six charges were laid on February 15, 1983 under section 37.1.
Sale above advertised price (Hardware items)	Real Gendron Inc. (Salaberry de Valleyfield, Québec)	Six charges were laid on February 18, 1983 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 (Hardware items)	Ferlac Inc. (Roberval, Québec)	Seven charges were laid on February 21, 1983 under section 37.1.
Sale above advertised price (Automobiles)	460998 Ontario Limited carrying on business as Royal City Chrysler Plymouth (Guelph, Ontario)	Nine charges were laid on February 24, 1983 under section 37.1.
False or misleading representation in a material respect (Furniture)	Gordon Creighton Patton and Patton's Place Limited carrying on business as Patton's Place (London, Ontario)	Two charges were laid on February 21, 1983 under paragraph 36(1)(a).
Misleading price representation (Furniture)	Gordon Creighton Patton and Patton's Place Limited carrying on business as Patton's Place (London, Ontario)	Two charges were laid on February 21, 1983 under paragraph 36(1)(d).
Sale above advertised price (Hardware items)	G.H. Berger Ltée (St. Jean, Québec)	Six charges were laid on March 2, 1983 under section 37.1.
Representation without proper test (Synthetic oil)	Olde Worlde of Canada Ltd. (Edmonton, Alberta)	One charge was laid on March 7, 1983 under paragraph 36(1)(b).
False or misleading representation in a material respect (Office supplies)	266104 Alberta Ltd. carrying on business as Office Supplies International (Calgary, Alberta)	One charge was laid on March 7, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Televisions)	Mad Man Murphy Limited (St. John's, Newfoundland)	One charge was laid on March 10, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Wood)	Fernand Morissette Inc. (Ancienne Lorette and Orsainville, Québec)	Twenty-one charges were laid on March 10, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Hardware items)	J. Pascal Inc. (Québec, Quebec)	Forty-three charges were laid on March 10, 1983 under paragraph 36(1)(a).
Sale above advertised price (Hardware items)	J. Pascal Inc. (Ste-Foy and Québec, Québec)	Six charges were laid on March 10, 1983 under section 37.1.
False or misleading representation in a material respect (Heating costs)	Les Constructions Robert Bernard Inc. (St. Georges de Beauce, Québec)	Twenty-one charges were laid on March 17, 1983 under paragraph 36(1)(a).
False or misleading representation in a material respect (Collector plates)	O.E. McIntyre Ltd/Ltée. (Coquitlam, British Columbia)	One charge was laid on March 21, 1983 under paragraph 36(1)(a).
Representation without proper test (Gas-saving device)	David Tibor Szloboda and New World Technologies Inc. (Vancouver, British Columbia)	Two charges were laid on March 21, 1983 under paragraph 36(1)(b).

APPENDIX V

Table of Cases

The following is a list of recent case citations relating to Canadian anticommon law. 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.

- Re Travelways School Transit Ltd. et al. and the Queen* (1980), 52 C.C.C. (2d) 399; 52 C.P.R. (2d) 63. (Motion to quash committal)
- Regina v. Charterways Transportation Ltd. et al.* (1981), 32 O.R. (2d) 719; 57 C.P.R. (2d) 230; 123 D.L.R. (3d) 159. (Trial)
- Regina v. Lorne Wilson Transportation Ltd. and Travelways School Transit Ltd.* (1982), 69 C.C.C. (2d) 94; 138 D.L.R. (3d) 690. (Appeal)
- Regina v. Browning-Ferris Industries of Winnipeg (1974) Ltd., Acme Sanitation Services Ltd.* (1981), 56 C.P.R. (2d) 257.
- Regina v. A. & M. Records of Canada Ltd.* (1981), 51 C.P.R. (2d) 225.
- Regina v. Philips Electronics Ltd.-Philips Electronique Ltée* (1981), 30 O.R. (2d) 129; 55 C.C.C. (2d) 312; 53 C.P.R. (2d) 74. (Appeal)
- Regina v. Philips Electronics Ltd.*, [1981] 2 S.C.R. 264; 62 C.C.C. (2d) 384; 59 C.P.R. (2d) 212; 126 D.L.R. (3d) 767. (Supreme Court of Canada)
- Regina v. British Columbia Television Broadcasting System Ltd. et al.* (1981), 52 C.P.R. (2d) 47.
- Regina v. Church and Co. (Canada) Limited* (1981), 52 C.P.R. (2d) 21.
- Regina v. H.D. Lee of Canada Ltd.* (1981), 57 C.P.R. (2d) 186; [1981] C.S.P. 1003. (Trial)
- Regina v. H.D. Lee of Canada Ltd.* (1982), 62 C.P.R. (2d) 77. (Sentence)
- Regina v. Consumers Glass Co. Ltd. et al.* (1982), 33 O.R. (2d) 228; 57 C.P.R. (2d) 1; 124 D.L.R. (3d) 274.
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- Regina v. Scotia Chevrolet Oldsmobile Limited* (1981), 44 N.S.R. (2d) 410; 62 C.P.R. (2d) 172. (Appeal)

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Regina v. Robin Hood Multifoods Ltd. (1982), 59 C.P.R. (2d) 57. (Appeal)

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- Couture v. Hewison, Stevens and Nichol*, [1983] 2 W.W.R. 267. (appeal of refusal to certify punishment for contempt)
- 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)

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Director of Investigation and Research v. B.B.M. Bureau of Measurement (1982), 60 C.P.R. 26. (Proceedings before RTPC)

B.B.M. Bureau of Measurement v. Director of Investigation and Research (1982), 63 C.P.R. (2d) 63. (Application to intervene)

APPENDIX VI

Recent Published Studies of the Bureau of Competition Policy

The Role of Marketing in the Concentration and Multinational Control of Manufacturing Industries

Performance of Regulated Canadian Airlines in Domestic and Transborder Operations

Rate and Cost Analysis of For-Hire Trucking: Provincial Comparisons

Trucking Industry: Analysis of Performance

Other Publications

Misleading Advertising Bulletin (Published quarterly)

Annual Report of the Director of Investigation and Research, Combines Investigation Act (for previous fiscal years)

APPENDIX VII

Administration

1. Staff

Lawson A.W. Hunter is the Director of Investigation and Research, and Assistant Deputy Minister, Competition Policy. J. Claude Thivierge is the Deputy Director, Legal, and Mel S. Cappe was appointed Deputy Director, Economics, in June 1982.

There are five enforcement Branches, each under a Director, as follows:

Resources	W. Toms*
Services	W.F. Lindsay
Manufacturing	G.D. Orr
Regulated Sector	R. Atkinson (effective April 1983)
Marketing Practices	K.G. Decker

The former Director of the Regulated Sector Branch, D.A. Dawson, left in August 1982 at the end of his Executive Interchange assignment. Mr. I. Nielsen-Jones served as Acting Director for the balance of the year.

The Economic Analysis and Policy Evaluation Branch (formerly Research and International Relations) provides comprehensive research support to the Bureau and has the central role in strategic planning and the general development of competition policy. The position of Director, Economic Analysis and Policy Evaluation is currently vacant.

A new functional unit, the Office of Enforcement Operations, is being established effective April 1, 1983. Mr. Ian Nielsen-Jones becomes the Co-ordinator of Enforcement Operations at that time.

The Administration unit provides managerial support in planning, 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 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 under the Act.

2. Finance

In 1982-83, the budget for the administration of the Bureau of Competition Policy was \$11,262,000. Included in this amount was an addition of \$788,000 from Supplementary Estimates to fund the Petroleum Inquiry. A total of \$1,499,000 was apportioned to maintain the regional and district offices.

A further \$450,000 was made available at year end to the Bureau through Supplementary Estimates to meet the costs of legal fees and disbursements for prosecutions and inquiries under the Act. Thus, the total operating budget was \$11,712,000.

* W. Toms left the Bureau at the end of the year.

The Bureau's major expenditure during the year was \$7,856,500 for staff salaries and benefits, reflecting the fact that the Bureau is highly labour intensive. The Bureau incurred \$1,878,282 in legal fees and disbursements in relation to its activities under the Act.

The Director is also charged with the administrative responsibility for collecting fines imposed by the courts. During 1982-83, a total of 88 fines were collected, with a value of \$513,350, which was credited to the Government's Consolidated Revenue Fund.

3. Special Task Forces

As the result of a comprehensive review of Bureau organization and management, a number of task forces were established early in 1982 to review and make recommendations on specific problem areas that had been identified during 1982-83. Many of the task force recommendations were implemented; however, some areas require ongoing work.

The task forces, recommendations implemented, and status at the end of the fiscal year were as follows:

A) *Strategic Planning and the Role of Economic Analysis*

This task force developed a strategic planning methodology for use by the Bureau. The procedure begins with an assessment of the Bureau's goals and sub-objectives and goes on to develop the strategic issues that will impact Bureau performance. This is followed by a strategic analysis of the issues and operations of the Bureau with a view to establishing principles for resource reallocation within the Bureau and to identify those issues and operations of strategic importance to Bureau management. The first strategic plan was developed by the task force, approved by Bureau Management, and subsequently implemented. It resulted in Management emphasizing certain enforcement and policy issues and shifting of resources to better achieve the Bureau objects. The plan is continuously being updated and a new revised plan will be prepared each year in the future.

The task force also was given responsibility for determining the role of the new Economic Analysis and Policy Evaluation Branch. The task force recommended, and Management Committee approved, renaming the Research Branch and giving it a new mandate. The functions of the Branch would include:

- i) Section 47 Inquiries
- ii) Enforcement Strategies
- iii) Interdepartmental Policy Analysis and Development
- iv) Strategic Planning
- v) Legislative Development
- vi) Federal-Provincial Relations
- vii) International Liaison

B) *Reporting Systems*

The task force on Reporting Systems was established to examine Management information requirements and to recommend improvements to the various reporting mechanisms that were in place. There was consensus in the Bureau that there was an overlap in the type of material being collected and that much of the material was of little use. The task force concluded that the reporting system to be utilized by the Bureau must provide the basis for a case management system and allow for short- to medium-term planning. The task force recommended the simplification and centralization of much of the reporting activities and, in conjunction with the task force on Operational

Standards and Procedures, recommended the establishment of an Office of Enforcement Operations. In addition, the task force is to consider office automation and filing systems during the next year.

C) *Operational Standards and Procedures*

The task force on Operational Standards and Procedures was initiated to develop more effective systems for receiving, recording and assigning new complaints, to formalize standards and procedures for initiating, managing and discontinuing formal inquiries, and to develop a policy on assigning priorities to assist in allocating resources to competing projects. A detailed review of problem areas was conducted, drawing on the experience of present and past senior management and the Bureau's officers and support staff. Certain issues requiring clarification of Bureau policy were identified, and, in conjunction with the task force on Reporting Systems, a regular planning and review process for inquiries was initiated. A more systematic procedure for the initiation, conduct and completion of inquiries was developed for use in conjunction with the regular review process.

D) *Quality of Work Environment*

This task force examined not only accommodation in the headquarters area, but also the more general topic of the quality of the work environment. After extensive consultation with all Bureau staff a number of recommendations were made to Bureau management in the areas of office accommodation; other office facilities; accommodation in travel status; and interaction among Bureau personnel. Some of the recommendations require further study and action. Decisions were taken and implementation started in such areas as improved use of facilities and telephone services. A major result was the decision to hold an annual meeting which will include plenary sessions and workshops on topics of interest to all Bureau staff.

E) *Bilingualism*

This task force was established to examine bilingualism in the Bureau and develop recommendations for ways to most efficiently and effectively meet the demand for service in both official languages and comply with Government policies in this regard.

The initial work of the task force concentrated on developing reference material as a base from which recommendations could be drawn. This included a review of the annual bilingualism plans and special initiatives of a number of other departments and federal agencies. In addition, work was started on developing comprehensive plans for each branch of the Bureau to identify areas for meaningful initiatives in the french language. In order to provide a focus for these plans guidelines were drawn up in January 1983 for consideration by the Bureau Management Committee. The guidelines proposed general language of work goals and made recommendations in the following areas: rationalization of language requirements of bilingual positions, anglophone/francophone collaboration arrangements to foster each others' use of french, organizational arrangements, staffing and recruiting, and language reporting systems.

As of March 31, 1983, the proposed guidelines were under review by the Bureau Management Committee.

F) *Jurisprudence*

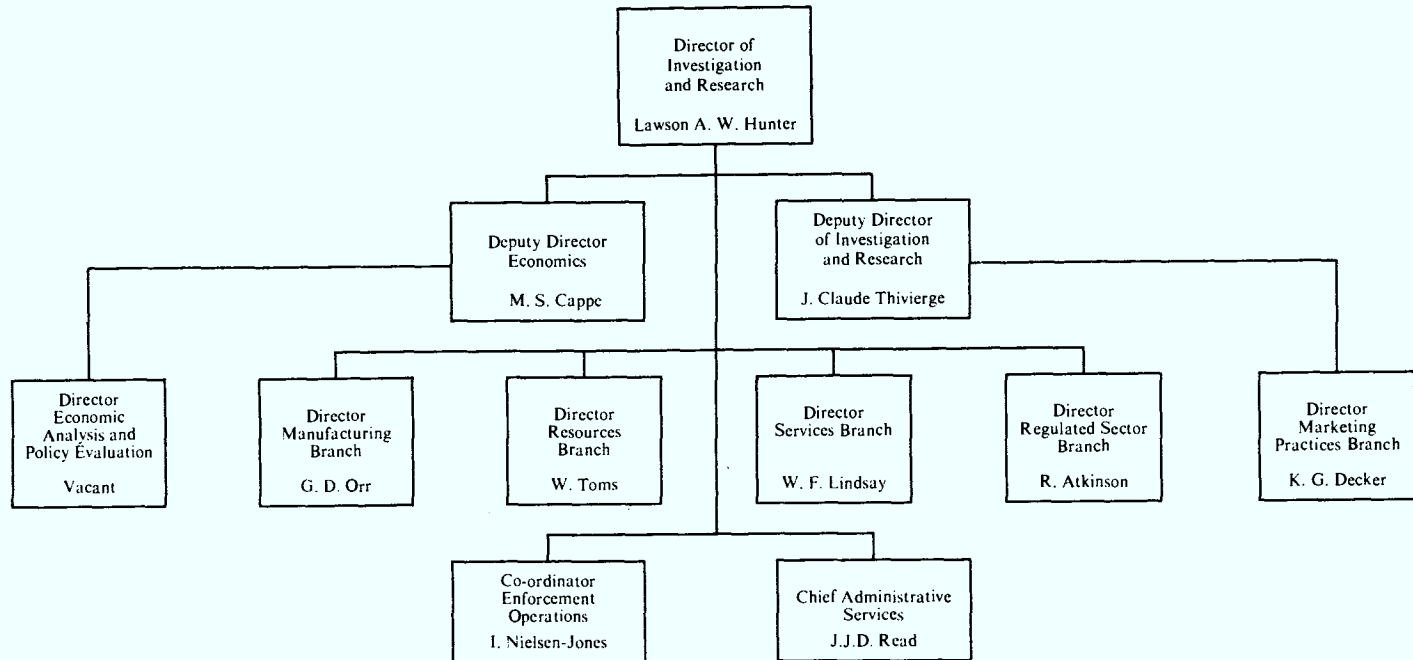
The task force received a mandate to review and summarize the Jurisprudence under the Combines Investigation Act and produce therefrom an Interpretation Manual. In addition the task force was authorized to study and report on the feasibility of operating an in-house Opinion Library as a reference aid to investigative officers. Both of these projects are of a long-term nature. At year end it was anticipated that the Opinion Library report would be submitted to the Management Committee by the end of the first quarter of the next fiscal year.

G) *Human Resources*

A basic training program covering the major aspects of the Bureau operation was presented to 30 officers who had joined the Bureau in 1981 and 1982. An improved system for evaluating staff performance and potential was developed, and to facilitate its implementation, most Bureau managers attended the departmental course on the staff evaluation process. A series of lectures on industrial organization was presented.

The Bureau Management Committee approved a work plan for 1983-84 which included continued improvement of the appraisal system; managerial training in the fields of finance and personnel; the development of a comprehensive staff inventory and career planning system; and an intensive seminar on the rules of evidence.

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:

Pacific Centre Limited
1400-800 Burrard Street
VANCOUVER, British Columbia
V6Z 2H8
Tel: 666-6971

Oliver Building
10225 - 100th Avenue
1st Floor
EDMONTON, Alberta
T5J 0A1
Tel: 420-4289

2919 - 5th Avenue N.E.
Bag 60, Station "J"
CALGARY, Alberta
T2A 4X4
Tel: 231-5608

2212 Scarth Street
REGINA, Saskatchewan
S4P 2J6
Tel: 359-5387

260 St. Mary Avenue
Room 201, 2nd Floor
WINNIPEG, Manitoba
R3C 0M6
Tel: 949-5567

4900 Yonge Street
6th Floor
WILLOWDALE, Ontario
M2N 6B8
TEL: 224-4065

781 Richmond Street
LONDON, Ontario
N6A 3H4
Tel: 679-4032

Galerie Syndicat Paquet
410 Charest Blvd. East
Room 400
QUÉBEC, Québec
G1K 8G3
Tel: 694-3939

50 Victoria Street
HULL, Québec
K1A 0C9
Tel: 997-4282

Windmill Place
1000 Windmill Road
Suite 1
DARTMOUTH, Nova Scotia
B3M 1L7
Tel: 426-6080

1410 Stanley Street
11th Floor
MONTRÉAL, Québec
H3A 1P8
Tel: 283-7712

Sir Humphrey Gilbert Building
165 Duckworth Street
5th floor
ST. JOHN'S, Newfoundland
A1C 1G4
Tel: 737-5518

1222 Main Street
3rd Floor
MONCTON, New Brunswick
E1C 1H6
Tel: 388-6633

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